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IMPACT ASSESSMENT

Accompanying the document

Proposal for a Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment and repealing Directive 2009/50/EC

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Terminology and abbreviations used

Higher professional qualifications	In general, means qualifications attested by evidence of higher education qualifications, yet can also mean qualifications attested by at least five years of professional experience of a level comparable to higher education qualifications (optional clause in Blue Card Directive).
Highly skilled	Someone who has the required adequate and specific competence as proven by higher educational qualifications and/or extensive (vocational) experience.
HSW	<u>Highly skilled worker</u> : for the purpose of this impact assessment, an employed TCN who in the Member State concerned, is protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of, someone else; and is paid.
Highly skilled professional	For the purpose of this impact assessment, to refer to categories that are non-employment based (e.g. self-employed TCN Service Providers and innovative TCN entrepreneurs and start-ups) or that are employed under third-country employment laws (e.g. some TCN Service Providers).
Highly qualified	Someone who has required adequate and specific competence as proven by higher educational qualifications only.
ISCED	The UNESCO's <u>International Standard Classification of Education</u> is an internationally used standard framework to categorize and report cross-nationally comparable education statistics. It is occasionally updated in order to better capture new developments in education systems worldwide. In the ISCED 2011 classification, the educational level is usually defined as follows: High (ISCED 5 and above: tertiary); Medium (ISCED 3-4: upper secondary and post-secondary non-tertiary); Low (ISCED 0-2: none, (pre-)primary and lower secondary). See Annex 7 for more details.
ISCO	The ILO's <u>International Standard Classification of Occupations</u> is one of the main international classifications of occupations into a clearly defined set of groups according to the tasks and duties undertaken in the job. The basic criteria used to define the system are the skill level and specialization required to competently perform the tasks and duties of the occupations. Usually ISCO Major Groups 1,2 and 3 are considered as high skilled, ISCO 4, 6 and 7 as medium skilled and ISCO 5, 8 and 9 as low skilled occupations. See Annex 7 for more details.
TCN	A <u>third-country national</u> is any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty.

1. BACKGROUND AND POLICY CONTEXT

1.1. Policy and legal context

The “EU Blue Card Directive”¹ (hereinafter "Blue Card") was proposed by the Commission in October 2007² and adopted by the Council on 25 May 2009 in order to facilitate the admission, and subsequent mobility to other Member States, of highly qualified employed third-country nationals (TCN)³ and their family members, by harmonising entry and residence conditions throughout the EU and by providing for a set of rights. The Blue Card was intended to make the EU more competitive in attracting highly qualified workers from around the world, thereby contributing to addressing labour and skills shortages within the EU labour market. It was the first Directive to be adopted in a series of Directives on economic migration⁴.

While the Blue Card has not been in force for a long time⁵, there are strong indications that this instrument has been ineffective in fulfilling its objectives⁶ and that it lacks the ambition to equip the EU sufficiently for the challenges ahead. To date, the number of Blue Cards remains relatively low compared to national schemes — they are mostly issued by one Member State — and, more broadly, the EU attracts a relatively low number of highly skilled TCN compared to other OECD countries.

This is why the review of the Blue Card — within the context of a "new policy on legal migration" — was included amongst the key priorities in Jean-Claude Juncker's Political Guidelines of July 2014⁷. The *European Agenda on Migration*, issued by the Commission on 13 May 2015⁸, confirmed the need for setting up an attractive EU-wide scheme for highly skilled TCN and, to that end, for reviewing the Blue Card and "look at how to make it more effective in attracting talent to Europe".

Therefore, the policy objectives set in 2007 have not fundamentally changed, as the EU is still facing many of the same challenges. However, the context has changed considerably with a deep and protracted economic and financial crisis, high unemployment levels, especially of youth, in several Member States, and increased migratory pressures (particularly of people seeking protection). At the same time, the competition on the global stage for attracting talents and highly skilled workers (HSW) has increased. Another element that has changed is the fact that, following the entry into force of the Treaty of Lisbon on 1 December 2009, the Council and the European Parliament are co-legislators in the area of legal migration (instead of the Council

¹ Council Directive 2009/50/EC of 25 May 2009, OJ L 155, 18.6.2009, p. 17–29.

² Proposal for a Council Directive of 23 October 2007 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, COM(2007)637 final.

³ For the terminology and definitions used in this Impact Assessment report see Annex 3.

⁴ Following the Green Paper on an EU Approach to Managing Economic Migration (COM (2004)811 final), three other Directives on economic migration have been adopted: the so-called Single Permit (2011), the Seasonal Workers and the Intra-Corporate Transferee Directives (both adopted in 2014). For more details, see: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/index_en.htm.

⁵ The Directive had to be transposed into national law by 19 June 2011 yet most Member States were late; many transposed only in 2012 and some even in 2013. To be noted that the UK, Ireland and Denmark are not bound by the Blue Card Directive due their 'opt out' based on their respective Protocols (N° 21 and 22) annexed to the Treaties.

⁶ Commission Communication of 22 May 2014 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 (“EU Blue Card”), COM(2014) 287 final.

⁷ http://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines_en.pdf.

⁸ Commission Communication of 13 May 2015, A European Agenda On Migration, COM(2015) 240 final.

deciding alone unanimously) and qualified majority voting applies. This has markedly altered the negotiations' dynamics and the resulting legislation in this area⁹.

1.2. Current challenges

1.2.1. *Demographic trends and skills shortages in key sectors of the EU economy*

The EU will face important demographic challenges in the next decades with a rapidly ageing EU population, a progressively shrinking labour force and an increasing old-age dependency ratio¹⁰.

While in 2015 the EU received a remarkably high number of people seeking protection¹¹, this will not be sufficient to address medium and long-term demographic trends¹². Moreover, their potential right to reside is based on protection or humanitarian grounds, and not on their qualifications, competences or skills (see Section 2.1.2 and Annex 16). While their inclusion into the labour market of the host Member State - at various skills levels - remains essential to ensure their effective integration, this is a process that will require time and investments¹³.

The EU also faces structural skills shortages and mismatches in certain sectors that cannot be filled by the existing EU workforce despite high unemployment in some Member States. Shortages and mismatches have the potential to limit growth, productivity and innovation and thus slow down Europe's continued economic recovery and limit competitiveness¹⁴. The EU skills shortages are most manifest in fields such as healthcare, ICT, and engineering¹⁵, which rely essentially on STEM (Science, Technology, Engineering and Mathematics) skills. The highest growth in employee numbers in the EU takes place in occupations requiring higher-level skills (18 out of 25)¹⁶. Also, the EU top 20 bottleneck occupations¹⁷ include seven highly skilled occupations¹⁸, although some medium skilled occupations are also affected, in particular for skilled manual occupations in sectors such as manufacturing, construction and transport.

⁹ The legal instruments adopted in 2014 — the Seasonal Workers and the Intra-Corporate Transferees Directives (ICT) — have a higher degree of harmonisation compared to earlier Directives; moreover, the ICT Directive also contains provisions that facilitate considerably the mobility of ICTs across EU Member States.

¹⁰ See Annex 4 for relevant data and statistics on EU demographic trends.

¹¹ According to Eurostat data, during 2015, 1 255 640 persons asked for asylum in the EU for the first time – more than double than during 2014 (562 680).

¹² Only around half of asylum applicants are granted international protection (according to Commission calculations published in Autumn economic forecasts, the acceptance rate of asylum requests was 45 % in 2014 and expected to increase to about 50 % in 2015). This means that even in 2015, the increase in population constituted by beneficiaries of international protection would represent only around 0.1 % of total EU population.

¹³ Compared to other third-country migrants, refugees face a number of particular barriers to accessing the labour market, leading to strong under-employment in the host countries and a long time before they catch up with other migrant categories. See: OECD Migration Policy Debates, "[Is this humanitarian migration crisis different?](#)", No7, September 2015 and "[How will the refugee surge affect the European economy?](#)", No8, November 2015; European Commission (2016), Chapter "Mobility and Migration in the EU: Opportunities and Challenges" in *Employment and Social Developments in Europe 2015* (ESDE 2016); European Commission, *European Economic Forecast, Autumn 2015* (see [Box I.1: A first assessment of the macroeconomic impact of the refugee influx](#)); IMF Staff Discussion note, "[The Refugee Surge in Europe: Economic Challenges](#)", January 2016.

¹⁴ European Commission (2016), "Supporting skills development and matching in the EU" in ESDE (2016).

¹⁵ European Commission (2014), "EU Skills Panorama", Analytical Highlight. Focus on Skills Challenges in Europe.

¹⁶ Including health, ICT, teaching, engineering and administration, see: European Commission (2014), European Vacancy and Recruitment Report.

¹⁷ Occupations with evidence of recruitment difficulties, i.e. employers having problems finding and hiring staff to fill vacancies.

¹⁸ Such as nursing professionals, specialist medical practitioners, mechanical, civil and electrical engineers, software developers and systems analysts, see "Mapping and analysing the bottleneck vacancies in EU labour markets" (September 2014) commissioned by the European Commission.

In the coming years, the further development of knowledge-intensive services, high tech manufacturing, and new technologies that underpin Europe's future competitiveness, will require Europe to "up its game" in terms of skills development. While shortages may occur in jobs requiring various levels of skills, in the long run changes in the skills required by the EU are expected to show a sharp increase in the number of jobs employing highly educated labour (+ 15 million, or +23 %) compared to jobs requiring a medium level of education (+ 3.6 million or +3 %) and even more compared to jobs where a low level of education is sufficient (-11.5 million or -24 %)¹⁹. These structural changes will continue to increase the demand for certain skills that are not immediately available in the labour market, creating skills shortages²⁰ even when overall unemployment is high. While activation, training and up-skilling of the existing labour force can play a role in countering these shortages, it takes time for such measures to have an actual effect on the labour market and on productivity²¹. Moreover, policy responses may differ depending on the type of occupations: recruiting abroad may be more relevant to fill needs in highly skilled occupations than at the skilled manual level where training schemes might be more appropriate²².

Labour mobility of the EU domestic workforce (i.e. EU citizens and other legal residents moving across Member States) is a key pillar of the EU's Single Market, intended to contribute to both the better functioning and the inclusiveness of labour markets, thus also contributing to filling skills shortages across the EU. However, labour mobility within the EU remains modest, particularly within the euro area. While the number of EU mobile workers has increased sharply in absolute terms over the last decade²³, in terms of the overall active population it has only gone up by one percentage point, rising from 2.1 % in 2005 to 3.4 % in 2014²⁴. Annual cross-border mobility in the EU is 10 times lower than in the US and a large gap remains even when taking into account the different context (inter alia, linguistic homogeneity, geographical scale)²⁵. In addition, there are just over 1.1 million workers in the EU who work in a different country from where they live and there are about 1.9 million posted workers²⁶ in the EU.

Migration will therefore remain an increasingly important way to contribute to maintaining the optimal level and allocation of workforce across the EU and decreasing the dependency ratio, as well as to addressing existing and future skills shortages, particularly in highly skilled occupations²⁷. It is in fact already helping to fill the gaps in EU labour markets: in the decade 2000-10, new migrants in the EU represented 15 % of the entries into strongly growing occupations²⁸, such as science, technology and engineering as well as the health and education professions. In addition, the EU is

¹⁹ CEDEFOP projections 2012-2025; see Annex 4 for more details.

²⁰ For example, the number of « digital jobs » is growing by about 100 000 every year, yet the number of skilled IT graduates is not keeping pace.

²¹ See for instance European Parliament (2013), "[Labour Market Shortages in the European Union](#)", p.14 (more details are in Annex 4).

²² "Mapping and analysing the bottleneck vacancies in EU labour markets" (September 2014) commissioned by the European Commission, p.24.

²³ In 2014 there were around 8 million EU citizens working or looking for work, while living in a member country other than their country of citizenship Eurostat, Labour Force Survey (LFS), 2014.

²⁴ Eurostat, Labour Force Survey (LFS), 2014.

²⁵ OECD (2012) Economic Surveys: European Union 2012, Figure 2.1.

²⁶ These are workers seconded to another Member State to carry short-term assignments in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

²⁷ See recent evidence in European Commission, ESDE (2016).

²⁸ EU-OECD, [Matching economic migration with labour market needs](#), 2014. Note that the definition of migrants used in these calculations includes intra-EU mobile workers. Estimations of the break down between EU and non-EU migrants show that they contribute almost equally to filling entries into growing occupations.

already implementing a number of programmes whose aim is to attract highly qualified TCN in science²⁹.

In terms of stakeholders' views, out of all 414 respondents to a question on labour market shortages in the public consultation launched in May 2015³⁰, 85 % considered that - in addition to policy measures such as recruiting from other Member States, and increasing the retirement age and labour market participation rate - the recruitment of HSW from outside the EU is a necessary measure to address labour shortages in particular sectors or occupations in the EU. 90 % of employers and employers' associations, and managers shared this opinion, as did 87 % of the private and public employment organizations and trade unions.

1.2.2. Global supply and demand of highly skilled workers: the race for talent³¹

Since the 1990s, international migration among the highly skilled has been characterised by two main trends: increasing flows from Asia towards major OECD countries and an increasing exchange of skilled workers between developed countries³².

The global talent pool has grown rapidly over the past decade and over the next twenty years the demand for higher education is projected to grow sharply. In 2000, there were 90 million 25-34 year-olds with higher education (tertiary) degrees and this increased to 130 million by 2010. By 2020, more than 200 million are projected to have higher education degrees across all OECD and G20 countries³³ and by 2030, worldwide projections point at more than 414 million³⁴. At the same time, the share of tertiary graduates from Europe, Japan and the United States in the global talent pool has reduced, and is likely to continue to do so in the future, due to the expansion of higher education in rapidly-developing non-OECD G20 nations such as China, Brazil and India.

While future trends of skilled labour migration are difficult to forecast, the global labour market is likely to continue to absorb the increasing supply as the demand for HSW in "knowledge economy" fields is expected to continue to grow, not only in high-income countries but also, increasingly, in medium-income countries. As a result, HSW are ever more sought after and, due to the growing internationalisation of the highly skilled labour market, Europe is in an increasingly fierce global competition with a growing number of other economies to attract the talent it needs³⁵.

While recent surveys on immigration intentions point to a relatively strong attractiveness of the EU for highly educated potential migrants³⁶ - and the EU as a whole rates high on factors of attractiveness such as its welfare and health care system, level of wages and job opportunities - the EU appears less effective in retaining talents and in converting its attractiveness into increased actual numbers of HSW coming to work into the EU³⁷. Of all non-EU migrants coming to OECD countries, 48 % of low-educated migrants choose an EU destination and 68 % of the high-educated ones a non-European OECD

²⁹ For example, the Marie Skłodowska-Curie actions (part of the Horizon 2020 framework programme for research and innovation) alone will attract around 15 000 third-country researchers to the EU in the period 2014-20.

³⁰ See Annex 2, section 2.3.1, question 3.

³¹ See Annex 8 for more details and figures.

³² OECD, [The Global Competition for Talent. Mobility of the Highly Skilled](#), 2008, p. 19.

³³ OECD, [Education Indicators in Focus](#), 2012/05.

³⁴ Commission Communication of 11 July 2013, "[European higher education in the world](#)", COM(2013) 499 final.

³⁵ Rinne, U., "The Evaluation of Immigration Policies", *IZA Discussion Paper*, 2012.

³⁶ According to the Gallup World Poll, 33 % of highly-qualified TCN intending to migrate in the next 12 months would like to move to the EU/EEA (11 million people), compared to 19 % to the US.

³⁷ In 2014, 38 774 permits (including EU Blue Cards and national permits) were issued to highly skilled third-country nationals. See section 2.1 for more details.

destination³⁸. While the US labour force is around two-thirds of that of the EU and it has relatively low labour permanent migration rates (around one fourth of the EU rate, per 1000 inhabitants³⁹), it admits around 200 000 skilled labour migrants every year⁴⁰. In other OECD countries, such as Canada, New Zealand and Australia — all of which have selective labour migration programmes with little access to permanent migration for low-educated migrants or those in low-skill occupations — permanent labour migration is more than twice the EU average relative to the size of their labour markets⁴¹.

1.3. Procedural issues and consultation of interested parties

1.3.1. Consultation and expertise⁴²

This Impact Assessment is based on a series of studies, reports, stakeholders and experts' consultations, and workshops of which the most relevant ones are highlighted below.

Between 27 May and 30 September 2015, an online **public consultation on the EU Blue Card and the EU's labour migration policies** was conducted. In total, 610 responses were received to the questionnaire and 15 written contributions from a wide range of actors representing all relevant stakeholders⁴³. The main results are summarised in Annex 2 and, where appropriate, referenced and taken account in this Impact Assessment report.

In early 2015, a Commission **Expert Group on Economic Migration (EGEM)**⁴⁴ was established to support the future policy development in the field of economic migration. The EGEM has met twice for the review of the Blue Card. On 13 November, a meeting of the newly established **Skilled Migrants Expert Group** — a sub-group of the European Migration Network⁴⁵ — took place with Member State experts for a technical discussion on the Blue Card, the national parallel schemes for HSW and their interaction.

Various bilateral and group meetings have also been held with key **Member States**, business representatives, practitioners, social partners and international organisations (OECD, UNHCR, IOM). In addition, in cooperation with RTD, CNECT and GROW, a number of specific expert meetings were held on entrepreneurship and Start-ups.

To increase the involvement of **national social partners**, a specific [workshop "Towards a revised Blue Card Directive: Results of the public consultation"](#) was organised on 3 December 2015 in collaboration with the Labour Market Observatory (LMO) and the Permanent Study Group on Immigration and Integration (IMI) of European Economic and Social Committee.

³⁸ Senne, J.-N. and David, A., *General Context and Contribution of Labour Migration in Europe*, OECD 2016, *forthcoming*.

³⁹ OECD (2015) International Migration Outlook, Figure 1.3.

⁴⁰ This figure includes permanent green cards for extraordinary talents (EB-1) and H-1B visas for temporary specialised work.

⁴¹ OECD (2015) International Migration Outlook, Figure 1.3. This gap is even larger if only EU Member States implementing the Blue Card are considered (i.e. if the UK and Denmark – which are not bound by the Blue Card Directive - having larger than EU average rates are excluded from the calculations).

⁴² For more details on procedures and stakeholder consultations see Annexes 1 and 2.

⁴³ Contributions were sought and received from EU citizens, organisations and third-country nationals (residing inside or outside the EU) as well as employers (multinationals as well as SMEs), their associations, private and public employment organizations, trade unions, ministries, regional and local authorities, media workers, academics, international organisations, organisations or authorities of the countries of origin, social partners and other civil society actors.

⁴⁴ Membership, meeting reports and written contributions publically available on Register of Commission Expert Groups: [E03253](#); see also Annex 2.

⁴⁵ See: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm.

An **Inter-Service Group on the Review of the Blue Card Directive** was set up⁴⁶ and met three times. An **external study** was commissioned to support the review of the Blue Card, including evaluation, stakeholder consultation, expert workshops and impact assessment activities.

1.3.2. Data collection and its limitations

The analysis presented here has been partly constrained by limitations in data availability. There continues to be an insufficient communication by Member States of data and measures taken in application of the Directive⁴⁷ despite significantly stepped up efforts by the Commission to collect sound and reliable information, including through bilateral contacts and meetings with several Member States⁴⁸. In addition, there is a significant lack of comparability of migration statistics, in particular on national and international schemes for HSW⁴⁹. Furthermore, it is difficult to reliably estimate and quantify the potential impacts of the policy options and of various factors that influence the attractiveness and labour migration flows, e.g. entry requirements, level of rights and the (real or perceived) "burdens" of the application process. Many other factors also influence the migration choices, such as living standards, the welfare and tax systems of a country, the language spoken, and the wage level.⁵⁰

2. PROBLEM DEFINITION

The definition of the problems has taken into account both the evaluation of the implementation of the current Blue Card (see Annex 5) and the comparative analysis of the functioning of the existing national schemes (see Annex 6), as well as the interaction between the two. The "problem tree" is presented in Annex 3.

2.1. The problems that require action

2.1.1. Problem area 1: EU failure to attract and retain third-country highly skilled workers

Sub-problem 1: EU failure to attract highly skilled workers into the EU

The Blue Card's objective was to create an attractive EU-wide scheme for HSW in order to help address labour and skills shortages and sustain the EU's competitiveness and economic growth. There is clear evidence that HSW improve the host country's overall productivity and its labour market performance if their qualifications and skills are used efficiently⁵¹.

However, as described in Section 1, the challenges and problems faced by the EU prior to the adoption of the Blue Card Directive have not been effectively addressed since then and, on the contrary, have even worsened.

In quantitative terms, the Eurostat statistics on highly skilled third-country nationals attracted to the EU under both national schemes for HSW – which remain allowed under the current Directive - and the EU Blue Card over the last years paint a bleak picture.

⁴⁶ See Annex 1 for details.

⁴⁷ Articles 5(5) and 20(1) (regarding Articles 6, 8(2), 8(4) and 18(6)) and 22 (regarding Articles 16, 18 and 20) require Member States to communicate data on volumes of admission, labour market tests, ethical recruitment, salary thresholds.

⁴⁸ See Annex 2 for details about Member States and other stakeholders' consultations.

⁴⁹ Due to variations in the definition of a HSW, to the particularities of the systems, some of which do not have distinct categories for HSW, and to the way in which the statistics are collected.

⁵⁰ Gubert, F. and Senne, J.-N., *Europe as a Single Labour Market Destination*, OECD 2016, *forthcoming*.

⁵¹ European Commission, ESDE (2016).

While the numbers of both the Blue Card and the national highly skilled permits in EU25⁵² have increased since 2012⁵³, the current overall inflow of highly skilled workers to EU25 (23 419 in 2012, 34 904 in 2013 and 38 774 in 2014) is by far not sufficient to address the existing nor, if maintained at the current level⁵⁴, the projected future labour and skills shortages in the EU in highly skilled occupations. At the same time, skills and labour shortages for medium skilled workers also occur⁵⁵ and are projected to increase; some stakeholders representing Small and Medium-sized Enterprises advocate expanding the Blue Card Directive beyond the highly skilled⁵⁶.

The statistics indicate that national residence permits are generally issued in higher numbers than Blue Cards, with significant variations, however, across Member States so that only few Member States can be considered to have in place relatively successful schemes⁵⁷. This is due, to a large extent, to the more selective nature of the EU Blue Card compared to most national schemes – most of them require, for example, a lower salary threshold, or a work contract of a shorter duration than one year – and to policy choices made by some Member States when implementing the Blue Card that favour and better promote their national schemes⁵⁸. Nevertheless, the very low overall numbers of permits issued to highly skilled foreign workers clearly show that neither the national schemes nor the EU Blue Card – and the two combined – are sufficiently effective in attracting HSW, and in making the EU competitive in the global race for talents.

While individual decisions to migrate are determined by many factors, some of which are out of the control of the immigration policy, the role of an efficient labour migration system is essentially to eliminate barriers and facilitate admission while assuring a focussed selection, as well to increase the appeal of a certain destination – for highly skilled workers – by granting an attractive package of rights and benefits.

The Blue Card scheme is today one of many different applicable sets of rules and procedures for admitting HSW to the EU. One could argue that the national schemes can be complementary to the Blue Card, better adapted to the specificities of the national labour markets, and even introduce an element of positive competition between the Member States. However, as shown by the numbers, the fact of having different parallel rules, procedures, conditions and rights for the same category of third-country nationals – while the objective is the same, i.e. to attract more highly skilled people who can contribute to addressing shortages and boost economic growth⁵⁹ – is simply neither effective nor efficient. The complexity of the current regulatory framework for recruiting the same category of HSW creates costs and administrative burden⁶⁰, not only for the

⁵² The Blue Card Directive does not apply to the UK, Ireland and Denmark due to their possibility to opt out based on the respective Protocols annexed to the Treaties.

⁵³ National permits for highly skilled have risen from 19 755 in 2012, to 21 940 in 2013 and 24 922 in 2014. The numbers of EU Blue Cards have risen sharply from 3 664 in 2012, to 12 964 in 2013 and 13 852 in 2014.

⁵⁴ Some incomplete and preliminary statistics for 2015 are also already available at national level in some Member States. These show the same tendencies as the previous years.

⁵⁵ “Mapping and analysing the bottleneck vacancies in EU labour markets” (September 2014) commissioned by the European Commission.

⁵⁶ E.g. Eurochambres and UEAPME, see the summary of the second meeting of the Expert group on economic migration (7 December 2015) in Annex 2 and their [written contributions](#) on the Register of Commission Expert Groups.

⁵⁷ See Annexes 6 and 12.

⁵⁸ The German success in implementing the Blue Card shows, however, that this scheme actually allows for significant room for national calibration to make the scheme attractive.

⁵⁹ With the exception of the UK – which is not bound by the Blue Card Directive nor by any other EU instrument on legal migration due to its opt out – all Member States, even those with high levels of unemployment such as Italy and Spain, have policies in place to attract highly skilled workers and professionals, as they are considered to contribute to growth and to the recovery of the economy.

⁶⁰ See Annex 15 for details.

individuals but also for the employers, including for SMEs, which have fewer resources to invest in support services (e.g. immigration lawyers) compared to big companies. It is also easier for the competent authorities of Member States to have a clear, straightforward and single set of rules to apply when examining an application of a HSW to stay and work⁶¹.

Moreover, what a national scheme cannot offer, by its own nature, is intra-EU mobility, i.e. the possibility to move easily from a Member State to another should work opportunities arise. As shown by the various analyses and studies of the potential of intra-EU mobility of EU citizens, cross-border mobility of workers is a key element in ensuring the efficient allocation of labour force across the EU, helping to absorb asymmetric labour demand shocks and contributing to the deepening of the Single Market⁶². Bearing in mind that free movement rights enjoyed by EU citizens are Treaty-based and much more far-reaching than any comparable regime for third-country nationals, in economic terms the advantages of labour mobility across the EU Single Market, whatever the nationality of the worker, are very similar.

While reliable data on intra-EU mobility of third-country nationals, including highly skilled ones, are currently limited⁶³, the public consultation and several stakeholders (particularly business) have highlighted the need for intra-EU mobility for HSW and identified it as the main value added of having an EU-wide scheme⁶⁴. 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 it⁶⁵.

The current Blue Card Directive contains provisions facilitating intra-EU mobility but their impact is very limited; in practice there is little difference between the situation of a HSW applying for a Blue Card for the first time from a third country, and that of a Blue Card holder wishing to move to another Member State⁶⁶.

Sub-problem 2: Failure of the EU to retain TCN (recent) graduates and former researchers

The past decade has seen a significant increase globally in the number of persons studying abroad.⁶⁷ With around 1 million non-EU students enrolled in 2012, the EU is an attractive destination for international students. However, stay-rates (after finalising studies) are rather low. The OECD estimates that stay-rates of non-EU students in the EU vary between 16.4 and 29.1 % in the period 2010-2012⁶⁸. Increased retention of TCN

⁶¹ As apparent from the fact that no Member State has both a national scheme and the Blue Card effectively running in parallel; in the national use a choice appears to be made for one predominant scheme.

⁶² European Commission, ESDE (2016).

⁶³ The 2013 EMN study on [Intra-EU Mobility of Third Country Nationals](#) concluded that intra-EU mobility of TCN is under-researched and that there is an overall limited availability, wide variability and lack of comparability of relevant statistics. Statistics on the intra-EU mobility of EU Blue Cards holders and their family members are being gathered but show limited numbers so far (Eurostat: migr_resbc3; see Annex 12, section 2.1.1). Note that Member States transposed the Directive late (most in 2012-2013) while a min. 18 months in the first Member State is required before moving to a second Member State.

⁶⁴ See Annex 2 for more details on stakeholders' views on this issue..

⁶⁵ Results of a survey in which over 18 000 Blue Card holders in Germany were contacted: Hanganu, E. and Heß, B., 'Die Blaue Karte EU in Deutschland: Kontext und Ergebnisse der BAMF-Befragung', *Forschungsbericht 27*, Bundesamt für Migration und Flüchtlinge, Nürnberg, 2016, *forthcoming*.

⁶⁶ For a more extensive overview on intra-EU mobility of third-country nationals, see Annex 9.

⁶⁷ Between 2000 and 2011 the global number of students enrolled outside their country of citizenship increased from 2.1 million in 2000 to 4.3 million ([Education at a Glance 2011](#) and [Education at a Glance 2013](#), OECD Publishing, Paris.)

⁶⁸ Weisser, R., *The impact of international students and post-graduation internal mobility: an analysis of student mobility and retention rates*, OECD 2016, *forthcoming*.

students who graduated from EU universities could represent a significant growth in human capital for the EU. While no figures are available on the retention rate of researchers in Europe, the need to do more at EU level to attract and retain this category into the EU to boost innovation and competitiveness has been highlighted several times by the EU and its Member States⁶⁹. The problem is twofold:

On the one hand, there is the issue of access to job-seeking for TCN students and researchers to remain in the EU after graduation or having finished a research project in order to identify work opportunities. While the current EU rules do not foresee any such possibility, the recast Students and Researchers Directive⁷⁰ — which will be formally adopted early 2016 — introduces such a possibility for a minimum of 9 months after graduation/finalisation of research.

On the other hand, TCN students and researchers who intend to remain in the EU after graduation or the end of their research project and search for work opportunities, also face other barriers to entry into the labour market. At the beginning of their career, young professionals often receive lower wages than the national average, commensurate to their lower level of experience, which makes it difficult to apply for a Blue Card because they cannot meet the salary threshold that is based on the national average salary. The current salary level of the Blue Card — generally higher than in similar national schemes — has a clear exclusion effect on these categories of (potential) HSW (see Annex 7). Consequently, possibilities for TCN students and researcher to enter the labour market after finishing their studies or research project are limited.

2.1.2. Problem area 2: EU failure in admitting other talented and highly skilled TCN

The issues described under problem area 2 were not identified and assessed in the [2007 Impact Assessment](#) since they have emerged more recently in the debate on the role of (highly skilled) migration to boost EU competitiveness (as regards entrepreneurs and international service providers)⁷¹, or are linked to recent developments, such as the migration and refugee crisis (in relation to asylum seekers and refugees).

The main question to be addressed in the current Impact Assessment is whether the current Blue Card – which does not cover any of the above categories of third-country nationals at the moment⁷² – could be extended to include these categories or not, and, if so, to what extent this would contribute to address the challenges and problems identified, and fulfil the main objectives.

Sub-problem 1: The EU lags behind in attracting innovative TCN entrepreneurs and TCN service providers ("Mode 4" categories)

a) Entrepreneurs

Entrepreneurship creates new companies, opens up new markets, nurtures new skills and innovation, and is a driver of economic growth and job creation. Consequently,

⁶⁹ Already in 2010, the Commission argued that "by 2012 integrated policies [should be put in place] to ensure that leading academics, researchers and innovators reside and work in Europe and to attract a sufficient number of highly skilled third country nationals to stay in Europe" (Innovation Union Commitment 30, in Commission Communication of 6 October 2010, Europe 2020 Flagship Initiative - Innovation Union, [COM\(2010\) 546 final](#)).

⁷⁰ 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 research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing Recasting and amending Directives 2004/114/EC and 2005/71/EC.

⁷¹ Both categories were mentioned in the 2015 European Agenda on Migration.

⁷² The scope of the Blue Card only covers highly skilled *employees*, thus not self-employed or service providers. Refugees and asylum seekers have been explicitly excluded from the scope, i.e. they cannot apply for a Blue Card as highly skilled employees (even if they have labour market access). See Annex 16 for more details on the latter.

entrepreneurship contributes to the EU's competitiveness as highlighted in the Entrepreneurship 2020 Action Plan⁷³, anchored in the overarching Europe 2020 Strategy.

