

**DISCUSSION PAPER**

**AFTER THE BLUE CARD  
EU POLICY ON HIGHLY QUALIFIED MIGRATION**

**Three Ways out of the Impasse**

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## Summary

***The European Commission's current approach to highly qualified migration is subject to two points of critique. Firstly, initiatives such as the Blue Card are deemed out of touch with political realities. Against the backdrop of the financial crisis, the member states are simply not prepared to pool their sovereignty to the degree demanded. Secondly, the focus of policy is seen as too narrow. Measures to increase the Union's human capital should not just focus upon attracting highly qualified newcomers to the EU. The EU must ensure that the "native" labour force, including the resident migrant population, is properly trained and integrated into the labour market. It might also seek to attract "high potentials" to the Union before they are qualified. Against this backdrop, above all three policy options require further discussion: 1. the possible adoption of sovereignty-lite efforts to attract highly qualified migrants; 2. the fuller exploitation of the EU's existing human potential through greater training, mobility and labour market access; 3. the establishment of a common European education market to attract foreign students and encourage them to live and work in the EU after qualifying.***

## I. Challenges to a common EU policy on highly qualified migration

EU initiatives to attract highly qualified migration are subject to two critiques: firstly, that they are ill-attuned to political realities; secondly, that highly qualified migration policy must be about more than simply attracting qualified newcomers. This paper elaborates upon that dual critique before briefly setting out three alternative policy approaches.

### Challenge 1: EU policy and national sovereignty

EU member states are relatively united in their acknowledgement of the economic and societal benefits that highly qualified migration can bring to the Union. Most appear to agree that their “demand”, “need” and “capacity” for highly qualified migration are both higher and more closely aligned than for other forms of migrant labour. They are ready to turn to highly qualified migrants, who promise to be integrated into the economy and society with relative ease, in order to respond to acute skills shortages which will likely sharpen as demographic decline intensifies.<sup>1</sup> The member states’ desire for the “brightest and the best” is sharpened by their awareness of the increasingly intense international competition for these migrants—a competition in which “classic” immigration countries like the U.S., Australia and Canada are outstripping them.

Yet, this awareness has not induced them to realise far-reaching policies in concert. The recent economic downturn is just one reason for this reluctance.<sup>2</sup> The underlying differences between the member states in terms of their labour market needs and practices discourages a pooling of sovereignty both on the question of migrants’ first entry to the Union and on efforts encouraging the mobility even of highly qualified workers between member states. This reluctance is compounded by the changeability of labour market demands. Most member states seek to ensure that their entry systems are flexible to changing labour market needs. To pool sovereignty on entry and to offer migrants a subsequent right to move around the Union after a time-lag can run counter to these priorities.

The Blue Card initiative, generated in the interaction between the European Commission and various Brussels-based think tanks, fell foul of these concerns. It had envisaged the extensive opening of the pan-European labour market to prospective immigrants and thus the creation of a substantial incentive for migration to the EU. However, the original idea was considerably watered down both in the subsequent Commission proposal and in the negotiations between the member states<sup>3</sup>, such that its original purpose was hard to identify. Besides the de facto blocks to labour mobility that either have not been or cannot be altered by the Directive<sup>4</sup>, the

<sup>1</sup> For useful recent analysis of the effects of the demographic deficit: Münz, Rainer (2009) “Demographic Change, Labour Force Development and Migration in Europe – Current Situation, Future Outlook and Policy Recommendation” in: Swedish EU Presidency, pp.6-11, p.9.

<sup>2</sup> For analysis of the pressures of the economic downturn: Steffen Angenendt (2009), Labor Migration Management in Times of Recession: Is Circular Migration a Solution?, Transatlantic Academy Paper Series, Washington D.C., Jonathan Chaloff and Georges Lemaitre (2009), Managing highly-skilled labour migration: A comparative analysis of migration policies and challenges in OECD countries, DELSA/ELSA/WD/SEM(2009); Simone Bertoli, Herbert Brucker, Giovanni Facchini, Anna Maria Mayda and Giovanni Peri (2009), The Battle for Brains: How to Attract Talent, (Draft).

