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RSCAS 2017/59  
Robert Schuman Centre for Advanced Studies  
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Revisions in the Blue Card Directive:  
Reforms, Constraints and Gaps

Sona Kalantaryan



European University Institute  
**Robert Schuman Centre for Advanced Studies**  
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EUI Working Paper **RSCAS** 2017/59

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ISSN 1028-3625

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Printed in Italy, November 2017

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Badia Fiesolana

I – 50014 San Domenico di Fiesole (FI)

Italy

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## **Abstract**

The European Agenda on Migration presented by the European Commission (on 13 May 2015) among its key actions related to the fourth pillar – a new policy on legal migration – suggests the “modernisation and overhaul of the Blue Card scheme”. The weakness of the Blue Card in its current form as a tool to attract and retain talents in Europe is acknowledged and the need for reform is reconfirmed. On 6 June 2016 the European Commission presented a new Proposal (for a directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly-skilled employment). This study aims at presenting the Blue Cards in terms of its achievements, its prospects with the proposed reforms and gaps that will remain unaddressed after revision

## **Keywords**

Labour migration, high-skilled, Blue Card, EU, labour market.





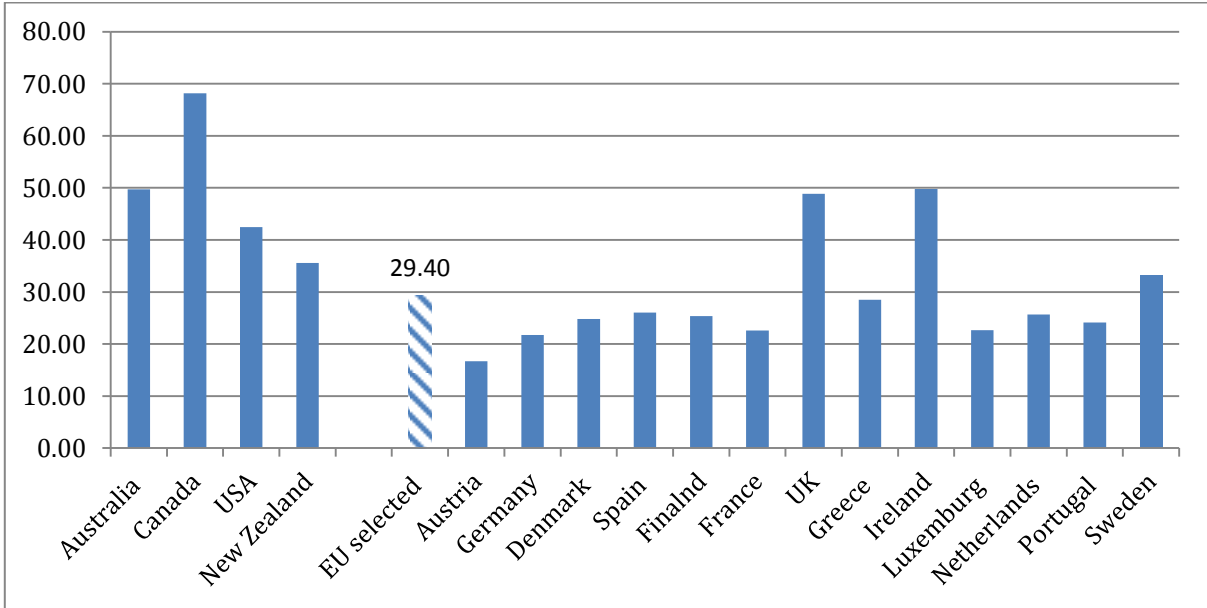
# The reform of the Blue Card Directive: status and prospects

## Objectives of the Blue Card Directive

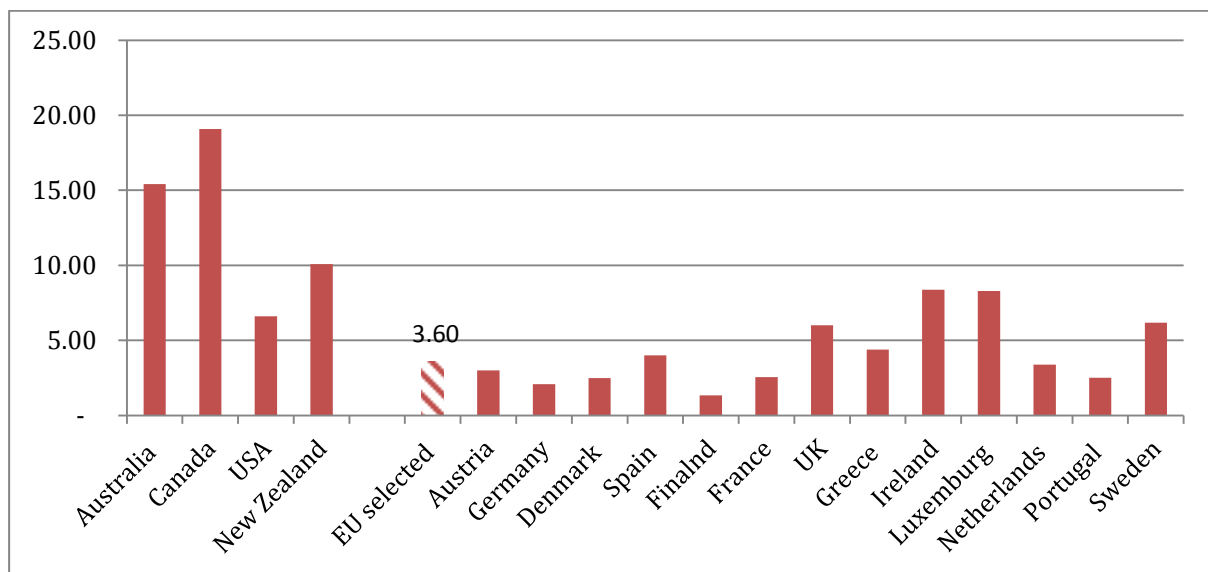
Attracting and retaining talents is away for Europe to maintain and increase its competitiveness in the near future by boosting the economic growth and by addressing labour-market shortages related to an aging population and the rapidly changing skill composition of labour demand. The adoption of the Blue Card Directive by the Council of Europe in 2009 was the first attempt to develop a framework for attracting highly-qualified third-country nationals, facilitating their admission and mobility across the EU. The Directive aimed at fulfilling/contributing to the ambitious goal of “becoming the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion by 2010” announced at the Lisbon European Council in March 2000.

Figure 1 and 2 below provide two sets of information on the presence of highly-skilled migrants in selected EU countries and alternative non-EU destinations. With the exception of UK and Ireland (50%) the rest of European countries presented currently have a stock of foreign-born population which is relatively less educated (30%) than other traditional destinations. The difference is even more striking once we look at the share of highly-skilled migrants as a part of the total working age population. In Canada the tertiary educated foreign born constitute almost one fifth of the total working age population, while in European countries it constitutes a measly 3.6 percent.

**Figure 1. The highly-skilled among migrant population (%)**



Source: The IAB brain-drain data. Available at: <http://www.iab.de/en/daten/iab-brain-drain-data.aspx>.  
 Note: Presented information refers to 2010

**Figure 2 Highly-skilled migrants among total working age population (%)**

Source: The IAB brain-drain data. Available at: <http://www.iab.de/en/daten/iab-brain-drain-data.aspx>

Note: Presented information refers to 2010.

The potential of highly skilled migrants in boosting competitiveness and economic growth in the destination and so far relatively disadvantageous position of European countries in attracting them explains the efforts put in at the European level to develop an effective mechanism enabling EU countries to attract and to retain talents over the last decade.

The European Commission Proposal to the Council from 2007 indicated two global objectives which were also later reflected in the Directive<sup>1</sup>:

(i) to improve EU ability to attract and retain third-country high skilled workers as one of the conditions for increasing the contribution of economic immigration within the set of policies and measures aimed at enhancing the competitiveness of the EU economy and addressing the consequences of demographic ageing;

(ii) to effectively and promptly respond to existing and new demands for highly-qualified labour, and to offset skill shortages, by enhancing the inflows and circulation of third-country highly-skilled workers between jobs and Member States and by promoting their efficient allocation and re-allocation on the EU labour market<sup>2</sup>.