On average skilled migrants tend to be only slightly more likely to set up businesses than the native-born⁷⁴. In the ICT sector, however, the gap is sizable: in Silicon Valley 43.9 % of engineering and technology companies had at least one key founder who was foreign-born between 2006 and 2012, while this rate was 24.3 % in the entire US. Across the US, these companies employed roughly 560 000 workers and generated \$ 63 billion in sales in 2012⁷⁵. In OECD countries, on average, a foreign-born self-employed who owns a small or medium firm creates between 1.4 and 2.1 additional jobs⁷⁶.

The EU lags behind in offering opportunities for highly skilled migrants to migrate to the EU to start new businesses⁷⁷. Traditional immigration countries, in particular Canada, New Zealand and the US, have developed dedicated schemes for this category of persons while the EU is not making use of the potential.

The Blue Card currently does not cover self-employed TCN, and there are no other EU-wide instruments regulating the admission and rights of foreign entrepreneurs. Only a few EU Member States (e.g. the Netherlands Italy, Spain) have recently developed immigration schemes or measures aiming at attracting foreign-born entrepreneurs. These measures vary widely in their nature and modalities⁷⁸. Moreover, since these are national schemes, they cannot grant TCN entrepreneurs intra-EU mobility rights which would make it much easier to reside and work where economic opportunities arise, to collaborate on projects with other entrepreneurs in various locations, and to re-locate where investors and the best support measures, such as incubator programmes, are available.

b) International service providers ("Mode 4" categories)

The services sector includes well-trained, highly skilled TCN professionals who travel to the EU to provide services to EU customers. The European Agenda for Migration noted that the service sector has an important economic impact, with the EU being a net exporter as well as the world's largest exporter of services, and announced an assessment of possible ways to provide legal certainty to these categories of business persons. This would also strengthen the EU's position to demand reciprocity when negotiating Free Trade Agreements (FTAs)⁷⁹.

At present, however, those who enter a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories

⁷³ Commission Communication of 9 January 2013, Entrepreneurship 2020 Action Plan - Reigniting the entrepreneurial spirit in Europe, [COM\(2012\) 795 final](#).

⁷⁴ For instance, 12.6 percent of migrants of working age were self-employed on average across OECD countries, compared with 12.0 percent of natives in the period 2007-2008 (OECD, Open for Business: Migrant Entrepreneurship in OECD Countries. Similarly, the proportion of new entrepreneurs was higher for the foreign born than for the native born over the decade 1998-2008, see Desiderio, M. V. and Mestres, J., "Migrant Entrepreneurship in OECD countries", *International Migration Outlook*, 2011.

⁷⁵ Wadha, V., Saxenian, A., and Siciliano, F., *America's New Immigrant Entrepreneurs: Then and Now*, The Kauffman Foundation, October 2012.

⁷⁶ OECD, Migrant Entrepreneurship in OECD Countries, *International Migration Outlook* 2011, p.158

⁷⁷ Gropas, R., "Migration and Innovation: Why is Europe Failing to Attract the Best and Brightest?", in *EUI Global Governance Programme Discussions*, 13 March 2013; Stuen, E. T., Mobarak, A. M., and Maskus, K. E., "Skilled Immigration and Innovation: Evidence from Enrolment Fluctuations in US Doctoral Programmes" in *The Economic Journal*, Volume 122, Issue 565, December 2012, pages 1143-1176; Mobarak, A.M., "Immigration and Innovation", in *Economix*, New York Times, 12 February 2013.

⁷⁸ See annex 10 for more details.

⁷⁹ European Council Conclusions of 26 June 2015, Doc. [EUCO 22/15](#); Commission Communication of 14 October 2015, [Trade for all - Towards a more responsible trade and investment policy](#).

of trade and investment-related business persons (namely, contractual service suppliers and independent professionals⁸⁰) often encounter problems. These so-called "Mode 4" categories included in the EU's free trade agreements (FTAs) are not recognised by all Member States; a majority of Member States does not have a dedicated admission scheme in place, existing definitions do not always clearly distinguish between the various types of business persons and can overlap in several cases⁸¹.

The Intra-Corporate Transferees Directive⁸² partly addresses this issue but covers only one of the "Mode 4" categories, i.e. intra-corporate transferees⁸³. The Blue Card only covers employees and explicitly excludes such categories from its scope. Consequently, a lack of legal certainty persists with regard to the procedures and rights applicable to such service providers.

This situation leads to a high number of rejected entry applications and could increase risks of abuses, i.e. the use of certain migration channels for other than the foreseen purposes, leading to possible sanctions (for employers and individuals). While precise figures on the size of the problem are not available, an example of these challenges is provided by the on-going implementation of the Cariforum-EU EPA Agreement⁸⁴: Cariforum service providers complain repeatedly that the EU has not put in place proper mechanisms to ensure implementation of the "Mode 4" elements of the agreement. The issue is thus singled-out as an obstacle hindering the effectiveness of the agreement in the services sector.

Sub-problem 2: Waste of skills and human capital of (highly skilled) beneficiaries of international protection and asylum applicants

Currently, the Blue Card explicitly excludes from its scope both beneficiaries of international protection and asylum seekers: they cannot apply for a Blue Card even if they are highly skilled and have an offer for a highly skilled job. Their admission conditions and rights are regulated principally in the EU asylum acquis: beneficiaries of international protection have full access to the labour market as soon as they receive protection status while asylum seekers have the right to work at the latest after nine months from submitting their application for protection⁸⁵.

Since the Blue Card is a specific and rather selective scheme it is clearly not the primary tool either to provide alternatives to asylum seeking or to enhance the labour market integration of these migrants, but it could bring value added to those who are highly skilled.

Beneficiaries of international protection may face de-skilling and problems with the recognition of their qualifications, leading to high unemployment and over-qualification rates compared to native workers. Access to the Blue Card, combined with tailored support measures, could help overcome these problems. It could also promote their labour market integration by making them more visible to employers and potentially facilitate their intra-EU mobility. Asylum seekers may possess valuable skills which they risk losing over time if they cannot use them while awaiting the outcome of the procedure. In addition, employers may be reluctant to hire highly skilled asylum seekers,

⁸⁰ For more details on the different "Mode 4" categories, see Annex 11.

⁸¹ EMN Study, [Admitting third-country nationals for business purposes](#), European Migration Network, 2015.

⁸² Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157/1 of 27.5.2014.

⁸³ These are managers, specialists and graduate trainees posted to a host entity in the EU by a group of undertaking whose headquarter is outside the EU.

⁸⁴ Study on implementation Cariforum-EU EPA Agreement, [executive summary](#) and [full report](#), pp. 40-49, Sept 2014.

⁸⁵ See Annex 16 for more details.

if continuing the employment after the end of the asylum procedure is uncertain. The possibility to apply for a Blue Card could provide an attractive option for these asylum seekers and their (potential) employers.

Information on education levels and skill sets of beneficiaries of international protection and asylum seekers is not readily available and, where it is, it is heterogeneous and often contradicting. Anecdotal evidence suggests that the majority of these people are not highly skilled and they usually do not speak the language of the host country. However, other information suggests differences depending on the country of origin. Some information on skill levels is presented in Annex 16, but reliable conclusions cannot be drawn as to how many asylum seekers or beneficiaries of international protection could potentially qualify for a Blue Card. In any case, access to the Blue Card could lead to a better use of skills and talents of people arriving for reasons other than economic ones, thus valorising and better using their potential, to the benefit of both migrants and the host society.

2.2. Problem drivers

Drivers outside the scope of migration policy

There are a number of drivers underlying the identified problems. Some of them, however, lie outside of the scope of migration policy: clearly the attractiveness of a particular destination — as also confirmed by the public consultation⁸⁶ — is often influenced by factors other than the migration/admission rules (e.g. the living standards, the welfare and tax systems of a particular country, the language spoken, the wage level etc.)⁸⁷. This is important to bear in mind as it defines the limits of the current exercise in addressing the problems.

Drivers related to Problem area 1

The main driver is a regulatory failure, i.e. it is linked to the weaknesses of the current overall EU regulatory framework on admitting HSW: the rules across the Member States are **incoherent, ineffective and inefficient with high barriers of entry and complex and diverging admission procedures**. As highlighted in Section 2.1, the Blue Card has quite restrictive admission conditions and definitions that are often less flexible and thus more difficult to meet in comparison with many of the national — but also comparable international — schemes. For instance, in several Member States the high and inflexible general salary threshold has an exclusionary effect on a significant section of HSW⁸⁸ and — apart from the possibility to set a lower threshold for occupations on national shortage lists — there is little scope for Member States for adaptation to their national labour markets, contrary to national systems for HSW. In the public consultation, 65 % of all respondents who consider the current admission conditions inadequate consider that a more flexible salary threshold would considerably improve the situation⁸⁹. Among employers and employer organisations, the percentage is even higher with 82 and 86 %, respectively. Also 50 % of the national ministries share this view.

Furthermore, some of the Directive's provisions do not adequately meet the requirements of today's labour markets, which **demand higher numbers and an efficient allocation of HSW**, according to the concrete needs of the EU companies. Indeed the Blue Card allows for **significant restrictions as regards access to the labour market** and provides

⁸⁶ See for instance Annex 2, section 2.3.3., follow up to question 15

⁸⁷ Gubert, F. and Senne, J.-N., *Europe as a Single Labour Market Destination*, OECD 2016, forthcoming.

⁸⁸ This is clearly shown in Annex 7, Section 4.

⁸⁹ See Annex 2, section 2.3.4., question 26 and follow-up.

only **limited facilitation of intra-EU mobility**. Moreover, the recognition of foreign professional qualifications is often problematic and leads to time-consuming and costly procedures. The recognition procedure can add up to several months to the overall processing time⁹⁰. Almost half of all responding employers, employers' organisations and trade unions in the public consultation rate the current situation of recognition of foreign qualifications on the attractiveness of the EU as either negative or very negative. For private employment services this increases to 67 %⁹¹.

Finally, the EU Blue Card has other **inherent shortcomings**: (1) lengthy maximum processing time of up to 90 days; (2) applications for family are not processed simultaneously with the application of the Blue Card holder; (3) a two year restriction for full labour market access to highly skilled employment in the Member State concerned; (4) a minimum duration of 1 year for the work contract while many national schemes are available for a shorter time⁹².

More generally, the **parallel existence** of the **ineffective EU-wide Blue Card**, applied in diverging ways in 25 Member States⁹³, and of the **many different national schemes** aimed at HSW creates a **complex framework of different administrative procedures** for the same category of migrants that both TCN applicants and enterprises have to deal with. Making it easier to get a permit was identified by around 70 % of the respondents to the public consultation as the main issue which the EU could tackle in order to make the EU a more attractive destination for HSW⁹⁴.

Finally, the Blue Card is also still a **relatively new and less well-known instrument** than schemes for highly skilled migrants of other major destination countries, such as the US, Canada and Australia. Consequently, the "branding" value of the Blue Card is still fairly low. This is confirmed by the public consultation that showed that 45 % of the respondents had never heard of the Blue Card before participating (574)⁹⁵. Out of the private individuals 73 % had never heard of the Blue Card, while of the target groups of the Blue Card 32 % of third-country nationals in the EU and 48 % of those outside the EU had never heard of it⁹⁶.

Drivers related to Problem area 2

The Blue Card's scope currently excludes several categories of third-country nationals that may also be seen as highly skilled and potentially contribute to the Blue Card's objectives, such as foreign innovative self-employed persons/entrepreneurs, or those staying on a temporary basis to provide services. The EU offers few access opportunities for highly skilled migrants to come to the EU as entrepreneurs or service providers: there are **no EU level schemes and only a few national schemes are specifically targeted at entrepreneurs or service providers**. This results in an incoherent regulatory situation across the EU with complex and diverging admission procedures. While there is little data, this likely results in lower numbers than comparable countries. In addition, there is no intra-EU mobility possibility, little clarity on the residence conditions and rights which does not favour social and economic integration, and their exclusion limits the branding value.

⁹⁰ See Table 3 in Annex 5.

⁹¹ See Annex 2, section 2.3.4., question 26 and follow-up.

⁹² See Annex 7.

⁹³ The UK, Denmark and Ireland are not bound by the Blue Card (see footnote 5).

⁹⁴ See Annex 2, section 2.3.3., question 15.

⁹⁵ See Annex 2, section 2.3.4., question 20.

⁹⁶ Note that this was a voluntary, online public consultation with an obvious selection-bias towards respondents who have knowledge of these labour migration policies.

This regulatory gap in EU law could affect the EU overall competitiveness, particularly in relation to innovative entrepreneurs who can contribute to job creation and to boost innovation. As regards international service providers, the lack of clarity about their admission has an impact on the EU and its Member States' capability of respecting commitments taken under the WTO and EU's Free Trade Agreements vis-à-vis external partners, and to demand reciprocity when negotiating Free Trade Agreements (FTAs).

Several **other categories are also explicitly excluded from applying for a Blue Card even while they would fulfil the conditions**, e.g. highly skilled applicants for, or beneficiaries of, international protection. This potential pool of talent is already present in the EU but cannot easily access the labour market or make use of intra-EU mobility (see Annex 16 for more details). This can lead to a waste of skills and human capital, as well as undermine the effective integration of such people.

2.3. Who is affected by the identified problems and in what ways?

HSW already residing in, or considering migrating to, the EU are negatively affected by the shortcomings of the current complex EU immigration system, which results in administrative burden, lengthy waiting times, uncertainty and confusion as to applicable rules and outcomes, or may even discourage them from applying. Limited sets of rights, especially as regards intra-EU mobility, limit the EU's attractiveness in their eyes.

TCN innovative entrepreneurs and service providers' are negatively affected by the lack of transparent and clear rules to enter the EU due to the absence of an EU level scheme and the limited availability, uncertainty and complexity of national schemes. TCN students and researchers face obstacles in attempting to enter the labour market after the completion of their programmes.

Countries of origin can be negatively affected if their citizens leave crucial sectors of the local workforce (brain drain) and positively affected through brain gain, circular migration and increasing remittance flows. In general, however, currently the risk of brain drain remains limited due to the low numbers of Blue Cards, especially from least developed countries, and the Directive already provides safeguards that can be activated if needed⁹⁷.

EU employers, including big employers, start-ups and SMEs, are negatively affected as they face limitations and excessive (administrative) burden in their possibilities to hire HSW and address skills shortages (see Annex 16).

National, regional and local authorities of Member States, including ministries, consulates, embassies, are negatively affected as they have to apply and enforce parallel schemes and potentially complex existing rules⁹⁸, assess applications and grant permits.

Indirectly, EU citizens are also negatively affected as the EU's labour migration system for HSW insufficiently contributes to tackling skills shortages, demographic ageing and increasing old-age dependency ratio. This affects the financial viability of the EU's welfare systems.

2.4. How would the problem evolve, all things being equal? (Baseline scenario)

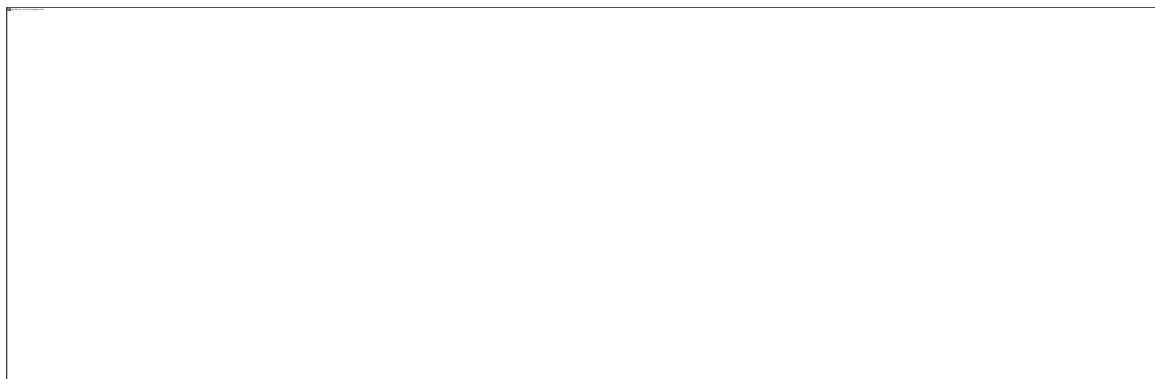
As highlighted in Section 1.2 above, the EU will face increasing demographic challenges. The labour force (20-64) is expected to shrink progressively. Without positive net

⁹⁷ See Annex 8.

⁹⁸ Some Member States have more complex schemes than others, especially in terms of admission conditions, which adds burden to the resources of the administration, while simpler schemes allow for speedier processing and less administrative burden. See Annexes 5, 6 and 16.

migration from outside the EU, this decline would be even stronger and the increase in the old-age dependency ratio would also be much more severe (see table 1 below – more details are in Annex 4).

Table 1: Summary table of forecasted population developments and indicators, EU-28

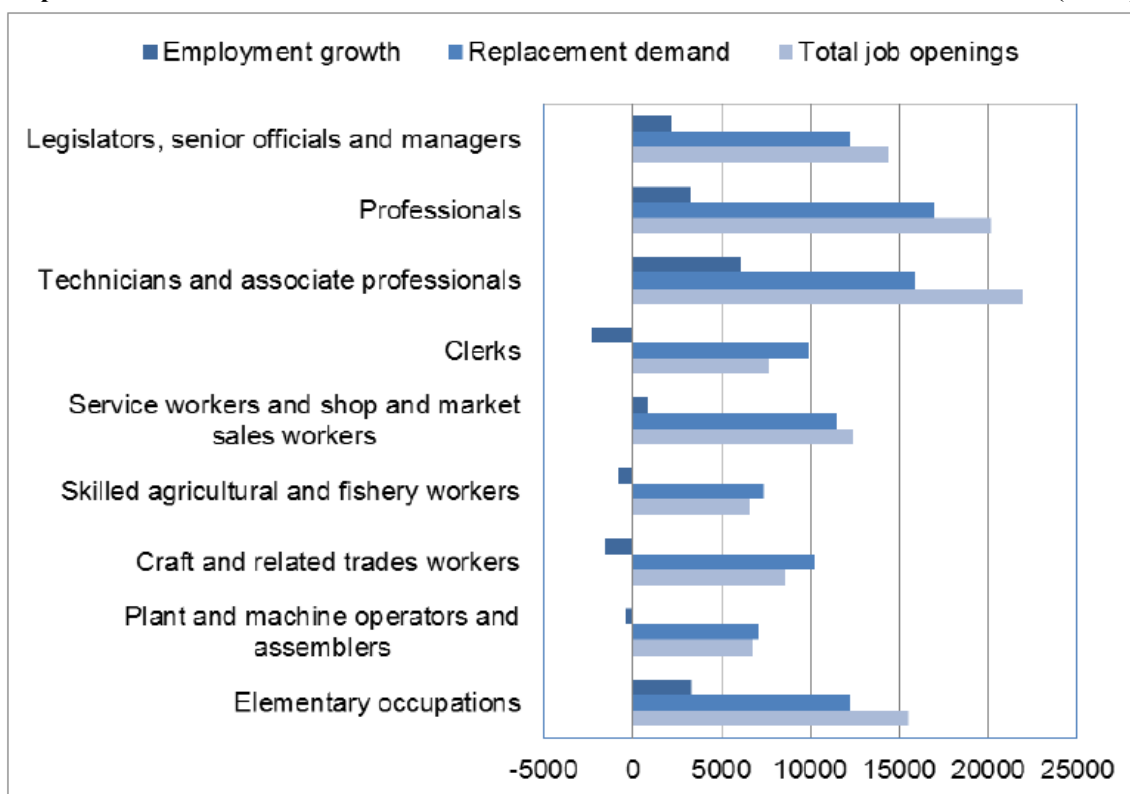


Source: Eurostat, *Europop2013, proj_13ndbims and proj_13ndbizms*, see more details in Annex 4

CEDEFOP forecast show that changes in the skills required by the EU are expected to show a sharp increase in the number of jobs employing highly educated labour (+ 15 million, or +23 %) compared to jobs requiring a medium level of education (+ 3.6 million or +3 %) and even more compared to jobs where a low level of education is sufficient (-11.5 million or -24 %)⁹⁹. The expected development in employment over 2012-25 across occupations is the result of both employment growth (expansion) as well as replacement demand. Overall, the occupational group that will see the largest increase in absolute number in total job openings will be: "Technicians and associate professionals" (ISCO 3), "Professionals" (ISCO 2) and "Legislators, senior officials and managers" (ISCO 1). Those three groups, all considered as highly skilled occupations will benefit from both replacement demand and expansion.

⁹⁹ CEDEFOP projections 2012-2025.

Chart 1: Total job opportunities, CEDEFOP baseline scenario (EU-27+) 2012-25 (000s), by group of occupations (ISCO)



While there is no global overview available that confronts future supply and demand, some specific studies point at structural skills shortages and mismatches in certain sectors, particularly in highly skilled occupations, which cannot be filled by the existing EU workforce. For example, by 2020, 756 000 unfilled vacancies for highly skilled ICT professionals are expected, amounting to around 130 000 vacancies per year over 2014-2020¹⁰⁰. In the health sector, a shortfall of around 1 million highly skilled workers¹⁰¹ is estimated by 2020, rising up to 2 million workers if long term care and ancillary professions¹⁰² are included. This means that around 15 % of total care would not be covered compared to 2010¹⁰³. Finally, future demand for 'Key Enabling Technologies'¹⁰⁴ professionals and associates with technical skills is expected to growth by 953 000 (+43 %) over 2013-25, with 62 % of them (around 590 000) requiring high skills¹⁰⁵.

Intra-EU mobility of the domestic labour force – whose potential is still untapped¹⁰⁶ - can contribute to address and attenuate the above problems by encouraging a better matching

¹⁰⁰ European Commission, A Digital Single Market Strategy for Europe, COM(2015) 192 final; Hüsing, 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.

¹⁰¹ The 1 million shortage covers only the highly educated health professionals (doctors, nurses, dentists, midwives and pharmacists). Note that in 24 Member States Bachelor or Masters programmes are required to qualify as a general care nurse, making this category eligible for current Blue Card if they reach the salary threshold.

¹⁰² This number includes also non-highly skilled.

¹⁰³ Commission estimates, "Action Plan for the EU health workforce", SWD (2012)93 final.

¹⁰⁴ Key Enabling Technologies (KETs) are knowledge-intensive technologies that enable process, goods and service innovation throughout the economy. KETs currently include Micro-/Nanoelectronics, Nanotechnology, Photonics, Advanced Materials, Industrial Biotechnology and Advanced Manufacturing Technologies.

¹⁰⁵ European Commission (2016), Boosting the potential of 'Key Enabling Technologies – Addressing Skills Needs in Europe'.

¹⁰⁶ European Commission, ESDE (2016).

of labour supply with labour shortages. The recent revision of the EURES Regulation¹⁰⁷ will not only modernise the EURES Portal¹⁰⁸ to improve transparency but will also introduce tools leading to automatic job matching. The Commission has other initiatives in the pipeline — such as the Labour Mobility Package and the Skills' Initiative¹⁰⁹ — aiming at further enhancing the mobility of workers within the EU Single Market (while preventing abuses) and at facilitating the validation and recognition of skills and qualifications, including foreign qualifications.

These measures will all undoubtedly contribute to a better matching of labour supply with labour shortages and needs but will, however, not be sufficient to address the overall needs in the medium/long term. The prevailing view in academic circles and among policy-makers is that intra-EU labour mobility – even if boosted – would be too low to sufficiently contribute to the single labour market or addressing skills shortages¹¹⁰, especially in view of declining working-age population in most EU Member States. Moreover, analysis by the European Central Bank has shown that skills mismatches in the EU are often caused "by structural imbalances between labour demand and labour supply, rather than by a lack of geographical mobility"¹¹¹. This may be linked to the fact that shortages often occur in the same occupations/sectors across EU Member States¹¹² (e.g. science and engineering professionals, Information and communications technology professionals, health professionals) and that therefore the role of mobility of domestic workers to respond to skills shortages may be limited, at least in certain sectors.

Therefore, without addressing the ineffectiveness and inefficiencies of the EU immigration system for HSW, in particular the Blue Card, the EU will have trouble attracting the HSW it needs for its economy. In addition, the complexity and diversity of administrative procedures will continue to pose a high administrative burden on HSW and enterprises, in terms of time and money, but also on Member States authorities. Further implementation efforts could be made and more infringements launched on the current EU Blue Card Directive but these would not fix the main problems described above. The main weaknesses of the EU Blue Card Directive are structural and, consequently, cannot be solved by stronger enforcement.

Furthermore, continuing to rely solely on national schemes for innovative entrepreneurs, which are limited to a few Member States and widely diverging in characteristics, entails a continued low use of the entrepreneurial capacity of TCN. In addition, the current problems related to the admission into the EU of international service providers and independent professional will continue. Moreover, the exclusion of highly skilled applicants and beneficiaries of international protection entails that their skills and human capital will continue to be under-used.

Amongst the elements evolving positively, the entry into force in early 2018 of the recast Students and Researchers Directive will contribute to increasing the attractiveness of the EU for these categories, thereby enlarging the EU pool of HSW. Moreover, the newly

¹⁰⁷ Regulation (EU) 2015/589 of the European Parliament and the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013.

¹⁰⁸ <https://ec.europa.eu/eures/public/en/homepage>.

¹⁰⁹ See the Commission Work Programme for 2016 at: http://ec.europa.eu/atwork/key-documents/index_en.htm.

¹¹⁰ Barslund, M., Busse, M., and Schwarzwälder, J., *Labour Mobility in Europe: An untapped resource?*, CEPS Policy Brief, No. 327, March 2015

¹¹¹ European Central Bank, Euro Area Labour Markets and the Crisis, Occasional Paper series n°138/ October 2012, p.76.

¹¹² "Mapping and analysing the bottleneck vacancies in EU labour markets" (September 2014) commissioned by the European Commission,

added possibility of a post-study (or post-research) job search period of minimum 9 months will also increase the capacity of the EU to retain talents.

Furthermore, the implementation of the Intra Corporate Transferees Directive (ICT) in late 2016 will contribute to harmonising and streamlining the EU immigration system for skilled migrants (e.g. managers, specialists) working for non-EU based companies¹¹³ and being posted to the EU, including some categories of service providers.

3. WHY SHOULD THE EU ACT?

Legal basis and the principle of subsidiarity

The legal basis for Union action in the area is established in 79(2) (a) and (b) of the Treaty on the Functioning of the European Union (TFEU), in connection with Article 79(1) of the same Treaty. These provisions state that the “Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, (...)”. For this purpose, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, “shall adopt measures in the following areas: (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits (...)” and “(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States”. The principle of subsidiarity applies since this is an area of shared competence¹¹⁴.

EU value added: Administrative simplification, economic rationale and attractiveness

The goal of making the EU as attractive as traditional immigration countries and compete for the limited supply of HSW can arguably only be achieved if the EU acts internationally as a single player. Member States acting alone, especially smaller Member States, may not be able to compete in the international competition for highly skilled third-country professionals. The EU value added of a well-functioning Blue Card is based on providing one transparent, flexible, attractive and streamlined scheme for HSW, that can better compete with schemes in traditional immigration countries, such as US, Canada and Australia. It would send a clear message to HSW and business persons that the EU welcomes them to help sustain economic growth and competitiveness, and that it is ready to set up quick admission procedures and attractive conditions for residence for them and their families.

The main value added an EU-wide scheme is the possibility for HSW to move easily across the EU to work and reside in several Member States, so to better respond to demands for highly skilled labour, and thus contribute to offsetting skill shortages. Enhancing the inflows and circulation of third-country highly skilled professionals between jobs and Member States would enhance their efficient allocation and re-allocation on the EU labour market, producing spill over and beneficial effects for all the EU economy. This would require no significant additional transfer of competencies from Member States to the EU level as easier intra-EU mobility is already envisaged — even if to a limited extent — in the current Blue Card Directive. Moreover, further-reaching schemes on mobility have already been agreed for Intra-Corporate Transferees, Students

¹¹³ Contrary to the Blue Card, the ICT Directive does not apply to highly skilled workers having a contract with a company based in the EU; the two Directives have thus a different scope and are, to a certain extent, complementary.

¹¹⁴ In particular, any measure proposed in the area of legal migration “shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed” (Article 79(5) TFEU).

and Researchers. The only option which could raise issues in terms of subsidiarity – and proportionality is a unified standard Blue Card (POP3) (*see below section 5*).

Further, as regards "Mode 4" categories, acting at EU level could facilitate the implementation of the EU commitments in trade in services. This could then be put forward in the common trade policy in dialogues with partner countries, e.g. trade agreements, and strengthen the EU's negotiation position.

Proportionality

In the area of legal migration, the current EU legal framework consists of several Directives, regulating admission conditions, procedures and rights of third country nationals, which leave a certain room for manoeuvre to Member States. This does not only reflect the fact that legal migration policy has fallen only relatively recently under EU competence — compared to other areas of EU law — but is also linked to the fact that Member States retain competence on certain aspects, such as the volumes of admission of economic migrants. Even if one of the objectives of the review is to streamline and simplify the current rules on admitting HSW in order to improve the EU ability to attract and retain them — including through greater harmonisation — proposing a Regulation instead of a Directive would seem disproportionate to achieve the objective, which can also be attained by increasing the level of harmonisation of the current Directive and improving certain of its provisions.

4. OBJECTIVES

4.1. General policy objectives¹¹⁵

Based on the problem analysis and the EU's legal framework in the field of legal migration, the general policy objectives are:

- (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 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 and entrepreneurial activities (**occupational mobility**) and between regions and Member States (**geographical intra-EU mobility**), and promoting their efficient allocation and re-allocation on the EU labour market.

4.2. Specific policy objectives

The specific policy objectives are:

- (1) To create a **coherent, effective and efficient common EU immigration system** for highly skilled third-country nationals;
- (2) To increase the **numbers** of highly skilled third-country nationals immigrating to the EU on a needs-based approach¹¹⁶;
- (3) To lower **barriers to entry, simplify and harmonise the admission procedures** for highly skilled third-country nationals, without prejudice to EU nationals;

¹¹⁵ These objectives are overall in line with the objectives identified in the 2007 Impact Assessment, with the addition of a sixth specific objective.

¹¹⁶ I.e. where and when there are gaps in the highly skilled segment of the Member States' labour markets that cannot be filled in by EU citizens or legal residents.

- (4) To promote the **social and economic integration** of highly skilled third-country nationals and their family members, including labour market integration, by granting them favourable conditions of residence and rights;
- (5) To ensure more **flexible possibilities for intra-EU mobility**, remove unnecessary barriers and allow a more efficient allocation of highly skilled third-country nationals through the EU;
- (6) To ensure the **further development of the ‘EU Blue Card’ brand** in order to improve the image of the EU as an attractive destination.

4.3. Consistency with other EU policies and with the Charter for fundamental rights

The review of the EU Blue Card was announced in the European Agenda on Migration as a means to achieve an attractive EU-wide scheme for HSW. The Agenda also referred to the need to examine whether entrepreneurs willing to invest in Europe should be covered in the scope of the Blue Card. This is in line with the EU policies aiming at deepening at upgrading the Single Market: as stressed in the Commission Communication "[Upgrading the Single Market: more opportunities for people and business](#)", Europe would benefit from attracting more innovators from the rest of the world. Rules on attracting entrepreneurs, combined with support measures helping them to operate in the Single Market, could make Europe a more attractive destination for innovators from outside the EU. This is also in line with the ongoing preparatory work at Commission level on a possible "Start up Initiative"¹¹⁷.

The European Agenda on Migration also pointed to the importance of the sector of services and to the need to assess possible ways to provide legal certainty to this category of people. This is also in line with the Communication on New EU Trade and Investment Strategy "Trade for All", which emphasises the importance of mobility of professionals as a key element to conduct business internationally. Benefits envisaged in service sectors covered by trade agreements would be enhanced if highly qualified service providers were able to move more easily to provide their services across borders.