<sup>3</sup> For example: von Weizsäcker, Jakob (2008) “Straight is the Gate: Europe’s Immigration Priorities”, Bruegel Policy Brief. Collett, Elizabeth (2009), “Blue Cards and the Global Battle for Talent”, EPC Commentary.

<sup>4</sup> Collett (2008).

measure affords member states significant discretion to reduce the subsequent scope of Blue-Card holders to work throughout the Union (Arts. 18 & 19 as well as 8(2), 9 & 13). As for rules on admissions, the member states retain the right to decide on the volumes of migrants allowed to enter their labour markets (Art.6). They are also permitted leeway to maintain their own higher domestic provisions (Art. 4).

Even after mid-2011, when the transposition period of the Directive in the 24 signatory EU members has passed, it is questionable what appetite there will be to “complete” the original Blue Card vision. Agenda-setting documents like 2008’s Immigration Pact and the recent Stockholm Programme suggest at most a desire to hone the system set up by the Directive. The Programme, for example, focuses on the use of data sources to ensure that the admissions rules housed within the Blue Card system are sufficiently responsive to labour market needs. With the right of member states to decide on the volumes of immigrants allowed into the country newly reiterated by the Lisbon Treaty, a shift towards a more integrated admissions procedure appears unlikely. As for the blocks to mobility, the Stockholm Programme mentions the issue of skills recognition, but links it principally to the need to assess the Union’s skills needs rather than to an effort to improve the mobility of foreign workers within the Union by ensuring more uniform recognition.

Faced with global competition for highly qualified migration, many member states are readier to exploit the edge that national specificities may give them than to engage in arduous European action. Individually, the member states have undertaken sometimes modest (Germany) sometimes radical (Sweden) reforms to attract highly qualified migrants. Statistics describing the effects of the more recent changes are still patchy. Statistics for past domestic reforms such as in Germany have, however, often made depressing reading, and it remains unclear what effect these latest changes will have. What is clear is that they barely exploit the potential that concerted European action holds.

## **Challenge 2: Broadening highly qualified migration policy**

Even the more modest national proposals for attracting highly qualified migration have met with dissent and criticism. Many critiques focus on the mode of policy that is called for. They query whether governments, as opposed to businesses, can play a meaningful role in steering mobility for economic purposes<sup>5</sup>; whether the categorisations of labour migration drawn up by governments properly reflect the true skills shortages in Europe<sup>6</sup>; whether the movement of labour can be better brought into line with new trends in the movement of Capital and the on-line movement of skills<sup>7</sup>; whether the potential economic and development policy benefits of highly qualified migration are as easily accrued as some governments

<sup>5</sup> OECD (2008) *The Global Competition for Talent: Mobility of the Highly Skilled*.

<sup>6</sup> Global Commission on International Migration (2005), *Migration in an Interconnected World*; Collett, Elizabeth and Fabian Zuleeg (2009), “Soft, Scarce and Super Skills: Sourcing the Next Generation of Migrant Workers in Europe” in: *Talent, Competitiveness and Migration*, Bertelsmann, pp.337-360.

<sup>7</sup> On the movement of skills: Aneesh, A. (2006) *Virtual Migration: The Programming of Globalization*, Duke University Press. For different perspectives on offshoring and outsourcing: Parker, Andrew (2004) “Two Speed Europe: Why 1 Million Jobs will Move Offshore”, Forrester Research 18; Rüdiger, Katerina (2007) “Offshoring, a Threat for the UK’s Knowledge Jobs? Globalisation and the Extent and Impact of Offshore Outsourcing”, Working Paper of the Work Foundation.

claim<sup>8</sup>. Other critiques are more fundamental. They suggest that the focus on attracting highly qualified migration is being used by governments in order to shirk altogether more laborious means of meeting skills shortages.

