



EU Management of High Skill Migration

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Highlights

Developed industrialised economies have been competing for highly skilled migrants for over 50 years. First policies on the matter date from the 1960s in Canada and the 1970s in Australia while the USA selective migration programme dates back to the early 1950s. However, competition among developed industrialised countries for highly skilled migrants has taken up new urgency in the last 15 years with the onset of the knowledge based economy and society. The UK was the first European country to develop an open high-skill migration policy in the late 1990s already, but other EU countries like the Netherlands or Germany followed suit in the mid 2000s.

Five years after the adoption of the EU Blue Card scheme, developed to attract the best and brightest of the world to the European Union countries, data on the usage of the Blue Card scheme in selected member states show that the Directive has failed to achieve its objectives. Many critiques so far have focused on the low level of mobility that the Blue Card grants. When adopted by a member state, the Blue Card does not offer access to the EU labour market as a whole and is still related to rather cumbersome bureaucratic procedures if the highly skilled worker wants to take up a job in another EU country.

Studies on Australia and the USA have shown that temporary migration visas addressing highly skilled migrants may create best opportunities for migrants and employers who sponsor them, Having high employment outcomes and good salaries, such migrants are usually enabled to move on to permanent settlement schemes smoothly. This Policy Brief focuses on the limitations that the Blue Card has with regard to the path that it offers to long term stay and settlement if the highly skilled migrant wishes, alongside the limited intra EU mobility rights that it grants. This Policy Brief suggests that the European Commission should launch a consultation with member states and relevant stakeholders with a view to making the Blue Card more attractive both for member states and for prospective high skill migrants from third countries.

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Development of High Skill Migration Policies

The momentum gathered in the mid 2000s was however thwarted by the global financial and economic crisis, when OECD countries started to restrict their Immigration Laws. For example, in 2007 Sweden was indexed as a country with the most stringent entrance conditions for high-skill migrants. At the same time, the UK was noted for the most benevolent high skill migration policies while many EU countries (such as Germany and France) were placed in-between. A few years later, the HSM openness indexation drastically changed as EU countries had moved up and down the HSM openness scale and even switched places such as the case of the UK and Sweden.

By 2008, the UK had turned indeed into a very flexible immigrant state, combining features of both the employer-based and points-based recruitment. Its groundbreaking innovation was Tier 1, which directly related to high-skill migrants and showed respect to their accumulated human capital, thus having enabled many of them to enter the UK without arranged employment. Two years later, however, the number of high-skill migrants became much higher than anticipated and the new government consequently closed the doors to HSM from outside of the EU by having imposed a very low cap on the number of permits for non-EU workers and having eventually abolished the Tier 1 initiative in 2011. On the contrary, Sweden, which for many years sustained strict quotas for migrations, since 2008 has been consistently providing an unrestricted access for skilled migrants to its labour-market mostly on the basis of the employers' demand and with maximum respect to such short-listed occupations as engineering and artistic jobs.

As is evident, economic contexts sometimes change rather drastically and unpredictably in Europe. So does the immigration law dynamics across its Member States. In the light of all this, it seems reasonable to ask: What would an EU level high skill migration scheme like the Blue Card offer to member states, employers and prospective migrants, acknowledging the different needs and dynamics of national labour markets?

The European Blue Card (BC)

Within the context of the expanding global crisis, the EU Blue Card Directive was adopted in a low profile mode in 2009 amidst the rising unemployment levels

across the Eurozone. Seeking to make Europe more open for newcomers and more competitive in the world, the European Commission introduced the Blue Card Directive in May 2009. Twenty-four of the 27 Member States decided to participate in this programme in 2012-2013.

The Blue Card is an EU-wide work permit allowing high-skill non-EU citizens to work and live in any country within the EU, except Denmark, Ireland and the UK (which decided not to join the proposal). The main features of the Blue Card are that:

- Qualified migrants from outside the EU have the right to work and reside in an EU country for a period of 1-4 years, after which the person may apply for a new Blue Card in the same or another member state.
- During the first 18 months of admission, the high-skill migrant is restricted to work in the country that issued the Blue Card.
- For the initial issue of the Blue Card, the person must have an advanced degree, a minimum of a five-year professional experience in a high-skill area, and a valid job offer with at least a 1-year contract.
- Alternatively, the person may already be employed in the Member State on a job contract that is valid for at least 1 year at the moment of application.
- The Blue Card entrance salary must be at least 1.5 higher than the average salary in the given Member State.
- But these are minimal conditions and MS can modify them upwards asking for higher salary thresholds or more stringent qualification tests.