A policy on attracting HSW is complementary to policies to facilitate the mobility of EU nationals within the EU — such as the EURES Regulation and the forthcoming Labour Mobility package — as well as at improving and upgrading the skills of EU workers, and the recognition of qualifications, in view of their better labour market integration. The Skills Initiative will deal with these latter aspects and will thus also contribute to addressing some of the issues linked to the admission of HSW. They all contribute to the EU Growth Strategy, in line with EU2020 priorities¹¹⁸.

More generally, it is clear that any policy aimed at admitting HSW to address labour and skills shortages will have to go hand in hand with policies aiming at increasing labour market integration and social inclusion of TCN already residing in the EU, for whatever reason they have been admitted.

This initiative is fully consistent with the Charter of Fundamental Rights and enhances some of the rights enshrined therein, in particular the respect for private and family life (Article 7) — through facilitated provisions in relation to family reunification for HSW — and the right to seek employment and work (Article 15), by definition. It is also fully consistent with the rights related to working conditions and rights of workers (Articles 27

¹¹⁷ A public consultation on the issue was launched on 31 March 2016; http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8723.

¹¹⁸ http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/index_en.htm.

to 36) as it maintains the rights to equal treatment for TCN HSW as regards working conditions, access to social security, to education and vocational training as well access to goods and services. Through enhanced intra-EU mobility and access to long-term residence it also promotes the objectives of Article 45 (freedom of movement and of residence). Compatibility with Article 47 (right to an effective remedy and fair trial) is fully ensured as the current provisions in the Blue Card related to the right to mount a legal change in case the application is rejected, as well as to be notified the grounds for rejection, are maintained.

5. POLICY OPTIONS

A broad range of policy options have been identified and undergone an initial screening.

5.1. Options discarded

The following policy options are not retained for further in-depth assessment.

a) Repealing the Blue Card Directive

Repealing the current Blue Card Directive would practically lead to circumstances similar to those pre-dating the transposition of the Directive in Member States (starting from 2011). The Blue Card would cease to exist and the Member States would revert to relying solely on their own immigration channels and their own (where existing) national schemes to admit HSW and others.

This would run against the overall goals of the EU in the field of migration policy, and in particular the European Agenda on Migration's aim of reviewing the Blue Card "to look at how to make it more effective in attracting talent to Europe". It would be incoherent and inefficient to abandon existing EU legislation in this area since – as highlighted in sections 1.2 and 2 – the shortcomings of the EU's immigration system for HSW would exacerbate and the problem would evolve more negatively than described in the baseline scenario.

A repeal would entirely annul the EU value added of the current Blue Card Directive. Even if the Blue Card as it stands today cannot be considered as satisfactory (as explained under Section 2), some studies highlighted that the national schemes of many Member States have improved thanks to the influence and standard-setting of the EU Blue Card¹¹⁹ and, while the numbers are low, they show that the Blue Card has attracted additional HSW and does seem to attract the right profile of HSW suitable for filling shortages¹²⁰. Abandoning the Blue Card would thus aggravate the current inefficiencies.

b) Introduction of a point-based expression of interest system

This policy option entails a points-based, partly 'supply-driven' system, built on an "expression of interest" (EoI) model, inspired by those in Australia, Canada, New Zealand¹²¹. The European Agenda on Migration mentioned this as a possible approach to

¹¹⁹ EMN Study, *Attracting Highly Qualified and Qualified Third Country Nationals*, European Migration Network, 2013, *Synthesis Report and national reports*; See also Annex 6.

¹²⁰ See Annex 12: Eurostat data on the occupations of Blue Card holders in 2014 (only available for 10.22 %; not in Germany) shows that 40.71 % were science and engineering professionals, 16.40 % production and specialized services managers, 11.45 % business and administration professionals and 9.61 % information and communication technology professionals. [A representative survey of Blue Card holders in Germany shows that over 88 % of Blue Card holders are employed in shortage occupations.]

¹²¹ The US also looked into this in 2007 but has not pursued this to date, see House hearing, "[An examination of point systems as a method for selecting immigrants](#)", before the Subcommittee on Immigration, Citizenship, Refugees,

be considered and examined in the medium/long-term. Indeed this is not a model which can be simply copied, but would need to be adapted, bearing in mind the different context (e.g. the fact that most Member States have systems which are largely demand-driven) and the fact that the admission of economic migrants is a shared competence between the EU and its Member States.

In essence, the EoI is an application management tool that creates a two-step selection process aimed at selecting certain categories of economic migrants whose skill sets are needed in the labour market based on a combination of human capital (supply-driven) and labour needs (demand-driven) selection criteria. Once the pre-screening is done and a "pool" of candidates is created, the actual assessment of the application can start and is fast-tracked compared to 'normal' applications. As the Canadian example shows¹²², this requires the development of a number of pre-conditions and tools, for example the need to create a database of pre-screened candidates, a job bank accessible to employers, and potentially an agency and a common credential evaluation system.

Therefore, this far-reaching policy option would not only lead to a radical change of the current demand-driven system but would also require significant technical and logistical investments to develop the above-mentioned tools. Such overhaul of the EU legal migration system could also affect the division of competences in EU legal migration policymaking. This would raise issues of subsidiarity and proportionality of EU action, as it would increase the role of the EU level of governance in admission policies. Therefore, this is not an option which is foreseeable in the short-term but, given its potential advantages particularly in terms of transparency and job matching, it will be further examined and explored in the context of the long-term development of the EU labour migration policy¹²³.

c) Extending the Blue Card to cover skilled international service providers

The option of extending the Blue Card to highly skilled international service providers not linked to commercial presence (contractual service suppliers and independent professionals) was also screened. This category is currently explicitly excluded from the Directive's scope and the option of including this category could contribute to legal certainty and compliance with the international trade commitments of the EU and the Member States, improve the economic and political relations with partners already having free trade agreements with the EU and would strengthen the EU leverage in the ongoing trade negotiations.

However, while there are undeniably problems in the admission of certain categories of trade and investment-related business persons (namely, contractual service suppliers and independent professionals), as highlighted in Section 2.1.2, the size of the problem is not clear and it has not been possible so far to collect sufficient evidence justifying the need for regulatory action at EU level and meeting the subsidiarity and proportionality criteria¹²⁴. There is also not sufficient evidence of the extent to which this would contribute to the enhancing the competitiveness of the EU economy nor can it be shown that this would improve the EU's ability to address skill shortages significantly (general policy objectives 1 and 2).

Border security, and international law of the Committee on the Judiciary, House of Representatives, 1 May 2007, 110th Congress, Serial no. 110-20.

¹²² See Desiderio, M. V. and Hooper, K., [*The Canadian Expression of Interest System for Managing Skilled Migration: A New Model for the EU?*](#), MPI-Europe, March 2016.

¹²³ A study will be launched in 2016 on the feasibility of an EU migration management system inspired by the "Expression of Interests" models developed by Australia, New Zealand and, more recently, Canada.

¹²⁴ The issue will be further examined in the context of the "fitness check" on legal migration, to be launched shortly.

Moreover, even if sufficient evidence would be available to justify EU level action, it would have to be demonstrated that: a) EU *regulatory* action is needed, instead of other means, including non-regulatory¹²⁵; b) the inclusion in the Blue Card Directive would be the most appropriate solution. In that respect, including skilled international service providers into the EU Blue Card would mean combining very different categories, with different needs, in the same instrument. There is a big difference between skilled international service providers and highly qualified workers covered by the current EU Blue Card. On the one hand, the EU Blue Card aims to “attract and retain highly qualified third-country workers”, i.e. long-term employment-based migration with a job in the EU. On the other hand, service providers not linked to commercial presence are highly skilled third-country professionals with either a job outside of the EU (contractual service suppliers) or self-employed (independent professionals). Their stay in the EU is per definition meant to be temporary¹²⁶ and non-employment-based. Consequently, their inclusion into the Blue Card Directive would require a separate sub-set of completely different rules¹²⁷. In fact, even multiple sets of rules would be needed as contractual service suppliers and independent professionals have distinct features. This would increase the complexity, and risk undermining some specific objectives such as a coherent, efficient and effective common EU immigration system for highly skilled third-country nationals¹²⁸. Finally, more evidence is also needed on the potential adverse social impacts on EU citizens¹²⁹.

This is why, as announced in the Communication adopted on 6 April 2016¹³⁰, the Commission decided to include the issue of whether there is a need for specific EU rules on international service providers within the context of trade agreements in the framework of the "REFIT evaluation" of the existing EU legal migration acquis.

5.2. Options retained for further in-depth assessment

5.2.1. *Legislative options*

This section presents a number of policy option packages (POPs) designed to meet the general and specific policy objectives while at the same time representing a balancing act between various degrees of ambition and feasibility. These POPs have been composed by combining legislative policy options on three aspects: (1) the **admission conditions**¹³¹, (2) the **rights of EU Blue Card holders** (including **intra-EU mobility**)¹³², and (3) the relationship between the EU Blue Card and **parallel national schemes** for highly skilled TCNs.

¹²⁵ For instance, step up the enforcement of EU Free Trade Agreements vis-à-vis Member States

¹²⁶ A cumulative period of not more than 6 months or for the duration of the contract, whichever is less.

¹²⁷ A separate set of admission conditions would be required and granting similar rights as Blue Card holders would be highly problematic (e.g. family reunification for short stays; access to long-term residence for temporary residing non-residents; short or long-term intra-EU mobility of people providing a targeted service; labour market access for non-workers, etc.).

¹²⁸ Due to negotiation dynamics there's also a risk of undesirable trade-offs between sub-sets during the negotiations.

¹²⁹ E.g. potential bogus self-employment, displacement of workers in the services sector and non-respect of social conditions.

¹³⁰ Commission Communication of 6 April 2016, Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe, [COM\(2016\) 197 final](#).

¹³¹ Options on level of qualifications, salary threshold, required job offer, labour market test, procedural facilitation and alternatives, e.g. shorter processing deadlines, a "trusted employers" sponsorship system (see page 9 of Annex 13, or Annex 6 for national examples on pages 71 for IT, 86 for the NL and 113 for the UK).

¹³² Options on labour market access, family reunification, access to long-term resident status, Intra-EU mobility.

Firstly, concerning the first two aspects, the underlying logic for the specific combinations of POPs is that, generally, labour migration schemes show¹³³ (i) *a reverse correlation on the liberal-restrictive axis between admission conditions and the level of rights granted to applicants*, and (ii), at the same time, *a direct correlation between the skill or qualification level of the TCN (high-medium-low) – with the salary threshold often considered as a proxy for skills and qualifications – and the degree of liberalness (admission and rights)*¹³⁴. Across the POPs this results in a various combinations of the trade-off between inclusiveness and increased rights and facilitation. On the one hand, where a POP has a high level of inclusiveness - thus being more easily accessible to potential applicants through entry conditions that are set lower, more flexible or easier to fulfil (opening up to a larger group with a lowering skills or qualifications level) - the corresponding procedural facilitation, level of rights and facilitation of intra-EU mobility are lower. On the other hand, where the entry conditions are more selective making the POP more exclusive (i.e. higher skills or qualifications levels), the procedures are more facilitated, and the level of rights and intra-EU mobility facilitation are higher.

In theory, there could be other combinations of POPs that do not follow the logic of this trade-off between inclusiveness and increased rights and facilitation attached to the Blue card¹³⁵. However, such combinations of POPs would run counter the internal logic and spirit of most national labour migration schemes of Member States (see Annex 6) and of other major immigration countries (see Annex 8). While an individual country could conceivably set up a scheme that does not follow this trade-off logic, because of specific circumstances and depending on its policy objectives, this is not deemed feasible for the EU-wide scheme that the EU Blue Card is. As it is meant to be applied by 25 Member States, the logic and spirit of the POPs should be based on a common denominator of the main characteristics of most labour migration schemes in order to be able to encompass the needs and objectives of these 25 Member States to a high extent¹³⁶.

Secondly, still concerning the first two aspects (admission conditions and rights), in the case of the EU Blue Card, there is (iii) a *particular additional transnational dimension of trust between Member States* that is absent in national labour migration schemes, i.e. the possibility of (facilitated) mobility to a second Member State. Easier access to the territory and labour market of other Member States is an important element of attractiveness¹³⁷, a clearly voiced need for employers¹³⁸, a logical consequence of the Single Market¹³⁹, and a value added that only the EU Blue Card could offer. Where the other rights granted are mostly confined within the national borders of the Member State, intra-EU mobility involves a trans-nationally granted right as the admission conditions in the first Member State also affect the second Member State. This adds a dimension of trust between Member State which requires a careful calibration between the admission

¹³³ For a theoretical framework and empirical evidence of these correlation and trade-off trends, see Boswell, C., ‘Theorizing Migration Policy: Is There a Third Way?’ in *International Migration Review*, 41(1), 2007, pp. 75-100; Ruhs, M., *The price of rights: Regulating international labor migration*, Princeton University Press, 2013; Paul, R., *The Political Economy of Border Drawing: Arranging Legality in European Labor Migration Policies*, Berghahn Books, 2015.

¹³⁴ I.e. the higher the skill or qualification level of the TCN the more liberal the admission conditions and the more generous the rights granted are.

¹³⁵ For instance, by simultaneously lowering the entry barriers and increasing the attached rights, or by setting very exclusive entry conditions while not granting more rights or facilitation.

¹³⁶ It is difficult to conceive an EU-wide scheme that could simultaneously and realistically meet the specific objectives of this initiative and not follow the trade-off logic, while still respecting the needs and objectives of the Member States in terms of labour migration schemes.

¹³⁷ See the results of the public consultation and the expert consultations in Annex 2.

¹³⁸ See Annex 9.

¹³⁹ See pages 3, 8, 15 and 18.

conditions in the first Member State and the intra-EU mobility right of access to the second Member State.

Concerning the last aspect (3) – the **relationship between the EU Blue Card and parallel national schemes** for highly skilled TCNs¹⁴⁰ – the underlying rationale behind POPs in which national schemes are abolished or not, is the extent to which the specific combination of options on the first two aspects – i.e. the admission conditions and the rights of EU Blue Card holders – makes the Blue Card sufficiently “*inclusive*” to be able to be adaptable to national situations and substitute, by and large, parallel national schemes covering the same category of people¹⁴¹. In doing so these POPs aim to replicate and substitute the positive aspects of the national schemes, while addressing the negative dimension of the national scheme-Blue Card relationship, and maintaining and reinforcing the positive aspects of the EU Blue Card. It is important to note, however, that even when parallel national schemes are abolished¹⁴², Member States remain allowed to maintain national schemes for HSW falling *outside* the scope of the EU-wide scheme¹⁴³. The EU Blue Card would “carve out” a separate and single scheme for those HSW falling inside its scope, leaving other TCNs untouched and susceptible to be covered by national schemes. The parallelism of two schemes applicable to the same category of HSW at the same time would thus be eliminated while, if there is a need, Member States still have the possibility to grant admission to TCNs who do not fall within the scope of application of the EU Blue Card.

At the same time, the *level of harmonisation* (including streamlining and simplification) of the overall EU system for attracting HSW is determined by the inclusiveness and complexity of (i) the different policy options for the Blue Card, (ii) the individual national schemes, (iii) the Blue Card and the parallel national schemes combined.

The POPs considered are the following¹⁴⁴:

POP0: Baseline scenario

The current EU Blue Card would continue to be applied without legislative changes. Existing monitoring and enforcement activities of the current legislation would continue, as well as activities to improve cross-national recognition of foreign qualifications either between Member States or in cooperation with third countries through exchanges of practice and further guidance to the national authorities¹⁴⁵.

POP1: Extending the scope by making it accessible to a significantly wider group of workers, including (some) medium-skilled

This option would make the EU Blue Card available also to some medium-skilled workers, as salary and qualifications would be set as alternative instead of cumulative

¹⁴⁰ See Annex 6, section 6 (pp. 13-16) for details on the interaction between national schemes and the EU Blue Card.

¹⁴¹ Annex 7 presents a detailed analysis on the “inclusiveness vs. exclusiveness” of the entry conditions of the current Blue Card and a comparison with national schemes. In particular, the impact of the salary threshold is evaluated (level of in/exclusiveness) in the entire EU and per Member State for tertiary educated workers, for shortage occupations and for attracting young talents. Simulations are made of the potential impacts per Member State of modifying the salary threshold (lower or higher) in a revised Blue Card Directive (making it more inclusive vs. more exclusive).

¹⁴² See Annex 14, section 1.1, point h) (page 5), for more explanation on abolishing parallel national schemes.

¹⁴³ In POP3, the conditions, including the high salary requirements, could still be admitted under a national scheme – but would have fewer rights and no mobility as these are granted in the EU Blue Card.

¹⁴⁴ See Annex 13 for a detailed description of the various elements of the policy options packages.

¹⁴⁵ Measures are planned in the context of the forthcoming New Skills Agenda for Europe (COM(2016) 381 final): (e.g. revising the Recommendation on the European Qualification Framework), which will also help facilitating recognition of foreign qualifications. These, however, will only have an impact in the medium-long term.

conditions. The level of rights would not be significantly enhanced from the current level.

POP2: Modifying admission conditions and rights without extending the scope beyond HSW

This option has three sub-options depending on the target group (wider vs. more selective) and remains within the scope and basic framework of the current Directive, but with facilitation common to all sub-options as regards conditions, procedures and rights.

POP2(a): Making the Blue Card accessible to a wider group of HSW

This sub-option would extend the scope of HSW eligible for the EU Blue Card, facilitate admission and provide enhanced residence and mobility rights. Member States would maintain some limited leeway for national adaptation of the scheme, but parallel national schemes would be abolished.

POP2(b): Making the Blue Card a tool to attract a selected group of the most HSW

This sub-option would make the EU Blue Card a rather selective instrument for the very highly skilled. Eligible workers would benefit from fast and easy admission and from extensive rights. Parallel national schemes would remain allowed.

POP2(c): Creating a two-tiered Blue Card targeted at different skill levels of HSW

This sub-option would be a combination of sub-options POP2(a) and (b) by creating an EU Blue Card with two levels to address different categories of HSW: first level for a wide group of HSW and a more selective second level with faster access to long-term residence and easier intra-EU mobility. Parallel national schemes would be abolished.

POP3: A unified standard EU-wide Blue Card: very selective yet very attractive

This policy option package would introduce a standard EU-wide set of Blue Card rules applicable across the Member States. There would be no scope for the Member States to adapt any of the conditions or other rules of the EU Blue Card to national labour market circumstances. A Blue Card issued by one Member State would be mutually recognised by all Member States and provide unlimited intra-EU mobility. Parallel national schemes would be abolished.

The table below gives an overview of the various elements in each option.

POP1	POP0	POP1	POP2(a)	POP2(b)	POP2(c)	POP3
Entry conditions						
	<i>Baseline</i>	<i>Very inclusive, much more flexible and adaptable</i>	<i>Inclusive, more flexible and adaptable by MS</i>	<i>Selective, less flexible and adaptable</i>	<i>Combines POP2(a) and (b)</i>	<i>Very selective, EU level</i>
Length of work contract	12 months	6 months	6 months	6 months	6 months	6 months
Qualifications - regulated professions	Required	Required, but no salary threshold if highly skilled job (ISCO 1-2)	Baseline	Baseline	Baseline	Baseline
Qualifications – unreg. professions	Required	Applicant can choose between salary threshold or qualifications	More flexibility for recognition of qualifications	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)
Prof. experience alternative	Optional 5 years	Baseline	Mandatory (unregulated professions)	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)

General salary threshold	Min. 1.5 times average gross annual salary, set by MS	Applicant can choose (unreg. prof.). More harmonised yet remains exclusive, set by MS within limited range (1.4-1.7)	Much lower and more adaptable, set by MS within low range (1.0-1.4)	Remains exclusive (baseline) but more harmonised, set by MS within limited high range (1.5-1.7)	POP2(a) for level 1 and POP2(b) level 2 BC holders	Unified relatively high EU-wide salary threshold set at EU-level
Lower salary threshold - for shortage occupations	Optional, min. 1.2 times average gross annual salary, limited to highly skilled (ISCO 1-2)	Mandatory, 80 % of general threshold, expanded to some medium skilled (ISCO 1-3)	Mandatory, 80 % of general threshold, limited to highly skilled (ISCO 1-2)	No	Same as POP2(a)	No
- for recent graduates	No	No	Yes, 80 % of general threshold	No	Same as POP2(a)	No
Labour market test	Allowed	Allowed	Only in exceptional circumstances	Not allowed	Only in exceptional circumstances	Not allowed
Additional safeguards	Generic	Yes, to prevent social dumping and abuse	No	No	No	No
Procedures						
	<i>Baseline</i>	<i>Somewhat facilitated</i>	<i>Much facilitated</i>	<i>Much facilitated</i>	<i>Much facilitated</i>	<i>Very much facilitated</i>
Application	Abroad (exception: in territory)	Abroad or in the territory	Abroad or in the territory	Abroad or in the territory	Abroad or in the territory	Abroad or in the territory. EU level online application, sent to national authorities to process
Processing speed	Max. 90 days	Baseline	Target 30 days and max. 60 days	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)
Trusted employers system	No	No	Yes, optional, faster procedure and waiving of qualifications (unreg. prof.)	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)
Rights						
	<i>Baseline</i>	<i>Similar to baseline</i>	<i>Higher level of rights</i>	<i>Higher level of rights</i>	<i>Differentiated level of rights</i>	<i>Higher level of rights</i>
Validity of the Blue Card	Between 1-4 years set by MS or length of contract + 3 months	Baseline	Baseline	Standard 3 years	Baseline	Baseline
Long-term residence	Possible after 5 years	Baseline	After 3 years	After 3 years	Level 1: baseline / Level 2: after 3 years	After 3 years
Labour market access	First 2 years: limited to highly skilled jobs and changes subject to authorisation	Baseline	Immediate full access to highly skilled jobs, only notification	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)
Facilitation for entrepreneurs	No, self-employed activity not allowed	Yes, secondary self-employed activity on the side of BC job allowed	Same as POP1	Same as POP1	Same as POP1	Same as POP1
Family members	Family members can join after 6 months at the latest	Baseline	Family members can join simultaneously	Same as POP2(a)	Same as POP2(a)	Same as POP2(a)
Intra-EU Mobility						
	<i>Baseline</i>	<i>Similar to baseline</i>	<i>Facilitated</i>	<i>Much facilitated</i>	<i>Facilitated</i>	<i>Full mobility</i>
Moving to	After 18 months:	Baseline	More extensive:	Even more	After 12 months.	Comparable to the

second Member State	new BC in second MS with limited facilitation ¹⁴⁶		after 12 months, several conditions waived (labour market test, qualifications for unreg. prof.) but maintaining salary threshold. Shorter max. processing time (30 days) and may work already before decision taken	extensive: after 12 months, only check that salary meets regular level in that labour market. Rest as in POP2(a).	More facilitated for level 2 (POP2(b)) than for level 1 BC holders (same as POP2(a)).	free movement of EU citizens: single BC enables HSW to reside and work under the BC conditions in any MS
Relation with parallel national schemes						
Parallel schemes	Allowed for same group of HSW	Not allowed: all applicants who qualify get BC (allowed outside scope)	Not allowed: all applicants who qualify get BC (allowed outside scope)	Allowed for same group of HSW	Not allowed: all applicants who qualify get BC (allowed outside scope)	Not allowed: all applicants who qualify get BC (allowed outside scope)POP1
Inclusive	<i>Baseline</i>	<i>Very high</i>	<i>High</i>	<i>Low</i>	<i>High</i>	<i>Low</i>
Harmonise	<i>Baseline</i>	<i>Medium</i>	<i>High</i>	<i>Low</i>	<i>High</i>	<i>Very high</i>

5.2.2. Horizontal options

These policy options (POs) are horizontal, to the extent that they can be combined with any of the legislative packages. The non-legislative option (PO-A) could also be self-standing on top of the baseline situation.

PO-A: Non-legislative option: actions to improve the effectiveness of the Blue Card

This policy option package would involve non-legislative actions aimed at enhancing the implementation of the EU Blue Card and the promotion of the brand. Key elements:

- The Commission enhances the implementation of the Blue Card Directive and supports further practical cooperation between Member States. Member State experts exchange information on best practices and perceived trends, as well as on possible fraud and abuse of the Blue Card system.
- The use of the EU Blue Card scheme is made easier by improving – with practical measures - the recognition of foreign qualifications between Member States and in cooperation with third countries¹⁴⁷.
- EU and Member States increase the visibility and attractiveness of the EU Blue Card brand through information sharing, promotion, and advertisement activities. The Commission launches a dedicated, user-friendly website on the EU Blue Card within the EU Immigration Portal. Possible promotion tours in third countries can be organised in cooperation with different stakeholders.
- Practical measures are developed to improve skills and job matching to make EU employers and TCN HSW more attainable to each other.

PO-B: Extending the Blue Card to innovative entrepreneurs

This option would extend the scope of the Blue Card from highly skilled *employed* workers to innovative entrepreneurs (thus *self-employed* workers), and a separate set of

¹⁴⁶ Currently, the only facilitation for a new Blue Card in a second Member State compared to an application in a first Member State is: (1) in-territory application is allowed up to one month after entering the territory, (2) optionally some Member States allow the applicant to work already until a decision on the application is taken, (3) no waiting period for family to join. All other entry conditions need to be fulfilled again.

¹⁴⁷ See page 19 of Annex 13 for more details on practical measures to ease the recognition of qualifications..

admission conditions and rights (including possibly intra-EU mobility) for this group would be created within the Directive¹⁴⁸.

PO-C: Extending the Blue Card to highly skilled beneficiaries of international protection and asylum applicants

This option would open access to the EU Blue Card to categories of migrants who have applied for or have received international protection. Two main sub-categories and sub-options can be distinguished¹⁴⁹: (i) including only beneficiaries of international protection (refugees, persons granted subsidiary protection); (ii) including also asylum seekers.

6. ANALYSIS OF FEASIBILITY AND IMPACTS OF THE POLICY OPTIONS

This section analyses the various policy option packages (POPs) and horizontal policy options (POs) of the previous chapter against a series of assessment criteria.

6.1. Assessment of the legal feasibility

The feasibility of the options that have been retained for further in-depth assessment was first screened for legal constraints such as issues of subsidiarity and proportionality. The legal feasibility is scored with positive (+) or negative (-).

Legislative options		
POP1: Extending the scope by making it accessible to a significantly wider group of workers, including (some) medium-skilled	+	No issue as this option strengthens the elements already included in the existing Directive.
POP2(a): Making the Blue Card accessible to a wider group of HSW	+	No issue as this option strengthens the elements already included in the existing Directive.
POP2(b): Making the Blue Card a tool to attract a selected group of the most HSW	+	No issue as this option strengthens the elements already included in the existing Directive.
POP2(c): Creating a two-tiered Blue Card targeted at different skill levels of HSW	+	No issue as this option strengthens the elements already included in the existing Directive.
POP3: A unified standard EU-wide Blue Card	-	Many elements of this option would raise serious issues in terms of both subsidiarity and proportionality.
Horizontal options		
PO-A: Non-legislative option: actions to improve the effectiveness of the Blue Card	+	No issue, as this option is non-regulatory.
PO-B Extending the Blue Card to innovative entrepreneurs	+/-	Regulating different categories in one single instrument would affect legal clarity as a completely new set of entry conditions, procedures and rights would be needed but, as such, would not raise any issues of subsidiarity and proportionality.
PO-C Extending the Blue Card to highly skilled beneficiaries of international protection and asylum applicants	+	As regards asylum seekers it would create legal complexity because it would have to be determined what happens with the two separate procedures (in parallel or put the asylum one on hold). As regards beneficiaries a specific status would have to be created to guarantee the necessary elements of the protection status in the Blue Card status. However, this would not raise any subsidiarity or proportionality issues.

¹⁴⁸ Admission conditions would have to be targeted at self-employed persons, instead of employed, combined with a yardstick for the seriousness and the potential success of the business (e.g. financial requirements for entry, a timeframe and number of jobs to be created, or the amount of revenues to be generated). Also granting similar rights as Blue Card holders would be problematic as the purpose of the scheme is very different (a gamble for a potential for innovation and job creation instead of the more direct and tangible goal of filling shortages) which would require calibrated rules on family reunification, access to long-term residence, intra-EU mobility and labour market access.

¹⁴⁹ See Annex 16 for a detailed overview of these and more sub-options and the implications of a possible extension of the Blue Card to TCN seeking or enjoying international protection.

The retained options do not pose major problems in terms of subsidiarity and legal feasibility, except POP3. However, given that this is an option with potentially high harmonising valued and effectiveness, it has been decided not to discard it at this stage and assess it further.

6.2. Assessment of the impact

A wider range of impact categories was then screened in order to identify the key impact categories for detailed assessment taking into account the nature of the policy area, the identified problems, the objectives to be achieved, and the views of stakeholders and experts. In making the selection, the expected magnitude, the relative impact on specific stakeholders, and the Commission's horizontal objectives and policies were also considered.

The impact categories retained are economic impacts (e.g. impact on growth, investment and competitiveness, on SMEs, on innovation and research), social impacts (on EU citizens and TCN, e.g. impact on employment, working conditions, social protection), and impact on third countries. No significant environmental impact is expected from the initiative and has thus not been assessed further¹⁵⁰.

The selected impacts are assessed qualitatively and, where possible, quantitative analysis has been done based on a number of key assumptions (see Annexes 14 and 15 in particular). Furthermore, the policy options have been assessed in terms of their relevance and effectiveness in achieving the objectives, efficiency (cost/benefit ratio, administrative cost/burden and practical feasibility), and coherence with other EU policies.

For the purpose of assessing the impact, and its intensity, of the POPs and POs compared with the status quo (baseline scenario¹⁵¹), the following scale is used:

-3	Significant negative impact/cost/loss
-2	Medium negative impact/cost/loss
-1	Small negative impact/cost/loss
0	No impact
+1	Small positive impact/savings/gains
+2	Medium positive impact/savings/gains
+3	Significant positive impact/savings/gains

¹⁵⁰ This conclusion and a first selection of impacts to be assessed was presented to the Inter-Service Steering Group for the Review of the EU Blue Card Directive at a meeting on 17 December 2015 and in draft versions of this Impact Assessment report on 15 and 21 December 2015.

¹⁵¹ Rated "0" for the purposes of comparison, though it could have negative impacts, e.g. entailing losses of efficiency.

