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A Comprehensive Labour Market Approach to EU Labour Migration Policy

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Abstract

“Opening up new legal migration channels” to respond to economic needs for labour is one of the four priorities of the European Commission for its upcoming European Agenda on Migration. The EU approach to legal labour migration has, to date, been very fragmented and limited. It has focused, indeed, on specific categories of potential legal migrants: highly-qualified, intra-corporate transferees, seasonal workers or students and non-remunerated trainees and researchers. The approach is clearly not up to the challenges posed by the EU labour market prospects and does not integrate, in a comprehensive way, all third-country nationals accessing European labour markets, including family reunification beneficiaries, asylum-seekers and foreign students. The main challenges related to the development of a EU labour migration vision are the following. How to articulate intra-EU mobility and international migration to the EU labour market? How to make EU- and Member States legal migration systems and competences compatible? How to ensure that employers can tap workers from a sufficient pool of suitably qualified individuals (and that qualifications obtained abroad are recognized)? And how to reduce international labour matching costs? This policy brief aims to provide some ideas to address those challenges over a medium- to long-term perspective, starting from the EU’s labour market needs and dynamics.

Key words: European Agenda on Migration, EU immigration policy, Labour migration, Legal migration

POLICY
BRIEF



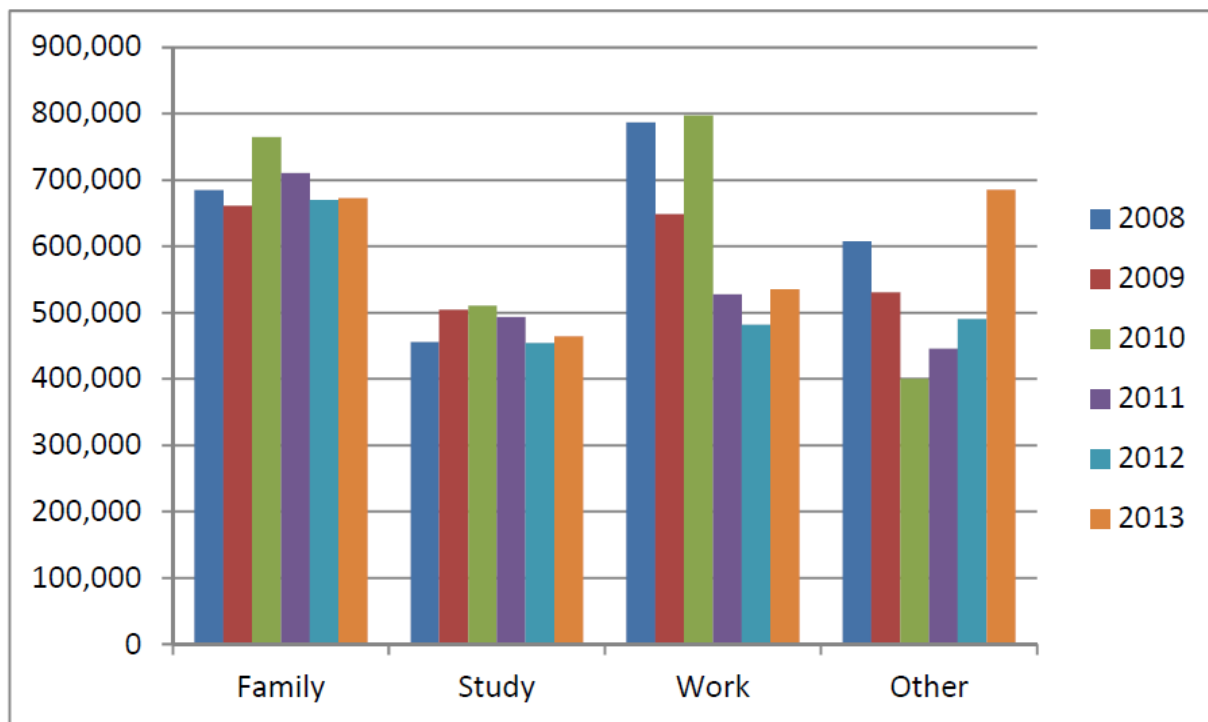
The need for an EU-wide labour migration system has long been discussed¹. Since its appointment, the new European Commission which began its time in office in November 2014, has shown itself determined to address this issue. President Juncker included among his ten political priorities a point aiming “Towards a new Migration Policy” “to promote a new European policy on legal migration, in order to address specific skills shortages and better cope with demographic challenges, and as a first step, to review ‘Blue Card’ legislation and its unsatisfactory state of implementation”. Juncker also designated a Commissioner with special responsibilities for migration, Dimitris Avramopoulos, and included this issue in his mandate². This policy brief provides a wider conceptual framework to match the design of EU legal labour migration policies to a comprehensive labour market dynamics approach and suggests some instruments to develop it.