Despite the ambitious objectives in the initial proposal the adopted Directive was a result of a series of compromises. The high level of flexibility given to Member States in the transposition of the Directive into national legislation led to the creation of “national” Blue Cards and added to a series of existing national schemes. Hence, it reinforced the heterogeneity of schemes across member states rather than leading to harmonisation. Also, the Blue Card eligibility criteria were almost impossible to reach for potential employees, while employers were reluctant to go through complicated bureaucratic procedures to issue one. “Actually, many of the provisions of the Blue Card Directive, and the way transposition into national legislations was conceived, are geared to restricting the number of beneficiaries rather than to facilitating the matching between EU labour demand and international

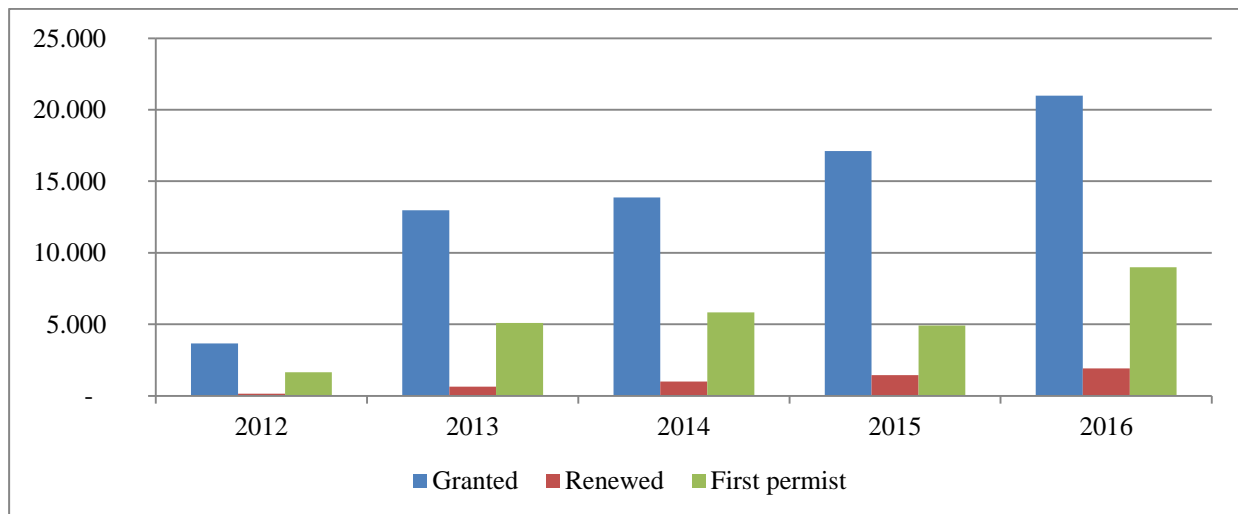
<sup>1</sup> Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment on October 23, 2007 (COM (2007) 637 final). Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0637:FIN:EN:PDF>

<sup>2</sup> See the comparison of specific objectives in the impact assessment reports in 2007 and 2016 in Table 1.

skilled workers. As such, they tend to discourage talented workers rather than attracting them, in particular if these workers have alternatives.” (Kalantaryan and Martin, 2015).

The fact that three years after the transposition of the Directive (due to 19 June, 2011) into national legislation only 13,865 (compared to 572,414 first residence permits for remunerated activities) Blue Cards were issued in the whole EU in a single year (2014) speaks to the weakness of the framework in attracting highly-skilled foreign workers<sup>3</sup>. By 2016, the total number of Blue Cards issued reached 20,979 out of which only 8996 were first permits indicating that the frameworks currently serves more as a tool to retain talents than to attract them (see Figure 3). The vast majority of the Blue Cards (almost 90 % in 2014 and 85 % in 2016) were issued in Germany due to absence of national scheme. The rest of the member states issued from a few to a few hundred. The national schemes though seem more successful in attracting the highly-skilled still leave the number of beneficiaries bellow the desired level. The number of permits issued annually under the national schemes (for highly qualified employment) hardly exceeds 30,000 for EU 28 and 25,000 for EU 25 (member states bound by the Blue Card Directive) per year<sup>4</sup>. These modest figures indicate that, currently the EU member states do not manage to attract enough highly-skilled workers to enhance the innovative potential of the EU or to combat skill shortages either under national schemes or under the Blue Card scheme. This simple fact cries out for immediate reforms at EU level.

**Figure 3 EU Blue Cards by type of decision**



Source: Eurostat, EU Blue Cards by type of decision, occupation and citizenship [migr\_resbc1] and First permits issued for remunerated activities by reason, length of validity and citizenship [migr\_resocc]

The shortcomings of the current EU Blue Card, both concerning its weak performance in terms of admissions and limited facilitation of intra-EU mobility for its beneficiaries, were acknowledged by both the European Commission in its Implementation Report<sup>5</sup> and by the academic community (OECD and EU, 2016; Kalantaryan and Martin, 2015; Martin and Venturini, 2015; Eisele, 2013;

<sup>3</sup> Eurostat, EU Blue Cards by type of decision, occupation and citizenship [migr\_resbc1]

<sup>4</sup> For comparison, though the US has a significantly smaller labour force than the EU the number of H-1B petitions approved in the US is 315,857(out of which 162,239 are initial) Report on H-1B Petitions. Available at: <https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/H-1B/H-1B-FY-2015-Petitions.pdf>.

<sup>5</sup> Communication 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). May 22, 2014. Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-287-EN-F1-1.Pdf>

Expert Group on Economic Migration Discussion, 2015). The most frequently pointed out problems can be summarised as following.

- Poor performance in terms of number of admissions;
- Lack of potential to retain and attract graduates;
- Wide discretion in term of implementation (as a result of the high level of flexibility given to Member States in the transposition of the Directive into national legislation);
- Existence of parallel national schemes for highly-qualified TCN workers (that potentially compete with the Blue Card and create more confusion for stakeholders);
- Limited access for small and medium enterprises to the scheme;
- Absence of a framework enabling the smooth recognition of foreign qualifications (that decreases the pool of potential beneficiaries);
- Lack of potential for intra-EU mobility;
- Lengthy bureaucratic procedure;
- Excessively high eligibility standards;
- Modest set rights for the beneficiary and her/his family members.

### **The European Commission Proposal**

The intention to reform the EU Blue Card was indicated in the European Agenda on Migration<sup>6</sup> (May 22, 2015) and in the Commission's recent Communication<sup>7</sup> (April 6, 2016). The European Commission Proposal<sup>8</sup> for a directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly-skilled employment (thereafter the Proposal) (June 6, 2016) has several aims. It wishes to reform the existing Blue Card into a significantly more inclusive scheme that can provide a transparent, flexible and streamlined scheme for highly-skilled foreign workers and by "acting as a single player towards the outside world" compete with schemes offered by other destinations. The objective of the proposal is "to improve the EU's ability to effectively and promptly respond to existing and arising demands for highly skilled third-country nationals, and to offset skill shortages, in order to increase the contribution of economic immigration to enhancing the competitiveness of the EU economy and addressing the consequences of demographic ageing".

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<sup>6</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. European Agenda on Migration (COM(2015) 240) May 1, 2015 Available at: [https://www.unodc.org/documents/brussels/News/2017\\_communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://www.unodc.org/documents/brussels/News/2017_communication_on_the_european_agenda_on_migration_en.pdf)

<sup>7</sup> Communication from the Commission to the European Parliament and the Council "Towards a reform of the common European asylum system and enhancing legal avenues to Europe" (COM(2016) 197 final) April 6, 2016. Available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406\\_towards\\_a\\_reform\\_of\\_the\\_common\\_european\\_asylum\\_system\\_and\\_enhancing\\_legal\\_avenues\\_to\\_europe\\_-\\_20160406\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406_towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf)

<sup>8</sup> Proposal or a directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment COM(2016) 378 final. (June 6, 2016). Available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607\\_proposal\\_for\\_a\\_directive\\_on\\_the\\_conditions\\_of\\_entry\\_and\\_residence\\_of\\_third\\_country\\_nationals\\_highly\\_skilled\\_employment\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607_proposal_for_a_directive_on_the_conditions_of_entry_and_residence_of_third_country_nationals_highly_skilled_employment_en.pdf)

***General and specific policy objectives identified in the Impact Assessment report***

The Impact Assessment of the Proposal considered two challenges requiring actions: (i) EU failure to attract and retain third-country highly-skilled workers and (ii) the EU failure in admitting other talented and highly-skilled TCNs. The first problem area includes widely-discussed issues related to the incapacity of the Blue Card in meeting its primary objective of attracting and retaining talents including recent graduates and former researchers. Instead, the second problem area is more innovative; the lack of a legal framework enabling admission of “other” highly-skilled TCN (innovative TCN entrepreneur, TCN service providers) and the waste of skills and human capital with highly-skilled beneficiaries of international protection and asylum applicants. The Proposal mainly addresses the first problem area and considers the inclusion of beneficiaries of international protection only.