6.2.1. *Legislative options*

POP1: Extending the scope by making it accessible to a significantly wider group of workers, including (some) medium-skilled

Assessment Criteria	Rate	Motivation
Relevance and effectiveness in achieving the objectives		
GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO2: increase the numbers of highly skilled TCNs; SO3: lower barriers to entry, simplify and harmonise the admission procedures; SO4: promote social and economic integration of highly skilled TCNs and their family members, via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand to improve image of attractive EU	+3	<p>Estimated additional permits: min. 142 610 HSW (qualifications without salary threshold to meet; EU25 aggregate); no estimation could be made for medium skilled workers.</p> <p>By making the Blue Card accessible to a significantly wider group of HSW and (some) medium skilled this option would have the highest reach in terms of numbers of TCN workers of all POPs.</p> <p>The impact on individual Member States would be evenly spread across low and high income Member States as the salary threshold is nationally set, lower and very flexibly adaptable to national circumstances, while Member States still keep control over the volumes of admission (Treaty-based).</p> <p>This option makes the Blue Card very “inclusive” and is highly adaptable to national situations. Consequently, it has a very high potential to substitute parallel national schemes covering the same category of people.</p> <p>The personal scope is significantly widened due to the alternative instead of cumulative entry conditions (salary or qualifications), the possibility of creating national shortage lists with a lower salary threshold, easier access for young professionals with EU qualifications, and the possibility of contracts with a shorter duration (e.g. trial periods). While still limited, this policy option would have the highest contribution to addressing demographic ageing of all POPs.</p> <p>However, given the trade-off between (a) more facilitated entry conditions and (b) rights and procedures, there would be no further facilitation of intra-EU mobility compared to the baseline, nor of EU long-term residence or family reunification possibilities, which would not enhance the attractiveness and retention potential of the Blue Card.</p>
GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing the inflows, occupational and geographical (intra-EU) mobility), and to promote efficient (re)allocation on EU labour market; SO5: ensure more flexible intra-EU mobility, removing unnecessary barriers, more efficient allocation of highly skilled TCNs in EU	+2	<p>Through increased inflows via the alternative conditions and somewhat facilitated procedures, this option would allow Member States to better respond to demands for skilled work and address shortages in highly and (some) medium skilled occupations. Consequently, it would have a significantly positive impact on labour and skills shortages, also in the medium skilled range, as well as on the EU's competitiveness.</p> <p>However, given there would be no further facilitation of intra-EU mobility because of necessary safeguards against displacement, social dumping and abuse, there would be no improvement in the ability for efficient (re)allocation of labour force across the EU labour market.</p>
SO1: create coherent, effective and efficient common EU immigration system for highly skilled TCNs	-1	<p>There would be a gain in harmonisation through the elimination of national parallel schemes but the efficiency and effectiveness would be diminished by a one-size-fits-all approach focussing on highly and (some) medium skilled workers who are likely to have different needs.</p> <p>Extending the scope undermines the effectiveness of the Blue Card for being a targeted instrument for attracting highly skilled and limits the possibility for facilitating procedures, providing more rights, including intra-EU mobility, labour market access and access to long-term residence. The attractiveness of the Blue Card for the highly skilled would be watered-down.</p>
Economic impacts		
- Impact on growth and competitiveness	+3	<p>Estimated economic impact: min. € 6.8 billion (not including estimation for impact of medium skilled workers; not possible to estimate max.)</p> <p>A significant positive economic impact would accrue from a significant number of additional HSW, and some medium skilled workers, coming to and working within the EU. Overall higher numbers of admitted highly and medium skilled workers, and an increased retention of recent graduates trained in the EU, would create a larger pool of HSW from which employers can draw to fill shortages which would positively impact growth and the EU's competitiveness.</p> <p>Facilitated access for young professionals with EU qualifications has the potential of</p>

		<p>making studying in the EU more attractive because of the increased possibility of securing employment afterwards. The fees and expenditure on living costs of students during their studies generate income to the EU.</p> <p>On the other hand, the positive economic impact could be reduced due to an increased – though limited - risk for displacement of EU workers, particularly in the medium skilled section.</p>
- Impact on SMEs	+3	<p>The increased numbers of TCN workers able to fill shortage occupations, also in the medium skilled range, would be beneficial for SMEs to fill labour shortages and boost their growth perspectives. Compared to the baseline, the cost of recruitment for SMEs would be lower due to an enlarged pool of potential candidates already in the EU, since SMEs have less capacities and resources to recruit internationally.</p> <p>However, compared to the baseline scenario, there would be no further facilitation of intra-EU and occupational mobility, which could reduce the positive impact for SMEs.</p>
- Impact on innovation and research	+2	<p>Significantly increased numbers would have a positive impact on companies' capacity to conduct R&D and would benefit the EU's overall capacity for innovation and research. Especially for companies in highly innovative sectors the capacity for recruiting HSW would increase, concerning namely for recent foreign graduates with an EU degree in much-in-demand STEM (science, technology, engineering and mathematics) fields.</p> <p>However, while the overall impact would be larger due to higher overall numbers, the per unit gain of additional highly and medium skilled would diminish as the average skill level would go down.</p>
Social impacts		
- Impact on EU citizens	-1/ -2	<p>Significantly more flexible admission conditions would open up the Blue Card to a significantly higher number of highly skilled and (some) medium skilled.</p> <p>However, while several safeguards are built in to avoid pressure on labour conditions, wages and the displacement of EU workers, this option entails the highest risk for negative effects on EU workers, particularly in Member States with high unemployment levels. This could also negatively impact on the EU's welfare system.</p> <p>The displacement effect is expected to be very limited for the highly skilled, but moderate for medium skilled. Research suggest that increases in numbers of immigrants towards the lower end of the salary distribution and working in semi/unskilled services results to some extent to increasing salary competition and pressure. While the Blue Card would still be out of reach for the lower end of the salary distribution and semi/unskilled workers, some displacement effect in the mid-salary and medium-skilled range cannot be fully excluded.</p> <p>This option grants only limited additional rights and would not risk placing TCN workers in a more favourable position than EU workers.</p>
<p>- Impact on third country national HSW</p> <p>- Impact on fundamental rights (Charter: art. 7, private and family life; art. 45(2), freedom of movement and of residence)</p>	+2/ +3	<p>There would be a significant quantitative positive impact for TCN, especially from low income countries, because of improved career opportunities for HSW, and some medium skilled workers, as their possibilities to be admitted to the EU would increase. The growth in numbers of TCN workers would widen the target group and some medium-skilled workers would be given a more extensive set of rights than what they would currently enjoy.</p> <p>However, qualitatively, this option grants limited to no additional rights compared to the baseline situation. No changes to family reunification rules compared to baseline scenario. There would be no to a slight positive effect on freedom of movement and residence, due to increased harmonisation and elimination of national schemes.</p>
- Impacts on third countries	+2	<p>The quantitative benefits for developing countries from remittances, 'brain gain', and circular migration, set off against costs of 'brain drain' in sectors that require skilled workers, would be the highest in this option due to the higher numbers, including (some) medium skilled.</p>
Efficiency		
<p>- Administrative costs and cost/benefit effectiveness</p> <p>- Practical or technical feasibility (difficulty/risks for transposition and implementation)</p>	+1	<p>Administrative impact on Member States: cost of € 28.7 million (EU25 aggregate).</p> <p>Offset by fees and an estimated additional income tax revenue of € 1.5 billion</p> <p>This option would have the highest reach in terms of numbers of TCN workers who</p>

	<p>would fall under its personal scope. The absorption of the national HSW schemes into the EU Blue Card scheme would not lead to additional overall costs for public administrations as the scheme would replace all existing schemes for HSW and (some) medium-skilled workers. Some initial costs would be incurred for information for companies, training of immigration officials on the new rules, etc. but overall this option would constitute an increase in efficiency due to increased coherence and harmonisation. Higher numbers of applicants would increase the overall administrative costs but the per-unit cost would decrease due to economies of scale and efficiency gains due to a simplified system. The costs can be offset by fees and, indirectly, by the economic gains for the host society and increased tax revenue.</p> <p>For the first permit, the administrative burden for HSW and businesses would be lower due to a streamlined scheme across the EU. However, in case of intra-EU mobility, this scheme would bring limited advantages in reducing costs for an application in a second Member State, both for public administrations and for HSW and businesses. Nevertheless, for both first and second permits, the costs of navigating separate and diverging migration systems (e.g. lawyer fees) for businesses and HSW would lower.</p> <p>However, this option would result in a sub-optimal management of the migration flows as a one-size-fits-all approach would not be targeted at specific needs of different categories. The effectiveness of the Blue Card as an instrument for highly skilled would be undermined as the measures would be less far-reaching than a targeted instrument in terms of simplification, streamlining of the procedures, and providing attractive rights (including intra-EU mobility, labour market access and access to long-term residence).</p> <p>No practical or technical difficulty is to be expected. It would ensure more uniform implementation but would require adaptation of Member States' legislation.</p>
Coherence with other EU policies	
In line with, and contributes to, EU Growth Strategy. Broadly consistent with EU economic and social policies, including on mobility of EU workers, although some risks for a displacement effect exist.	
Stakeholders and experts' view	
Some stakeholders support expanding the Blue Card to medium skilled (SME representatives, e.g. UAPME). However, most of them consider that this would undermine the value of the Blue Card as an instrument to attract talents and HSW and consider that a separate instrument would be more appropriate to cover other skills levels. Diverging views also exist on maintaining vs. abolishing the salary threshold (as alternative to qualifications). Mixed views exist also on the value and usefulness of national schemes compared to the Blue Card.	

POP2(a): Making the Blue Card accessible to a wider group of HSW

Assessment Criteria	Rate	Motivation
Relevance and effectiveness in achieving the objectives		
<p>GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO2: increase the numbers of highly skilled TCNs; SO3: lower barriers to entry, simplify and harmonise the admission procedures; SO4: promote social and economic integration of highly skilled TCNs and their family members, via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand to improve image of attractive EU</p>	+2	<p>Estimated additional permits: min. 32 484 to max. 137 690 HSW (EU25 aggregate, variation depending on the salary threshold set by individual Member States)</p> <p>By making the Blue Card accessible to a significantly wider group of HSW this option would be more inclusive than the current Blue Card Directive, while still remaining an instrument targeted at HSW. HSW who are currently excluded due to the restrictive admission conditions, including young professionals, would be better reached and result in an increased retention potential of young talent trained in the EU.</p> <p>A lower and adaptable general salary threshold, set by Member States within a fixed range but calculated on a national average, would significantly increase inclusiveness and add flexibility for Member States to adapt to their national labour markets. This would be further enhanced by a mandatory lower threshold for shortage occupations (currently optional, so only applied by some Member States) and for young graduates, as well as by the possibility of contracts with a shorter duration (e.g. trial periods).</p> <p>The impact on individual Member States would be evenly spread across low and high income Member States as the salary threshold is calculated on a national average, lower and adaptable to national circumstances, while Member States still keep control over the volumes of admission (Treaty-based). This option makes the Blue Card more inclusive and is highly adaptable to national situations. Consequently, it has a very high potential to substitute parallel national schemes covering the same</p>

		<p>category of people.</p> <p>This policy option is targeted at HSW and would have a high effectiveness in attracting and retaining them due to several provisions such as: the possibility to introduce of fast track schemes for trusted employers; the labour market test only in exceptional circumstances, a lower maximum processing time for applications, facilitated intra-EU mobility; easier access to EU long-term residence and family reunification. The increased numbers and more inclusive nature would also contribute to a certain extent to addressing demographic ageing.</p> <p>On the whole, the trade-off between (a) more facilitated entry conditions and (b) more rights and facilitated procedures, as well as between further harmonisation and need for national flexibility, is well balanced in this option, thus increasing the EU attractiveness. By improving the attractiveness of the Blue Card this option would also enhance its branding potential.</p>
<p>GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing the inflows, occupational and geographical (intra-EU) mobility), and to promote efficient (re)allocation on EU labour market; SO5: ensure more flexible intra-EU mobility, removing unnecessary barriers, more efficient allocation of highly skilled TCNs in EU</p>	+2	<p>This option would significantly improve the Member States' ability to effectively and promptly respond to demands for HSW and address labour and skill shortages. By making the Blue Card accessible to a wider group of talent overall numbers of HSWs would increase and there is an increased retention of EU trained young talent. This would create a larger pool of HSW from which employers can draw to fill shortages.</p> <p>More extensive intra-EU mobility possibilities would allow for an improved ability to flexibly circulate between Member States according to changed labour market circumstances and skill shortages. Full labour market access to highly skilled employment in the Member State concerned would allow for a significant improvement in the occupational mobility of HSW (currently limited for the first two years of legal employment). This would allow for a more efficient (re)allocation on the EU labour market.</p>
<p>SO1: create a coherent, efficient and effective common immigration system for highly skilled TCNs</p>	+3	<p>The effectiveness and coherence would be improved by further harmonising the HSW systems across the Member States, simplifying and streamlining the procedures in each Member State, decreasing the processing time, allowing for simultaneous processing of family permits and introducing a system of recognised employers. There would be a significant gain in harmonisation through the elimination of national parallel schemes covering the same category of people while the substitution potential is very high.</p> <p>Streamlining, simplifying and harmonising the EU's schemes for HSW into a common scheme, while leaving a considerable flexibility to Member States to adapt entry conditions to their national labour markets, would significantly improve the clarity and efficiency of the migration management of HSW.</p>
Expected impacts		
Economic impacts		
<p>- Impact on growth and competitiveness</p>	+2	<p>Estimated economic impact: min. € 1.4 billion to max. € 6.2 billion</p> <p>A positive economic impact would accrue from additional HSW coming to and working within the EU. Overall higher numbers of admitted HSW, and an increased retention potential of young talent trained in the EU, would create a larger pool of HSW from which employers can draw to fill shortages which would positively impact growth and the EU's competitiveness.</p> <p>Given that this scheme would be targeted at HSW, demand-driven and still be fairly selective, the displacement effect is expected to be low and thus not to have any negative economic impact.</p> <p>Facilitated access for young professionals with EU qualifications has the potential of making studying in the EU more attractive because of the increased possibility of securing employment afterwards. The fees and expenditure on living costs of students during their studies generate income to the EU.</p>
<p>- Impact on SMEs</p>	+2	<p>This policy option would facilitate and lower the cost of recruitment of HSW for SMEs. Notably, a lower general threshold, the lower threshold for filling shortage occupations, and the possibility of a shorter contract (e.g. for a trial period) would make it easier for SMEs to fill labour shortages and boost their growth perspectives.</p> <p>In addition, a larger pool of HSW in the EU with increased possibilities for occupational mobility between jobs and intra-EU mobility would benefit SMEs as they would have access to a larger highly skilled labour force already in the EU. This would offset SME's challenges in recruiting from third countries compared to larger</p>

		<p>companies because SMEs cannot benefit from the same economies of scale, access to information and intermediary services. For SMEs 'one off' recruitment costs are proportionally higher than for larger companies and the risks are higher.</p> <p>A "trusted employer scheme" would in principle be more favourable to large companies than to SMEs. However, SMEs are very diverse and many EU medium-sized companies (50-250 employees) already operate internationally. These should not have difficulties in becoming trusted employers if they regularly recruit abroad and the normal Blue Card procedure would still remain available to SMEs.</p>
- Impact on innovation and research	+2	<p>Increased numbers of HSW would have a positive impact on the capacity of companies to conduct R&D and would benefit the EU's overall capacity for innovation and research (see Annexes 10 and 14 for more details). Especially for companies in highly innovative sectors the capacity for recruiting HSW would increase, especially for recent graduates with an EU degree in much-in-demand STEM fields. This would increase their capacity for innovation and entrepreneurship. Also, research suggests that HSW have a small yet positive net effect on innovation in receiving countries due to increased workforce diversity. Various studies indicate a positive contribution of HSW to technological development in host countries, exceptional scientific contributions, and the innovative performance of European regions. Allowing entrepreneurial activities on the side in the own time while being employed in a Blue Card job would send a message of favouring entrepreneurial spirit and innovation. It would lower the risk and uncertainty of entrepreneurial activity, increase entrepreneurial entry and survival by lowering the risk of business failure.</p>
Social impacts		
- Impact on EU citizens	+2	<p>More flexible admission conditions would open the Blue Card to higher numbers of HSW. EU citizens would benefit from the positive impact on overall economic growth through filling labour and skills shortages, which may indirectly contribute to reinforcing knowledge-based economy and job creation in the EU.</p> <p>The economic impact could be slightly reduced if there were displacement of EU workers. However, given that this scheme would be targeted at HSW, demand-driven, still fairly selective, and that appropriate safeguards are built in, the potential displacement effect on EU workers is expected to be limited.</p> <p>This option grants additional rights to TCN workers but would not place TCN workers in a more favourable position than EU workers.</p>
- Impact on third country national HSW - Impact on fundamental rights (Charter: art. 7, private and family life; art. 45(2), freedom of movement and of residence)	+2	<p>A more accessible Blue Card would reach and create benefits for more HSW in quantitative terms because of improved career opportunities as their possibilities to be admitted to the EU would increase and facilitated mobility across the EU in accordance with the changing needs of the EU labour market. The potential relative growth of numbers in HSW would be noticeable, but would not be major in absolute terms, as the Blue Card would remain demand-driven and selective.</p> <p>Qualitatively HSW would enjoy more extensive rights than currently. Simultaneous permits to family members would improve the respect for the right to family life as the family would not face separation and uncertainty. Enhanced intra-EU mobility provisions and quicker access to long-term resident status would have a positive impact on freedom of movement and residence.</p>
Impact on International Relations		
- Impacts on third countries	+1	<p>Facilitated access to long-term residence status combined with circular mobility rights would bring benefits for developing countries from 'brain gain' and increased remittance payments</p>
Efficiency		

<p>- Administrative costs and cost/benefit effectiveness</p> <p>- Practical or technical feasibility (difficulty/risks for transposition and implementation)</p>	+3	<p>Administrative impact on Member States: cost of € 6.5 million to a cost of € 27.9 million (EU25 aggregate, variation depending on range of additional or fewer permits)</p> <p>Offset by fees and an estimated additional income tax revenue of min. € 300 million to max. € 1.4 billion</p> <p>In general, there would be limited additional administrative costs for public administrations as the scheme would replace the existing schemes which would have to be modified to lesser or greater extent depending on the Member States. Some initial costs would be incurred for information for companies, training of immigration officials on the new rules, etc. but overall this option would constitute a significant increase in efficiency due to increased coherence and harmonisation.</p> <p>Higher numbers of applicants would increase the overall administrative costs but the per-unit cost would decrease due to economies of scale and efficiency gains due to a simplified system. The costs can be offset by fees and, indirectly, by the economic gains for the host society and increased tax revenue.</p> <p>The administrative burden for HSW and businesses recruiting them would lower substantially with a more harmonised and simplified system, without many parallel schemes. For the first permit, the additional costs of navigating diverging migration systems (e.g. lawyer fees) when hiring in different Member States would lower significantly. More facilitation in case of mobility to a second Member State than currently would also substantially reduce administrative burden, the main source of difficulty signalled by consulted companies.</p> <p>Enhanced rights, such as family reunification, facilitated access to long-term residence status and intra-EU mobility, may have some impact on public administrations in the short run as there may be an increase in such applications but many of those would only an anticipation of otherwise later applications and, overall, these costs would be largely offset by the gains in simplification and harmonisation, and the gains for HSW and businesses.</p> <p>No practical or technical difficulty (risks for transposition and implementation) is to be expected. This option would ensure more uniform implementation but would require adaptation of Member States' legislation</p>
Coherence with other EU policies		
In line with, and contributes to, EU Growth Strategy. Fully consistent with EU economic and social policies, including on mobility of EU workers and on skills and qualifications.		
Stakeholders and experts' view		
<p>A majority of the respondents to the public consultation supports the abolition of any national schemes for the highly skilled in favour of a truly EU-wide permit¹⁵². All experts and most non-governmental stakeholders agree that improved intra-EU mobility should be one of the main value added of the EU Blue Card. Most stakeholders and employers emphasize the need to streamline and simplify admission procedures and make admission conditions more flexible. While some question the usefulness and effectiveness of the labour market test (e.g. TABC, CFGI), others see it as a necessary tool to protect the domestic labour market or to prevent fraud (e.g. UAPME, EuroChambres, OECD). Experts and non-governmental stakeholders see a need to lower the threshold and take specific care to include recent graduates. However, in light of differences between national labour markets many experts, stakeholders and most Member States consider that national authorities should retain a degree of flexibility in the setting of the level of the threshold. While the need for and the level of the salary threshold is controversial among stakeholders and experts, they mostly agree that the education requirement is important to guarantee that Blue Card holders are qualified. Business and employers representatives also emphasize the importance of formal degrees, but suggest a loosening of the link between the kind of education acquired and the job profile. The idea to lower the minimum period of the contract was widely supported as was the suggestion to officially allow Blue Card holders to engage in self-employed, entrepreneurial activities on top of their regular employment.</p>		

¹⁵² 53 % for a unified EU scheme without national schemes vs. 34 % for keeping national schemes, see Annex 2, section 2.3.4, question 27

POP2(b): Making the Blue Card a tool to attract a selected group of the most HSW

Assessment Criteria	Rate	Motivation
Relevance and effectiveness in achieving the objectives		
GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO2: increase the numbers of highly skilled TCNs; SO3: lower barriers to entry, simplify and harmonise the admission procedures; SO4: promote social and economic integration of highly skilled TCNs and their family members, via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand to improve image of attractive EU	+1/ +2	<p>Estimated additional permits: min. -8 149 (less than baseline) to max. 17 250 HSW (EU25 aggregate, variation depending on the salary threshold set by individual Member States)</p> <p>By focussing on an elite of the most highly skilled workers this option would be more exclusive than the current Blue Card Directive. It would have a lower reach in terms of numbers but the selectiveness would allow for more facilitation and rights which would favour a highly-mobile well-earning elite of HSW. While the contribution of the elite HSW to the EU's competitiveness can be assumed to be higher per unit, the overall gain would remain limited due to the limited increase in numbers.</p> <p>This option would mean significant further harmonisation focussed on an elite subsection of HSW to whom a very attractive scheme could be offered, but allow only limited flexibility for Member States to adapt admission conditions to their national labour markets for the category covered. The impact on individual Member States would be limited but be fairly evenly spread across low and high income Member States as the salary threshold is nationally set within a fixed high range but calculated on the national average salary. Consequently, it has a lower potential to substitute parallel national schemes. However, this would be offset by allowing Member States to keep their national parallel schemes to reach non-elite HSW (i.e. those not covered under the EU scheme) and adapt their policies in function of their national labour market situation.</p> <p>Given the harmonisation would only concern a limited category of HSW, there is no significantly improved simplification, coherence and efficiency of the overall system. Thus, overall the EU's ability to attract and retain would not be improved significantly, nor to address demographic ageing.</p> <p>The trade-off between (a) more selective entry conditions and (b) more rights and facilitation, results in lower numbers but much enhanced attractiveness for an elite group of HSW with much facilitated intra-EU mobility, a permit with a standard validity of 3 years, facilitated long-term residence and family reunification. This would enhance the attractiveness and retention potential and increase the branding value of the Blue Card, but limited to a small elite group, while the EU's overall attractiveness would only be slightly improved.</p>
GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing the inflows, occupational and geographical (intra-EU) mobility), and to promote efficient (re)allocation on EU labour market; SO5: ensure more flexible intra-EU mobility, removing unnecessary barriers, more efficient allocation of highly skilled TCNs in EU	+1	<p>This option would not constitute a significant improvement in the EU's ability to effectively and promptly respond to demands for HSW and to skill shortages as it would only have a limited reach and current parallel schemes would remain unaltered for most HSW.</p> <p>Only for a limited elite subgroup of the most HSW there would be a significant improvement in their possibilities for occupational and intra-EU mobility. The positive impact would be limited to addressing very specific shortages in high-earning occupations. At the same time, while facilitation would certainly simplify and speed things up, in practice the occupational and intra-EU mobility of the elite very HSW is not likely to be limited by salary or qualification constraints.</p> <p>This option would not constitute a significant improvement in the EU's ability to effectively and promptly respond to demands for HSW and to skill shortages as it would only have a limited reach and current parallel schemes would remain unaltered for most HSW.</p> <p>Only for a limited elite subgroup of the most HSW there would be a significant improvement in their possibilities for occupational and intra-EU mobility. The positive impact would be limited to addressing very specific shortages in high-earning occupations.</p>
SO1: create a coherent, efficient and effective common immigration system for highly skilled TCNs	+1	<p>By focussing on a select subsection of the HSW, this policy option would introduce a significantly more harmonised and streamlined EU-level Blue Card but only for the elite – thus a limited number of - HSW. As regards non-elite HSW, this option would not address the current fragmentation of the legal framework since national parallel schemes would (necessarily) remain in place (to be able to reach non-elite HSW).. As a result, the overall coherence, clarity and efficiency would not improve much and a smaller section of the migration flows would be covered by a common policy.</p>

Expected impacts		
Economic impacts		
- Impact on growth and competitiveness	-1/0	<p>Estimated economic impact: min. -€ 0.4 billion (less than baseline) to max. € 0.7 billion</p> <p>A positive economic impact would accrue from additional HSW coming to and working within the EU. A (theoretical) negative economic impact would also be possible if all Member States would set the salary threshold at the highest level (1.7). However, this would be offset by the possibility for those excluded HSW to still come under the parallel national schemes. Overall as this sub-option would only target the most HSW, the positive impact on economic output through higher numbers of HSW and filling highly skilled shortages occupations, would be limited.</p> <p>However, improved intra-EU mobility would accrue economic benefits from the increased productivity that is likely when HSW take a new job in a second Member State and the consequent improvement in allocation of human resources. An assumed increase in annual salary upon moving to the second Member State would generate additional economic benefits.</p>
- Impact on SMEs	0	<p>Similar to the description for POP2(a). However, the more limited scope to the most HSW would not substantially increase the pool of HSW within the EU and SMEs would benefit less as their access to this exclusive labour force would be limited. Elite HSW also have higher salaries that are often out of reach for SMEs.</p> <p>Further facilitated mobility would have a neutral to slightly positive impact with respect to the challenges faced by SME.</p>
- Impact on innovation and research	+1	<p>Similar to the description for POP2(a). However, while the contribution of the most HSW to the EU's innovation and research can be assumed to be higher per unit, the overall gain would remain limited due to the limited increase in numbers compared to the baseline scenario. Consequently, a neutral to slightly positive impact is likely due to increased attractiveness for the most highly skilled.</p>
Social impacts		
- Impact on EU citizens	+1	<p>See POP2(a) with the following variations:</p> <p>As this sub-option would only target a selected sub-group of the most HSW, the numbers of admitted HSW would be lower and less highly skilled shortage occupations would be filled. This would generate less indirect economic benefits for EU citizens.</p> <p>Even if labour market tests would be forbidden at first entry in this option, the numbers of the most HSW would be more limited and the potential displacement effect on EU workers is expected to be limited. In any case, it would not make a difference with the baseline as this group is unlikely to face a rejection on those grounds.</p>
- Impact on third country national HSW - Impact on fundamental rights (Charter: art. 7, private and family life; art. 45(2), freedom of movement and of residence)	+1	<p>A more selective scope that focuses on the most HSW would reach fewer TCNs in quantitative terms, but parallel national schemes would still be allowed for those who do not reach the selective admission conditions. At the same time, for elite HSW the actual possibilities to enter the EU to seek career opportunities would not change much, as they are unlikely to be refused entry would also get access under most national schemes. Quantitative impact would be limited.</p> <p>However, in qualitative terms there would be significant gains compared to the baseline: a targeted better set of rights and improved intra-EU mobility (more facilitated than in POP2(a)) would have a positive impact on these HSW. Those under national schemes would not have access improved intra-EU mobility possibilities.</p> <p>There would be a similar positive impact on private and family life as POP2(a).</p>
Impact on International Relations		
- Impacts on third countries	0/+1	Similar to POP2(a) though more limited due to lower numbers of HSW
Efficiency		
- Administrative costs and cost/benefit effectiveness - Practical or technical feasibility	0	<p>Administrative impact on Member States: from a benefit of € 1.7 million to a cost of € 3.4 million (EU25 aggregate, variation depending on range of additional or fewer permits)</p> <p>Offset by fees and estimated income tax revenue of -€ 111 million (less) to an</p>

(difficulty/risks for transposition and implementation)	<p>additional max. of € 184 million</p> <p>As parallel national schemes would continue to be allowed next to the Blue Card for non elite HSW this option would stay more or less in the baseline scenario in terms of administrative costs for public administrations. Some limited initial costs would be incurred for information for companies, training of immigration officials on the new rules, etc. This option would not constitute an increase in efficiency, as there is no very limited increased coherence, harmonisation or simplification of the EU's overall system for HSW.</p> <p>Because of the limited number of additional HSW under this option, there would be limited economies of scale. The costs can be offset by fees and, indirectly, by the economic gains for the host society but these would be limited. The cost/benefit effectiveness would therefore also be limited.</p> <p>As regards the most HSW the administrative burden for HSW and businesses recruiting them would lower with a more harmonised scheme. Especially, more facilitation in case of mobility to a second Member State than currently would substantially reduce administrative burden. However, for non-elite HSW and companies recruiting them there would be no change to the baseline.</p> <p>No practical or technical difficulty (risks for transposition and implementation) is to be expected. This option would ensure more uniform implementation reaching a limited group and would require adaptation of Member States' legislation.</p>
Coherence with other EU policies	
In line with, and contributes to, EU Growth Strategy. Consistent with EU economic and social policies, including on mobility of EU workers.	
Stakeholders and experts' view	
While most stakeholders emphasized the need to maintain the focus of the Blue Card on the highly skilled, support for an even more selective model with extensive rights came mostly from a limited number of experts. On other elements, see comments under POP2(a). Most Member States and SME organisations (e.g. UAPME) consider it important to be able to keep labour market tests.	