Rationale

The reasons to undertake the development of a more coherent and more comprehensive legal labour migration policy in the EU are several:

- 1) The narrow approach to EU labour migration means that the EU limits itself to regulating the flows of third-country national workers receiving work residence permits in the EU by reason of employment. However, as seen in Figure 1, these first permits granted by reason of employment (around 500,000 a year for the whole EU in 2011-2013) are less than 20% of all residence permits: family reunification permits amount to more than 650,000 a year, and other motives, mainly asylum, are increasing steadily to stand at almost 700,000 in 2013. Over 450,000 third-country nationals get residence permits for study each year. However, a significant share of those immigrants entering the EU for non-work related reasons end up accessing

Figure 1. First permits issued in the EU per reason and per year.



Source: Eurostat. Taken from European Commission (2015), Better Managing Labour migration at EU Level, Discussion paper n° 1, informal Expert Group on Economic Migration, DG Home.



the EU labour market in one way or another. Therefore, EU labour migration policy should not ignore these flows, amounting to between two thirds and three quarters of total third country nationals entering the EU labour market. A specific policy should be developed to facilitate their smooth labour market integration. For the same reasons, their number and qualification profile should be fully taken into account in the framework of labour migration policy planning, and more specifically in determining migrant labour needs in EU labour markets.

2) The EU labour market is slowly evolving from a constellation of 28 separate national labour markets (which remain largely segmented in terms of regulation of work conditions and salaries) into a single EU labour market. This single market is being created by free movement of labour within the EU and EU-wide employment policy frameworks: in particular the European Employment Strategy and its different policy instruments developed over the last few years³. An EU-level labour migration policy is necessary in this framework. This policy should be aiming to complement the European Employment Strategy by facilitating the access of international migrant workers to EU labour markets to fill the gaps in intra-EU labour and skills supply. To achieve that objective, any policy approach should fully integrate not only third-country nationals entering the EU for employment purposes, but also those others arriving

for family, asylum, education or other purposes; as a matter of fact, there is evidence that some migrants enter the EU through non-labour migration channels precisely because of the lack of legal labour migration possibilities, but with the main aim and motivation of accessing the labour market (i.e., they are de facto if not de iure labour migrants). Figure 2 shows that the levels of skills underutilisation (over-qualification) of migrants coming from outside the EU are much higher among those migrants that do not enter with a work visa. Those that do not enter with a work visa amount to over 70%. They come for study, family reunification and other reasons in Northern and Western Europe. The numbers for family reunification and other categories of migrants are even higher in Southern Europe, where there are fewer high-skill jobs available in the labour market. This indicates scope for improving their labour market integration, in particular in Northern and Western Europe, where the rate of overqualification and hence brain waste of non-labour migrants more than doubles that of migrant workers who entered the EU for purposes of employment. Analysis shows that in Europe “skills mismatches are likely to be more important than labour shortages per se”⁴, and this affects, in particular, legal migrants who have entered the EU for other-than-employment purposes.