With the exception of small adjustments related to the inclusion of entrepreneurial activities as an element of occupational mobility the general policy objectives identified in the 2016 Impact assessment are in line with the global objectives in the Impact assessment from 2007. Instead, there are more significant changes in the specific policy objectives (see the comparison in Table 1):

- the specific policy objective (1) includes “effective and efficient” term while defining the need to create a common EU migration system for highly-skilled TCNs (stressing the failure of the current version of the Blue Cards to do this);
- the specific policy objective (3) in addition to the already specified simplification and harmonisation of admission procedure, includes “lowering barriers to enter”;
- the specific policy objective (4) underlines the importance of the rights given to beneficiaries and family members in terms of labour-market integration and favourable condition for residence;
- the specific policy objective (5) introduces the need to “ensure more flexible” admission conditions;
- the specific policy objective (6) was not present in the previous version and it refers to the: “further development of the EU Blue Card brand in orders to improve the image of the EU as an attractive destination”.

**Table 1 Global and specific policy objective identified in Impact assessments reports 2007 vs 2016**

2007	2016
The global/general objectives	
(1) to improve EU ability to attract and retain third-country HSW as one of the conditions for increasing the contribution of economic immigration within the set of policies and measures aimed at enhancing the competitiveness of the EU economy and addressing the consequences of demographic ageing;	(1) to improve the EU's ability to attract and retain highly skilled third-country nationals in order to increase the contribution of economic immigration to the policies and measures aimed at enhancing the competitiveness of the EU economy and at addressing the consequences of demographic ageing;
(2) to effectively and promptly respond to existing and arising demands for highly qualified labour, and to offset skill shortages, by enhancing the inflows and circulation of third-countries HSW between jobs and Member States and promoting their efficient allocation and re-allocation on the EU labour market	(2) to improve the EU's ability to effectively and promptly respond to existing and arising demands for highly skilled third-country nationals, and to offset skill shortages, by enhancing the inflows and circulation of highly skilled third-country nationals between jobs <u>and entrepreneurial activities (occupational mobility)</u> and between regions and Member States (geographical intra-EU mobility), and promoting their efficient allocation and re-allocation on the EU labour market.
The specific objectives	
(1) to develop a coherent approach and common immigration policy on third-country HSW;	(1) to create a coherent, <u>effective and efficient</u> common EU immigration system for highly skilled third-country nationals;
(2) to increase the numbers of third-country HSW immigrating to the EU on a needs based approach;	(2) to increase the numbers of highly skilled third-country nationals immigrating to the EU on a needs-based approach;
(3) to simplify and harmonize admission procedures for third-country HSW;	(3) <u>to lower barriers to entry</u> , simplify and harmonise the admission procedures for highly skilled third-country nationals, <u>without prejudice to EU nationals</u> ;
(4) to promote third-country HSW's social and economic integration;	(4) to promote the social and economic integration of highly skilled third-country nationals and <u>their family members, including labour market integration, by granting them favourable conditions of residence and rights</u> ;
(5) to foster intra-EU mobility, remove unnecessary barriers and allow a more efficient allocation of third country HSW through the EU.	(5) to <u>ensure more flexible possibilities</u> for intra-EU mobility, remove unnecessary barriers and allow a more efficient allocation of highly skilled third-country nationals through the EU;
	<b>(6) <u>To ensure the further development of the 'EU Blue Card' brand in order to improve the image of the EU as an attractive destination.</u></b>
Note: New elements or changes with respect to 2007 are underlined. HSW stands for high skilled workers.	

Taking into account the general and specific objectives identified the Impact assessment provides an extensive analysis of a set policy options packages (POP) and policy options (PO) based on the following criteria:

- relevance and effectiveness in achieving objectives;
- expected impacts (economic, social and in terms of international relations);
- efficiency;
- coherence with other EU policies;
- stakeholders' and experts' views.

Based on these criteria the preferred option was identified: POP(2a) in combination with the horizontal non-legislative option PO(a). In addition, the Impact assessment report points to PO(c) regarding the legislative action extending the EU Blue Card to highly-skilled beneficiaries of international protection and asylum applicants (See Box 1). Despite the limited economic impact, the option is considered promising due to its social impact and political desirability. It is suggested to consider including this option limiting it only to beneficiaries of international protection (see Box 1 for the whole set of options considered or discarded). The European Commission followed the recommendations of the Impact assessment report derived from the Proposal based on the preferred policy options: making the EU Blue Card accessible to a wider group of highly-skilled workers in combination with non-legislative actions to improve the effectiveness of the EU Blue Card, while extending the Blue Card to highly-skilled beneficiaries of international protection. The Proposal states that the reformed Blue Card is estimated to attract from 32,484 to 137,690 highly-skilled workers (instead of the current 13,862 in 2014) with an annual positive impact of between 1.4 to 6.2 billion euros.

**Box 1 Set of Legislative and horizontal/parallel legislative options considered in the Impact assessment report.**

**Options discarded**

- ⊗ Repealing the Blue Card Directive
- ⊗ Introduction of a point-based expression of interest system
- ⊗ Extending the Blue Card to cover skilled international service providers

**Options retained for in-depth assessment**

**Legislative options**

- POP(0) Baseline scenario
- POP(1) Extending the scope by making it accessible to a significantly wider group of workers, including (some) medium-skilled
- POP2 Modifying admission conditions and rights without extending the scope beyond highly-skilled workers
  - POP(2a) Making the EU Blue Card accessible to a wider group of highly-skilled workers (*preferred*)
  - POP(2b) Making the EU Blue Card a tool to attract a selected group of the most highly-skilled workers
  - POP(2c) Creating a two-tiered Blue Card targeted at different skill levels of highly-skilled workers
- POP(3) A unified standard EU-wide Blue Card

**Horizontal/parallel legislative options**

- PO(a) Non-legislative actions to improve the effectiveness of the EU Blue Card (*preferred*)
- PO(b) Legislative action extending the EU Blue Card to innovative entrepreneurs
- PO(c) Legislative action extending the EU Blue Card to highly-skilled beneficiaries of international protection and asylum applicants (*included in the Proposal*)

**Shortcomings addressed**

The shortcomings of the Blue Card Directives have been widely acknowledged both in the academic literature and by the European Commission itself. Though, the Proposal addresses the majority of the issues raised, it can be considered as “marking time” rather than “step ahead”; the set of reforms proposed is another attempt to reach the objectives identified in the 2007 Proposal. The following discussion presents the way the current Proposal can potentially (if approved as it is) address the weaknesses demonstrated by the current Blue Card demonstrated and the remaining gaps. Table 2 summarises the measures proposed to address

different shortcomings of the Blue Card by the academic community, the European Parliament and the European commission (the Proposal).

#### *Reducing the level of heterogeneity*

One of the crucial shortcomings of the Blue Card mentioned in the Implementation Report was the lack of harmonisation. This, according to the study, is caused both by the existence of parallel national schemes, and by wide discretion in implementation of the Directive by Member States. The former one is also seen as an obstacle for intra-EU mobility of highly-skilled third country national. In particular, the Proposal states the parallel national schemes “cannot offer, by their own nature, this possibility to move easily from one Member State to another should labour shortages or work opportunities arise”. The Proposal suggests establishing a single EU-wide scheme by replacing parallel national schemes directly competing with the Blue Card (COM(2016) 378). All the national schemes competing with the EU Blue Card in attracting highly-skilled workers would, then, be abolished. However, the ending of national schemes is reasonable only after the reformed Blue Card proves their irrelevance or inferiority. While the lack of harmonisation does, indeed, undermine the effectiveness of the Blue Card in terms of admissions and intra-EU mobility, the negative impact of the national schemes is overrated. “It might be assumed that the existence of numerous national schemes would lead to confusion among potential employers or migrant employees. However, national schemes might be more flexible and dynamic in meeting the needs of national labour markets. If the objective is to develop a flexible system that is responsive to national and EU labour market needs as they emerge, the coexistence of several systems is not detrimental to the overall objective. Economic actors will seek in each case the scheme best adapted to their needs.” (Kalantaryan and Martin, 2015). The objective of a harmonised EU-wide scheme facilitating intra-EU mobility could be reached by reducing the discretion in the implementation of the Directive (addressing the related/problematic flaws), with more clarity for applicants and employers. This would mean expanding the rights attached, hence, making the scheme more visible and competitive.