POP2(c): Creating a two-tiered Blue Card targeted at different skill levels of HSW

Assessment Criteria	Rate	Motivation
Relevance and effectiveness in achieving the objectives		
<p>GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO1: create coherent, effective and efficient common EU immigration system for highly skilled TCNs; SO2: increase the numbers of highly skilled TCNs; SO3: lower barriers to entry, simplify and harmonise the admission procedures; SO4: promote social and economic integration of highly skilled TCNs and their family members, via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand to improve image of attractive EU</p>	<p>+2/ +3</p>	<p>Estimated additional permits: min. 24 334 to max. 154 940 HSW (EU25 aggregate, variation depending on the salary threshold set by individual Member States)</p> <p>This option would make the Blue Card accessible to a significantly wider group of HSW thanks to the <i>first level Blue card</i>, which would be more inclusive than the current Blue Card Directive, while still remaining an instrument targeted at HSW. HSW who are currently excluded due to the restrictive admission conditions, including young professionals, would be better reached and result in an increased retention potential of young talent trained in the EU. On top of that would come the <i>second level Blue Card</i>, which would create an exclusive yet attractive scheme for a small group of highly-mobile well-earning elite HSW. The overall numbers would be a combination of POP2(a) and (b).</p> <p>It would be an inclusive scheme with a high level of flexibility for Member States to adapt to their national labour markets as described under POP2(a), combined with the selectiveness that would allow for a highly attractive elite scheme as described under POP2(b). The impact on individual Member States would be evenly spread across low and high income Member States as the salary thresholds for both levels are calculated on a national average, on lower and another higher, and adaptable to national circumstances, while Member States also still keep control over the volumes of admission (Treaty-based). This makes the Blue Card is highly adaptable to national situations with a very high potential to substitute parallel national schemes covering the same category of people.</p> <p>This policy option is targeted at HSW and would have a high effectiveness in attracting and retaining them as described under POP2(a), while the combination with POP2(b) would mean a slight additional increase in the EU's ability to attract and retain an elite sub-group of HSW. The increased numbers and more inclusive nature would also contribute to a certain extent to addressing demographic ageing.</p> <p>On the whole, the trade-off between (a) more facilitated entry conditions and (b) more rights and facilitated procedures, as well as between further harmonisation and</p>

		need for national flexibility, is well balanced in this option, thus increasing the EU attractiveness. By improving the attractiveness of the Blue Card this option would also enhance its branding potential .
GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing the inflows, occupational and geographical (intra-EU) mobility), and to promote efficient (re)allocation on EU labour market; SO5: ensure more flexible intra-EU mobility, removing unnecessary barriers, more efficient allocation of highly skilled TCNs in EU	+2	<p>Similar to POP2(a), this option would significantly improve the Member States' ability to effectively and promptly respond to demands for HSW and address labour and skill shortages. By making the Blue Card accessible to a wider group of talent overall numbers of HSWs would increase and there is an increased retention of EU trained young talent. This would create a larger pool of HSW from which employers can draw to fill shortages. More extensive intra-EU mobility possibilities would allow for an improved ability to flexibly circulate between Member States according to changed labour market circumstances and skill shortages.</p> <p>The combination with POP2(b) would mean an additional increase in the EU's ability to respond to very specific shortages in high-earning occupations, yet this would be limited to an elite of the most HSW as described in POP2(b).</p>
SO1: create a coherent, efficient and effective common immigration system for highly skilled TCNs	+1	<p>By combining POP2(a) and (b) this option would introduce a significantly more harmonised EU policy on highly skilled workers with many common elements, through the elimination of national parallel schemes for HSW, complemented by an even more harmonised EU policy for an elite of the most highly skilled workers. As regards the level 1 Blue Card holders Member States would still have a considerable amount of flexibility to adapt the entry conditions to the situation of their national labour markets, yet a bit less so for level 2.</p> <p>The effectiveness and coherence would be improved by further harmonising the HSW systems across the Member States, simplifying and streamlining the parallel procedures in each Member State, decreasing the processing time, simultaneous processing of permits for family members and introducing a system of recognised employers with further facilitation.</p> <p>On the other hand, the gain in harmonising value and efficiency in the management of HSW flows through the elimination of national parallel schemes for HSW in POP2(a), is diminished by the complexity of having a two-tier differentiated system with differing entry conditions and differing rights associated to the status.</p> <p>In practice, this means that two separate yet interconnected (possible transition from level 1 to 2) systems would have to be managed by Member States. A separate status and permit would have to be created, as it would be necessary to differentiate between both levels in function of the associated rights (e.g. different access to long-term residence status and intra-EU mobility). In addition, two levels of HSW would mean different treatment in terms of rights.</p>
Expected impacts		
Economic impacts		
- Impact on growth and competitiveness	+1/ +2	Estimated economic impact: min. € 1 billion to max. € 6.9 billion This sub-option combines POP2(a) and (b) and the impacts would also be in line with a combination of those described under those options.
- Impact on SMEs	+2	This sub-option combines POP2(a) and (b) and the impacts would also be in line with a combination of those described under those options.
- Impact on innovation and research	+2	This sub-option combines POP2(a) and (b) and the impacts would also be in line with a combination of those described under those options.
Social impacts		
- Impact on EU citizens	+2	This sub-option combines POP2(a) and (b) and the impacts would also be in line with a combination of those described under those options.
- Impact on third country national HSW - Impact on fundamental rights (Charter: art. 7, private and family life; art. 45(2), freedom of movement and of residence)	+2	This sub-option combines POP2(a) and (b) and the impacts would also be in line with a combination of those described under those options.
Impact on International Relations		
- Impacts on third countries	+1	Same as for POP2(a)

Efficiency		
<p>- Administrative costs and cost/benefit effectiveness</p> <p>- Practical or technical feasibility (difficulty/risks for transposition and implementation)</p>	+1	<p>Administrative impact on Member States: cost of € 4.9 million to a cost of € 31.2 million (EU25 aggregate, variation depending on range of additional or fewer permits)</p> <p>Offset by fees and an estimated additional income tax revenue of min. € 200 million to max. € 1.6 billion</p> <p>The administrative cost to public administrations would be a combination of those listed under POP2(a) and (b), yet slightly higher than POP2(a) and (b) combined as it would mean administering two systems on top of each other. While there would be many common elements, in order to differentiate between the two levels, there would be some different entry conditions and corresponding rights (level 2 Blue Card holders would have to fulfil higher entry conditions and receive more beneficial rights). Effectively this would also mean that different residence cards would need to be issued and kept track of. In addition, possible transitions from level 1 to level 2 Blue Cards would also require some additional administrative efforts similar to the renewal of a permit.</p> <p>A two-level system would be more complex than only one scheme, but, as parallel national schemes would be abolished, still substantially less complex than the current plethora of parallel systems. Some initial costs would be incurred for information for companies, training of immigration officials on the new rules, etc. but overall this option would still constitute a significant increase in efficiency due to increased coherence, harmonisation and simplification.</p> <p>The administrative burden for HSW and businesses recruiting them would be lower substantially with a more harmonised and simplified system, without many parallel schemes, as described under POP2(a). However, the additional benefits of the level 2 Blue Card would be limited. It would only apply to a small selective group and, while a higher level of rights and much facilitated mobility would have a slight positive impact, a separate system for very top talent that is short of a standard EU-wide Blue Card, would not significantly increase the EU's attractiveness to them. The administrative cost of running a two-level system would not be offset.</p> <p>Certain practical or technical difficulties are to be expected, as this option would be complex and difficult to implement by Member States and require adaptation of Member States' legislation.</p>

Stakeholders and experts' view

The multi-tiered option emerged out of the EGEM discussion as a solution to the inherent trade-off between the scope of the Blue Card Directive and the rights of Blue Card holders, especially in terms of mobility. Overall the idea received relatively limited support, however, from both governmental and non-governmental stakeholders, due to its complexity. Instead, employers' and business representatives in particular suggested a temporary differentiation between short and long-term mobility, in order to facilitate short business trips in particular. On other elements, see comments under POP2(a) and (b).

POP3: A unified standard EU-wide Blue Card: very selective yet very attractive

Assessment Criteria	Rate	Motivation
Relevance and effectiveness in achieving the objectives		
<p>GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO1: create coherent, effective and efficient common EU immigration system for highly skilled TCNs; SO2: increase the numbers of highly skilled TCNs; SO3: lower barriers to entry, simplify and harmonise the admission procedures; SO4: promote social and economic integration of highly skilled TCNs and their family members, via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand to improve image of attractive EU</p>	+2	<p>Estimated additional permits: 61 324 HSW (EU25 aggregate for salary threshold at minimum level)</p> <p>The EU's schemes for HSW would be streamlined and harmonised into one fully harmonised common scheme, which would however only cover a limited n° of HSW due to the high salary threshold. Competing national schemes would be abolished while this would be mitigated by the fact that complementary national schemes for HSW outside the scope, i.e. those who would not reach the selective admission conditions (high salary threshold), would still be allowed. This would mean, however, that some fragmentation of the EU's legal framework for HSW would remain, yet it would be more limited.</p> <p>As Member States would have no scope to adapt any of the entry conditions or other rules to national labour market circumstances, this policy option would be less efficient in managing the migration flows in function of the particular needs of the Member States.</p> <p>The attractiveness of the Blue Card would be significantly increased for highly paid HSW who would be able to reach the salary threshold. However, in practice, the</p>

		<p>exclusive admission conditions would have restrictive effect in some Member States (with lower average salaries) which would mean limited gains in numbers compared to the baseline scenario.</p> <p>At the same time, Member States would be able to set complementary national parallel policies for HSW with lower salaries in function of the situation of their national labour market.</p> <p>Yet, by not streamlining and harmonising the EU's schemes for all HSW regardless of their level of pay, the improvement in simplification, coherence and efficiency would remain limited and to Member States with higher average salaries and to an elite group of highly-paid HSW. The EU's ability to attract and retain would also only be improved as regards those Member States and highly-paid HSW.</p> <p>While the contribution of those HSW to the EU's competitiveness can be assumed to be higher per unit, the overall gain would remain limited due to the limited increase in numbers compared to the baseline scenario. For the same reason, the contribution to addressing demographic ageing would be limited.</p> <p>Nevertheless, by maximising the possibility for intra-EU mobility and facilitating access to long-term residence, this option would entail a very high branding value for the Blue Card.</p>
GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing the inflows, occupational and geographical (intra-EU) mobility), and to promote efficient (re)allocation on EU labour market; SO5: ensure more flexible intra-EU mobility, removing unnecessary barriers, more efficient allocation of highly skilled TCNs in EU	+2	<p>Through significantly facilitated entry procedures, and thus enhanced inflows, this option would be a significant improvement in the EU's ability to effectively and promptly respond to demands for HSW and to shortages in highly skilled occupations but, even at the lower threshold, it would be limited to Member States with higher average salaries and occupations that are highly-paid.</p> <p>Compared to the baseline scenario, there would also be a significant improvement in the possibilities for occupational and intra-EU mobility, at a level comparable to free movement of EU citizens, yet again limited to HSW in Member States with higher average salaries and occupations that are highly-paid.</p>
SO1: create a coherent, efficient and effective common immigration system for highly skilled TCNs	+1	<p>This policy option would introduce full harmonisation and streamlining of the EU policy for a limited n° of HSW and a significant improvement in their rights, including intra-EU mobility comparable to free movement of EU citizens. A EU-single level application management portal and an EU-wide Blue Card would highly simplify procedures. In practice, the exclusive admission conditions would mean that the Blue Card would only be accessible to (i) HSW in a limited number of Member States with the highest average salaries (notably (the upper part) of the top one-third of Member States with the highest average salaries), possibly somewhat mitigated by the lower threshold for shortage occupations, and (ii) an elite of the most highly skilled workers who receive globally competitive salaries regardless of their location.</p> <p>As regards the rest of the HSW, out of reach of the high salary threshold, Member States would keep the same level of flexibility to set complementary national policies in function of the situation of their national labour market. However, this would mean that some fragmentation of the EU's legal framework for HSW would remain, though more limited, and the coherence, clarity and efficiency of the HSW migration management would only improve for a limited number of HSW who reach the high admission conditions.</p>
Expected impacts		
Economic impacts		
- Impact on growth and competitiveness	+2	<p>Estimated total economic impact: € 3.2 billion</p> <p>The positive impact on economic output and thus on growth and competitiveness would be limited due to a limited increase numbers of HSW and the unsuitability for filling highly skilled shortages – except in some occupations - in many Member States.</p> <p>In addition, as the salary threshold would be the same across the EU, this would favour Member States with high salaries and largely exclude Member States with lowest salaries. Therefore, the effects on growth and competitiveness would be different across Member States.</p> <p>However, improved intra EU mobility would accrue limited economic benefits from the increased productivity that is likely through the HSW taking the post in the second Member State and the consequent improvement in allocation of human resources. An assumed increase in annual salary upon moving to the second Member State, would generate additional economic benefits. The benefits of better intra-EU mobility are expected to be higher per unit but limited by the lower numbers and limited applicability across Member States.</p>

- Impact on SMEs	+1	Due to the limited geographical scope (i.e. many Member States with low average salaries would not apply the scheme) and the high salary threshold, the Blue Card would be out of reach for many SMEs . In addition, this option would not substantially increase the pool of HSW within the EU which would also not benefit SMEs less as their access to this selective highly skilled labour force would be limited. Further facilitated mobility would have a neutral to slightly positive impact with respect to the challenges faced by SME.
- Impact on innovation and research	+1/ +2	While the contribution of the global elite of HSW to the EU's innovation and research can be assumed to be higher per unit, the overall gain would remain limited due to the limited increase in numbers compared to the baseline scenario. The salary threshold would be the same across the EU which would favour Member States with high salaries and largely exclude Member States with lowest salaries. Therefore, the impact on innovation and research would be different across Member States.
Social impacts		
- Impact on EU citizens	+1	Higher numbers of HSW have a positive impact on overall economic growth and, specifically, in filling labour and skills shortages, and indirectly contribute to reinforcing knowledge-based economy and job creation in the EU, which would also benefit EU citizens. However, while the contribution of those HSW to the EU's competitiveness can be assumed to be higher per unit, the overall gain would remain limited due to the limited increase in numbers compared to the baseline scenario. In addition, as the salary threshold would be the same across the EU, this would favour Member States with high salaries and largely exclude Member States with lowest salaries from the scheme. Therefore, also the effects on EU citizens , positive and negative, would be different across Member States . The mobility of Blue Card holders in this option would be largely similar to that of EU workers, and the possibilities of the former to operate in the EU-wide labour market would be increased, thus adding competition towards EU workers. However, the most important safeguards to avoid pressure on labour conditions, wages and of displacement of EU national workers are that the system remains demand-driven (job offer needed) and relatively high salary threshold. Therefore, the potential displacement effect on EU workers is expected to be limited . At the same time, compared to EU citizens, Blue Card holders would have no access to self-employed activity and their right of residence would still remain conditional upon the continuous fulfilment of the admission conditions. While family reunification rights would be strengthened, the overall position of EU Blue Card holders' family members would not be more favourable than that of EU citizens' family members.
- Impact on third country national HSW - Impact on fundamental rights (Charter: art. 7, private and family life; art. 45(2), freedom of movement and of residence)	+2	There would be a positive impact on TCN but limited by the more exclusive admission conditions, so that this option would reach fewer TCN . Parallel national schemes would still be allowed for those who do not reach the selective admission conditions. However, compared to the baseline, for those able to reach the admission conditions, the process would be speeded up and facilitated, there would be a significant improvement in rights and intra-EU mobility , as well as easier access to LTR status, and this would improve their career opportunities. Those under national schemes would not have access improved rights and intra-EU mobility possibilities. There would be a significant positive impact to the respect for family life, if Member States were required to grant permits to family members simultaneously with the EU Blue Card. Family members would not face a risk of separation and uncertainty because of the migration decision of the sponsor.
Impact on International Relations		
- Impacts on third countries	+2	Benefits for developing countries from remittances, 'brain gain', and circular migration, set against costs of 'brain drain' in sectors that require skilled workers.
Efficiency		
- Administrative costs and cost/benefit effectiveness - Practical or technical feasibility (difficulty/risks for transposition and implementation)	+2	Overall administrative impact on Member States: benefit of € 2.8 million (EU25 aggregate) Offset by fees and an additional income tax revenue of min. € 839 million If the national HSW schemes are absorbed into the EU Blue Card scheme this would not lead to additional overall costs as the scheme would replace the existing schemes which would have to be modified to lesser or greater extent depending on the Member States. While some costs would be incurred for information for companies, training of immigration officials on the new rules, etc., an effective EU-wide scheme for highly

	<p>qualified third-country nationals would increase the coherence and harmonisation of the regimes for admitting HSW.</p> <p>However, because of the exclusive admission conditions of this policy option would only be accessible to HSW in a limited number of Member States with the highest average salaries and to an elite who receive globally competitive salaries. Therefore, national schemes for HSW would be applicable to other HSW who fall outside of the scope of the Blue Card in this policy option. Consequently, in practice, only in Member States with high average salaries the Blue Card would replace the national schemes, leading to less administrative costs, while other Member States would have to rely on national schemes and an underused Blue Card scheme, which would be similar to the baseline scenario. Therefore, the administrative gains would be quite unequal across the Member States.</p> <p>At the same time, in case the high salary threshold is met, the administrative burden for HSW and businesses recruiting them would lower substantially by a streamlined scheme across the EU. The costs of navigating separate and diverging migration systems (e.g. lawyer fees) each time a HSW would be hired in a different Member State would lower significantly.</p> <p>In case of intra-EU mobility, this scheme would bring the greatest simplification and advantages in reducing costs, both for public administration and for HSW and businesses, as mobility rights would be comparable to free movement for EU citizens. HSW and businesses would not have to apply for a new residence and work permit, while public administrations would be relieved for the duty to process and examine these applications. Again, these advantages would only apply to a limited number of HSW who meet the exclusive high salary threshold.</p> <p>Enhanced rights, such as family reunification, facilitated access to long-term residence status, may have some impact on Member States' administrations in the short run as there may be an increase in such applications. However, many would be only an anticipation of applications that would have anyway happened at a later stage, and overall, these costs are offset by gains in simplification and harmonisation, and gains for the HSW and businesses.</p> <p>In terms of practical or technical difficulty (risks for transposition and implementation), establishing an EU level management portal would entail major investments and development and would not be feasible in the short term.</p>
<p>Coherence with other EU policies</p>	
<p>While contributing to EU Growth Strategy, it would risk create inconsistencies with EU policies on mobility of EU citizens.</p>	
<p>Stakeholders and experts' view</p>	
<p>A majority of the respondents to the public consultation supports the abolition of any national schemes for the highly skilled in favour of a truly EU-wide permit¹⁵³. However, setting an EU-wide salary across the EU is an option which has been rejected almost unanimously by economic and governmental stakeholders. The abolition of national schemes would also encounter resistance by Member States and some economic stakeholders. An EU-wide management portal for applications is a welcome idea on the economic stakeholders' side, but raises issues related to subsidiarity with Member States given their competence on the admission of economic migrants.</p>	

6.2.2. *Assessment of horizontal options*

PO-A: Non-legislative option: actions to improve the effectiveness of the Blue Card

After the Commission's first implementation report on the Blue Card was adopted on 22 May 2014, the Commission stepped up several non-legislative actions to improve the effectiveness of the Blue Card. As the report found a general lack of communication by Member States of data and measures taken in application of the Directive, the Commission has been actively collecting and exchanging information between Member States on a regular basis (e.g. specific information on salary thresholds, volumes of admission, labour market tests, ethical recruitment, etc) and using it to monitor the application of the Directive. While the report found a limited number of apparent

¹⁵³ See Annex 2, section 2.3.4, question 27

deficiencies in the transposition of the Directive, these were not detrimental to applicants and very few complaints were received from (potential) applicants or other stakeholders on incorrect application of the Directive by the Member States.

Most stakeholders, both governmental (Member States) and non-governmental (employers, trade unions, academics and other experts), consider most or all of the proposed non-legislative measures necessary. For instance, of the respondents to the public consultation, for instance, more than 60 % suggested that the EU could become a more attractive migration destination if the recognition of foreign qualifications would be simplified¹⁵⁴. The lack of awareness and information, especially among SMEs, is another important impediment that emerged repeatedly during the expert discussions. A majority of non-governmental stakeholders, however, consider these measures as necessary but not sufficient to make the EU more attractive and competitive.

Effectiveness (rating: 0/+1)

In terms of effectiveness in achieving the objectives, there would be some improvement in attracting HSW, especially from actions aimed at improving visibility of Blue Card, practical measures facilitating recognition of qualifications, and skills and job matching. Such measures would be useful in principle to offset skill shortages ensure a speedier overall process. However, the potential would be limited by the structural shortcomings of the EU Blue Card Directive.

Therefore, the actual impact – including on ensuring a more coherent and efficient system - would be overall very limited. Moreover, if the option is self-standing, there is a risk that the above measures could be counterproductive as they might raise unrealistic expectations amongst potential HSW because the identified shortcomings of the EU Blue Card Directive are not really addressed.

Economic impacts (rating: 0)

For this option, it is very difficult to estimate the potential for additional permits, and thus the economic impact, due to insufficient data. However, given that the various non-legislative measures included do not fundamentally change the baseline situation, the economic positive impact would be very limited. On the other hand, if combined with one of the legislative options, it would be a catalyst of the envisaged impacts and thus increase their magnitude.

Social impacts (rating: 0/+1)

No impact is foreseen on EU citizens. As regards HSW, the non-legislative actions – particularly a better promotion of the Blue Card with foreign nationals or measures to facilitate recognition of qualifications – would add to the success of the EU Blue Card to a certain extent, and thereby slightly increase their number in the EU. However, the impact would remain limited and continue to depend mostly on national HSW migration policies: the HSW would still have to find his/her way among 25 different systems and, in case of moving to a second Member State, again in a new permit and a full application procedure would be required.

Impact on international relations (rating: 0/+1)

There would be a slightly positive impact due to the fact that advertising actions and measures to facilitate recognition of qualifications could marginally increase the number of TCN HSW being admitted.

¹⁵⁴ See Annex 2, section 2.3.3., question 15.

Efficiency (rating: +1)

Enhanced implementation and promotional activities, as well as, facilitation of recognition of foreign qualifications would generate moderate additional administrative costs. However, if the recognition for unregulated professions is limited to a light check of the qualifications instead of an in-depth check, as several Member States do, this would significantly lower these costs. Improving skills and job matching would generate some additional costs. However, this would be offset by the economic gains of a more efficient (re)allocation on the labour markets and better response to demands for HSW and skills shortages. There are no practical or technical difficulties as the option is non-regulatory.

PO-B: Extending the Blue Card to innovative entrepreneurs

Economic literature repeatedly reports that migrants may have a somewhat higher entrepreneurial spirit than natives, due to the selective dimension of migration processes and the immigrants' tendency to take greater risks. Migrant entrepreneurs' contribution to their host country is not limited to job creation but migrant entrepreneurship has a significant impact on innovative sectors. This is why several EU and third countries have recently adopted policies targeting migrant entrepreneurs, both those already residing in the country (through mainstream or targeted business support programs), and those willing to immigrate (through specific admission policy that regulate the entry and stay in the country)¹⁵⁵. While 35 % of the respondents to the public consultation supported the inclusion of self-employed and entrepreneurs into the scope of the Blue Card¹⁵⁶, most experts and many social and economic stakeholders were striking a more cautionary note, arguing that this category would require a very different regulatory framework and different selection criteria than employees, as well as other non-migration related support measures. In terms of consistency with other EU policies, it would be in line with initiatives on "start-ups" and non-legislative support measures for entrepreneurs in the context of research and innovation.

Effectiveness (rating: +1)

By extending the Blue Card to innovative entrepreneurs some contribution to the EU's growth and competitiveness can be assumed (general objective 1), though it was not possible to quantify it due to lack of comprehensive data. It would also be difficult to estimate the extent to which this would improve the EU's ability to effectively and promptly respond to demands for highly skilled TCNs and to skill shortages (general objective 2). Entrepreneurs would not come to the EU as workers to take up employment and the job creation linked to entrepreneurial activities may take some time.

Moreover, including a new and different category into the EU Blue Card (an instrument specifically designed for highly skilled *workers*) would run counter some of the specific objectives such as creating a coherent, efficient and effective common immigration system for highly skilled third-country nationals. Including entrepreneurs in the scope of the EU Blue Card Directive would require sub-sets of different rules within the same instrument which would increase the complexity of the legal framework, undermining its coherence, efficiency and effectiveness.

Economic impacts (rating: +1)

¹⁵⁵ For references and for an overview of national schemes on attracting innovative entrepreneurs, see Annex 10.

¹⁵⁶ See Annex 2, section 2.3.3., question 28.

Also for this option, even if a certain contribution to the EU's competitiveness and potential for growth can be assumed by extending the Blue Card to innovative entrepreneurs, it is very difficult to estimate the potential for additional permits, due to insufficient data, and thus quantify the economic impact. Moreover, this is a category for which facilitated admissions rules would need to be combined with complementary measures financial and operational support measures, in order to have a significant impact the EU's competitiveness and growth. Impact on SMEs would also be limited as entrepreneurs would not come to the EU as workers to fill shortages. At the same time, increased access possibilities to the EU for (innovative) entrepreneurs via the Blue Card would have a positive impact on entrepreneurial activity which may lead to the creation of new start-up companies, in particular SMEs.

Increased entrepreneurial activity is likely to have a positive impact on innovation and research. However, the Blue Card would only provide a permit/facilitated admission conditions, while other operational support measures would also be needed to create a fertile environment.

Social impacts (rating: +1/+2)

Introducing an EU scheme for innovative entrepreneurs would be expected to have a positive though limited impact on overall economic growth, innovations and job creation in the EU, which would benefit EU citizens alike. If there was a scheme in place for entrepreneurs, it would add competition in the EU market.

Including innovative entrepreneurs in the Blue Card would provide more access possibilities to the EU and their rights and mobility – if made similar to those of HSW under the Blue Card scheme – would be enhanced. No significant impact is expected in on **international relations/third countries**.

Efficiency (rating: +1)

The administrative cost to public administrations would be expected to be significantly higher, as it would mean administering several Blue Cards systems next to each other. While there would be some limited common elements, in order to differentiate between the different categories, there would have to be different entry conditions and corresponding rights. In practice this would also mean that different residence cards would need to issued and kept track of which would require additional administrative efforts. The administrative burden for the TCN entrepreneurs would lower substantially with a more harmonised and simplified system, without many parallel schemes in all Member States, and improved intra-EU mobility possibilities. There would be no relevant administrative burden for businesses.

In terms of practical or technical difficulties introducing an EU scheme for innovative entrepreneurs, would effectively require a separate subset of entry conditions and rights next to those for HSW in an employment relationship. While technically feasible, regulating these very different categories in one single instrument would affect legal clarity and add complexity.

PO-C: Extending the Blue Card to highly skilled beneficiaries of international protection and asylum applicants

Many stakeholders have either no outspoken opinion on the matter or a negative opinion from a principled and traditional perspective of keeping international protection and labour migration separate). On the other hand, several stakeholders, and employers in particular, support the swift labour market integration of beneficiaries of international protection, including the possibility to apply for the Blue Card. Views are more split as

regards asylum seekers, due to the more complex interaction with the parallel asylum procedure.

Effectiveness (rating: 0/+1)

Given that a possible extension of the Blue Card to beneficiaries of international protection and/or asylum seekers (with labour market access) would only concern those with high skills and qualification, the number of refugees/asylum seekers eligible for the Blue Card would be rather small. Impact on the achievements of the objective would thus be very limited. For the same reason, this would not significantly improve the EU's ability to effectively and promptly respond to demands for HSW and to skill shortages..

In terms of coherence the legal framework, this would require some specific rules and add legal complexity especially as regards asylum seekers because it would have to be determined what happens with the two separate procedures (run in parallel or put the asylum one on hold). Also, a specific status would have to be created for beneficiaries to guarantee the necessary elements of the protection status in the Blue Card status.

Economic impact (rating: 0)

The economic impact is difficult to quantify but would be limited, given the relatively limited number of people who would be eligible for a Blue Card and the variety of skills level of recently admitted refugees and asylum seekers (see Annex 16). For the same reasons, impact on SMEs and innovation and research would be negligible.

Social impacts (rating: +1)

The social impact would overall be positive, especially for the third country nationals concerned, though it would not provide more access possibilities to the EU as this is regulated by the asylum acquis. There would be a positive impact also on the freedom of movement and residence due to enhanced mobility and to the quicker access to long-term resident status included in the Blue Card scheme. Allowing beneficiaries of international protection to apply for a Blue Card would enhance their mobility rights under EU law and enable to have their skills best used within the EU, thereby contributing to a greater economic and social cohesion.

No negative impacts are foreseen for EU citizens as it would concern people already in the EU and contribute to using the talent already here. In addition, the overall number of migrants in this group that would be eligible for an EU Blue Card is not expected to be high.

Efficiency (rating: +1)

The administrative cost to public administrations would be expected to be slightly higher, especially when two procedures would run in parallel (asylum and Blue Card).

In terms of practical or technical difficulties, labour migration and asylum are very different strands and have therefore traditionally been kept separate. Including them in the Blue Card would raise some practical questions regarding the resulting double procedure/status, but they should be manageable in the Member States. Furthermore, there could be a risk of encouraging other persons than those in need of protection to choose the asylum route. However, the exclusive nature of the EU Blue Card and the fact that a job offer is always required would offset the risk of creating a pull factor. In addition, for someone who is eligible for a Blue Card and has found a job in the EU, irregular channels would appear to entail an unreasonably high risk and cost. Sufficient safeguards should be foreseen to address any abuses. The effect of this inclusion might not end up being significant in numbers, but it would make the skills and professional

potential of refugees and other beneficiaries of international protection more visible in the host communities.

7. COMPARISON OF THE POLICY OPTION PACKAGES

7.1. Overview

The left side of the table below presents an overview of the ratings of the impacts of each policy options package. It should be noted that, while these ratings allow for a comparison between POPs, the various ratings for a particular PO cannot be cumulated since there is no objective basis to weigh one assessment criterion over another. The options that have been discarded are not included. The right side of the table rates the impact of the horizontal options.

	Legislative options					Horizontal options		
	POP1	POP2(a)	POP2(b)	POP2(c)	POP3	PO-A	PO-B	PO-C
Effectiveness in achieving the objectives								
GO1: improve ability to attract and retain to enhance competitiveness and demographic ageing; SO2: increase numbers of highly skilled TCNs; SO3: lower barriers to entry; SO4: promote social and economic integration via favourable residence conditions and rights; SO6: ensure 'EU Blue Card' brand	+3	+2	+1/ +2	+2/ 3	+2	0	+2	0
GO2: improve ability to respond to demands for highly skilled TCNs and offset skill shortages by enhancing inflows, occupational and geographical (intra-EU) mobility; SO5: ensure more flexible intra-EU mobility and more efficient (re)allocation of highly skilled TCNs in EU	+2	+2	+1	+2	+2	+1	0	+1
SO1: create a coherent, efficient and effective common immigration system for highly skilled TCNs	-1	+3	+1	+1	+1	0	-1	0
Economic impacts								
- Impact on growth and competitiveness	+3	+2	-1/0	+1/ +2	+2	0	+1	0
- Impact on SMEs	+3	+2	0	+2	+1	0	+1	0
- Impact on innovation and research	+2	+2	+1	+2	+1/ +2	0	+1	0
Social impacts								
- Impact on EU citizens	-1/ -2	+2	+1	+2	+1	0	+2	0
- Impact on third country national HSW and on their fundamental rights	+2/ +3	+2	+1	+2	+2	+1	+1	+2
Impact on International Relations								
- Impacts on third countries	+2	+1	0/ +1	+1	+2	0/ +1	0	0
Efficiency								
- Administrative costs, cost/benefit effectiveness and practical or technical feasibility	+1	+3	0	+1	+2	+1	+1	+1

In terms of effectiveness in achieving the objectives, the highest scoring packages of options are POP2(a), POP2(c) and POP3. POP1 would be effective in achieving some of the objectives and impacts (most additional permits, addressing shortages, also in medium-skilled occupations, and reach SMEs) but would not provide much procedural facilitation, nor improve rights or intra-EU mobility because of the trade-off with more facilitated entry conditions and the necessary safeguards against potential displacement, social dumping and abuse. Consequently, the attractiveness and retention potential for HSW would not enhance, and it would undermine the effectiveness of the Blue Card as a targeted instrument for highly skilled. PO-B would also be effective in achieving some of the objectives, but would have a less positive score and even negative on others. PO-A and PO-C would have a very limited effect on achieving the objectives and could lead to a slight increase of HSW and a (limited) positive economic benefit.

In terms of economic impacts, several options would have a positive impact, namely POP1, POP2 (a) and c)), POP3 and PO-B. However, in some of the packages, these would be countered by some negative effects, namely: the selective character of options POP2(b) and POP3 — with relatively rigid and exclusionary admission conditions — would limit the number of HSW being admitted through the scheme and bringing economic benefits. POP3 would also have very unequal impacts across the Member States. POP1 would lead to the highest number of additional permits, addressing also shortages in medium-skilled occupations, bringing benefits particularly to SMEs, and have the highest economic impact but would entail certain risks in terms social impacts. As regards POP2(c), the gain in reducing administrative burden through harmonisation, simplification and abolishing the national schemes, would be slightly diminished through increased administrative burden due to the complexity of a two-tiered system. The overall economic gain of an extension to innovative entrepreneurs (PO-B) would be expected to be limited also due to increased administrative cost for public administrations, though it is difficult to quantify given the limited data availability. The cost/benefit effectiveness is therefore only modestly positive. An extension to beneficiaries of international protection and asylum seekers (PO-C), would result in insignificant economic impacts given that only a small number of people would qualify (i.e. have the necessary qualifications and skills) but the administrative cost would also remain limited so the cost benefit effectiveness would be slightly positive.

As regards social impacts, all packages of options would have, to a more or lesser extent, a positive impact on third-country national HSW, increasing their possibilities to be admitted to the EU and enhancing intra-EU mobility and other rights. POP1 would be the most favourable as regards impact on TCN in quantitative terms, given the enlarged scope to cover also some medium skilled workers and occupations, but would provide limited to no additional procedural facilitation, rights or intra-EU mobility. In addition, for the same reason, POP1 is likely to have a negative impact on EU citizens and the domestic labour markets, taking into account still high unemployment levels in the EU and the risk of displacement of EU national workers and social dumping¹⁵⁷. POP3 could prove problematic in terms of social impacts as it would risk giving more rights to third-country nationals than to EU citizens and other beneficiaries of free movement rights. Most options would also have a positive impact on fundamental rights, which are maximised under POP2(b) and POP3, the most far-reaching in terms of intra-EU mobility.

¹⁵⁷ Given that shortages in middle-skilled occupations may also be linked to inferior working conditions, i.e. low wages offered.

As regards impact on international relations, in particular with developing third countries, all options would be neutral to positive. POP1 and POP3 would have the highest positive impact in terms of remittances and brain gain through increased possibilities for entry and access for new categories. For all options, the risk for brain drain is expected to remain modest due to the limited numbers and existing safeguard mechanisms in the Blue Card. However, if the safeguards would not be respected, especially POP1 could have a negative effect due to the extension to (some) medium skilled and higher numbers.