Challenges

Five years later, data on the Blue Card transposition in selected MS show disappointing results. Although the overall number of Blue Cards has grown almost 5 times in one year: from 3,664 in 2012 to 15,261 in 2013, this increase has been contributed entirely by Germany (which issued 14,197 Blue Cards in 2013). Apart from Germany and Luxembourg, national HSM schemes significantly prevail in other MS.



Even the migrant-friendly family reunification policy associated with the Blue Card does not save this project from failure.² The weakness of the Blue Card Directive lies in its offering a basic framework for regulating high skill migration at an EU level albeit without proper mainstreaming in its implementation. The framework is quite flexible, too flexible perhaps, so that it very much depends on the political will of different MS and their governments on whether they frame their Blue Card schemes as more or less attractive than their equivalent national scheme for highly skilled workers. In addition the conditions for facilitating internal mobility within the EU for these non EU highly skilled workers are rather tenuous; the barriers remain too high for the scheme to use its EU character as a main point of attraction.

More specifically, the MS are given freedom to set additional conditions for the Blue Card implementation. In this connection, the Blue Card transposition stumbles over a number of barriers (Communication from the Commission to the European Parliament and the Council, May 2014).

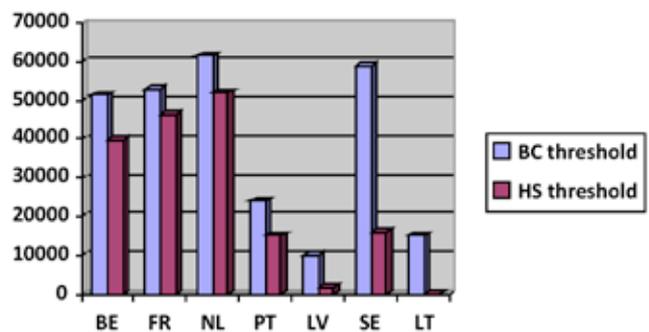
Theoretically, Member States are given the choice to establish quotas for the number of Blue Cards, and eight Member States (Bulgaria, Cyprus, Estonia, Greece, Hungary, Malta, Romania and Slovenia) have actually decided to consider such an option in the future. Interestingly none of these countries is a country that lacks highly skilled personnel so as to have a likely strong high skill immigration influx.

Twelve Member States (notably Austria, Belgium, Bulgaria, Cyprus, Hungary, Italy, Lithuania, Malta, Poland, Slovakia, Slovenia and Spain) employ various types of a labour-market test as part of their Blue Card procedures. Unsurprisingly the large member states with a strong attraction potential like Germany or France or the flourishing economies of the Nordic countries or the Netherlands are missing from the list.

The maximum initial period of four years for which a Blue Card can be issued is shorter than the minimum residence requirement for applying for long term/permanent residence. This difference can be quite significant (up to 3-4 years) as many countries issue the Blue Card for a maximum period of 2 years while the permanent residence requirement stands at 5 years or more. The perspective of settlement that the Blue Card scheme offers is rather uncertain, thus making the system less attractive than national equivalents for third country nationals.

For example, in Germany and Belgium, the Blue Card threshold is the same as the average national salary; while it is 1.5 times (or 50%) higher in France and the Netherlands; and 1.7 times (or 70%) higher in Sweden. In the majority of EU countries, the Blue Card threshold actually remains much higher than the average national salary, while required salaries for obtaining national work permits may be even lower than average national earnings. This factor makes high-skill applicants choose the traditional scheme of national HSM. For example, in the Baltic states of Latvia and Lithuania (which are leading hosts for qualified people from Russia and other post-Soviet republics), there is almost null financial requirement for high-skill migrants who seek national work permits, whereas the required BC thresholds are respectively 50% and 200% higher than the average national salaries in these EU countries.