#### *Enhancing intra-EU mobility*

The lack of intra-EU mobility (one of the crucial drawbacks of the current Blue Card) is related to the deviation from the original idea of creating an umbrella work permit for the whole EU (see point 25 of the Preamble of the Directive). The Blue Card as a single permit allowing for free movement and the right of establishment within the EU labour market would become an instrument for highly-skilled EU labour migration and would excel any single national scheme (without the need to abolish them). The proposal foresees enhancing the intra-EU mobility of Blue Card holders by allowing them to carry out short business trips (up to 90 days) within the Member States without having to obtain additional authorisation. Instead, while moving to another Member State for highly skilled employment, the EU Blue Card holders will still have to apply for a new EU Blue Card while profiting from certain facilitations. First, it will give the right to move to another Member State after 12 months of residence in the first Member State (instead of the current 18 month stay) and six months in the second, third etc. Second, if the profession is not regulated in the Member State, the Blue Card holder does not have to prove his/her eligibility regarding sufficient qualifications (education or experience) once it is proven in the first Member State. The proposed simplifications enhance the intra-EU mobility potential of the Blue Card, but still leaves it far from the initial idea of “one umbrella work permit for the whole EU”. A valid alternative to what is the Proposal offer would be automatic access to the labour market of other Member States (perhaps limiting it to highly-skilled occupations and jobs above a salary threshold) after a qualifying period would be a way to guarantee intra-EU mobility to the beneficiaries of the Blue Card and the only way to grant “equal social and economic rights as nationals of the host Member State” (point 7 of the Preamble of the 2009 Directive).



### *Reducing the costs of benefitting from the Blue Card*

The high cost of benefitting from the Blue Card in the current Directive has been limiting its use to a very small group of potential beneficiaries. The strict definition of “highly qualified employment”<sup>9</sup>, high (and non-differentiated across occupations, sectors and regions) salary threshold (minimum of 1.5 the average national salary) along with the minimum duration of the offered contract of one year made it accessible to only a small segment of labour market (such as multinational companies). According to Kalantaryan and Martin (2015), the existing eligibility criteria undermine its effectiveness as a labour migration tool (in particular, for small and medium enterprises), penalize those sectors with lower than average salaries in the economy. The Proposal addresses these issues in several ways.

- **Reducing bureaucratic obstacles.** The Blue Card related procedures are extremely costly for all stakeholders. It is “costly” both for the applicant through cumbersome bureaucracy and for the national authorities as currently the procedure requires case-by-case processing. A framework allowing certified employers or trusted partners to go through fast track procedures would reduce the bureaucratic obstacles for the applicants and the processing costs for administrators (Kalantaryan and Martin, 2015). In the revised version the application processing time is shortened from a maximum of 90 to 60 days. In addition, the Member States can “introduce a special fast-track procedure for recognised or trusted employers fulfilling certain criteria, who will profit from an even speedier procedure with fewer conditions for the employee to fulfil to reduce administrative burdens”<sup>10</sup>.
- **Shortening the minimum length of the contract.** The Proposal suggests reducing it from the current 12 to six months. **This would allow the employer to offer a short contract (a minimum of six months) with the possibility of extension if the candidate is suitable for the position offered.**
- **Lowering the salary threshold.** The average national salary and 1.4 of it are proposed as the lower and higher bounds of the salary threshold (instead of current 1.5). A lower salary threshold (80 % of the regular one) will also be offered for two categories: recent graduate professionals; and workers in occupations experiencing **labour shortages**. This is in line with the position of the European Parliament expressed in the Report in the section *On revision of the Blue Card (133)*: “ It is clear that the directive should focus not just on the highly-qualified, but also on targeted high-qualification occupations where there are proven labour shortages”. Offering a lower salary threshold to the first group, who might struggle to find a job meeting the salary threshold requirement upon graduation, would help to retain foreign graduates after they complete their studies in Europe and facilitate the entry of young talents from abroad. These measures will increase the pool of potential beneficiaries. However, the national average salary is not especially sensitive to the wage dynamics of a given sector. The threshold to be established, though lower, still does not take into account factors defining the salary for a particular job (occupation, sectors, region etc.). It, thus, leaves out many potential highly-skilled foreign workers. The established threshold should not be unique for the whole national labour market, but rather it needs to relate to the salary achieved through collective bargaining or the average salary in a given sector/region/occupation. This would also guarantee that, on the one hand, labour immigration does not undermine national work conditions and salaries, and, on the other hand, would become a flexible tool for adapting to the different needs of national labour markets. Taking into account the regional differences in wages it would make the periphery attractive for highly-skilled foreign workers too. This would, hence, contribute to a more even distribution of migrants across the national territory.

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<sup>9</sup> According to the Directive 2009/50/EC highly-qualified employment means the employment of a person who is employed under national law, (ii) paid and has the required adequate and specific competence, as proven by higher professional qualifications.

<sup>10</sup> Press release [http://europa.eu/rapid/press-release\\_MEMO-16-2071\\_en.htm?locale=FR](http://europa.eu/rapid/press-release_MEMO-16-2071_en.htm?locale=FR)

### *Introducing flexible and targeted definition of “highly-qualified”*

In the Proposal the concept of “highly qualified employment” is now replaced by “highly skilled employment”. Also, though keeping the level of required skills (higher professional qualifications<sup>11</sup>) unchanged, the Proposal would make it mandatory for all Member States to recognise professional experiences as an alternative to education qualifications. This, by definition, will extend the pool of potential beneficiaries of the Blue Card, and will partially address the bureaucratic obstacles related to the recognition of foreign formal qualifications.

### *Enhancing Blue Card rights*

In order to make the Blue Card more attractive right attached to it should be enhanced. The absence of a family migration framework (unlike, for example, Canada where family members can migrate together with the principal applicant) makes the beneficiaries go through a family unification procedure, which is frequently long or / and bureaucratically challenging. One way to increase the competitiveness of the Blue Card (with respect to national schemes and also at the international level) is to ensure that family members can join the EU Blue Card holder simultaneously. The Proposal addresses the attractiveness (and international competitiveness) issues considering: (i) simultaneous family unification; and (ii) introduction of accelerated access to permanent residence. Under new rules the Blue Card beneficiary becomes eligible for long-term EU residence after three year continuous residence in one Member State, or five years in different Member States. As attracting highly skilled foreign workers is a long-term priority for the EU then the period for which the Blue Card is issued should be extended to five years. This would entitle beneficiaries to a permanent residence according to EU legislation (Kalantaryan and Martin 2015). Alternatively, shortening the period of stay before entitlement for permanent residence might be shortened or the stay could be opened up to include more than a single Member State.

Though the Blue Card is a demand-driven scheme, it is not designed to incentivise the employers to hire highly-skilled TCNs. Rather, it is supposed to attract and retain them to address shortages in the labour market. However, the opinions of the (potential) Blue Card beneficiaries (for example, regarding factors defining the choice/preferences between the Blue Card and national schemes) were not taken into consideration in the reforms. They were not reflected either in the impact assessment report, or in the Proposal itself<sup>12</sup>. For instance, one of the desired characteristics of the Blue Card from the beneficiary’s prospective is the independence to choose an employer after the qualifying period. This is, however, jeopardised by the way that the directive is transposed in national law. The original Council Directive states that that Member States are free to decide whether the application for an EU Blue Card is to be made by the third-country national and/or his/her employer. However, if a Member State states that the application can only be made by the employer it gives the employer additional bargaining power and the possibility of limiting the opportunities of the employee to look for another job in the future, something which contradicts the initial aim of the Blue Card. For instance, this is the case in Italy where the employer alone can initiate a Blue Card application.

### *Expanding the scope/coverage*

The proposed reform considers including the highly-skilled beneficiaries of international protection (under Directive 2011/95/EU) in the Blue Card scheme. According to the Proposal, this would enable

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<sup>11</sup> “Higher professional qualifications” can be attested either by “higher education qualifications” (at least level 6 of ISCED 2011 or level 6 of the European Qualification Framework) or by “higher professional skills” (at least three years of relevant professional experience of a level comparable to higher education).