As regards administrative costs, cost/benefit effectiveness and practical or technical feasibility, all options are rated neutral to positive. POP2(a) would have the most positive impact because it combines (a) a high inclusiveness (reaching significantly more potential applicants), flexibility and adaptability to national situations, and a high substitution potential for parallel national schemes covering the same category of people, with (b) more procedural facilitation, a higher level of rights, further facilitation of intra-EU mobility, and a high harmonising value. As regards POP2(c), there would be increased administrative burden due to the complexity of administering a two-tier system. The cost/benefit effectiveness is therefore only modestly positive. POP3 would also be challenging in terms of technical feasibility — at least in the short term — as it would entail the creation of a centralised EU Portal for managing applications. PO-B would also have a limited efficiency as extending the scope of the Blue Card to this very different category would practically lead to different "schemes within a scheme" which undermines the objective of simplifying and streamlining the Blue Card Directive as well as the clarity of the scheme for entrepreneurs.

In terms of political feasibility, POP3 has a very low political acceptance potential because it would impose a uniform, and necessarily high, salary threshold across the EU without taking account of specific national circumstances or the labour market situations, in order to be able to provide unconditioned and unrestrained mobility. POP1 is also likely to have a low political acceptance potential because of the potential negative impact on EU citizens and the increased risk of displacement of EU national workers and social dumping. The abolition of parallel national schemes — included in POP1, POP2(a) and POP2(c) and POP3 — would also be problematic for most Member States and some economic stakeholders (including SMEs) who see advantages in a scheme more adapted to the national context and labour market situation. This would be particularly the case if such abolition would be coupled with rigid admission conditions — as in POP2(b) or POP3 — and other elements restricting Member States' leeway (e.g. prohibiting labour market tests). However, several of the policy options have a high to very high level of *inclusiveness* and various degrees of substantial flexibility for Member States to adapt to their national situation (POP1, POP2(a) and POP2(c)), which results in a high substitution potential for parallel national schemes covering the same category of people¹⁵⁸.

As regards asylum seekers and beneficiaries of international protection, (PO-C) could also raise some political acceptance issues, particularly in relations to including asylum seekers. This was already a controversial point during the negotiations of the current Blue Card Directive. However, the EP is likely to see this favourably.

¹⁵⁸ Annex 7 presents a detailed analysis on the “inclusiveness vs. exclusiveness” of the entry conditions of the current Blue Card and a comparison with the national scheme, in particular the impact of the salary threshold is analysed for the entire EU, per Member State, for tertiary educated workers, for shortage occupations and for attracting young talents. Detailed simulations in Annex 14 show the impacts on the “inclusiveness vs. exclusiveness” for all the legislative policy options (POPs) per Member State and for EU25.

7.2. Preferred option

After the assessment of the impacts, effectiveness and efficiency of the retained options, as well as of their feasibility, the **preferred option is POP2(a) in combination with the horizontal non-legislative option (PO-A)**.

Concerning PO-C: as emerged from the assessment of this option, its effectiveness (for both asylum seekers and beneficiaries of international protection), and particularly its economic impact, would be limited as the possible extension of the Blue Card to cover such categories would concern *de facto* a limited number of third-country nationals. However, given the positive social impacts and the potential political desirability for certain stakeholders, including EP, to include such categories in the scope, this option (or the sub-option covering only one of the two categories, the beneficiaries of international protection) could as well be added to the preferred option.

On the trade-off between inclusiveness and increased rights and facilitation, POP2(a) strikes a mid-way balance between, on the one hand, a high level of inclusiveness, substantial flexibility for Member States to adapt to their national situation, and a high substitution potential for parallel national schemes, and, on the other hand, further facilitation of procedures, a higher level of rights, further facilitation of intra-EU mobility and a high level of harmonisation. Consequently, this preferred option represents a balanced combination between (high) effectiveness and efficiency, positive economic and social impacts and a relatively high degree of political feasibility. Such positive impacts would be maximised if combined with the horizontal non-legislative option.

The high effectiveness and efficiency of this option are the result, first of all, of more inclusive admission conditions, in particular the lower level and flexibility of the salary threshold (set by Member States in a range between 1.0 and 1.4 of the average salary) and a reduction to 80 % of the normal threshold for recent graduates and shortage occupations. As shown clearly in Annexes 7 and 14, this reflects more accurately than the current threshold (minimum 1.5 the average salary) the reality for HSW on the labour markets in the Member States and will allow extending considerably the number of foreign HSW covered under the Blue Card scheme, with the potential to include nearly all of those HSW being admitted today under a parallel national scheme. At the same time, the scheme remains clearly a scheme for highly skilled, as the qualification and skills requirements are not lowered.

At the same time, the provisions facilitating the equivalence between the professional experience and the formal qualifications, the facilitation of labour market access, as well as those reducing the processing time and introducing a scheme for "trusted employers"- which are elements already present in several national schemes on highly skilled - will have a positive economic impact in terms of reducing the administrative burden linked to the application.

Social impacts will also be positive, in particular for the Blue Card holders in terms of enhanced family reunification rights, access to long term status and intra-EU mobility.

As regards the latter aspect, while in this option a second Blue Card would still be requested to move to a second Member State, the mobility would be significantly facilitated by the waiving of several conditions (compared to first admission), the much shorter processing time (30 days maximum) and by the fact that the person would be allowed to start working immediately in the second Member States, while waiting for his/her application to be decided by the second Member State. This will have positive economic benefits as it would allow an easier cross-border mobility of highly skilled labour, contributing to the filling of shortages in key sectors. Although POP2(b), and

especially POP3, go further in terms of mobility rights, they would be problematic in terms of political feasibility and particularly in terms of acceptability by Member States. On the contrary, the mobility scheme foreseen in POP2(a) has already been accepted by the co-legislators in the context of the Intra-Corporate Transferees Directive covering a similar category of highly skilled workers.

No negative impacts are expected on EU citizens, given that there is no evidence of a displacement effect caused by admitting highly skilled workers and favouring their mobility within the EU.

As regards the relation with parallel national schemes, while their abolition is likely to raise objections by several Member States (while being most likely welcome by the European Parliament¹⁵⁹), the inclusiveness of this option – which incorporates several elements existing in national schemes today – is likely to eventually overcome their objections.

Moreover, having an EU-wide scheme would not mean that Member States lose their possibility to adapt to national labour market specificities because:

1. they would maintain in any case their Treaty- based prerogative of defining the volumes of Blue Card holders to be admitted. The scheme would remain demand-driven.
2. the salary threshold – even if more harmonised– is not set at EU level, but calculated on a national average of the wages.

8. MONITORING AND EVALUATION

The monitoring and evaluation of a revised Blue Card Directive could be assured throughout the separate stages of the policy cycle, in the following way:

8.1. Operational objectives

- (1) increasing the numbers of HSW immigrating to the EU in line with the technical projections of additional permits simulated for the POPs;
- (2) simplifying and harmonising the admission procedures for HSW by significantly reducing the number of parallel schemes potentially applicable to the same person at the same time;
- (3) promoting the social and economic integration of HSW, including labour market integration, and rights by increasing the retention rate of HSW and have more transition into long-term resident status or citizenship;
- (4) ensuring more flexible possibilities for intra-EU mobility, remove unnecessary barriers and so allow a more efficient allocation of HSW through the EU by increased numbers of HSW making use of mobility provisions and employed in shortage occupations;
- (5) ensuring the further development of the ‘EU Blue Card’ brand in order to improve the image of the EU as an attractive destination by conducting promotional activities and surveys to measure the increased fame of the scheme.

8.2. Implementation stage

Throughout the implementation phase the Commission will organise regular contact committee meetings with all Member States to discuss unclear issues that arise during the

¹⁵⁹ Since the EP has become co-legislator on legal migration legislation (2009), they have always advocated for further EU-wide harmonisation and for the abolition of parallel national schemes.

transposition into national law. The Commission will also check the correct and effective transposition into national laws of all participating Member States. The Commission will present to the European Parliament and the Council a report evaluating the implementation, functioning and impact of the EU Blue Card three years after the transposition deadline¹⁶⁰, and every three years thereafter.

8.3. Application stage

The application of the Blue Card Directive will be monitored against the main policy objectives using a number of relevant and measurable indicators based on easily available, accepted and credible data sources. The experience with the implementation of the current Directive¹⁶¹ points at room for improvement in the timely provision and reliability of this information. In addition, other data that would be valuable for the monitoring and evaluation of the highly skilled migration policy such as age, gender, education level, average length of stay, average length of validity of permits, etc. are currently not available at EU level.

These issues could be addressed by making the communication of more types of information mandatory in the revised Directive and stepping up enforcement of these obligations. In addition, this could be addressed by improving the exchange of information via the National Contact Points on the Blue Card (BC NCPs).

The table below provides more detailed suggestions for potential indicators and for methods of data collection.

Main Objectives	Monitoring indicators	Data sources
OO1: increasing the numbers HSW in line with the technical projections of additional permits simulated for the POPs	Number of Blue Cards granted in EU Overall number of HSW admitted to EU	Eurostat statistics Member State immigration authorities
OO3: increase the retention rate of HSW and have more transition into long-term resident status or citizenship	Retention rates of third-country national (recent) graduates and former researchers Number and proportion of HSW having chosen the EU as their definitive place of residence ¹⁶² Average period of residence in EU of HSW	Member State Employment Services National statistics Labour Force Survey (LFS)
OO5: conduct promotional activities and surveys to measure the increased fame of the scheme	Size and composition ¹⁶³ of HSW inflows in EU compared to international benchmark countries Proportion of HSW in the total highly skilled occupations Proportion of HSW in total immigration Proportion of spouses and working age children of HSW with a regular or highly skilled job in EU Perception of EU citizens toward highly skilled migrants	Surveys at EU and national level (e.g. European Migration Network, Eurobarometer) National Contact Points on the Blue Card (BC NCPs) OECD data and reports

¹⁶⁰ Or, in case of significant delays in transposition by a substantial number of Member States, when the new legislation has been in force for a sufficient period and number of Member States to allow for significant results.

¹⁶¹ First implementation report on the EU Blue Card of 22 May 2014, [COM\(2014\) 287 final](#)

¹⁶² Number of HSW having requested national or EU long term resident status; Number of total HSW entitled to ask for EC long-term resident status; Number of former Blue Card holders having acquired EU long-term resident status.

¹⁶³ In terms of country of origin, level of education, occupation etc.

<p>OO4: increase numbers of HSW making use of mobility provisions and employed in shortage occupations</p>	<p>Estimated extent of the skill shortages at EU/Member State level filled by HSW</p> <p>Employment and unemployment rate of highly educated EU nationals and HSW¹⁶⁴</p> <p>Mobility rate of HSW: Number of Blue Card holders moving to a second Member State for highly qualified work by making use of the possibility for intra-EU mobility</p>	<p>Surveys at EU and national level (i.e. European Migration Network)</p> <p>LFS</p> <p>Eurostat statistics</p> <p>Member State immigration authorities</p> <p>National Contact Points on the Blue Card (BC NCPs)</p>
<p>OO2: simplify and harmonise the admission procedures for HSW by significantly reducing the number of parallel schemes potentially applicable to the same person at the same time</p>	<p>Effective and correct transposition and application of a common EU Directive on HSW at all levels in Member States</p> <p>Degree of coherence and harmonisation of Member States rules for HSW in terms of diminished complexity and the number of parallel and divergent schemes</p> <p>Average administrative processing times for applications to be admitted as a Blue Card holder and a family member of a Blue Card holder</p>	<p>EU level monitoring</p> <p>MS monitoring reports</p> <p>Legal transposition studies</p> <p>Expert networks</p> <p>Member State statistics reporting</p> <p>National Contact Points on the Blue Card (BC NCPs)</p>

¹⁶⁴ To monitor the absence of job displacement of EU national HSW by TCN HSW.

9. LIST OF ANNEXES

This Impact Assessment report is delivered with the following annexes:

Annex	1	Procedural information
Annex	2	Stakeholder and expert consultations
Annex	3	Links between problems, objectives and policy options (flowcharts)
Annex	4	Problem assessment from socio-economic perspectives
Annex	5	Evaluation of the Blue Card Directive
Annex	6	Member States' national schemes targeting HSW
Annex	7	Analysis related to variations of the admission conditions of the EU Blue Card
Annex	8	International perspectives and benchmarking
Annex	9	Intra-EU mobility of third-country nationals
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Annex	12	Statistics
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PART 2/6

COMMISSION STAFF WORKING DOCUMENT
IMPACT ASSESSMENT

Annexes to the Impact Assessment Report

Accompanying the document

Proposal for a Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment

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ANNEX 1

PROCEDURAL INFORMATION

1. Identification of the lead DG:

DG Migration and Home Affairs (HOME)

2. Political guidance, Agenda Planning and Work Programme

Since the issuance of his Political Guidelines in July 2014¹, Commission President Jean-Claude Juncker has underlined at several instances that he wants Europe to become at least as attractive as the favourite migration destinations such as Australia, Canada and the USA. As a first step he announced a review to address the shortcomings of the “Blue Card” Directive, its unsatisfactory state of implementation, its practical application that continues to be impeded by red tape at national level, and to identify ways and means of substantially broadening its impact in attracting more highly skilled workers into the EU².

On 13 May 2015, the European Agenda on Migration³ announced a review of the EU Blue Card, as a part of the new policy on legal migration, to make it more effective in attracting talent to Europe. The potential for enhanced intra-EU mobility for EU Blue Card holders would be explored. The review would also look into a possible extension of scope to entrepreneurs willing to invest in Europe, and assess possible ways to provide legal certainty to service providers.

The first implementation report on the EU Blue Card Directive of 22 May 2014⁴ concluded that it was too early to draw final conclusions on the success of the instrument because of the short period elapsed since its adoption and the lack of sufficient data. However, the report already voiced some serious concerns about the shortcomings of the Directive.

Since early 2015, in line with the Better Regulation Guidelines⁵, DG HOME has been conducting monitoring, in-depth evaluation, stakeholder consultation, and impact assessment activities to prepare and support the review of the Directive. An Inception Impact Assessment was published on 16 July 2015⁶. After the State of the Union speech in September 2015 announced a legal migration package including a revised Blue Card for early 2016⁷, these activities have been greatly expedited and intensified. Hence, the necessary tasks have taken place at high pace and in parallel with each other in an extremely compressed timeframe.

The Commission Work Programme 2016 announced on 27 October 2015 that in order “*to meet Europe’s future demographic and labour market needs, we will present a renewed*

¹ [Political Guidelines Juncker](#), EP, Strasbourg, 15 July 2014.

² See: Juncker’s [Priorities for this Commission](#), on Juncker’s EPP website, Spring-Summer 2014; Juncker’s [Mission letter to Commissioner Dimitris Avramopoulos](#), 1 November 2014.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 13 May 2015, A European Agenda On Migration, [COM\(2015\) 240 final](#)

⁴ Communication from the Commission to the European Parliament and the Council of 22 May 2014 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 (“EU Blue Card”), COM(2014) 287 final.

⁵ Better Regulation Guidelines, 19 May 2015, SWD(2015)111 final.

⁶ Inception Impact Assessment, [Review of Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment \(“EU Blue Card” Directive\)](#), 16 July 2015.

⁷ President Juncker’s [State of the Union](#) speech, European Parliament, Strasbourg, 9 September 2015.

*approach on legal migration, including measures to improve the Blue Card Directive*⁸, while its Annex I on New initiatives listed (nr. 18) ‘Better Migration Management’ as one of the initiatives under the title ‘Towards a New Policy on Migration’, specifying that the extension of the Blue Card approach was to be a part of it⁹.

In a Communication adopted by the Commission on 6 April 2016¹⁰ it is further specified that the Commission will propose changes to the current Blue Card Directive with the purpose of strengthening it as a Europe-wide scheme. This would be achieved by developing a harmonised EU common approach, which would include more flexible admission conditions, improved admission procedures and enhanced rights, including intra-EU mobility.

For DG HOME’ Agenda Planning purposes the initiative is titled ‘Review of Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (‘EU Blue Card’ Directive)’, with reference 2016/HOME/025.

3. Organisation and timing

The impact assessment is based on a number of studies and existing literature, reports and consultations. Since early 2015, the Commission has consulted stakeholders, organised meetings with experts and other interested parties in order to identify problems and develop options for possible action. In the following are listed the internal and external meetings arranged in order to support the review.

Inter-Service Steering Group

An *Inter-Service Steering Group on the Review of the Blue Card Directive* was set up to which the following services were invited: DEVCO, EAC, EEAS, EPSC, JUST, NEAR, RTD, CNECT, GROW, ECFIN, EMPL, EPSC, SG, SJ, JRC, RTD, SANTE and TRADE.

Three meetings chaired by the SG were held on the 5 June, 10 November and 17 December 2015. The first meeting¹¹ introduced the policy initiative, the initial identification of problems and the planning of evaluation and impact assessment activities. The second meeting¹² reported on the progress of the review and participants provided input. At the third meeting¹³ the policy options and draft assessment of impacts were presented. After each meeting, the members of the Inter-Service Steering Group were given the opportunity to comment in writing on a draft version of the impact assessment report and its annexes.

Furthermore several bilateral meetings have taken place with other Commission services in 2015 and 2016 to address specific issues of interest, in particular with DG EMPL, RTD, CNECT, GROW, TRADE, ECFIN, JUST, as well as with the Commission Legal Service.

External meetings and consultations:

⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 27 October 2015, ‘Commission Work Programme 2016 - No time for business as usual’, [COM\(2015\) 610 final](#)

⁹ Annex I on [New initiatives](#)

¹⁰ [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](#)

¹¹ Participants: SG, HOME, SJ, DEVCO, JUST, TRADE, NEAR, EAC, EPSC, EMPL, RTD, JRC, CNECT.

¹² Participants: SG, HOME, EAC, ECFIN, SANTE, TRADE, GROW, EMPL, JUST, RTD, JRC.

¹³ Participants: SG, HOME, EAC, ECFIN, EMPL, EPSC, GROW, JRC, JUST, RTD, SANTE, TRADE.

- 25 March 2015: First meeting of the Commission's Expert Group on Economic Migration
- 20 May 2015: First Meeting Expert group RTD: Support Scheme for Non-EU Entrepreneurial Innovators
- 27 May 2015: Launch of the online Public consultation Economic migration and Blue Card (open until 30 September)
- 4 November 2015: Conference call with OECD expert on salary thresholds
- 5 November 2015: Meeting with and targeted consultation of German business associations
- 13 November 2015: First meeting of European Migration Network's Skilled Migrants Expert Group
- 18 November 2015: Call with IOM on refugees and asylum-seekers and the Blue Card
- 26 November 2015: Meeting with UNHCR on refugees and asylum-seekers and the Blue Card
- 3 December 2015: Workshop Labour Market Observatory (EESC)
- 7 December 2015: Second meeting of the Commission's Expert Group on Economic Migration
- 21 January 2016: Meeting HOME with OECD experts on quantification models for projections of permits and economic impacts for the policy options
- 27 January 2016: Meeting with SME stakeholders to present and discuss 'better migration management', with a focus on the EU Blue Card Directive
- 27-28 January 2016: 1st European Dialogue on Skills and Migration
- 18 April 2016: Meeting Labour Market Observatory (EESC)

For a precise breakdown of and details on the stakeholder consultation, see Annex 2.

4. Consultation of the Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) issued a first opinion on 4 March 2016 requesting resubmission. The opinion asked to elaborate the problem analysis further on the skills shortages in the EU labour market, explaining why the current EU and/or national schemes are not sufficient to address the issue, and compete with other developed countries, and more clearly show the value added of an EU approach over the national schemes. For the latter, the Board considered that the report should better explain and substantiate the importance of the greater intra-EU mobility that could be attached to the Blue Card. Furthermore, the opinion emphasised that the report should clearly establish whether and how the Blue Card is linked to other policy priorities such as trade and refugee matters. It also underlined that the objectives should be better aligned with the problem analysis, and better explain how this initiative fits with other related EU initiatives (e.g. labour mobility, Skills Agenda¹⁴). It should be clarified how the assessed policy packages have been composed. In terms of the impact analysis, the Board recommended to draw out the impacts of the policy options on the labour and skill shortages more clearly, and clarify which option(s) are foreseen to be the most effective and efficient to attract highly skilled third-country workers.

¹⁴ A New Skills Agenda for Europe (forthcoming), COM(2016) 381 final

<u>Main recommendations for improvement</u>	<u>Modifications in the IA report</u>
1. Clarify the addressed problems, the intervention logic and their EU dimension	<ul style="list-style-type: none"> • The figures on international comparison have been strengthened in the IA report in order to show how the EU is currently underperforming in attracting HSW compared to international competitors. • The narrative on EU added value was strengthened. More information has been added on MS approach to HSW to show that MS do not seem to have objectives conflicting with those of the Blue Card (revised Annex 6); • The advantages of and need for intra-EU mobility has been further explained in the report, together with a clearer presentation of the views from stakeholders on this aspect. • The narrative and data on (shortages of) medium skilled workers has been included in the problem definition, including views from stakeholders and experts • The arguments on measuring the EU's successfulness in attracting talents have been strengthened, based on existing labour shortages and international comparisons; • The interaction has been clarified between the intra-EU mobility of (existing) EU workers in addressing shortages across the EU labour market, and structural skills mismatches that cannot be alleviated only by intra-EU mobility of domestic workers.
2. Clarify the objectives and policy options	<p>The objectives have been revised/clarified and better linked to the problems, drivers and policy options.</p> <p>The IA clarifies how the policy options packages have been conceived and composed and explains how individual policy options have been screened and selected to address the problems' drivers.</p> <p>The numbering of the policy options has been slightly changed to be more in line with the underlying logic of the options packages.</p> <ul style="list-style-type: none"> • The impact of the different salary thresholds for the different policy option packages has been clarified
3. Focus the impact analysis on the main labour market aspects	<p>In response to the main question on impact analysis and preferred options:</p> <ul style="list-style-type: none"> • The IA better clarifies the impact of the options, especially the economic impacts and on labour shortages ; • The administrative costs and gains are presented by separating the costs to public authorities from private companies and individuals, adding a new administrative cost model for public authorities (quantified per policy option), and providing examples and case studies on the administrative cost for companies and individuals (which is not possible to quantify) (see new Annex 15) • The IA explains better why certain policy options have not been

	<p>assessed in-depth and added more policy options for a preliminary assessment;</p> <ul style="list-style-type: none"> • Options have been screened first on legal feasibility criteria, then on effectiveness/efficiency and at the end on political feasibility; • The report has been reviewed, clarified and corrected as regards the consistency of the impact analysis (ratings and narrative); • A preferred option has been indicated
	<p>Other changes:</p> <ul style="list-style-type: none"> • The overall readability of the report has been improved; • The distinction between TCN service providers and TCN entrepreneurs has been clarified (annex 11 was revised); • The situation of beneficiaries of international protection and asylum seekers, in particular their current labour market access, has been addressed in a new annex including the different situations across MS (new Annex 16); • The characteristics of the current Blue Card have been made more explicit (see table added in Annex 5); • The differences between the ICT and Blue Card Directives have been clarified; • The non-legislative actions that have already been undertaken have been included; • The definition of "ISCO" and other acronyms used has been included.

Based on the revised version of the Impact Assessment, the RSB issued a positive opinion on 18 March 2016. There were some recommendations for further improvement of the report. Firstly, the problem analysis should better explain the functioning and scale of labour and skills shortages. This has been done by inserting additional information, including a graph and table, on future labour and skills shortages to Section 2.4, the baseline scenario. Secondly, the RSB recommended that the objectives be simplified and linked to the problem drivers; therefore, specific flowcharts have been added in Annex 3. Furthermore, the RSB noted that the logic of the policy options and some choices made in packaging them should be better explained, as well as some details regarding certain options. These requests have been addressed in Section 5.2 of the report, for instance by better explaining the logical trade-off between the inclusiveness of admission conditions and generosity of rights attached to any labour migration scheme. The choice of discarding the option bringing international service providers within the Blue Card scheme has been further substantiated in Section 5.1.

5. External consultant

An external contractor (ICF) has assisted DG Home by conducting a study to support the work on the Impact Assessment report. The call for the study was launched in June 2015, three substantive bids were evaluated in July-August, leading to the award decision at the end of August. After the announcement of the legal migration package for early 2015, the timetable and deliverables for the study had to be anticipated. Due to the tight timeframe the contractor and DG HOME have worked on the same substance partially in parallel. The kick-off meeting for the study took place in September, an inception report was delivered in October and a draft interim report in December, designed to feed into the impact assessment

work of the Commission. There were two expert meetings organised by the contractor to discuss the problem definition and to develop and evaluate the policy options.

Progress of the study to support the impact assessment:

- 22 July 2015: Meeting Opening Committee on the bids for the study to support the impact assessment
- 6 August 2015: Meeting Evaluation Committee on the bids for the study
- 19 August 2015: Meeting Evaluation Committee
- 31 August 2015: Award Decision
- 24 September 2015: Kick-off meeting with contractor for the study
- 15 October 2015: Inception report
- 19 October 2015: Inception meeting
- 29 October 2015: Expert meeting on problem definition and policy options
- 1 December 2015: ICF Expert meeting on policy options and impacts
- 15 December 2015: Draft Interim Report for the ‘Study for an impact assessment on a proposal for a revision of Council Directive 2009/50/EC (“EU Blue Card Directive”)’
- 16 December 2015: Interim meeting ICF-DG HOME
- 6 January 2016: Additional input by ICF to assess the impacts of different policy options
- 26 February 2016: Additional note by ICF estimating economic impacts and administrative costs

6. Terminology

The current EU Blue Card Directive regulates the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. A third-country national is any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty (hereinafter TCN).

While the terms 'highly skilled' and 'highly qualified' are often used interchangeably, including in this impact assessment, there is a distinction between 'highly skilled', referring to someone who has the required adequate and specific competence as proven by higher educational qualifications and/or extensive (vocational) experience, and 'highly qualified', referring to someone who has required adequate and specific competence as proven by higher educational qualifications only (see [EMN Glossary](#)).

The current Blue Card requires 'higher professional qualifications' which, in general, means qualifications attested by evidence of *higher education qualifications*, hence 'highly qualified'. However, the Directive also contains an optional clause according to which Member States may allow that 'higher professional qualifications' can also mean qualifications attested by at least five years of *professional experience* of a level comparable to higher education qualifications. Therefore, for the purpose of this impact assessment, **the more generic term 'highly skilled' is preferred**. In addition, this term allows for better comparison with parallel national schemes and for considering the extension of the scope of the EU Blue Card Directive beyond educational qualifications.

Furthermore, the current Blue Card Directive concerns TCNs who are in an employment relation. This means the employment of a person who in the Member State concerned, is

protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of, someone else; and is paid. Therefore, the term '**highly skilled workers**' (HSW) is preferred with the understanding that these HSW are TCNs.

However, the impact assessment also considers the extension of the scope of the EU Blue Card Directive to categories that are non-employment based (e.g. self-employed TCN Service Providers and innovative TCN entrepreneurs and start-ups) or that are employed under third-country employment laws (e.g. some TCN Service Providers). In those specific sections the wider term '**highly skilled professionals**' is used with the understanding that these are TCNs.

7. Evidence and sources

The evaluation and impact assessment were supported by a wide variety of sources and evidence collected through desk research, a comprehensive literature review, inter-service cooperation, expert consultations and focused group discussions. The Impact Assessment Report draws on numerical estimates and calculations, as well as qualitative material such as expert opinions and case studies. The following list represents an indicative selection, but by no means an exhaustive list of the wide range of internal and publicly available sources used¹⁵:

- [The Impact Assessment of the 2007 Proposal for an EU Blue Card Directive \(SEC\(2007\) 1403\)](#)
- A study on the transposition of Directive 2009/50/EC 'EU Blue Card' by an external contractor (June 2013)
- [The Commission's first Implementation report \(COM\(2014\)0287 final\)](#)
- [The Commission's European Agenda on Migration of 13 May 2015](#)
- Information collected by the Commission from the National Contact Points on the Blue Card Directive. Information is collected on topics such as salary thresholds, volumes of admission, labour market tests, return and readmission, ethical recruitment, specimens of residence cards, fees.
- [Materials produced for and by the Expert Group on Economic Migration \(EGEM\): Meetings held on 25 March, and 7 December and 2015 in Brussels - available materials include:](#)
 - Discussion papers prepared by Commission services;
 - Minutes of the meetings;
 - Written contributions submitted by the members of the EGEM.
- [OECD/European Union \(2014\), Matching Economic Migration with Labour Market Needs, OECD publishing](#)

¹⁵ Where explicitly used, this material is referenced in the Impact Assessment report. In other cases it served as background material.

- OECD/European Union, Review of Labour Migration Policy in Europe (forthcoming: expected April 2016).

The OECD/EU review aims to assess to which extent the EU, as a destination region for labour migrants from outside the Union, can compete on the global labour market for skills, and to which extent EU policy instruments have helped to foster EU attractiveness. It aims to provide recommendations to increase the attractiveness of the EU as a single labour market and to improve the efficiency of EU instruments geared towards managing labour migration.

The review encompasses a number of thematic papers and a synthesis report, which will be published in 2016. It is co-funded by the European Commission's DG Home Affairs and the OECD.

The following is a list of draft papers of the project that are not yet considered final but several of these have informed the impact assessment:

<p>General Context and Contribution of Labour Migration in Europe</p>
<p><i>Jean-Noël Senne and Anda David, DIAL/Université Paris Sud ; DIAL/Université Paris Dauphine</i></p>
<p>Draft circulated at 2nd OECD-EU Dialogue on International Migration And Mobility, entitled "A descriptive analysis of immigration to and emigration from the European Union: where does the EU stand within OECD?" DELSA/ELSA/MI(2015)1</p>
<p>The paper presents the main characteristics of immigration and emigration to/from the EU. Amongst other things, it confirms the EU27 tend to attract low-educated migrants compared to other OECD destinations. Also, EU+12 countries have a very low immigration rate (2%).</p>
<p>Labour Migration Policy Development in the EU: Policy Features and Influence of Directives</p>
<p><i>Jonathan Chaloff, OECD</i></p>
<p>The paper provides an analytical overview of the instruments in place to manage labour migration. It clearly shows EU labour migration policy is demand-driven. Caps are set, but no targets, showing the emphasis is on controlling numbers rather than aiming at a certain economic benefit. It shows the changes to national policies imposed by the EU Blue Card Directive and includes policy options for improving it.</p>
<p>The Impact of the Implementation of Council Directives on Labour Migration Flows from Third Countries to EU Countries</p>
<p><i>Tommaso Colussi, Institute for the Study of Labor (IZA).</i></p>
<p>An econometric analysis of Directives showed little or no impact of the adoption of EU acquis on aggregate numbers of targeted migrants (researchers, highly-skilled migrants). However, benefits of harmonisation and other effects which do not change aggregate numbers but reduce barriers/costs/externalities were not considered.</p>
<p>The Impact of the Long-Term Residents Directive and of Naturalisation on Intra-EU</p>

Mobility of Foreign Skilled Workers

Friedrich Poeschel, OECD

The paper identifies positive causal effects of long-term residence and naturalisation on the mobility of third-country nationals in the EU. The effect of long-term residence is sizeable – the results suggest that third-country nationals with long-term residence are 5% more likely to be mobile than they would have been without this status. This points to the possibility of allowing mobile third-country nationals to contribute more to rapid labour market adjustment in the EU.

Europe as a Single Labour Market Destination

Flore Gubert and Jean-Noël Senne, DIAL/Paris School of Economics; DIAL/Université Paris Sud

Draft circulated at 2nd OECD-EU Dialogue on International Migration And Mobility, entitled " *Is the European Union attractive for potential migrants?An investigation of migration intentions across the world*" DELSA/ELSA/MI(2015)6

The paper used Gallup survey data to measure the attractiveness of the EU as a migration destination. Although the survey contains a large number of replies, few would be of people with clear plans to emigrate. This was mitigated by doing the analysis on an aggregate (regional) basis rather than an individual country-of-origin basis.