Two prongs of the attack are particularly salient. The first strand of critique points out that the EU already houses highly qualified migrants or those with high potential. Highly qualified immigrants, refugees and asylum-seekers as well as EU workers are simply not being matched properly to skills shortages. The contours of this critique are well known, and persist despite EU efforts to integrate disadvantaged groups into the labour market generally and more recent, specific measures towards immigrant integration.<sup>9</sup> Restrictions on newcomers' access to the labour market are both de facto (a failure to recognise their skills) and de jure (limited rights of labour market access and mobility attached to their legal status). Labour market obstacles faced by those of immigrant origin well settled in the Union—second and third-generation migrants—pertain principally to failures in training and integration policies. As for highly qualified 'EU migrants' more generally—i.e., mobile EU citizens—the considerable efforts to increase their mobility throughout the Union have apparently not sufficed.

The second strand of the critique concerns the failure to make the EU attractive to migrants with "high potential", who would gain qualifications here and remain. Here too the member states have resisted a truly common approach. Their Lisbon Agenda, adopted a decade ago, was supposed to make the EU "the most dynamic and competitive knowledge-based economy in the world", within the space of ten years. The member states resisted parting with national competences on many issues, preferring instead to operate on the basis of a method of open coordination. The deficits in the Agenda's implementation lies not just in its over-ambitious time frame. Many critics trace the failure to achieve real change even on agreed common goals to the weak form of cooperation adopted.<sup>10</sup>

## II. What scope for an alternative approach?

In response to these critiques, above all three policy approaches require discussion:

1. To attract highly qualified migrants to the EU in a "sovereignty-lite" manner
2. To ensure that highly-qualified migrants and EU workers are able to make full use of their qualifications by increasing their training, labour market integration and mobility
3. To become more attractive for foreign students and to encourage them to stay in the EU

From where, though, should the EU draw its inspiration should it pursue these options? The tendency so far has been to look enviously to developments abroad. It is a lament often heard: the EU governments are insufficiently aware of the global competition to which they are subject. In the highly qualified section of the economy, the U.S., Canada and Australia are

<sup>8</sup> Wets, Johan (2004) "Migration and Development: Myths and Facts", EPC Issue Paper 11.

<sup>9</sup> European Commission Communication on immigration, integration and employment, COM/2003/0336; Council Decision establishing the European Fund for the Integration of third-country nationals, 2007/435/EC; Commission Communication, A Common Agenda for Integration, COM/2005/0389; European Commission, The Evaluation of the INTI Program, 27 November 2009.

<sup>10</sup> On the weaknesses of this approach: Jonathan Zeitlin, Philippe Pochet (2005), *The Open Method of Co-ordination in Action. The European Employment and Social Inclusion Strategies*, Lang, Brussels.

forging ahead.<sup>11</sup> Yet, the reverse could also be argued, namely that the EU is too aware of the strengths of its rivals. The Blue Card initiative, for example, sought to compete with the U.S., Canada and Australia on their own terms by using access to a large labour market as the prime incentive to come to the EU. Yet, the aspiration to match these successful third countries and open access to the EU labour market was neither practically nor politically realistic given the Union's structure as a conglomeration of still relatively autonomous states.<sup>12</sup>

The deficits in this negative approach are summed up by the feeling expressed in some national capitals: if one of the principal aims of the Blue Card Directive was simply to present a more positive picture of the EU as a labour destination<sup>13</sup>, the (inevitable) failure of the Directive to attain its theoretical potential coupled with its proponents' rallying cry—"the EU is losing the global competition for talent"—have done little to boost the EU's desirability for prospective migrants. The point is a salient one. In formulating its approach to highly qualified migration, the EU could usefully look to its own (comparative) strengths—at the structural differences between itself and the U.S. or Canada as well as at the many good initiatives emanating from its own member states.

### **Option 1: Attracting highly qualified migration by sovereignty-lite means**

The pull factors of migration are notoriously complex.<sup>14</sup> However, economic opportunity in a particular field, generous welfare provisions, career development or the chance to work with a market leader, as well as language, cultural and historic links can all play a role in attracting highly qualified immigrants. On one or two of these aspects at least, an individual member state will likely be able to hold its own with the U.S., Canada or Australia. In simple terms, a prospective immigrant from a French- or Spanish speaking third country may well be drawn more to France, Belgium or Spain than to the U.S. Under the current EU approach, the strengths arising from the variety of member state characteristics are not being exploited. Indeed, differences of language or labour market practice are understood as obstacles to the intra-EU mobility of highly-qualified migrants and thus as detrimental to the attractiveness of the bloc as a labour destination. Can the EU instead communicate these differences to prospective migrants in a positive way, presenting them not as a block to mobility but as an aspect of choice?