1 For instance, a Green Paper on an EU approach to managing economic migration was published back in 2005 to encourage discussion on this issue (COM(2004)811 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52004DC0811&from=EN>).

2 http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/avramopoulos-mission_en.pdf.

3 With a series of EU-level instruments such as the EU Employment Guidelines, the Joint Employment Report, the 2010 Agenda for New Skills and Jobs or the so-called “Employment Package” launched in April 2012, see <http://ec.europa.eu/social/main.jsp?catId=101>.

4 EU/OCDE (2014), Matching Economic Migration with Labour Market Needs in Europe, <http://ec.europa.eu/social/BlobServlet?docId=12628&langId=en>, p.7.



Figure 2. Overqualification rate by years of presence in the country, origin and destination countries and reasons for migration, 2008⁵

		Percentages		
		Reason for migrating	1-5 years	6-10 years
Northern and Western Europe	EU migrants	Employment	37	20
		Study	53	36
		Family and other	54	44
		All migrants	46	34
	Non-EU migrants	Employment	31	39
		Study	77	40
		Family and other	73	72
		All migrants	64	56
	All origins	Employment	34	32
		Study	72	39
		Family and other	67	66
		All migrants	57	50
Southern Europe	EU migrants	Employment	32	20
		Study	-	-
		Family and other	59	64
		All migrants	49	52
	Non-EU migrants	Employment	84	86
		Study	63	38
		Family and other	84	80
		All migrants	83	62
	All origins	Employment	76	80
		Study	59	41
		Family and other	78	76
		All migrants	76	76

Source: Eurostat Labour Force Survey ad-hoc immigrant module and OECD standardised immigration.

5 Taken from EU/OCDE (2014), *ibid.*



3) On the other hand, legal labour migration schemes are the only mechanism Europe has to select the qualifications profile of immigrants. It cannot do so either for: family reunification beneficiaries (who are entitled to come to Europe because of their family ties, not their qualifications); asylum beneficiaries (entitled because of persecution or conflict in their countries of origin, regardless of their skills and qualifications); or even foreign students (self-selected by the investment it requires from them and their families). A key issue here is the assessment of the labour market impact of labour migration policies. As a general rule, the empirical research on migrants' labour integration does not distinguish the results by channel of entrance (labour, family, study and humanitarian reasons) due to the lack of disaggregated data available. As a consequence, the policy implications derived from these studies that recommend a more selective labour migration policy are flawed. They are based, after all, on labour force survey data referred to international migrants as a whole and not to those who entered the EU for the purposes of employment; in this way, the data used for assessing labour migration policies refer in practice to a migrant population where between 50% and 70% entered the EU for reasons other than employment. In any case, the qualification profile of third-country nationals entering the EU for other-than-employment purposes and the potential to enhance it (for instance through training and job counselling services) should be taken into consideration when designing EU-wide labour migration policies.

4) Current legal migration channels are clearly insufficient to respond to the projected needs of the EU labour market and only cover some categories of potential labour migrants. Indeed, all assessments and projections in the EU labour market point to a significant need for migrant labour force for the whole EU in the coming years and decades ⁶. The lack of legal migration channels clearly encourages irregular migration, since regularisation of irregular migrants remains the main way to access the EU labour market for reasons of employment. As a consequence, legal labour migration mechanisms into the EU are a necessary component of any strategy to fight irregular migration.

6 All macro demographic studies, projecting a quick population decline and ageing in Europe, as well as sectorial and occupational labour market projections (such as CEDEFOP (2013), "Future Skills Supply and Demand in Europe: Forecast 2012", Cedefop Research Paper n° 26), point to an increased need for foreign labour in the EU (for a review of all these projections, see EU (OCDE (2014), *ibid.*, chapters 1 and 9).

7 See Communication from the Commission COM(2014)96 final, Report on the Implementation of the Global Approach to Migration and Mobility 2012-2013, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/gamm_implementation_report_2012_2013_en.pdf.