<sup>12</sup> The only exception is the opinion regarding the possibility of intra-EU mobility based on surveys conducted among Blue Card holders in Germany summarised in the Impact assessment report. (page 8): “The views of Blue Card holders themselves may illustrate the need best: 87 % of 4 116 German Blue Card holders who were surveyed see clear benefits in improved mobility within the EU and 13 % say that they have already or will probably make use of it”.

them to take up employment in a more targeted way in accordance with their skills and education hence, facilitate faster integration in the labour market. This approach is not new: it is already practiced in France; if an asylum seeker fulfils the conditions for applying for the EC Blue Card his/her application will be processed through the relevant regulation with no labour-market test (EMN, 2015). One possible drawback of extending the Blue Card to the beneficiaries of international protection is that it might lead to brain drain in the countries of first asylum (especially on the EU periphery). This would result in a deterioration of the remaining stock of beneficiaries of international protection in terms of skills, making the task of integrating them into the labour market more challenging. Given the relatively low skill level of the beneficiaries of international protection it would be more effective to extend the Seasonal Workers Directive to beneficiaries of international protection<sup>13</sup>. This would mean greater economic and social impact in terms of: (i) introducing potential beneficiaries to the labour market of the host countries (hence, fostering their integration); (ii) combating labour shortages for seasonal jobs (excluding the risks of overstay), while contributing fiscally.

One of the clauses (131) of the Report recalls that in the Agenda on Migration, the Commission announced its intention to revise the ‘Blue Card Directive’, looking particularly at the issues of scope: possibly covering entrepreneurs willing to invest in Europe. Indeed, this was one of the parallel legislative options considered and retained for in-depth assessment. However, it is not included in the preferred option, and hence is not discussed in the Proposal. The Blue Card will remain a scheme for workers with an employment contract, as the details of the scheme are tailored for that group alone. However, this does not exclude the necessity of creating a framework which would allow foreign entrepreneurs willing to invest in the European Union. Perhaps, the Blue Card is not the best tool to attract potential entrepreneurs, as it is designed for attracting highly-skilled individuals whose potential is verified through formal higher education qualifications (or, potentially, equivalent **professional experience**), occupation category, salary. The set of skills necessary and hence the eligibility criteria to be established for entrepreneurial activities are different: credit history, validity of the business plan, previous entrepreneurial experience, established contacts in the destination, etc. An example of an entrepreneurial activity visa is offered by Canada. According to the information provided by the Citizenship and Immigration Canada, the Start-up Visa Program, introduced in April 2013, targets immigrant entrepreneurs with the skills and potential to build innovative businesses in Canada, businesses that can create jobs for Canadians and compete on a global scale<sup>14</sup>. Additionally, the Province of Quebec is in charge of its own business immigration program.

The set of reforms presented in the Proposal though necessary (if approved), are unlikely to enable the Blue Card to address labour-market shortages even in the near future. The estimated number of highly-skilled workers that will be attracted according to estimates (from 32,484 to 137,690) is below the desired level. By 2020, the expected number of unfilled vacancies for ICT and highly-skilled health sector professionals will be respectively 756,000 (130,000 per year) and 1 million (200,000 per year)<sup>15</sup>. Hence, the number of highly-skilled workers attracted, even in the best case scenario, can hardly cover the needs of one of these two sectors. These figures indicate that the Proposal is simply not ambitious enough in meeting EU labour-market needs.

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<sup>13</sup> Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0036&from=en>.

<sup>14</sup> The program replaced the federal Immigrant Investor Program (IIP) and federal Entrepreneur (EN) Program that were proved to provide limited economic benefits to Canada. Studies document modest income generation, limited to entrepreneurial endeavour by business immigrants (Ley 2003; 2006).

<sup>15</sup> European Commission, A Digital Single Market Strategy for Europe, COM(201) 192 final; Husing, T., Korte, W.B., Dashja, E., *e-Skills in Europe: Trends and Forecasts for the European ICT Professional and Digital Leadership Labour Markets (2015-2020)*, Empirica Working Paper, November 2015.

**Table 2 Comparison of reforms proposed by academic literature, the European Parliament and the Proposal by the European Commission regarding the Blue Card Directive.**

Reforms proposed in the literature	Reforms suggested by the EP	Reforms suggested in the EC Proposal
<b>Reducing the level of heterogeneity</b>		
<ul style="list-style-type: none"> <li>introducing more transparent, comprehensive and widely available information on the conditions for benefitting from a Blue Card in each MS.</li> <li>coexistence of EU Blue Card and national labour migration schemes (national schemes are more flexible to respond national and dynamic in meeting the needs of national labour markets).</li> </ul>	<ul style="list-style-type: none"> <li>removing the parallel national schemes.</li> </ul>	<ul style="list-style-type: none"> <li>removing the parallel national schemes (establishing a single EU-wide scheme).</li> </ul>
<b>Enhancing intra-EU mobility</b>		
<ul style="list-style-type: none"> <li>giving access to the whole EU labour market (a single permit allowing for free movement within the EU labour market).</li> <li>granting access to the labour market of other MS after a qualifying period of 1 year (instead of current 2).</li> <li>removing the administrative procedures related to moving to a second MS to take up highly-skilled employment.</li> </ul>		<ul style="list-style-type: none"> <li>allowing for shorter business trips of up to 90 days within the MS.</li> <li>facilitating procedures related to moving to a second MS to take up highly-skilled employment.</li> <li>reduction of required residence in the first MS (from 18 to 12 for the first state, 6 for the second, third etc.)</li> <li>removing the requirement to prove the sufficiency of qualifications (education or experience) in the new MS for non-regulated professions once approved in the first MS.</li> </ul>
<b>Reducing the costs of benefitting from the Blue Card</b>		
<ul style="list-style-type: none"> <li>lowering the established salary threshold</li> <li>defining the threshold based on collective bargaining or average salary applicable in each sector/occupation.</li> </ul>	<ul style="list-style-type: none"> <li>also targeting high-qualification occupations where there are proven labour shortages</li> </ul>	<ul style="list-style-type: none"> <li>lowering the salary threshold by creating a flexible range corresponding to the MS's labour markets contexts</li> <li><b>lowering salary threshold</b> offered to recently graduated professionals and workers in shortage occupations.</li> <li>shortening the minimum length of the contract <b>from 12 to six months</b>.</li> <li>shortening the maximum processing time (from 90 to 60 days)</li> <li>introducing a special fast-track procedure for recognised or <b>trusted employers</b>.</li> </ul>

<b>Introducing flexible and targeted definition of “highly-qualified”</b>		
<ul style="list-style-type: none"> <li>integrating specialized professionals in highly sought-after occupations</li> </ul>		<ul style="list-style-type: none"> <li>introducing equivalence between professional experience and formal qualifications</li> </ul>
<b>Enhancing rights attached to the Blue Card.</b>		
<ul style="list-style-type: none"> <li>ensuring simultaneous unification with family members</li> <li>extending the maximum period for granting the Blue Card to five years (to make holders eligible for a permanent residence permit)</li> </ul>		<ul style="list-style-type: none"> <li>allowing for accelerated access to permanent residence status (3 in 1 MS or 5 in different MSs.)</li> <li>allowing immediate and more flexible labour-market access</li> <li>ensuring simultaneous reunification with family members.</li> </ul>
<b>Expanding the scope/coverage</b>		
<ul style="list-style-type: none"> <li>including entrepreneurs</li> <li>including family migrants</li> <li>including asylum-seekers and beneficiaries of international protection.</li> </ul>	<ul style="list-style-type: none"> <li>covering entrepreneurs willing to invest in Europe.</li> </ul>	<ul style="list-style-type: none"> <li>highly-skilled beneficiaries of international protection will be able to apply for the Blue Card</li> <li>restricting the Blue Card to workers with an employment contract.</li> </ul>

### Attracting talent to the European Union? Economic and cultural constraints

There are several economic and cultural constraints that should be taken into account while designing policies to attract and retain highly-skilled migrants: ignoring these constraints might seriously undermine the effectiveness of the instruments put in place.

#### *Language diversity*

One of the biggest cultural assets of the European Union – the diversity of languages spoken – is an obstacle for attracting highly-skilled foreign workers. It is among the biggest barriers for intra-EU mobility for both EU citizens and TCNs, as moving to another member state might result in employment in an occupation not corresponding to a migrant’s qualifications.