<sup>11</sup> For brief analysis of this argument: Von Weizsäcker, Jakob (2008) "Straight is the Gate: Europe's Immigration Priorities", Bruegel Policy Brief; Collett, Elizabeth (2008) "The Proposed European Blue Card System: Arming for the Global War for Talent?", Migration Information Source, <http://migrationinformation.org/feature/display.cfm?id=667>.

<sup>12</sup> The Blue Card approach ran counter to practical and political realities. There are numerous barriers and hurdles to immigrants' mobility within the EU labour market, which are not practically to be altered: language and cultural diversity, for example. And where there is scope to remove barriers, there is little political will: differences in access to citizenship or differences in levels of taxation, for example, are not matters upon which the member states happily cooperate. In short, highly qualified migrants could not be offered access to the pan-EU labour market in a way comparable to the labour market access they might enjoy in the U.S.

<sup>13</sup> Cerna, Lucie (2008) "Towards an EU Blue Card? The Proposed Delegation of National High-Skilled Immigration Policies to the European Union", Compas Working Paper No. 65.

<sup>14</sup> OECD (2009) "The Future of International Migration to OECD Countries", Report of the International Futures Programme.

New policy tools have certainly been developed at the European level over the past decade to allow better for national differences to be accommodated in a concerted European approach. As a critical stocktaking of the open method of coordination underpinning the Lisbon Agenda shows, these are by no means an unqualified success. The Stockholm Programme nevertheless establishes “Mobility Partnerships” as the principal strategic tool for dealing with migration relations with third countries. These Partnerships constitute an agreement between the EU and the chosen third country on the management of migration to the Union. The relatively thin core agreement is supplemented by individual member EU states who put national programmes—to support third countries in their management of migration or to liberalise access to their own labour markets—at the disposal of the Union’s overarching goals. In this way, concerted European action is achieved by member states with different priorities and areas of expertise.

To date, these agreements have been agreed with Cape Verde and Moldova—third countries that are problematic for the Union from the point of view of illegal migration. It would, however, be conceivable for such a construct to be used specifically to regulate highly qualified migration. Member states who had a certain competitive advantage in common—language, labour market shortage in a certain field, a similar geographical position or set of labour market policies—could band together under the Blue Card umbrella, targeting the nationals of a certain third country and perhaps even offering enhanced access to each other’s labour markets after a certain time-lag. A core EU mobility partnership signed between a “sending” country and supplemented by a coalition of willing EU member states might not only provide a sovereignty-lite means of attracting highly qualified migrants. It could also allow the EU to make competitive advantage of the diversity in its inter-national makeup. With safeguards in place to foster phenomena like brain gain they could also prove acceptable to third countries.

## **Option 2: Matching highly qualified resident migrants to labour market shortages**

According to the European Commission, the necessity of the Blue Card Directive lay in part in the limited mobility of EU workers (the proportion of workers in the EU who are migrant EU citizens has traditionally hovered at c.2%).<sup>15</sup> This poses the question: what more can be done to enhance the mobility of highly qualified EU workers? And what can be done to better train and integrate immigrants, refugees and those of immigrant origin already in the EU?

As one of the founding goals of the European project, the question of the mobility of EU workers has long been on the agenda. There are longstanding arguments about the portability of pension rights<sup>16</sup>, the mutual recognition of qualifications<sup>17</sup> as well as about

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<sup>15</sup> European Commission (2007) “Attractive conditions for the admission and residence of highly qualified immigrants”, Press Release, Memo/07/423.

<sup>16</sup> Forteza, Alvaro (2008) “The Portability of Pension Rights: General Principles and the Caribbean Case”, SP Discussion Paper 825.