5) There are EU migration policy dialogues with countries of origin, such as the Mobility Partnerships and the Common Agendas on Migration and Mobility. But the EU will not be credible here if it does not implement them in a more balanced way across their four components: legal migration, the fight against irregular migration, migration and development and international protection. The Commission itself acknowledged in 2014 that this is not the case, including among the lessons learnt of the implementation of the Global Approach to Migration and Mobility that: “more work needs to be done to make sure that the MPs are being implemented in a balanced manner, i.e. better reflecting all four thematic priorities of the GAMM, including more actions with regard to legal migration, human rights and refugee protection”⁷. Member States participating in those migration policy dialogues should engage themselves to provide additional legal migration opportunities in that framework. Such policy frameworks could also be instrumental in making a more efficient use of the family reunification strategy. This might include pre-departure training in the language and in the jobs available in the destination countries for the future reunified family members.

Labour migration policy as a dimension of labour market policy

The main objective of any labour migration policy is to facilitate the matching of supply and demand in the labour market: i.e. to ensure that there is a qualified pool of workers available in the market to match any job vacancy opening by employers without incurring too high transaction costs. This labour migration policy objective has to be reconciled with the main objective of labour market policies, which is to make the best use of human capital available in the country (and by virtue of the EU preference principle, in the whole EU), including human capital arriving from third countries outside the labour migration schemes. Their human capital profile needs to be systematically researched and developed for the sake of labour market efficiency. So labour migration policy and labour market policy are deeply interrelated, and cannot be defined independently from one another.

More specifically in relation to labour migration and migration needs of the labour market, the issue of transaction costs is crucial. Recruiting workers from abroad often has a high cost and match-



ing risk that might and very often does discourage employers. This, in turn, leaves the economy working under capacity because of the lack of qualified labour. This explains why international matching initiatives are proliferating, but the objective should not be to let other actors (international cooperation or public agencies) bear this cost. Rather, it should be to reduce it as much as possible. Let us consider third-country nationals arriving in the EU for non-employment purposes and in particular, foreign students, but also refugees and family reunification beneficiaries. Here the marginal costs of integrating them into the labour market are substantially lower than the transaction costs of international recruitment. Indeed, the cost of developing their skills to match EU's labour market needs might be lower than the cost for the international recruitment of qualified labour. This sustains an economic case for active labour market policies in countries of origin and destination to fully integrate them into the EU labour market.

As for legal labour migrants to the EU, the reduction of international recruiting costs means the need for market mechanisms which work in a decentralized way through the decision-making of economic ac-

tors: potential migrant workers and employers, basically. This is preferable to administrative labour migration (micro-)management systems based on a case-by-case processing of applications. Complementarily, it is necessary to mobilize specialized intermediation and matching mechanisms. This is true both for public employment services (which often have been reduced as a consequence of the economic crisis) and private sector matching mechanisms (through international private employment agencies or certified employers or trusted partners systems)⁸.

Finally, any legal labour migration scheme has to be flexible to adapt to evolving labour market needs. And it has to make sure that it responds to current labour needs, not past ones: if administrative procedures to grant work permits are too cumbersome and the time lapse between identification of needs and admission of migrant workers too long. Any EU-wide labour migration policy should aim to minimize the risk of unemployment or the irregular employment of migrants (of all categories for whatever purpose they entered the EU): irregular employment for these groups is very high (and gener-

8 See Sona Kalantaryan and Iván Martín (2015), *Reforming the EU Blue Card as a Labour Migration Policy Tool?*, MPC Policy Brief, Migration Policy Centre, European University Institute.