The crucial role played by language in attracting talents can be observed in the labour-market related global market for tertiary-level students. Out of ten top destinations for tertiary-level international students four are English-speaking countries that together receive almost 40 percent of total mobile students: the USA (19%), the UK (10%), Australia (6%), and Canada (3%). Among European countries the UK alone attracts 10 percent of tertiary level international students. France, Germany and Italy attract respectively only 6%, 5% and 2%: though all make it into the top ten. The importance of a common language works for France, which is chosen as a study destination by French-speaking Moroccan, Algerian and Tunisian students.

**Table 3 Top 5 destination countries for tertiary-level international students**

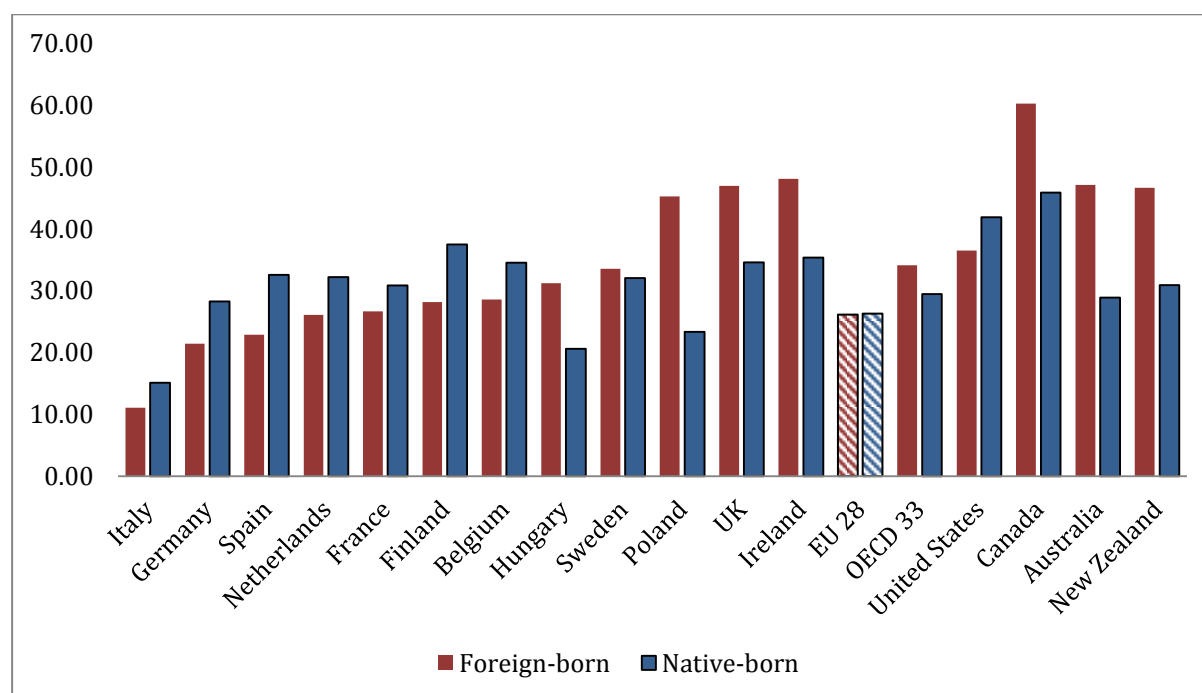
Destination	Percentage of total mobile students	Total number of mobile students hosted	Top 5 origins
the USA	19 %	842,384	China 260,914; India 97,613; Korea Rep. 64,693; Saudi Arabia 50,262; Canada 26,909
United Kingdom	10 %	428,724	China 86,204; India 19,604; Nigeria 17,973; Malaysia 15,583; the USA 14,950
Australia	6 %	266,048	China 90,245; India 25,562; Malaysia 15,357; Vietnam 12,898; Indonesia 9,495
France	6 %	235,123	China 25,388; Morocco 25,233; Algeria 16,558; Tunisia 8,955; Senegal 7,439;
Germany	5 %	210,542	China 19,441; Russia 9,480; Austria, 8,277; Bulgaria 6,186; Poland 5772.

Source: UNESCO, Global Flow of Tertiary-Level Students.

### *Skill mismatch and over-qualification*

There is a popular belief that migrants are less educated than natives, which is, however, not confirmed by the evidence provided by official statistics. Figure 4 demonstrates that there are important differences across select EU member states and traditional destinations in terms of the skill level distribution among both migrants and natives.

**Figure 4 Percentage of the highly-educated among native- and foreign-born 15-64 year-olds not in education, 2012-2013**

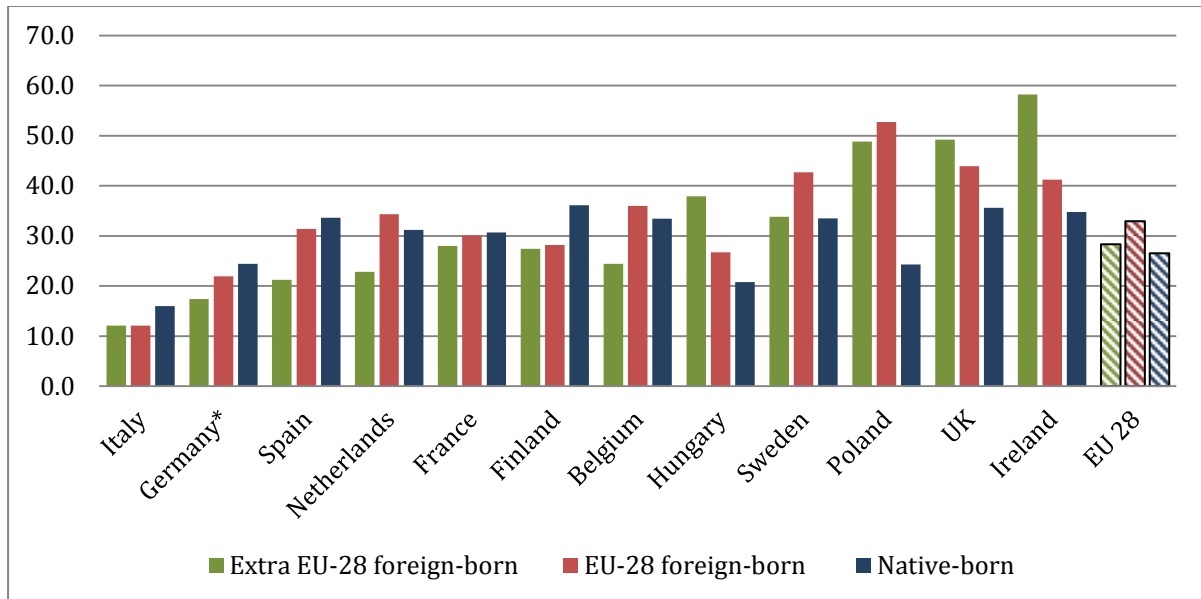


Source: Indicators of Immigrant Integration 2015: Settling In, OECD 2015.

In the traditional destinations migrants are, with the exception of the USA, more educated than natives. The highest percentage of tertiary-educated is in Canada; it is more than 60 percent. In the EU, on average, migrants are as educated as natives; for both groups the share of tertiary educated is about 26 percent. Migrants are more educated than natives in the UK, Ireland, Hungary, and Poland.

In Italy they are among the least educated (11.1 %); however the natives themselves have only 15.1 % tertiary educated<sup>16</sup>.

**Figure 5: Percentage of the highly-educated among native- and foreign-born 15-64, 2015**



Source: Eurostat, Population by educational attainment level, sex, age and country of birth (%) [edat\_lfs\_9912]

Note: For Germany migrants defined based on nationality, not on country of birth. Individuals with education corresponding to ISCED2011 (5-8) are considered as highly educated.