<sup>17</sup> Blitz, Brad (1999) “Professional Mobility and the Mutual Recognition of Qualifications in the European Union: Two Institutional Approaches” in: *Comparative Education Review*, 43,3, pp. 311-331.

differences in taxation practices<sup>18</sup>, which pertain to most forms of economic migration but can have a particular effect upon highly qualified migration.<sup>19</sup> With the upcoming renewal of the Erasmus Programme for student mobility and the Lisbon Agenda, the issue is enjoying renewed attention.<sup>20</sup> Here too the usual questions will be posed: is the goal of EU policy the optimisation or the maximisation of mobility? At what level of government and governance is mobility best improved? To what degree is human mobility to be preferred to cross-border communication or Capital mobility?<sup>21</sup> Can a rights-based system of mobility be tailored to a demand-led system of meeting skills shortages? What can be learnt from the experience of those five member states which by some indicators have higher rates of mobility than the U.S.?<sup>22</sup>

If the EU wishes to bring new clarity to the old debate about the mobility of EU workers, it would do well to analyse its comparative strengths vis-a-vis the U.S. In the past, the member states have taken the U.S. as their point of reference, looking enviously at the benefits that accrue to that country through the high mobility of its workers. However, the aspiration to match U.S. levels of mobility is unrealistic (even as these decline<sup>23</sup>) and is perhaps even unnecessary. The focus could usefully shift from the quantitative to the qualitative. After all, the mobile EU worker will have different traits to the U.S. worker who must typically overcome fewer barriers to his or her mobility. Just as analysts call for a greater sensitivity towards “soft skills” in immigration policy<sup>24</sup>, an awareness of these differences and comparative strengths of mobile EU workers is of importance.

The debate about better integrating immigrants, refugees and asylum-seekers into the labour market is equally well worn. New clarity can, however, be brought to the debate if the EU looks to member state practices. In Sweden, for example, workplace assessments have offset the need to follow global education practices when recognising qualifications levels. In the Netherlands, Accredited Experiential Learning systems are used to assess qualification and skills levels. In Italy, refugees are accompanied to job interviews, and in other member states a mentoring system functions well. In Germany, work is being done to help diaspora communities raise awareness of the qualifications of newcomers. The list goes on. Recommendations have already been formulated as regards the role of the EU in strengthening these domestic activities. These recommendations advocate the extension of

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<sup>18</sup> Mortenson, Jorgen (2003) “Portability of Pension Rights and Taxation of Pension Schemes in the EU”, Report of the CEPS Task Force.

<sup>19</sup> Gera, Surendra and Thitima Songsakul (2005) “International Mobility of Highly Qualified People in APEC”, ECON Working Paper; Hart, Michael, (2004) “Is there Scope for Enhancing the Mobility of Labour Between Canada and the United States?”, Skills Research Initiative Working Paper.

<sup>20</sup> European Commission (2009), “Promoting the Learning Mobility of Young People”, Green Paper, COM(2009)329; Brito, Luisa and Palma, Christina (2008) “A New Erasmus for a New Mobility”, Paper for the Conference of Erasmus Coordinators, 7-8 May 2008, Lisbon.

<sup>21</sup> Krieger, Hubert and Enrique Fernandez (2006) “Too much or too little long-distance mobility in Europe? EU policies to promote and restrict mobility”, Eurofound Paper.

<sup>22</sup> Eurobarometer (2005) Mobility Survey, EB64.1. Krieger and Fernandez (2006). For detailed analysis of the survey: Vandenbrande, Tom et al. (2006) “Mobility in Europe”, Eurofound Paper.

<sup>23</sup> Krieger and Fernandez (2006).

<sup>24</sup> Collett and Zuleeg (2009).

EU skills recognition legislation to include qualifications gained outside the EU and the better use of the EU integration fund to support the labour market integration of immigrants.<sup>25</sup>

In this debate, the question of the school performance of those of immigrant origin remains a subject of particular sensitivity for the member states, going as it does to the heart of both education and immigrant integration policy. The education failings in many member states—and the differences between domestic systems—have been highlighted not least by the publication of the PISA reports. A recent PISA study comes to the conclusion that even a small improvement in the average educative performance of the OECD countries of 25 PISA points could lead to an improvement in economic performance amounting to 115 billion U.S. Dollars.<sup>26</sup> If this finding pertains to the education offered to all students, the PISA studies also throw particular light upon the education offered to those of second or third generation immigrant origin.