9 The EU or Community preference in the labour market was defined in the following terms by Council Resolution of 20 June 1994 on limitation on admission of third-country nationals to the territory of the Member States for employment: "Member States will consider requests for admission to their territories for the purpose of employment only where vacancies in a Member State cannot be filled by national and Community manpower or by non-Community manpower resident on a permanent basis in that Member State and already forming part of that Member State's regular labour market".



ally higher than for nationals). Work is the basis for the integration of migrants and the matching of migrant labour to EU-wide labour market needs can only be optimized through the close integration of labour migration and labour market policies. Therefore, there is a strong case for the joint definition of these two policies.

Institutional issues

Now, this essential interdependence between labour migration and labour market policy poses a crucial institutional issue at the EU level. Within the European Commission all forms of migration to the EU, including economic migration, are still under DG Migration, Home Affairs and Citizenship, which deals mainly with security and justice issues. However, the effects of migration flows are felt in the EU labour markets, and from an economic point of view they cannot be dissociated from EU employment policy and free movement of labour, which are dealt with by DG Employment and Social Affairs. From a legal point of view, the Lisbon Treaty established that the EU is competent to regulate the condition of entry and stay of third country nationals to

the EU (i.e., basically the conditions to obtain visas), whereas Member States keep the exclusive competence to determine the volume of admissions to their labour markets. This institutional setting has to be respected in any new EU initiative in the field of labour migration.

Finally, it is important to ensure the smooth implementation of any EU-wide labour migration scheme and the articulation between international migration and intra-EU mobility of EU nationals. They are indeed perfect substitutes in the labour market and for employers, It is necessary then to develop, as a complementary measure, the modalities of implementation of the EU preference, both for EU nationals of other Member States and for third-country nationals legally residing on a permanent basis in respective Member State; this includes family reunification beneficiaries, refugees and former labour migrants⁹. However, that would pose a major policy challenge, to the extent that the implementation of a EU-wide labour market test does not seem feasible under the current fragmentation of the EU labour market and in particular of the under EU public employment services.

10 COM(2001)386, “Conditions of entry and residence of third country nationals for the purpose of paid employment and self-employment economic activities”.



Ideas for action on a comprehensive labour market approach to EU labour migration policy

Taking into account the above considerations, some ideas for action to explore in the framework of the current review of the European Agenda on Migration might include the following:

1) **EU labour migration policy should be defined as an integral part of the EU labour market policy.** As such, it should incorporate measures to facilitate the labour market integration of all flows of third-country nationals into the EU labour markets, including family reunification beneficiaries, refugees and foreign students. Their transition into the EU labour market should be supported by pre-departure and post-arrival training and skill-development programmes and specific job search support services. The design of these migrant support measures should be based on a sound understanding of why they fail to integrate into the EU labour market. Along the same lines, EU labour migration needs should be determined taking into account those flows as well as potential intra-EU mobility of EU nationals from other

Member States. This would require a comprehensive EU-wide labour market information system, so as to make the implementation of the EU preference principle possible. EU labour migration policy should be flexible enough to respond to EU labour market needs and to match the kind of work permit granted to migrant workers to those needs, discriminating between temporary and permanent labour market needs. So temporary permits granted to highly-qualified workers (such as the Blue Card) to meet long-term highly-skilled labour needs in the EU do not seem efficient; simultaneously, the EU labour migration toolbox should include flexible and temporary contracts for seasonal and temporary employment to adapt to seasonal work or peaks in labour demand.

2) **A comprehensive labour market vision of EU economic migration regime.** The current piecemeal, category-specific approach to legal labour migration at the EU-level has served the purpose of advancing this field against protracted resistance by some Member States: regimes have included the EU Blue Card for highly-qualified migrants, Intra-Corporate-Transfers or Foreign Students and soon Seasonal Workers. This fragmentary approach can,



indeed, contribute to meeting some short-term, very specific needs. However, it does not provide the comprehensive vision of the EU labour market and the role of labour migration in it which should guide policy in this field in the process of further unification of EU labour markets: this is a clear trend fully in line with the overall EU economic integration process, even if still very incomplete and clogged up by the economic crisis. The European Commission proposed in 2001 a Directive on admission for economic purposes that was rejected by the Member States¹⁰. The current work on the European Agenda on Migration is the appropriate framework to take back that holistic vision (of course, adapting it to current needs and context).