The Impact of International Students and Post-Graduation Internal Mobility: An Analysis of Student Mobility and Retention Rates

Reinhard Weisser, Institute of Labour Economics, Leibniz University Hannover

The paper measures retention rates amongst TCN students in the EU and explores policies to improve it. It shows the EU is the most attractive area for studying abroad, with almost 1 million international (non-EU) students enrolled in 2012. Furthermore, their nationalities reflect the importance of their respective countries of origin in the world economy, rather than proximity to the EU or historic ties (as is the case in most other categories of migration). Students from Asia and Latin America choose the EU as a destination much more frequently than 10 years ago. Aggregate stay rates from stayers from all non-EU source countries lie within a range of 16.4 to 29.1%. Internationally mobile students see their studies abroad as an integral part of their career path. Subsequent staying decisions are not taken lightly but made in light of perceived opportunities.

The Role of Employers and Employer Engagement in Labour Migration from Third Countries to the EU

Sankar Ramasamy, OECD

The paper includes several worthwhile suggestions of how to maintain or create a level playing field between large and small companies when it comes to international recruitment. It also explores policies for attracting (wealthy) investors, but highlights there is scant evidence to support their economic benefits.

Strengthening Co-operation with Countries of Origin
<i>Corinne Balleix, Sciences Po Aix</i>
The paper highlights the potential of international cooperation in general and Mobility Partnerships in particular, while also pointing to their limited reach so far. Ethical recruitment is approached from various angles (including workers' rights), and not limited to so-called "brain drain".
The Impact of Intra-EU Mobility on Immigration by Third-Country Foreign Workers
<i>Emily Farchy, OECD</i>
The paper uses the natural experiment of EU enlargement to isolate free movement effects from economic variables. It concludes that intra-EU mobility of EU workers negatively impacts migration from third countries (a 10 % increase in the population share of mobile EU workers leads to 5-6 % decrease in the share of TCN).
The Community Preference Principle in Labour Migration Policy in the European Union
<i>Sophie Robin-Olivier, La Sorbonne School of Law (University of Paris I)</i>
The paper, submitted for the first time for review, gives a comprehensive overview of the sources and applications of the community preference principle, in law and in policy.

- Relevant EMN Ad Hoc Queries¹⁶, such as:
 - 166. Permits for highly skilled workers, 22 October 2009
 - 171. Admission to labour market, 3 November 2009
 - 181. Labour market legislation limiting TCNs access, 24 November 2009
 - 218. Skilled immigration, 20 April 2010
 - 236. Employment and work of aliens, 16 June 2010
 - 271. Recognition of professional qualifications, 3 November 2010
 - 368. Transposition of article 6 of directive 2009/50/EC, 24 January 2012
 - 388. Establishing a complex monitoring system for TCN employment, 14 March 2012
- EMN Studies on economic migration¹⁷, such as:

¹⁶ See database on: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/index_en.htm

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/index_en.htm

- Attracting Highly Qualified and Qualified Third-Country Nationals, 2013, including an overall study and studies per Member State.
- [Admitting third country nationals for business purposes, 2014, including studies per Member State.](#)

In addition, work on the Impact Assessment was inspired by the numerous academic publications on the topic of labour migration, and high-skilled migration in particular. The following is a non-exhaustive selection of recent academic and think tank publications on the Blue Card, highly skilled migration and related topics that have been consulted¹⁸:

- Betts, A., Cerna, L. (2011) High-Skilled Labour Migration. In Betts, A. (Ed.) Global migration governance. 1-33. Oxford: Oxford University Press
- Boeri, T. (ed.) (2012) Brain Drain and Brain Gain. The Global competition to Attract High-Skilled migrants. Oxford University Press
- Boswell, C., ‘Theorizing Migration Policy: Is There a Third Way?’ in *International Migration Review*, 41(1), 2007, pp. 75-100;
- Boswell, C., Stiller, S., Straubhaar, T. (2004) Forecasting Labour and Skills Shortages: How Can Projections Better Inform Labour Migration Policies? EC, DG Employment and Social Affairs
- Busse, M., Morehouse, C. (2013) Unblocking the Lifeline of Talent. CEPS Policy Brief No. 306 (Published jointly with the Bertelsmann Stiftung)
- Cerna, L. (2014) Attracting high-skilled immigrants: policies in comparative perspectives. *International Migration*, 52(3)
- Cerna, L. (2013) The EU Blue Card - preferences, policies, and negotiations between Member States, *Migration Studies*
- Cerna, L. (2010) Policies and practices of highly skilled migration in times of the economic crisis. *ILO International Migration Papers* No. 99
- Czaika, M. and de Haas, H. (2001) On the effectiveness of Immigration Policies. IMI working Paper
- Desiderio, M. V. (2014) Policies to support immigrant entrepreneurship!. MPI August 2014
- Desiderio, M. V. and Hooper, K., The Canadian Expression of Interest System for Managing Skilled Migration: A New Model for the EU?, MPI-Europe, March 2016.
- Devitt, C. (2011) Varieties of Capitalism, Varieties in Labour Immigration. *Journal of Ethnic and Migration Studies*, 37(4)

¹⁷ See database on: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/index_en.htm

¹⁸ Where explicitly used, this material is referenced in the Impact Assessment report. In other cases it served as background material.

- Doornik, J., Koslowski, R., Thranhardt, D. (2009) *The Battle for the brains: why immigration policy is not enough to attract the highly skilled*. FMG: Institute for Migration & Ethnic Studies (IMES)
- Duncan, N. *Immigration Policymaking In The Global Era. In Pursuit Of Global Talent* (2012) New York: Palgrave Macmillan
- Eisele, K. (2013) *Why Come Here If I Can Go There? Assessing The ‘Attractiveness’ Of The EU’s Blue Card Directive For ‘Highly Qualified’ Immigrants*. CEPS Papers No. 60 / October 2013
- Grutters, C., Strik, T. (2013) *The Blue Card Directive. Central themes, problem issues, and implementation in selected member states* WLP
- Gümüs, Y. K. (2010) *EU Blue Card Scheme: The Right Step in the Right Direction?*, *European Journal of Migration and Law* 12, 435–453
- Hailbronner, K., Schmidt, J. M. (2010) *Council Directive 2009/50/EC*. In Hailbronner, EU Immigration and Asylum Law - Commentary on EU Regulations and Directives, 2010 (new version Hailbronner / Thym, EU Immigration and Asylum Law upcoming in 3rd quarter 2015)
- Haley, L. (2012) *The Challenges to Lawmaking With Respect to Highly Qualified Immigration: A Comparison of the European Union and United States*. *European Union Law. Working Papers No. 8*, 2012
- Helbling, M., Bjerre, L., Römer, F., and Zobel, M. (eds.) (2013) *How to measure immigration policies.*” *Migration and Citizenship*. Newsletter of the American Political Science Association. Organized Section on Migration and Citizenship 1(2): 4-8
- Iván, I., di Bartolomeo, A., de Bruycker, P., Renaudiere, G., Salamońska, J., Venturini, A., *Study for the LIBE Committee of the European Parliament, Exploring New Avenues for Legislation for Labour Migration to the European Union*, Migration Policy Centre, Robert Schuman Centre for Advanced Studies, European University Institute, September 2015
- Kalantaryan, S., Martín, I. (2015) *Reforming the EU blue card as a labour migration policy tool?*. Migration Policy Centre; Policy Brief; 2015/08
- Koslowski, R. (2014) *Selective Migration Policy Models and Changing Realities of Implementation*. *International Migration*, 52(3)
- Martín, I., & Venturini, A. (2015) *A comprehensive labour market approach to EU labour migration policy*. Migration Policy Centre; Policy Brief; 2015/07
- Martin, P. (2012) *Attracting Highly Skilled Migrants: US Experience and Lessons for the EU*. Robert Schuman Centre for Advanced Studies
- Paul, R., *The Political Economy of Border Drawing: Arranging Legality in European Labor Migration Policies*, Berghahn Books, 2015

- Peers, S., Guild, E., Acosta Arcarazo, D, Groenendijk, K., Moreno-Lax, V. (ed.), (2012) EU Immigration and Asylum Law (Text and Commentary). Second Revised Edition
- Rainer, M. (2014) The Global Race For Talent: Europe's Migration Challenge. Bruegel policy brief 2014/02
- Rinne, U. (2012) The Evaluation of Immigration Policies. IZA Discussion Paper
- Ruhs, M. (2013) The Price of Rights. Regulating International Labor migration. Princeton University Press
- Triadafilopoulos, T. (2013) Wanted and Welcome? Policies for Highly Skilled Immigrants in Comparative Perspective. Springer-Verlag New York

ANNEX 2

STAKEHOLDER AND EXPERT CONSULTATIONS

1. Consultation strategy and process

The core of the strategy has been to carry out broad consultations of stakeholders. On 27 May 2015 the Commission launched an internet-based *public consultation on the EU Blue Card and the EU's labour migration policies*, welcoming contributions from all interested stakeholders. It was launched as part of the first implementation package of the European Agenda on Migration on 27 May 2015. Until its closure on 30 September 2015, a total of 625 individuals and organisations had responded to the consultation.

Furthermore, a wide range of **targeted stakeholder consultations** were carried out to collect opinions from stakeholders and to address potential information gaps. The Commission also held and attended several **expert meetings**. These are described in detail in Chapter 3.

Finally, the **LIBE secretariat of the European Parliament, the Council, the Committee of the Regions and the European Economic and Social Committee** were invited to several of the meetings and consultations and participated as observers at different occasions.

2. Public consultation on the EU Blue Card and the EU's labour migration policies

2.1. Purpose, target audience and communication strategy

Stakeholders were invited to share their views on the EU's policy on legal migration, including on the review of the Blue Card Directive. The consultation was available online between 27 May 2015 and 30 September 2015 and contributions were received either through the online questionnaire, or as written position papers.

The public consultation was addressed to the broadest public possible to collect views and input from all possible stakeholders, including those who will be directly affected by the policy, but also those who are involved in ensuring its correct application or might have other interests in the policy. Contributions were received from EU citizens and third-country nationals (residing inside or outside the EU), employers (from multinationals to SMEs) and their associations, private and public employment organisations, trade unions, national ministries, regional and local authorities, media workers, academics, international organisations, representatives of countries of origin, and various civil society actors.

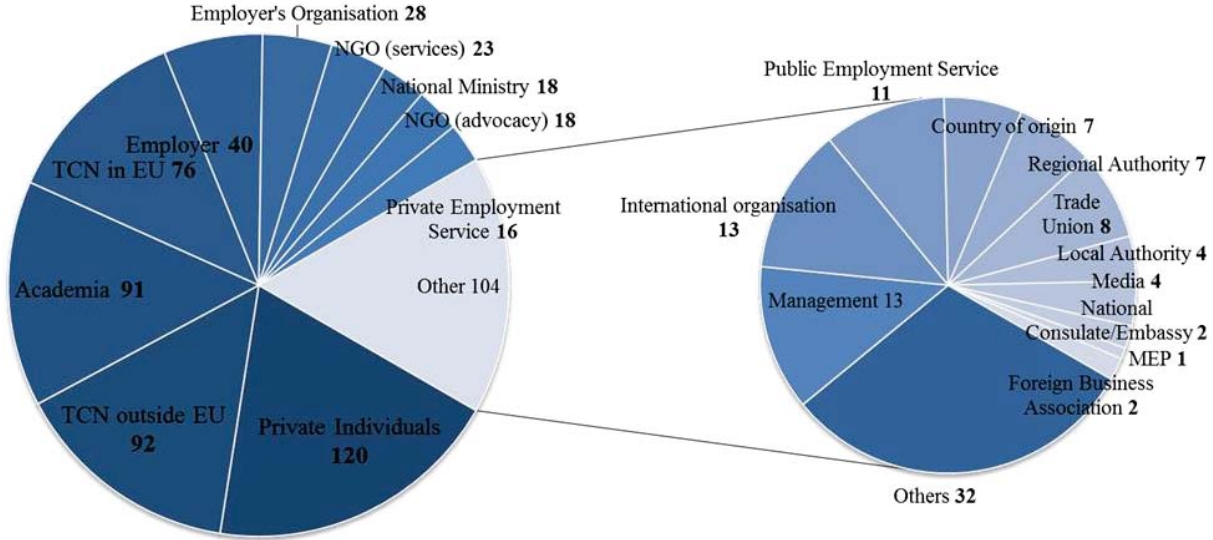
To ensure that all relevant parties have an opportunity to express their opinions, the explanatory text and the questions were available in all official EU languages and a communication strategy was developed early on. As a part of the launch of the first follow-up measures to the European Agenda on Migration, information on the public consultation was spread by means of a press conference and a press release. In addition, the consultation was published on all relevant DG HOME websites such as the home affairs portal on Europa, the EU Immigration Portal (where it featured as a pop up), and the European Website on Integration.

For further dissemination, DG HOME relied on existing networks (i.e. European Migration Network, National Contact Points for different directives, National Contact Points on Integration), as well as civil society organisations with a special interest in migration issues, business associations and social partners. Other Commission Services, the Committee of the Regions, the network of major European cities "Eurocities" as well as Commission Representations in Member States and delegations in third countries participated to further promote the consultation. Finally, information about the consultation was sent directly to known stakeholders such as experts, academics, think-tanks and migrants' associations and promoted via the Commission's social media accounts.

The questions covered a range of issues relating to economic migration in general, the attractiveness of the EU as a migration destination, the situation on the European labour markets, the availability of information and the Blue Card scheme in particular. The chapter on the EU Blue Card focussed on its current functioning and ways to address possible shortcomings of the scheme. Another important theme was the possibilities for the EU to boost its attractiveness in the global competition for highly skilled workers. Based on identification at the beginning of the consultation respondents were divided in categories and the questions were adapted accordingly via targeted profiles.

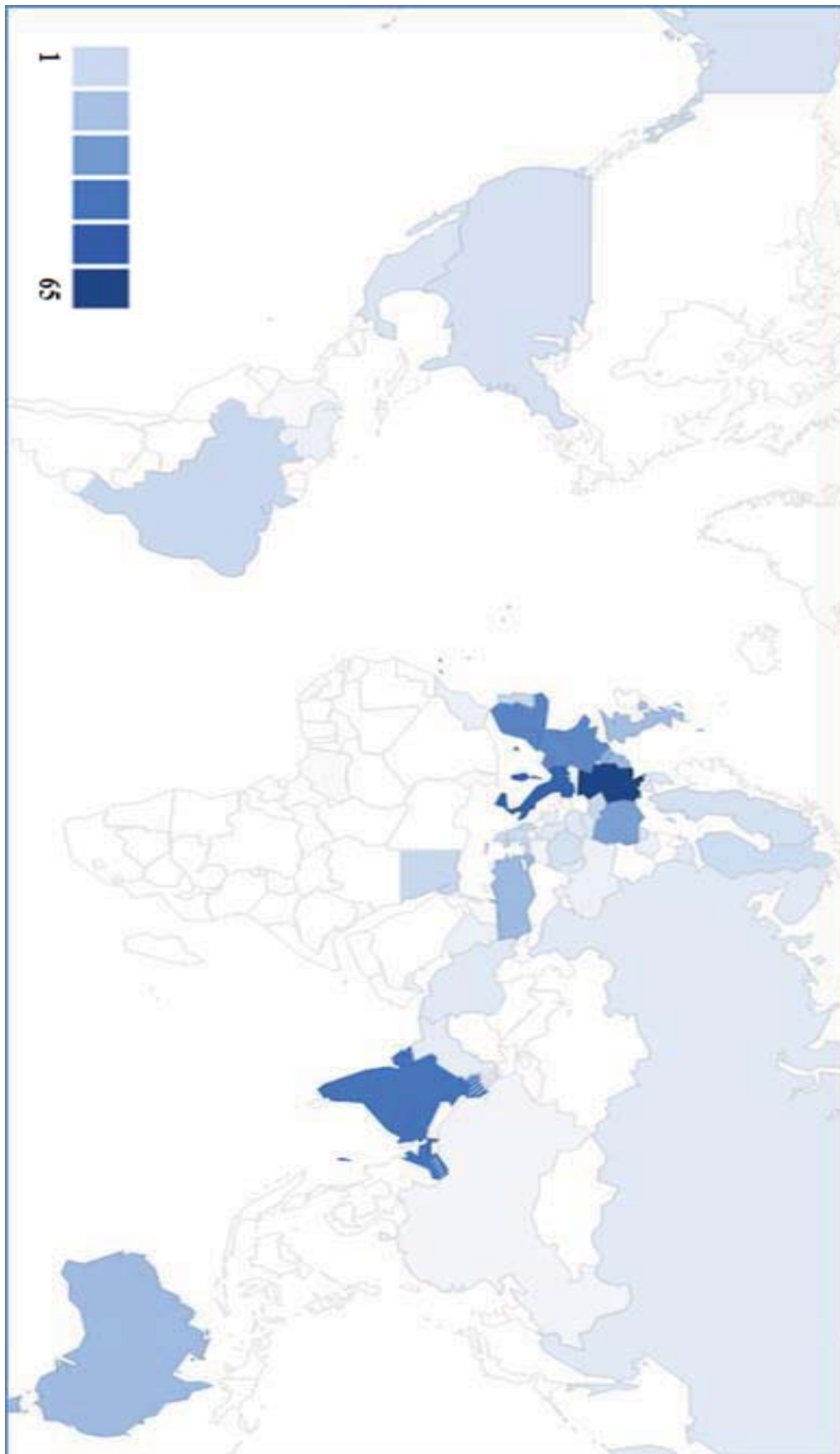
2.2. Respondents to the Public Consultation

- Respondents by category of stakeholder



Total responses to the consultation: 625
 Of which 610 responded to the online questionnaire and 15 sent position papers

- Respondents by current country of residence



Overviews of selected categories of respondents

- **National Ministries and other national institutions by Member State**

Institution	Member State
Ministry of the Interior	CZ, FI, FR, DE, EL, HU, NL, SK
Ministry of Labour and Social Affairs/ Welfare/ Enterprise	AT, IT, SK, IE, LV
REM contact point	FR
General Secretariat for Gender Equality	EL
Ministry of Education	LV
Ministry of Economics	LV
Ministry of Foreign Affairs	LV

- **EU-based Employers and Employers' Associations**

Employers		Employer's organisation		
MS	Company	MS	Organisation	
CZ	IBM Czech Republic	AT	Industrialists Association	
	Tieto Estonia AS		Chamber of Commerce Austria	
EE	The Spacepol Corporations	BE	BUSINESSEUROPE	
	Ericsson Eesti As		International Union for Road-Rail Combined Transport	
DE	German Caritasverband		CZ	Pearle*-Live Performance Europe
	Runne Facility Management GmbH	Confederation of Industry of the Czech Republic		
	SAP	The Federation of Finnish Enterprises (Suomen Yrittäjät)		
	Heitkamp & Thumann Group	DE		Employers' Association of Insurance Companies in Germany
	Falquez, Pantle und Pritz GbR			Association of Bavarian Chemical Industry
	BASF			Confederation of German Employers' Associations (BDA)
IT	SoftInstigate Srl		Bavarian Business Association	
PL	Poloniacare24	DE	Bavarian metal and electrical industry association	
	Aktivmed24		Association of Bavarian Metal and Electrical Industry	
	Adeniyi Anthony Odeyale		Federal Employers' Association of HR services	
	AP Uniapol Development		State Association of Business Associations Nordrhein-Westfalen	
	MR JOB		Federal Employers Association Chemistry	
PT	Center of Sciences of the Algarve Sea (Centro de Ciencias do Mar do Algarve)	PL	Section Welfare Agency (Sekcja Agencji Opieki)	
ES	LPI-Europe		Association of Employment Services (Stowarzyszenie Agencji Zatrudnienia)	
	National Renewable Energy Centre	Employers and employers' organisation from outside the EU: 13		
	Sbiomedic	Anonymous employers and employers' organisations: 14		

2.3. Selected Responses to the Online Survey of the Public Consultation

In the online survey respondents were asked to identify themselves as one of 20 categories, which were grouped into 6 profiles.

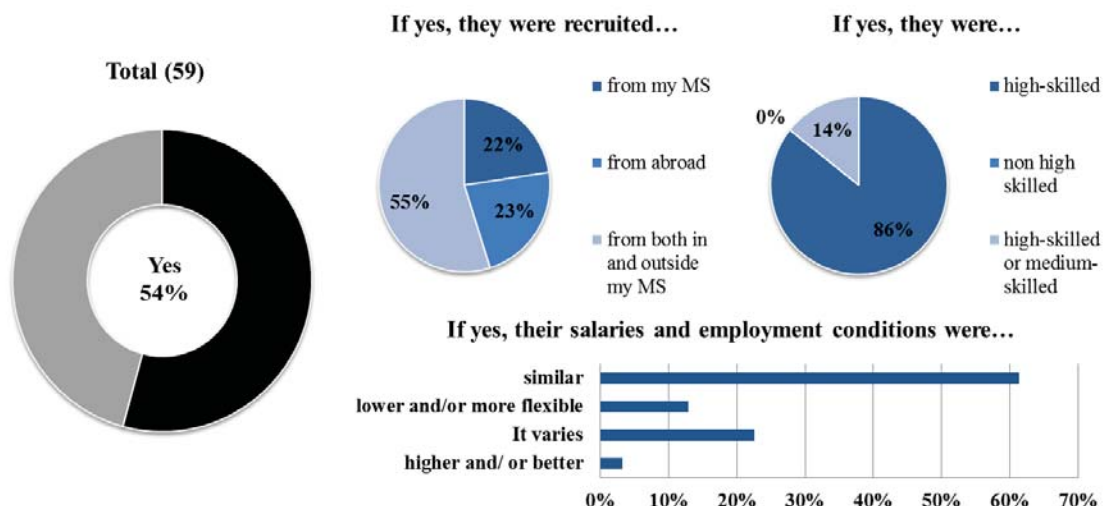
Profiles	Categories of respondents
1	Employers and employers' associations, Managers
2	Private/public employment organizations, Trade unions
3	Ministries, NGOs (support network, assistance, services), Regional & local authorities, Consulates/embassies
4	Media, Private individuals, Academia, NGOs (advocacy), International organisations, Organisations or authorities of the countries of origin, others
5	Non-EU migrant workers and entrepreneurs already residing/ having previously resided in the EU
6	(Potential) Non-EU migrant workers and entrepreneurs currently outside of the EU

Each of the six profiles was directed to a set of specifically tailored questions across 5 chapters: (1) Labour markets, (2) Availability of information, (3) Attractiveness of the EU, (4) the EU Blue Card, and (5) Qualifications. Some questions were addressed to all profiles, some only to the profiles to which the particular question was relevant. A total of 60 questions were asked, of which many were followed up by targeted questions based on the initial answer.

In the following sections, a selection of responses to the public consultation will be presented according to the five thematic chapters. The selection is based on the relevance of the questions and the representativeness of the responses. The highlighted profiles in the list below each response indicate to which ones of the six profiles the specific question was posed. In general, the responses are grouped per profiles; however, where relevant or where there are significant differences in responses, the answers for some of the 20 specific categories of respondents are filtered out and presented separately.

2.3.1. Chapter 1: Labour markets

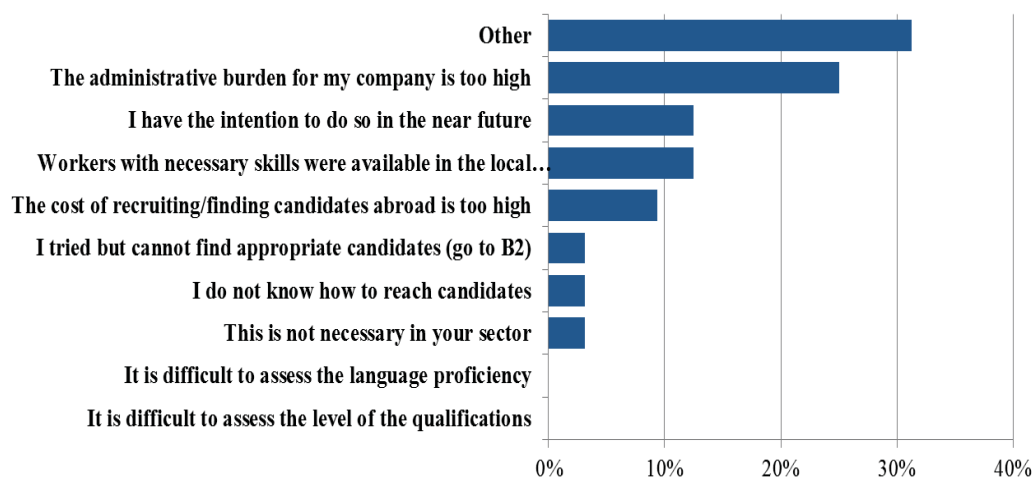
Question 1: Have you ever recruited non-EU migrant workers?



Profile 1: Employer, Employers' Association, Manager 76 **Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283**
Profile 2: Private/Public Employment Service, Trade Union 31 **Profile 5: Non-EU migrant worker residing inside the EU 76**
Profile 3: NGO, National/Regional/Local Authority, Embassy 52 **Profile 6: Potential non-Eu migrant worker residing outside the EU 92**

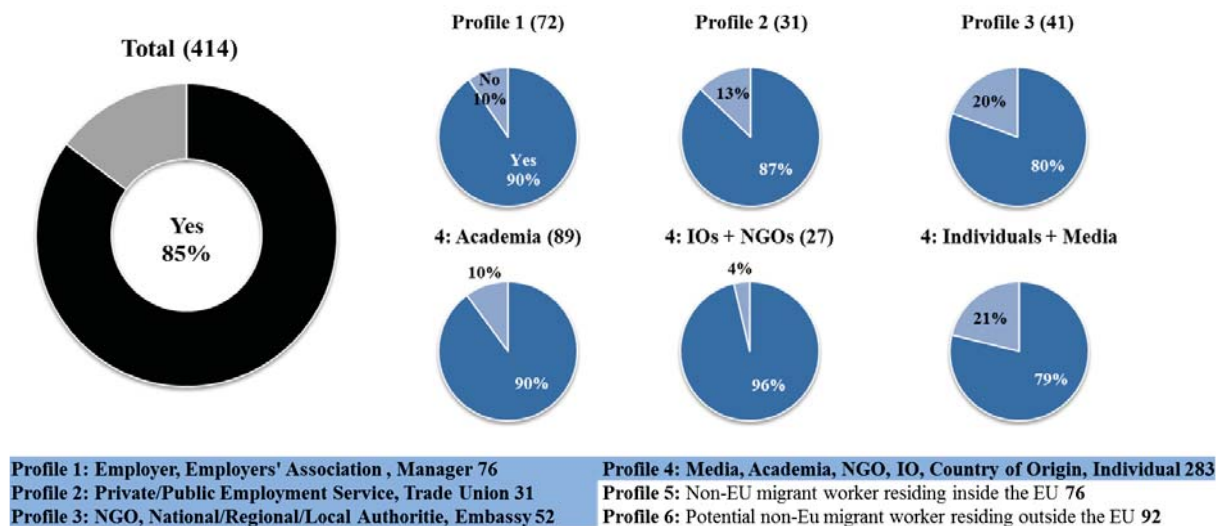
Follow-up to Question 1: If you have never recruited non-EU migrant workers before, what were the main reasons for not doing so? Select up to three reasons.

Total: 32 responses by 26 respondents

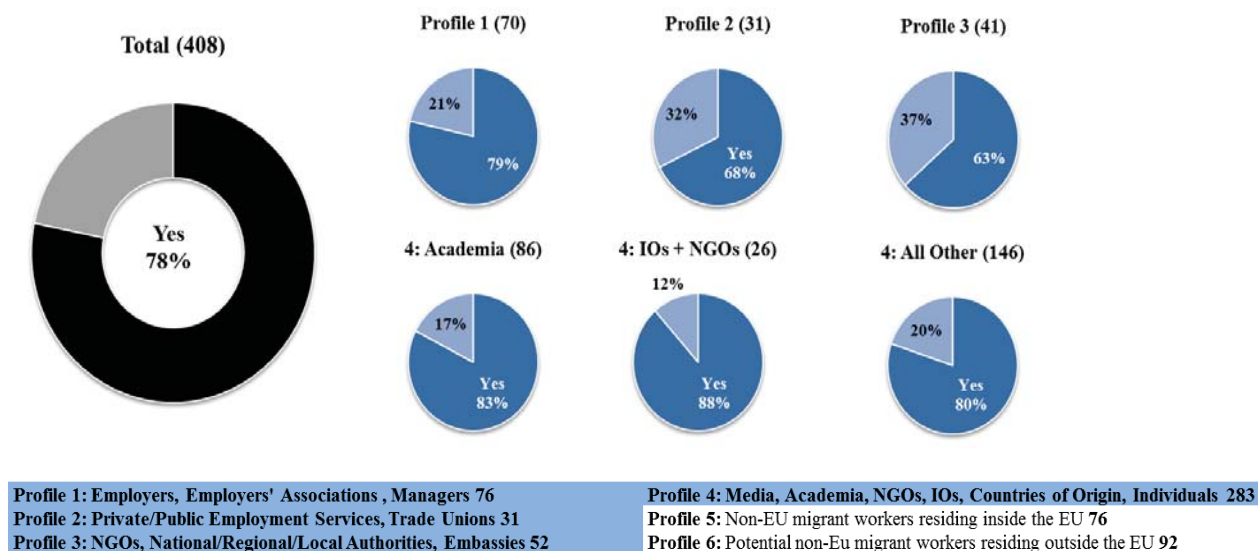


Profile 1: Employer, Employers' Association, Manager 76 **Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283**
Profile 2: Private/Public Employment Service, Trade Union 31 **Profile 5: Non-EU migrant worker residing inside the EU 76**
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Question 2: In order to address labour shortages, a number of policy measures can be taken such as recruiting from other EU Member States, increasing the retirement age and labour market participation rates, or active labour market policies. Besides such measures, do you consider that it is also necessary to recruit migrant workers, including entrepreneurs, from outside the EU to address labour shortages in particular sectors/occupations in the EU?



Question 3: Do you think that further initiatives at EU level, in particular with regards to highly skilled jobs, are necessary to improve the effectiveness of national tools for the identification of labour and skills shortages?



Follow-up to question 3: If yes [to question 3], why are further EU level initiatives necessary to identify shortages?

The following views were frequently voiced across all four profiles:

- Need for a better understanding of labour-matching and more efficient tools for identification of labour shortages;
- Need for coordination of individual efforts of Member States and mutual learning;
- Development of better online tools and information-sharing between Member States;
- Need for more transparency of the national instruments;
- Need for a better link between identifying shortages and the policy responses to address them – for example, in Ireland there is an evidence-based procedure for identifying skills/labour shortages and adjusting labour migration policy;
- Preventing brain drain and facilitating brain circulation: more attention should be paid to these challenges and further action from EU might be needed.

Selected responses from the following profiles:

▪ Academics

A total of 51 academics responded, representing various institutions. According to many respondents further EU initiatives are needed in order to coordinate individual efforts of Member States. National tools for identification of shortages were seen as selective, inefficient and not functioning optimally, whereby shortages and labour mismatches largely persist in Member States. It was also warned that if skill shortages are not identified the EU might face a progressive underdevelopment in the long term. In addition, it was mentioned that functioning tools would allow for better adjustment of education programmes at post-graduate level to meet the specific needs of the European labour market.

▪ Employers or employers' organisations

A total of 35 employers and employers' organisations responded to this question. Nine of the German employers' organisations, the BDA, the AGV Versicherungen, the BAP and others had coordinated their responses and all remarked that further EU level initiatives are necessary in order to "create transparency concerning national instruments for the measurement of skill shortages and demographic change, wherever they exist¹⁹." According to some respondents, tools for identification of labour shortages are indispensable in the context of global competition. One respondent highlighted that the labour market in the EU is not functioning optimally as, on the one hand, the existing skilled labour across EU is not very well-recognised and, on the other hand, shortages persist. Policymakers have to dispose of adequate data on skills shortages and changes in the demand structure and labour market to be able to implement policy changes at a shorter notice based on this. One respondent noted

¹⁹ Complete citation in original language: "Herstellung von Transparenz über nationale Instrumente zur Messung von Fachkräftengapsen und zur demografischen Entwicklung soweit verfügbar (z.B. Engpassanalyse in Deutschland). Potentielle Blue Card-Inhaber könnten somit prüfen, in welchem Mitgliedstaat ihr Beruf als Mangelberuf geführt ist."

that further initiatives at EU level are needed to identify the need of skilled workforce. In this regard, information-sharing between Member States is necessary.