As in other areas of the debate about highly qualified migration, however, the focus of discussion is very much about the deficits in the European approach and less about the chances that arise from resolving them. A focus on the economic and societal benefits that would accrue from an improvement in the educational performance of those of immigrant origin is, however, imperative if investments of the necessary size and coherence are to be mustered. The necessary measures lie squarely within the competences of the individual member states. However, an overarching framework for common solutions could be set up through the targeted and enhanced use of the EU's integration fund. Moreover, a European qualifications framework has been set up within the framework of the Copenhagen Process, and there is discussion about a European points system for vocational training performance as well as a European network to ensure the quality of education.

### **Option 3: Establishing an EU-wide education market**

Raising the level of training and education for those already resident in the EU and ensuring their labour market integration is certainly an important option for the member states, but will unlikely suffice to meet the Union's skills shortages. Attracting highly qualified migrants too remains an attractive option, but has the disadvantage that these migrants are often not attuned to the culture and practices of the receiving state, and even after receiving training to integrate have a comparatively high propensity to leave again. As a third option, the Union would do well to consider the establishment of the EU as an international education market.

The benefits of attracting "high potential" students have been succinctly summarised elsewhere: students are young and can be expected to have a good grasp of the language and local working practices once they have qualified, at which point they will also have undergone education which is presumably well calibrated to the needs of the local economy. Moreover, their qualifications are easily recognisable and, by funding themselves through

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<sup>25</sup> "Integrating Migrants into the EU Labour Market through Recognition, Skills Development and Awareness Raising" Documentation of the MEET Closing Conference 7th June 2007 Bavarian Representation, Brussels.

<sup>26</sup> OECD (2010) "The High Cost of Low Educational Performance. The Long-run Economic Impact of Improving PISA Outcomes".

university, these students have given an indication about their commitment to remain whilst also contributing to the local economy.<sup>27</sup>

There is already a nascent international education market in which states compete for “high potentials”. Many industrialised countries, but also developing countries like Malaysia, are seeking to structure their tertiary education systems in such a way that they attract these foreign students. Often in tandem with universities in other countries, they are reforming their education systems and opening them in a targeted manner. Their goal is to encourage students not only to immigrate but also to remain as workers.

If the EU as a bloc were to pursue such a strategy, the member states would not have to start from scratch. Although its principles may be controversial, the Bologna process has created a greater uniformity in the courses offered by European universities. With this basic harmonisation of university education achieved, the potential mobility of students has been improved. A further harmonisation, with mutual recognition of the length of studies, comparable degrees and uniform quality benchmarks could make the EU even more attractive for students. If the member states could also go a step further and agree upon common, generous opportunities for graduate students to remain in the EU and work, this could add greatly to their capacity to retain highly qualified workers.

## Prospects

These policy options are not mutually exclusive. Not only could they prove mutually compatible, in some cases they would actually best be pursued in tandem. A policy attracting highly qualified newcomers (option 1), for example, would only help the EU meet its labour market shortages in the highly qualified sphere if efforts to properly match immigrants to skills shortages (option 2) were boosted.

In some cases, the various options would be subject to similar political pressures too. Efforts at harmonising education practices (option 3) face both practical and political pressures as member state governments seek to maintain their specificities. As in option 1, the question arises whether the EU can use entrenched differences in education systems (language) and the comparative strengths that arise from them (the existence of “market-leading” universities) to their common advantage. Similarly, the EU would be likely prove more attractive as an education resort if students were afforded labour market access when they qualified, including in member states other than those in which they studied. Similar issues cropped up during the negotiation of the Blue Card Directive.

At the same time, and despite the necessary sensitivity to political practicalities, it is important that options are not relegated because they are politically difficult. It would be indefensible if the member states were to pursue a sovereignty-lite approach to attracting migrants (option 1) because it offset the need for more laborious structural changes (option 2) or indeed because it displayed European activism even as the effectiveness of such an approach remained questionable.

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<sup>27</sup> For a fuller analysis see: Hawthorne, Lesleyanne (2009) “The Growing Global Demand for Students as Skilled Migrants” in: *Talent, Competitiveness and Migration*, pp.362-398, p.362.