3) **International labour matching mechanisms.** A logical way to facilitate matching of labour supply and demand for migrant workers would be to extend current EU and Member States job intermediation mechanisms (notably public employment services matching systems) to third country nationals. An obvious step in that direction would be to extend the European Job Mobility Portal, EURES, to third countries, in particular neighbourhood countries in the framework of Mobility Partnerships. This would provide citizens in partner countries with information about job vacancies in Europe (but also the corresponding job intermediation services). It would give EU employers a cost-effective way to access this pool of potential labour. Alternatively, EURES, which

works as a network for the EU's public employment services, could be linked to the labour market information systems of public employment services in partner countries. In this way it would make recruitment possible.

4) **Recognition of diplomas obtained in the EU by third-country nationals.** Diploma recognition within the EU has been approached so far as an issue of EU citizens' rights rather than an issue of economic efficiency. EU citizens are entitled to the recognition of the diplomas, certificates and other professional qualifications that they have obtained in any Member State of the EU. But this equal treatment benefit only applies to third-country nationals if they are family members of Union citizens or are covered by specific Union legal acts and even then with quite restrictive conditions: e.g. long-term residence, refugees, blue-card holders or scientific researchers, and even this subject to quite restrictive conditions. This means that the same degree granted by an education institution of a Member State entitles all other Member States to recognition if granted to an EU citizen, but not necessarily if granted to a third-country national. This does not make any economic sense, to the extent that it reduces the potential pool of qualified (migrant) workers from which EU employers can fill their vacancies, and hence is a significant obstacle in achieving the objectives of an EU labour migration and labour market policy.



5) **EU Job Search Visa.** In order to develop a flexible, market-oriented, efficient EU labour migration scheme able to respond to EU labour market needs and ensure a smooth matching of international labour demand and supply in line with EU competences, an option to consider is some form of job search visa for specific categories of third-country nationals. It would be a visa granted to specific categories of potential labour migrants for a certain period (six months seems reasonable) to look for a job in the whole EU. If holders of that visa get a job offer in a Member State, it would correspond to that State and its national regulation, according to the EU distribution of competences, to decide on the granting of a work permit. The beneficiary should leave EU territory were he or she not to get a job offer or work period within the time given by the visa. The risk would be of course for those job search visa holders to overstay their period of legal stay and become irregular migrants, but this system would at least open up a channel for legal migration to the EU (and potential overstayers would in any case belong to specific categories required by the EU labour market). On the other hand, the advantage of such a system would be that it could be modulated so as to apply it only to certain occupations or professions (depending on EU labour market needs), certain nationalities (depending on EU migration policy dialogues with third countries, for instance in the context of Mobility Partnerships) or qualification profiles, and even combined with a quota system.

In contrast with point systems, it would not give a permanent permit to migrant workers without making sure that they have a job. Germany has been implementing since 2012 a similar system on a pilot basis for foreign workers with qualifications obtained in German institutions or recognized in Germany, but. But the scheme has been little used to date. This could be extended to any qualification granted or recognized in any Member State. Provided that there are effective mechanisms to implement the EU preference principle, the EU job search visa might contribute to strike an appropriate market equilibrium and balance between intra-EU mobility and international migration.

The development of an EU-wide traineeship scheme for third-country nationals, either already living in the EU, for instance as foreign students, or not, might be a less radical version of the above-mentioned job search visa. It would grant them a temporary work permit for the period of the traineeship plus some additional months: Member States could establish national quotas for these kind of permits, in line with their exclusive competence in this field. In practice, since those trainees could move freely within the Schengen space and search for a job, this would work as a job search visa, but targeted exclusively to vocational education and training or university graduates completing a traineeship period with an EU employer.

Migration Policy Centre

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