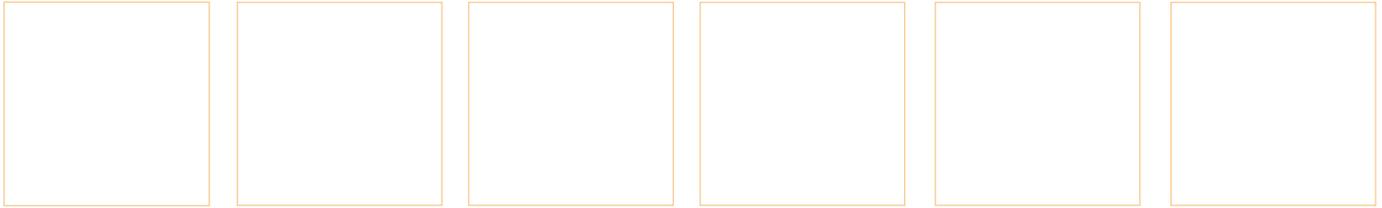
Salary Thresholds and Ratios Compared to Gross Annual Salaries in Selected Members State



BC threshold – the minimum financial requirement for the Blue Card

HS threshold – the minimum financial requirement for the national high-skill work permit

² According to the BC family reunification strategy, the BC-holders' spouses (of the opposite sex) and children under 18 are eligible to live in the MS; while the spouses are also eligible to work full-time in the MS. Some EU countries implement even softer policies on family reunion, supporting the relocation and employment of unmarried partners (Sweden) and same-sex partners (Netherlands).



The income level requirement can have important gendered effects as women migrants tend to receive lower pay for the same job and also work in sectors that overall have lower pay. It comes as no surprise that the number of female Blue Card holders is much lower than that of males.

The Blue Card scheme is insofar under-utilised and over-regulated. The Blue Card - as eventually adopted by the MS - does not offer access to the EU labour market as a whole and is still related to rather cumbersome bureaucratic procedures if the highly skilled worker wants to take up a job in another EU country.

Blue Card Cases

The box below summarises the major statistics provided by Eurostat for 2013 and the European Commission (COM 2014 / 287 Final) on the “success” and “failure” of the Blue Card in some EU countries. In this reference, it seems reasonable to group the BC policy and practice into 3 distinct regional cases that illuminate:³

- 1) the tentative success of the Blue Card scheme;
- 2) its evident failure; and
- 3) the visible (or decontextualized) success.

Case 1. Tentative success: Germany and Luxembourg

Germany

In Germany, there have been by now more than 10,000 Blue Cards issued. In relation to students who graduate from Germany universities, the BC incidence is especially striking: in a single calendar year, 2013, the BC attracted 2,536 university graduates (compared with 1,796 for the previous 7 years in 2005-2012). The German BC threshold salary for 2015 is 48,400 Euro in general and 37,752 Euro for shortage occupations.

Another supportive factor is that the BC in Germany is valid for the maximum allowed period of 4 years, which is longer than the minimum residential requirement of 3 years for a long term residence application.

However, German employers feel worried that BC grantees may easily change their jobs, given that there are almost no barriers for this practice within the German context. (Although theoretically the BC holder can switch employers only after 2 years, in practice s/he can do it any time if s/he shows that the new job matches her/his qualifications.) That is why, German employers support BC applications with caution.

Luxembourg

An essential feature of Luxembourg's strong economy is its dependence on the intra-EU mobility: the major economic contribution comes from foreigners who are European nationals. The real immigration of third-country nationals was initiated only 20 years ago, while their annual increase has been consistently very small. Given this, the country is still governed by the Immigration Law of 1972, which operates with a very vague high skill migration definition and which has undergone very minor alterations by now. Therefore, the Blue Card initiative in Luxembourg has no competitor in a sense at the national level. 5.

³ For information on the BC and HSM permit statistics, see: Eurostat, EU Blue Cards by type of decision, occupation and citizenship, Extracted on 16.04.2014. For salary thresholds, see: Commission (2014). ‘Communication from the Commission to the European Parliament and the Council on the implementation of Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment’, COM(2014)287 final, Brussels, 22 May. For different country cases, see: <http://apply.eu/BlueCard/>. See also: <http://www.bluecard-eu.de/eu-blue-card-germany/>.



Case 2. Failure: The rest of Western Europe

Sweden

Sweden is, in particular, marked by a rather complex bureaucracy around the Blue Card transposition: its processing time is significantly longer than for standard HSM work permit applications. While the EU Directive implicitly allows for renewal of Blue Cards, Sweden (the only MS) has set an overall time limit of 4 years for Blue Card holders, even though there is no explicit rule in the Directive on this point. As a result, there have been only 2 Blue Cards issued in Sweden (even despite the fact that it offers additional settlement/employment benefits for family reunion in support of unmarried partnership).