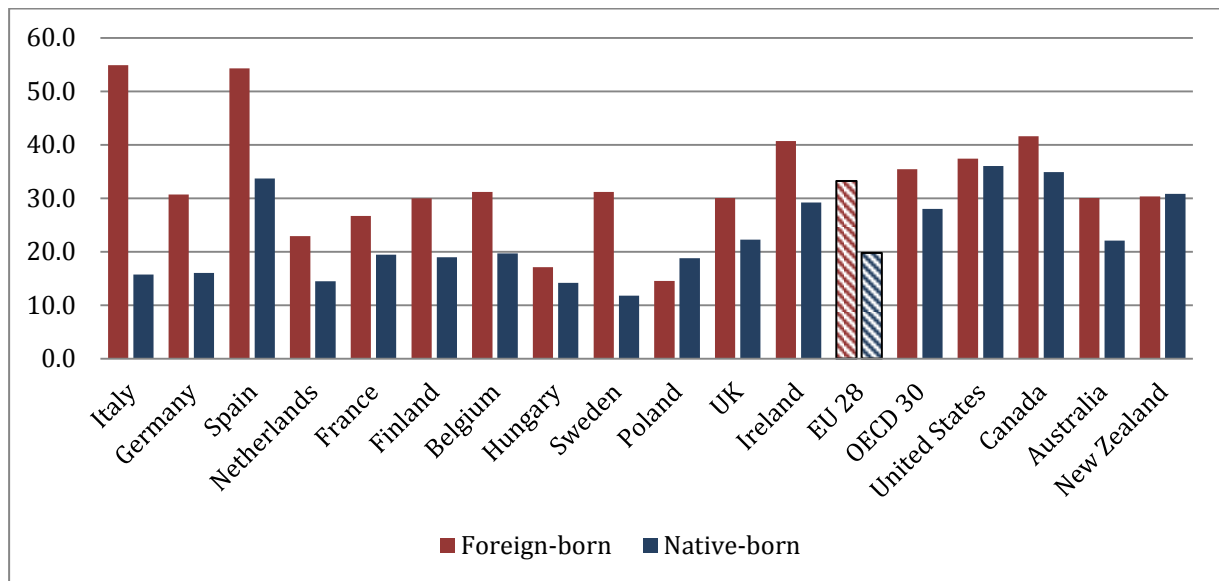
Figure 5 demonstrates that on average EU born migrants are better educated than those born in third countries. TCNs are better educated than the natives in the UK, Ireland and Hungary. However, better education does not necessarily translate into better occupations. It is not enough to attract highly-skilled migrants, as admission alone does not guarantee a utilisation of those skills at destination. Migrants frequently end up working in occupations not corresponding to their qualification and skills. The extent of skill-occupation mismatch for highly-skilled migrants is usually measured by overqualification rate: the share of workers holding a higher qualification than the job requires<sup>17</sup>. Figure 6 presents the relevant information for select EU member states as well as for traditional destinations.

An employed person is defined as being overqualified if he/she has a tertiary degree but if he/she is not working in a job that is ISCO-level 1-3; i.e. neither classifies as a manager nor as a professional/associate professional occupation.

<sup>16</sup> The presented figures refer to the total foreign-born population including those born either in another EU member state or outside of the EU. There are important differences in terms of the level of education between EU born migrants and non-EU born migrants within and between member states.

<sup>17</sup> An employed person is defined as being overqualified if he/she has a tertiary degree, but is not working in a job that is ISCO-level 1-3; i.e. neither classifies as a manager, nor as a professional/associate professional occupation (EU and OECD, 2015).

**Figure 6 Overqualification rates among 15-64 year-olds who are not in education, by place of birth, 2012-13**



Source: Indicators of Immigrant Integration 2015: Settling In, OECD 2015.

Note: The figures are based on EU-LFS 2012-13. United States: Current Population Survey (CPS) 2012-13. Australian Survey of Education and Work (ASEW) 2013. Canada and New Zealand: LFSs 2012-13.

With the exception of New Zealand, migrants are more exposed to overqualification than natives in all countries included in the table. Italy and Spain demonstrate the highest rates for migrants among the EU member states present there. These countries scored poorly both in terms of attracting the highly-skilled and in terms of utilising their skills. The overqualification rates for the foreign-born population in the USA and Canada are higher, on average, than in Europe. Overqualification for migrants is the highest in Canada. These figures indicate that though the country is successful in attracting highly-skilled through its points system, the highly-skilled are not necessarily employed in occupations corresponding to their qualifications.

Ideally, migration should lead to a win-win-win situation, which provides benefits to the host country, the country of origin and, of course, to the migrants themselves. Destination countries fill labour shortage, migrants benefit from the better pay for their skills and origin countries benefit through remittances and the inflow of new skills that return migrants bring upon return. This is particularly relevant for the highly-skilled migrants due to their rich human capital. However, the reality seems to be far different from this. Migrants are frequently highly overqualified, which leads to a situation when brain gain becomes brain waste, through deskilling and devaluation of previous learning and work experience. There are several reasons explaining high overqualification rates which signals obstacles to the full utilisation of migrants' human capital. First, mismatch between the skill shortages in the destination and the skills of arriving migrants. In other words, the skills or formal qualifications migrants possess are not relevant or demanded in the destination. Second, lack of mechanisms in place enabling cross border transfer of skills (such as mutual recognition of qualification). In this case migrants have either to go through the education system of the country of origin or to be employed in a position which does not correspond to his/her qualifications. The first option is usually costly both in terms of money and time and as migrants often cannot afford it they end up being employed in an occupation which does not require any formal qualification. Last, but not least, possible discrimination in the labour market (such as the "glass ceiling") is a possible cause of the waste of talents.



### ***Absence of a common framework on formal qualification recognition***

Labour migration is related to a number of bureaucratic procedures such as verification of identity documents, validation of employment contracts, issuing a work permit etc. For (highly)-skilled labour migrants the procedures might be even more complicated. After all, to prove their formal qualifications and skills (and hence to benefit from them at destination) they have to go through intense administrative procedures related to translation and legal endorsement of diplomas and certificates which take both time and money. The imperfect transferability of foreign qualifications is among the major causes of human capital underutilisation, with its negative consequences for all parties involved: countries of origin, destination and migrants themselves.

The problem is specific to all destination countries. However, migrants choosing the EU as a destination encounter additional obstacles related to the absence of a unique EU wide framework and low level of harmonisation of procedures related to the recognition of foreign qualifications and skills across member states. According to OECD and EU (2016), there is, currently, no automatic recognition of academic or professional qualifications, even within the EU, and each Member State applies its own rules. Instead, there is a framework that guarantees the right to request recognition, as well as the conditions for this process<sup>18</sup>. Once that foreign qualifications are recognised in the Member State of residence, third-country nationals can benefit from equal treatment in recognition procedures. However, the evidence of formal qualifications issued by a third country shall be regarded as evidence of formal qualifications if the holder has three years professional experience in the profession concerned on the territory of the Member State which recognised that evidence of formal qualifications certified by that Member State. “In each EU Member State the various rules and procedures applying to the recognition of foreign professional qualifications make up a complex and disparate web of practices rather than a homogeneous corpus. Procedures differ depending on the occupational field, the scope of practice, and the regulated or un-regulated status of the profession for which recognition is sought. Moreover, authority over recognition is generally highly fragmented—with numerous public and private stakeholders involved in the process. These are not characteristics singular to EU Member States.” (MPI Europe, 2015). This jeopardises the potential intra-EU mobility of highly-skilled third-country workers. It also undermines the attractiveness of the EU labour market for foreign highly-skilled workers who might prefer destinations (such as the US, Canada, Australia and New Zealand) where their qualifications once recognised are valid through the whole territory.

The presented discussion suggests that the creation of an effective and efficient EU-wide framework enabling recognition of foreign formal qualifications is a necessary condition for attracting highly-skilled professionals to the EU. Recent active collaboration of the European Network of Information Centres in the European Region (ENICs) and the National Academic Recognition Information Centres in the European Union (NARICs) with third countries is an important step towards the goal. Also, significant progress has been made towards academic recognition of foreign qualifications. The 2016 the European Recognition Manual for Higher Education Institutions has been developed to assist and enable credential evaluators and admissions officers in higher education institutions to practise fair recognition according to the principles of the Lisbon Recognition Convention<sup>19</sup>. However, this advancement refers mainly to recognition for the purpose of obtaining access to higher education.

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<sup>18</sup> The need to establish a common European framework for mutual recognition of diplomas, certificates and evidence of formal qualification were discussed in Article 47(1) of the Treaty of Rome (1957) and the relevant Recognition Directive (2005 2005/36/EC) was adopted by the European Parliament and of the Council on 7 September 2005. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0036>.

<sup>19</sup> The regulatory framework for international academic recognition in the European region.