The Netherlands

The Netherlands is another country that encourages non-traditional forms of family reunification for BC-holders (such as same-sex marriage/partnership) yet where the Blue Card policy is used very rarely. The Dutch BC salary threshold is 61,469 Euro, which is 20% higher than for the Dutch Highly Skilled Migrant Scheme (52,000 Euro). In 2012, only 10 Blue Cards were issued while in 2011 there were only 3 Blue Cards granted. At the same time, within the DHSMS there were 1300 national permits given to high-skill migrant in 2 years: 2011-2012. The low success of the Blue Card is attributed to its bureaucratic prerequisites (filed documents and financial threshold) that are much stricter than for the national high skill migration scheme.

Belgium

In Belgium too the Blue Card cannot compete with the Belgian Permit B for HSM, which has a faster processing time and a lower threshold: 39, 802 Euro for Permit B versus 51, 465 Euro for BC in 2015.

Case 3. No attraction potential? Southern and Eastern European countries

Romania

The Romanian case shows that in 2012 the number of Blue Cards equalled that of the national work permits and in 2013 the Blue Cards even outnumbered the other scheme. However, the overall migratory context in Romania shows that national work permits are seldom used in this country as it is not a frequent destination for high-skill workforce. For example, the Romanian introduction of the Blue Card in 2012 was followed by the hope from the Romanian government to particularly attract numbers of Chinese entrepreneurs who had been suddenly denied access to Canada due to the abolishment of the Canadian Investor/Millionaire Immigration Scheme in the same year. However, most of such wealthy and highly-skilled migrants have been moving to the US, Hong Kong or even Southern Europe rather than Romania, which remains a traditionally uncommon destination for high-skill migrants and entrepreneurs.

Czech Republic

The earlier HSM programme “The Active Selection of Qualified Foreign Workers” actually failed to attract many applicants expected because the overall national job market was very restrictive for foreigners, which made it difficult to look for jobs and consequently to accumulate necessary credentials for the HSM scheme. Moreover, few potential employers were invited to the programme even though there was an unmet demand for high-skill workers. Further, the actions of the government may appear kind of contradictory as it has opted to exclude from the potential pool of high skill migrants, people coming from India and China.



Blue Card: Fringe Benefits but no Settlement nor Mobility Perspectives

All MSs set rather comfortable conditions for the BC members' family reunification: one of the very few uniform BC-rules (consistently followed from MS to MS) is that spouses and minor children of BC-holders can live in the MS, given that the spouse can also work full time. 3 MSs (Italy, Sweden and Netherlands) advocate more flexible conditions for such family reunification by supporting the same sex marriage or partnership. Yet in spite of this policy, the BC transposition fails in the majority of MSs and particularly in the family reunification-friendly Sweden and Netherlands. The Commission itself acknowledges that family reunification is not a strong factor for the potential success of the Blue Card scheme as the majority of its holders are males under the age of 35, who in many cases may not yet have families of their

own and therefore may not need to benefit from this policy.

Above the financial differences on the national level, the barriers are added by the gap between the actual duration of the BC (in many countries set at 2 years for the first Blue Card issued) in a given MS and the long-term residence requirement in the same country, usually at 4-6 years minimum. Acquisition of further BC extensions is not specified and is probably at the discretion of individual MSs and their institutions, while the intra-EU mobility is significantly impeded by the impossibility to change the employer during the first two years of holding the Blue Card. The Commission itself further recognises that the complexity is added by the novelty of the BC initiative: there are no data to assess the practices of its renewal as well as mobility plans of its holders.