### ***Glass ceiling/glass door***

Skilled migrants are among the most desired in destination countries due to the human capital they bring with them. However, many of them do not succeed in working in occupations corresponding to their qualifications, partially due to the lack of recognition, and partially due to the so-called “glass ceiling” or “glass doors”: intangible barrier within a hierarchy that prevent migrants from getting upper level jobs despite their qualifications. According to Brandi (2001) 40 percent of highly-skilled migrants from Asia, Africa and Latin America in Rome work in low-skilled jobs. The author suggests that there is evidence of various kinds of glass ceilings in the workplace, compounded by a type of differential racism which seems to privilege some migrants over others. Andersson and Fejes (2010) and Morrice (2013) describe career advancement related difficulties encountered by highly-qualified refugees in, respectively, Sweden and the UK. These phenomena are well documented by scholars for traditional destinations (see, for example, Pendakur and Woodcock 2010; Wagner and Childs 2006). For example, Guo (2013) describing the situation in Canada states that many migrants suffer from unemployment and underemployment, poor economic performance, and downward social mobility, which can be attributed to a “triple glass effect” consisting of a “glass gate”, “glass door”, and “glass ceiling”. The first one denies immigrants’ entrance to guarded professional communities, the second one blocks immigrants’ access to professional employment at high-wage firms and the third one prevents immigrants from moving up to management positions because of their ethnic and cultural background. Wagner and Childs (2006) find that even those possessing the most demanded skills encounter difficulties in gaining access to jobs corresponding to their qualifications: migrant optometrists become taxi drivers, teachers become clerical assistants, and environmental engineers stack supermarkets shelves.

In the inequality literature, discrimination might affect workers so that they face constraints to reaching the highest wage positions, something which is referred to as hitting the glass ceiling. In a similar way, workers might face unequal access to firms which, on average, pay higher salaries, something which can be seen as hitting the glass door (Pendakur and Woodcock, 2010).

### ***Relatively low wage premium***

Europe continues to be characterised by progressive income taxes in combination with a generous support system for families and individuals, which results in a relatively egalitarian system. However, a skilled migrant would search for a destination that pays the best for his or her qualifications. Wage premium is among the important factors he/she considers while choosing that destination. Table 5 demonstrates that the relative earnings of tertiary educated in the EU member states are as high as (or higher than) in other traditional destinations. However, the mean monthly earnings are significantly lower. Only seven among the twenty-one reported member states have wages higher than in Australia, only one (Germany) higher than Canada and none higher than in the USA.

**Table 5 Relative and monthly earnings of tertiary educated workers**

	Relative earnings of workers by age group			Mean monthly earnings of workers, by PIAAC literacy proficiency level			
	25-64	25-34	55-64	Level 0/1	Level 2	Level 3	Level 4/5
Austria	171	138	173	X	4166	4798	5176
Belgium	128	123	135				
Belgium (Flanders)				X	4161	4505	4911
Czech Republic	176	149	187	X	1899	2193	2291
Denmark	128	112	137	3834	4279	5012	5367
Estonia	134	116	147	1459	1771	2055	2496
Finland	147	126	166	X	3435	3833	3889
France	154	138	189	2762	3113	3299	3604
Germany	174	148	207	3750	4074	4985	5649
Greece	152	127	187				
Hungary	208	181	222				
Ireland	175	165	162	3690	4027	4835	5239
Italy	147	125	167	X	3132	3589	3650
Luxembourg	168	148	184				
Netherlands	156	137	159	X	4476	5004	5140
Poland	172	146	205	1798	1947	2208	2422
Portugal	170	156	193				
Slovak Republic	173	144	190	X	1889	2325	2765
Slovenia	180	142	211				
Spain	141	127	150	2722	3088	3251	3685
Sweden	128	110	143	2807	3235	3746	3923
United Kingdom	156	149	159				
UK (England./N. Ireland)				2706	3708	4515	5317
<b>EU21 average</b>	<b>159</b>	<b>138</b>	<b>175</b>				
<b>OECD average</b>	<b>159</b>	<b>140</b>	<b>176</b>				
Switzerland	158	134	169				
United States	174	165	172	4180	4983	5956	7366
Australia	134	119	149	2660	3177	3941	4611
Canada	139	123	149	3325	3903	4774	5368
New Zealand	123	121	123				
Japan	152	136	177	X	3255	3739	4174
Norway	130	108	154	3707	4549	5088	5267

Source: OECD, Education at a Glance 2014

Note: Relative earnings of workers are compared with those having upper secondary education (= 100). Mean monthly earnings of workers, by PIAAC literacy proficiency 25-64 year-olds with income from employment working full time (i.e. 30 or more hours per week), in equivalent USD converted using PPPs for private consumption.

### ***Absence of an EU-wide framework regulating social security access for TCNs***

According to the EMN (2014) existing bilateral social security agreements reached by Member States with third-countries have created significant exceptions to national rules governing access to social security rights for third-country nationals in EU Member States. The result is a significant variation in the social security rights that third-country nationals enjoy both across Member States and often within individual Member States. Due to the large number of bilateral agreements concluded with third countries by individual member states there are wide variations in terms of benefits or benefit categories covered. These bilateral agreements mostly cover contributory or partially contributory benefits such as old-age benefits and healthcare. Though the majority of bilateral agreements grant

equal treatment between third-country nationals and nationals with regard to the social security rights identified in the agreement, the material scope of the equal treatment principle is not always the same in all bilateral agreements signed by a Member State (EMN, 2014). The export of benefits (contributory or partially contributory) to third countries is a part of all bilateral agreements. However, the conditions vary significantly, the related administrative procedures are complicated and vary from one member state to another, and if a migrant worked in several member states he/she has to go through bureaucratic procedures in each member state separately. This makes the overall possibility of exporting benefits to third countries an exception rather than a rule.

## **Conclusion**

The refugee crisis is constantly and overwhelmingly present in the headlines of European newspapers and on the agenda of policy makers with its emergencies and the demand for urgent solutions. However, during the last decade policy makers at the EU level have also been taking steps towards creating a migration management framework, ensuring that regular migration becomes the main channel of migration towards Europe. Creating a pan European scheme to attract and retain highly-qualified third-country nationals, facilitating their admission and mobility across the EU was one of the identified priorities which was reified into action by adoption of the Blue Card Directive by the Council of Europe in 2009. Unfortunately, the scheme has been proven to be ineffective and has been heavily criticised by both policy maker and the academic community. As a consequence, the European Agenda on Migration presented by the European Commission among its key actions related to the fourth pillar – a new policy on legal migration – considers “modernisation and overhaul of the Blue Card scheme”. The document acknowledges the weakness of the Blue Card in its current form as a tool to attract and retain talents in Europe and reconfirms the need to undertake reforms in the field. The followed public consultation launched by the European Commission aimed at searching for possible strategies to review the framework in order to make it more effective. In June 2016 the European Commission presented a new Proposal to reform the Blue Card Directive to improve its effectiveness in attracting and retaining talents. The study discusses the proposed reform in terms of its potential to address present shortcomings, constraints and any remaining gaps.

The new Proposal takes into account most identified weaknesses by: reducing the level of heterogeneity of transposition of the Blue Cards across EU Member States; enhancing intra-EU mobility; lowering the costs of benefitting from the Blue Card; and reducing bureaucratic obstacles and enhancing rights attached to the Blue Card. Still there are several remaining gaps worth mentioning.

First, the Proposal foresees abolishing the national schemes for the reduction of the present heterogeneity, while this goal could be reached by reducing discretion in the implementation of the Directive. Moreover, expanding the rights attached (e.g. a single permit allowing for free movement and the right of establishment within the EU labour market) would excel any single national scheme without the need to abolish them. Second, though the Proposal considers enhancing intra-EU mobility potential for the Blue Card, it still remains far from the initial idea of “one umbrella work permit for the whole EU”. Third, the proposed lower salary threshold is an important step towards widening the pool of potential beneficiaries. However, a unique threshold (even with exceptions made for occupations with proven labour shortages and recent graduates) does not take into account factors defining the salary for a particular job (occupation, sectors, region etc). It hence leaves out many potential highly-skilled foreign workers. Finally, the set of reforms presented in the Proposal though necessary (if approved), are unlikely to enable the Blue Card to address labour-market shortages even in the near future as the estimated number of high skilled workers to be attracted is below the desired level. As already discussed in the study the number of highly-skilled workers attracted in the best case scenario can hardly cover the needs of one sector. In other terms the Proposal is simply not ambitious enough to meet the needs of the EU labour market. Moreover, the numerous objective obstacles such as linguistic heterogeneity, absence of a common framework on formal qualification recognition,

relatively low wage premium and the absence of an EU-wide framework regulating social security access for third-country nationals are and will continue to jeopardise the competitive potential of the European Union in the market for internationally mobile talents. One way to make the European Union more open for highly-skilled third country nationals would be a scheme allowing more effective job matching, possibly by providing highly-skilled third-country nationals with job search visas at least for sectors and occupations with proven labour shortages.

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