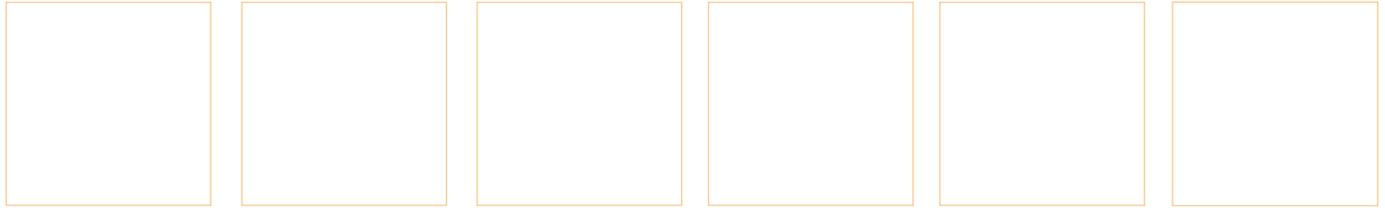
Blue Card Summary

<i>Member State</i>	<i>National High Skill Migration Permits Issued (2012)</i>	<i>Blue Cards Issued (2012)</i>	<i>Blue Cards Issued (2013)</i>	<i>Blue Card Financial Threshold Compared to National Average Salary</i>	<i>Max n of Years of holding Blue Card in 1 Member State</i>	<i>Min n of years of Residence holding Blue Card to apply for Long-Term Residence</i>	<i>Min n of years of Residence for high Skill Migrants to apply for Long-Term Residence</i>
Total*	19,988 (≈20,000 in 2013)	3,664	15,261	1.5 > NAS	4	GR	NA
Germany	210	2,584	14,197	≈ NAS	4	NA	3
Luxembourg	21	183	306	=NAS	2	NA	5
France	3,030	126	304	1.5 > NAS	3	GR	5
The Netherlands	5,514 in 2012 (7,400 in 2013)	1	0	1.5 > NAS	2	GR	5
Sweden	4,751	N/A	2	1.7 > NAS	2	NA	4
Belgium	98	0	5	=NAS	2	NA	5
Romania	0	46	119	>>NAS	2	NA	6
Czech Rep.	69	62	74	>>NAS	2	GR	5

* 24 MS participate in the Blue Card Scheme

NAS – National Average Salary

GR - Generic Rule: 5 years of residence in different MSs, including 2 years of residence in the last MS



The overall problem with the Blue Card is thus complex: it eventually has to do with the limited and quite obscure intra-EU mobility rights it guarantees (more in theory and less in practice) and also with the fact that it does not offer a clear path to permanent migration.

Lessons from Overseas

The majority of immigrant-receiving OECD countries in Europe and beyond have employer-driven preferences of high skill migrant workers' admission (although often in combination with the points-based system): in the majority of cases, the issued work permit follows a specific job offer. Studies on Australia and the USA have shown that temporary migration visas addressing highly skilled migrants offer best outcomes: selection is highly competitive (by employers who sponsor them and migrants who manage to get the job offers), this type of migrants have high employment outcomes and good salaries, and are usually enabled to move on smoothly to permanent settlement schemes. Studies have shown that this may be a good policy for high skill migration. At the same time, this HSM route is not flawless as it often ignores the human capital accumulated in the host country (in terms of education degrees or professional qualifications).

In response to its cumulated huge immigrant application backlog, Canada has also recently modified - or severely restricted, to be more precise - its famous Federal Skilled Worker Program (FSWP) for HSM. The renovated FSWP has distinct features that make it both friendly and hostile to HSM. An essential characteristic of the FSWP is that it links HSM to permanent residence and makes this transition easier for those who are already in the country. According to this scheme, qualified skilled workers are automatically granted permanent residence - a lesson for Europe to learn. The FSWP also shows maximum respect to the work/study experience in the host country, thus making the progression from the student status to the high-skill worker status easier.

However, this new programme significantly limits the access of new high-skill migrants to the country and its labour-market.

EU Policy Recommendations

If the EU's economic recovery requires it competes effectively with North America over the international talent, it should learn from the North American (particularly, Canadian) experience and reform the existing Blue Card provisions with the following measures:

- Transition from study to work for third country nationals should be made smooth: people who graduate in EU countries should be given preferential path to Blue Card acquisition.
- The link between the BC duration and the long term permit application should be strengthened: the initial BC duration should be 5 years so that holders can then apply for EU long term residence permit if they wish.
- The mobility potential of the Blue Card should be enhanced by lowering the requirement to stay within the same MS to 12 months. This would boost the attractiveness of the scheme and would contribute to intra EU mobility and meeting of offer and demand.

⁴ Koslowski, R. (2014). 'Selective migration policy models and changing realities of implementation', *International Migration* 52(3): 26-39; Lowell, L. and J. Avato (2014). 'The Wages of Skilled Temporary Migrants: Effects of Visa Pathways and Job Portability', *International Migration* 52(3): 85-98.

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