- **International Organisations**

Seven responses were received from this group. They underlined that labour market knowledge produced by the EU and MS could be better systemized, including both general data on shortage occupations and the necessary skill profiles for specific sectors and occupations. Such data should be made easily available to employers, workers and recruiters. One respondent highlighted that in many Member States shortages do not translate well into migration policies – identifying shortages is usually in the remit of the Ministry of Labour while migration is under the auspices of the Ministry of Interior. The EU could provide exchange of information on how to link shortages with migration policy. Another set of responses focused on information-sharing with third countries. It was highlighted that advertisement of shortages to TCNs and in countries of origin is very limited and that this constitutes an area for improvement.

- **National ministries**

Five responses were received from national ministries. They highlighted that it is necessary to improve the existing tools in order for the EU and the Member States to be ready to respond to the continuously changing global context. They also emphasised that improving the effectiveness of the existing tools would allow for early identification of labour and skills shortages and labour market imbalances in the EU Member States. The respondents also stated that there should be mechanisms and/or policies introduced on how to overcome the identified labour market imbalances and risks.

Furthermore, it was stated that highly skilled workers are often hired to companies operating in multiple Member States, and that a more coherent European approach would ease the mobility of specialists inside the EU. Furthermore, a need for improved tools to identify labour shortages in low wage sectors and sectors dominated by undeclared work was recognised.

- **NGOs, Organisations or authorities of the countries of origin and trade unions**

Nine responses were received from NGOs, one from an organisation or country of origin and one from a trade union. Responses underlined that the tools are not accurate and do not respond timely to shortages. They stated that national authorities limit their scope within their borders. Thus the national authorities are not equipped to assess their situation in comparison with the EU common market. Replies highlighted that the key response to shortages of health personnel in Europe must come from the capacity to domestically train, recruit and retain those professionals. Preventing brain drain from third countries is also important. Further EU initiatives are needed to achieve a greater efficiency of these tools.

Follow-up to question 3: If no, why do you consider that no further EU level initiatives are necessary to identify shortages?

The following arguments were frequently voiced across all categories:

- Existing tools in place are sufficient.
- Existing tools should be left to market forces and to employers;
- Some tools are too administratively difficult to handle, not very reliable and instead efforts should be placed in engaging employers;
- A number of respondents, although not answering the question posed, expressed views that labour market gaps should be filled with unemployed EU nationals rather than trying to attract TCNs.

Selected responses from the following profiles:

▪ **Academia**

Nine responses were received from this category. Three respondents considered that the tools currently available are sufficient and the EU should not take further action in this area. Two respondents highlighted that job-matching should be left to the market forces and for employers to find workers. One respondent stated that more efforts should be focussed on the recognition of qualifications, which is of higher importance.

▪ **Employer, employer's organisations and executive and senior-level management**

Eleven responses were received from employers, employer's organisations and executive and senior-level management. Some respondents expressed the view that the tools currently available are sufficient and that the EU should not take further action in this area. Two respondents highlighted that the labour market needs in Member States are too heterogeneous for the EU to have a role in the identification of shortages and that this approach would not be flexible.

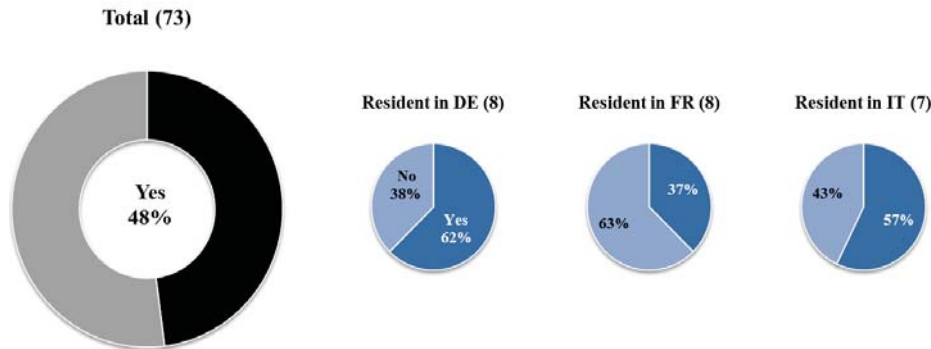
▪ **National ministries**

A total of six responses were provided by national ministries. Some respondents underlined that the existing tools are adequate. One respondent flagged that Member States are best placed to assess their labour market needs and to respond appropriately and that access to the national labour market is under national competence. Another respondent highlighted that addressing labour market shortages should be better solved by demand and supply.

▪ **NGOs**

Four responses were provided on this question by NGOs. One respondent pointed out that tools do exist but it is necessary to motivate employees and employers to use them. Some tools for identification are too cumbersome.

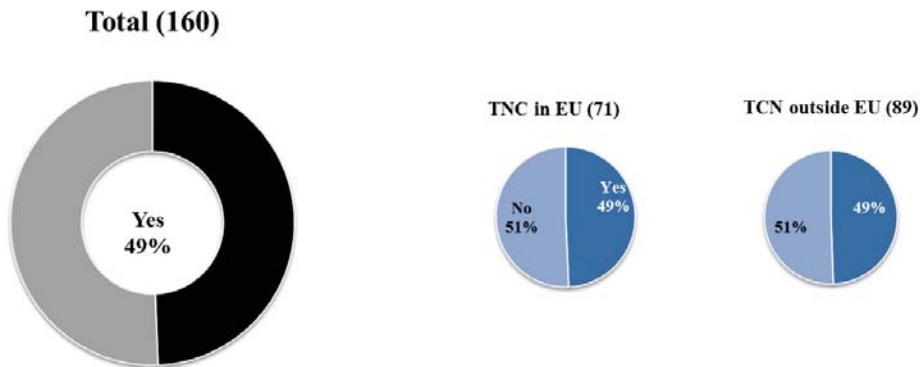
Question 4: Did you manage to find a job easily in the Member State where you are working?



Profile 1: Employer, Employers' Association, Manager 76
Profile 2: Private/Public Employment Service, Trade Union 31
Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
Profile 5: Non-EU migrant worker residing inside the EU 76
Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Question 5: (If you were to move to Europe), would your intention be to start up a business?

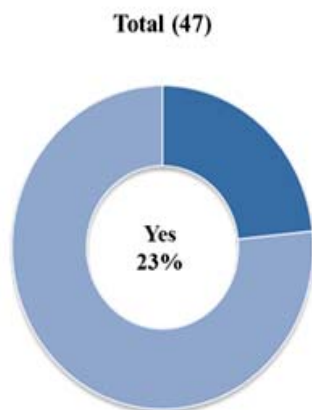


Profile 1: Employer, Employers' Association, Manager 76
Profile 2: Private/Public Employment Service, Trade Union 31
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Profile 5: Non-EU migrant worker residing inside the EU 76
Profile 6: Potential non-Eu migrant worker residing outside the EU 92

2.3.2. Chapter 2: Availability of information

Question 6: Do you think that further initiatives at EU level, in particular with regards to highly skilled jobs, are necessary to improve the effectiveness of tools for the identification of labour and skills shortages?



Profile 1: Employer, Employers' Association, Manager 76

Profile 2: Private/Public Employment Service, Trade Union 31

Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283

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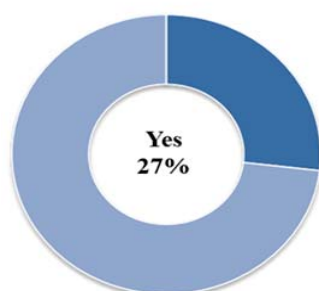
Question 7: If you have recruited third-country workers, did you use a third party to help with the immigration procedures and the authorities? E.g. a lawyer or specialised firm?

Selected responses from employers and employer's organisation

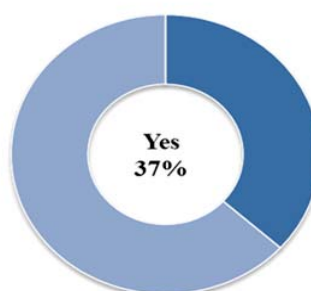
The majority of respondents who relied on professional help did so because the application procedures are too complex and the consequences in the case of non-compliance with the requirements (even when involuntary) are severe. In addition, using a third party saves time. For instance, one major company explained that they used a global service provider because legal requirements are complicated and in-house legal professionals often do not have enough expertise.

Question 8: Do you think adequate information on national immigration systems is easily available to...

...potential migrants (294)



...employers (269)



Profile 1: Employer, Employers' Association, Manager 76

Profile 2: Private/Public Employment Service, Trade Union 31

Profile 3: NGO, National/Regional/Local Authority, Embassy 52

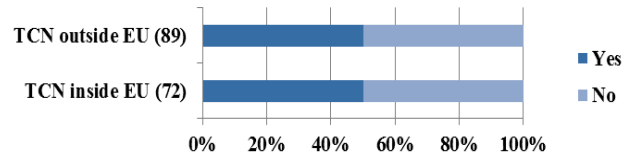
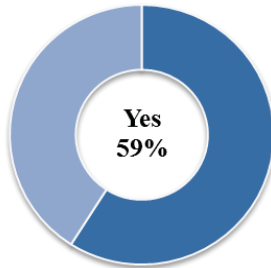
Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283

Profile 5: Non-EU migrant worker residing inside the EU 76

Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Question 9: Did you/ do you find information easily about job vacancies in EU Member States and/or about labour market shortages in particular sectors or particular Member States?

Total (161)

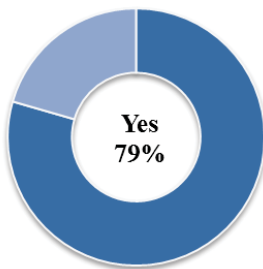


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Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
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Question 10: Did you find information easily about legal ways to come to Europe?

Total (73)



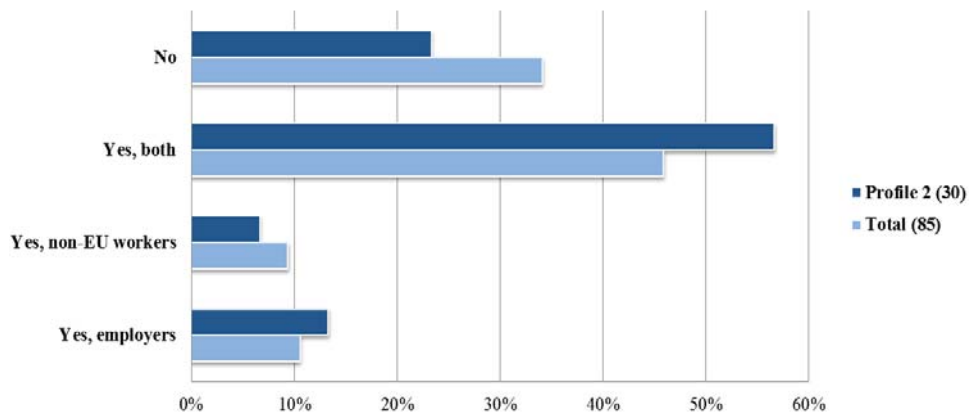
Profile 1: Employer, Employers' Association, Manager 76
Profile 2: Private/Public Employment Service, Trade Union 31
Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
Profile 5: Non-EU migrant worker residing inside the EU 76
Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Selection of obstacles identified by Non-EU migrant workers and entrepreneurs in the EU

- Information is available in national languages, rather than English. If translation is provided, it is not clear;
- Information provided by foreign representations is often not clear or coherent;
- Due to the lack of standardised procedures across Member States, third-country nationals find it difficult to understand the different entry and residence requirements;
- Setting up a business is burdensome without a secured right of residence in the host country;
- Information is lacking on how to set up a small business or work as a freelancer in the EU.

Question 11: Do you inform employers and/or potential non-EU workers about recruitment possibilities?



Profile 1: Employers, Employers' Associations, Managers 76

Profile 2: Private/Public Employment Services, Trade Unions 31

Profile 3: NGOs, National/Regional/Local Authorities, Embassies 52

Profile 4: Media, Academia, NGOs, IOs, Countries of Origin, Individuals 283

Profile 5: Non-EU migrant workers residing inside the EU 76

Profile 6: Potential non-Eu migrant workers residing outside the EU 92



Strasbourg, 7.6.2016
SWD(2016) 193 final

PART 3/6

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Annexes to the Impact Assessment

Accompanying the document

Proposal for a Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment

{ COM(2016) 378 final }

{ SWD(2016) 194 final }

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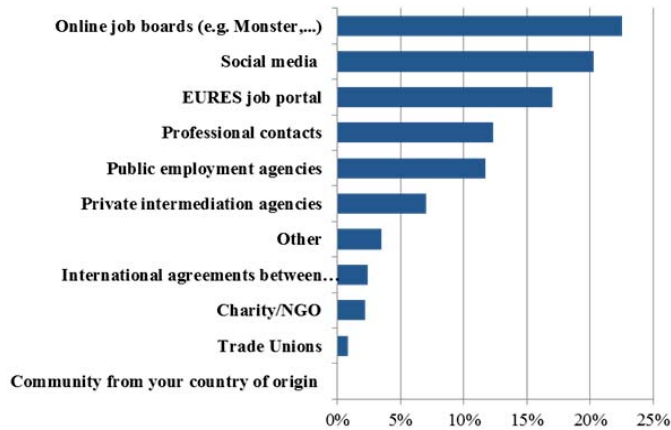
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ANNEX 2 – PART 2

2.3.2. Chapter 2: Availability of information

Question 12: What channels do you use/ have you used to find job vacancies in the EU?

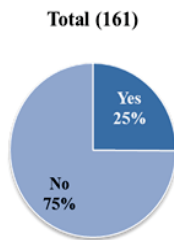
Total: 453 responses by 160 respondents



Profile 1: Employer, Employers' Association, Manager 76
Profile 2: Private/Public Employment Service, Trade Union 31
Profile 3: NGO, National/Regional/Local Authorities, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
Profile 5: Non-EU migrant worker residing inside the EU 76
Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Follow-up to question 12: Are you satisfied with these channels?

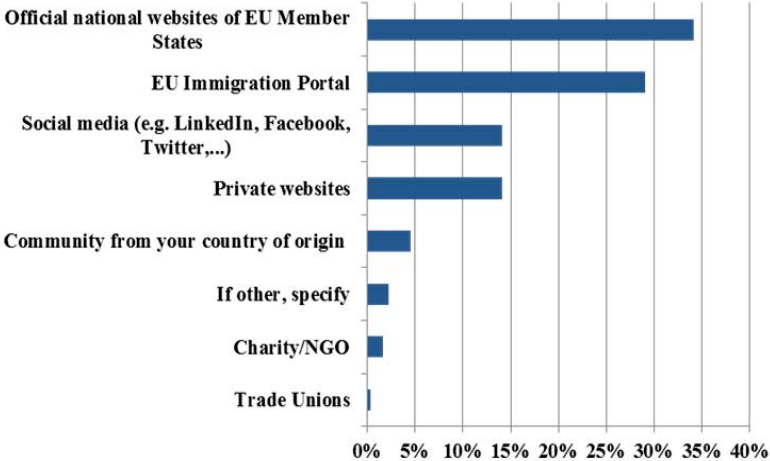


Profile 1: Employers, Employers' Associations, Managers 76
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Profile 4: Media, Academia, NGOs, IOs, Countries of Origin, Individuals 283
Profile 5: Non-EU migrant workers residing inside the EU 76
Profile 6: Potential non-Eu migrant workers residing outside the EU 92

Question 13: What are the channels that you use/have used to obtain information on the legal requirements to migrate in response of those vacancies?

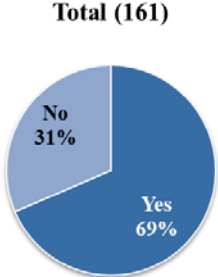
Total 313 responses by 160 respondents



Profile 1: Employers, Employers' Associations, Managers 76
 Profile 2: Private/Public Employment Services, Trade Unions 31
 Profile 3: NGOs, National/Regional/Local Authorities, Embassies 52

Profile 4: Media, Academia, NGOs, IOs, Countries of Origin, Individuals 283
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Follow-up to question 13: Are you satisfied with these channels?

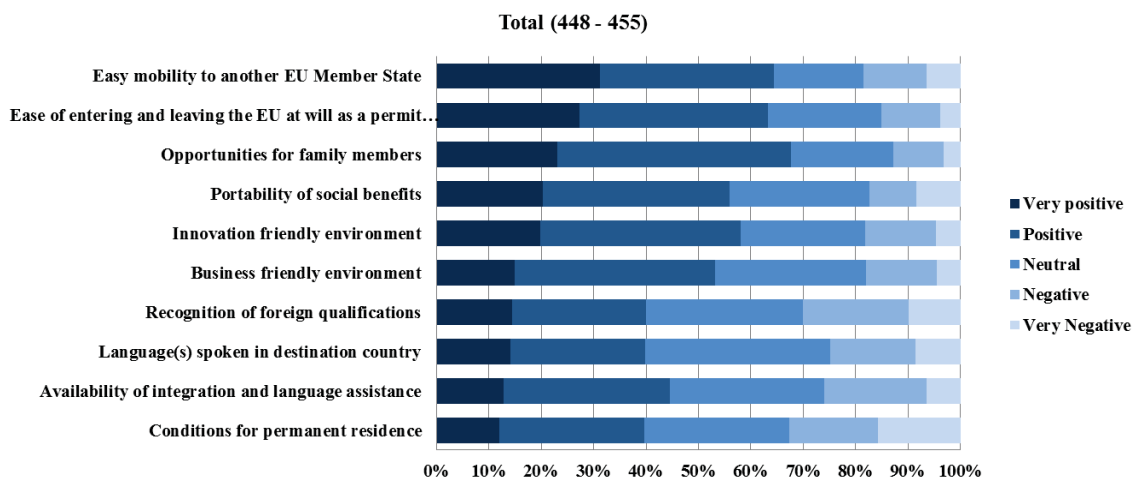
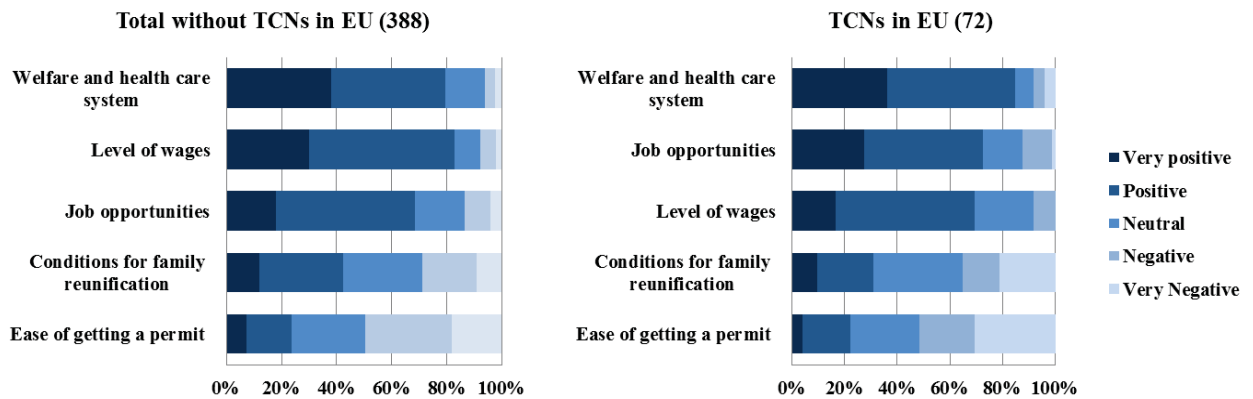


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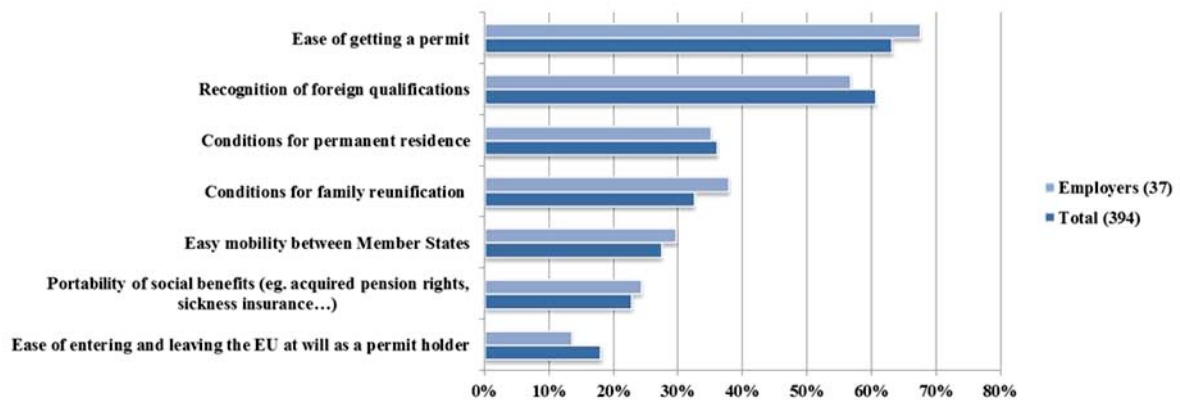
2.3.3. Chapter 3: Attractiveness of the EU

Question 14: How would you rate the attractiveness of the EU on the following factors?



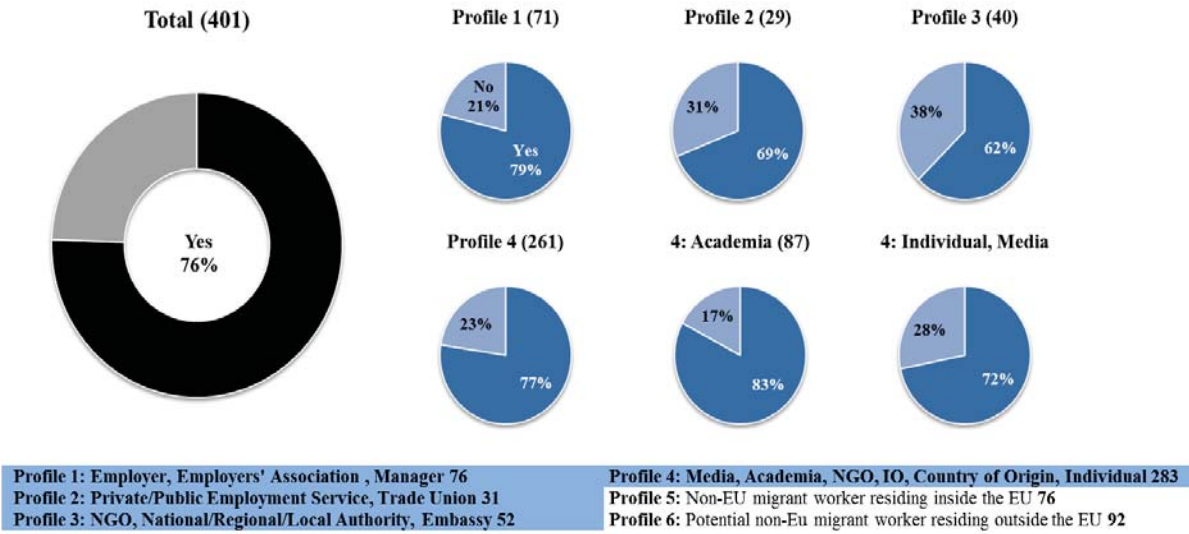
Profile 1: Employer, Employers' Association, Manager 76
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Question 15: On which of the following issues could the EU do more to improve its attractiveness as a migration destination for highly qualified non EU migrants? (maximum 3 options)

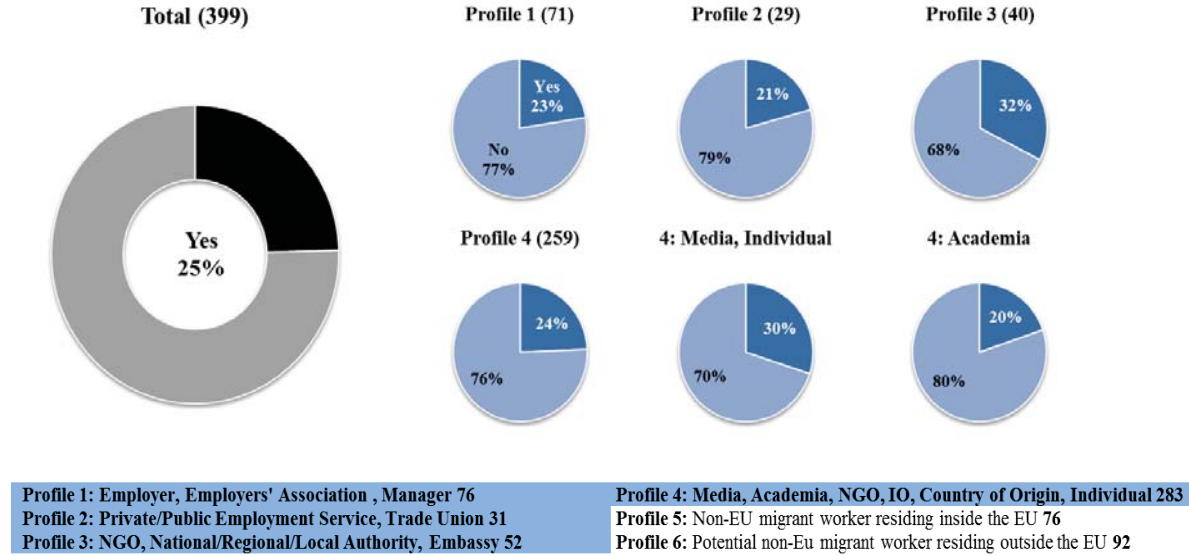


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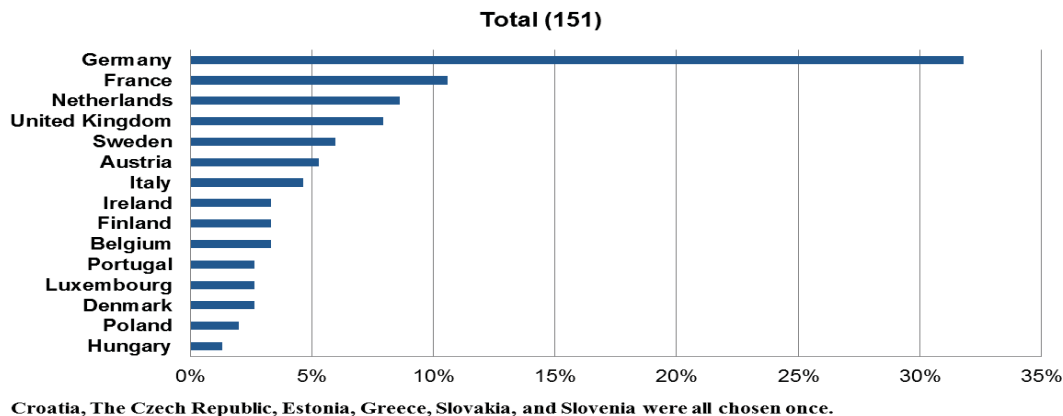
Question 16: Do you think more should be done, at the EU level, to improve the attractiveness of the EU Member States for highly-skilled migrants?



Question 17: In the country/ies in which you are active, do you consider that the system for managing labour migration addresses both the immediate employers' needs and the long-term challenges such as demographic ageing and other social aspects?



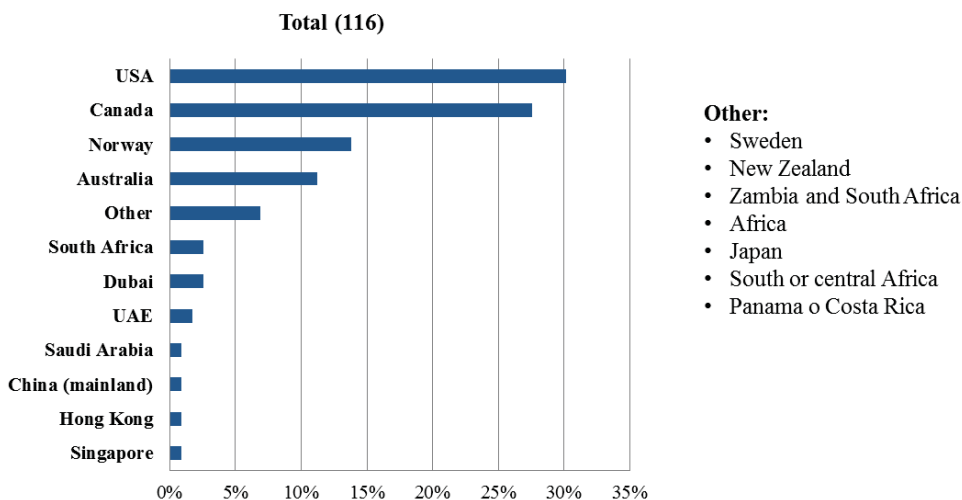
Question 18: Which EU Member State(s) did you/would you consider migrating to? Only one choice.



Profile 1: Employer, Employers' Association, Manager 76
 Profile 2: Private/Public Employment Service, Trade Union 31
 Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
 Profile 5: Non-EU migrant worker residing inside the EU 76
 Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Question 19: Did you/would you consider other destinations besides the EU? If so, which one(s)?



Profile 1: Employer, Employers' Association, Manager 76
 Profile 2: Private/Public Employment Service, Trade Union 31
 Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
 Profile 5: Non-EU migrant worker residing inside the EU 76
 Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Follow-up to question 19: Why are you interested in other destinations or why did you finally move to another destination other than Europe?

Factors mentioned in favour of USA:

- More entrepreneurial environment and lower taxes;
- Career opportunities and innovations;
- Better living standards;
- Relatively higher GDP growth rate and lower unemployment levels;

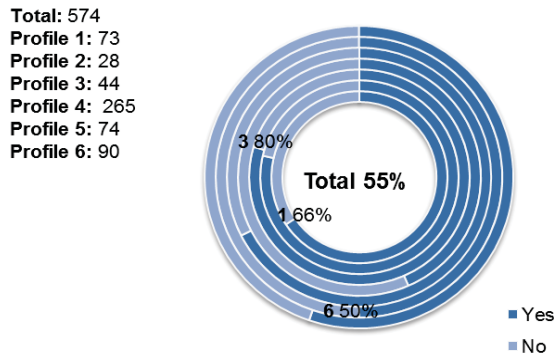
- English language ;
- Possibility to move around across the country without differing visa requirements or restrictions.

Factors mentioned in favour of Canada:

- Open and flexible immigration policies;
- Easy access to permanent residency and citizenship;
- Attractive express entry system with job portals;
- Flexible recognition of qualifications;
- Ease of family reunification;
- English/ French language.

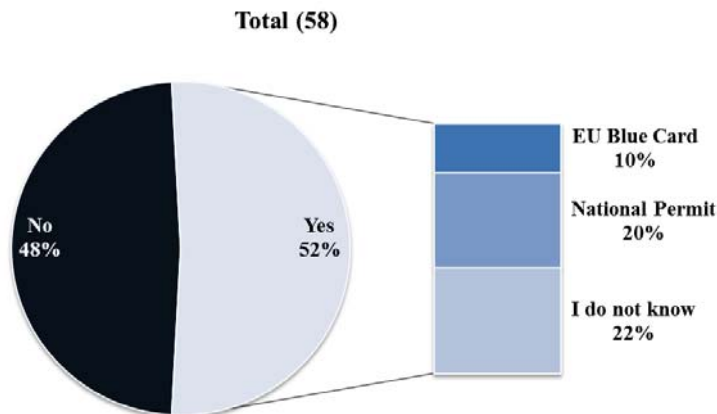
2.3.4. Chapter 4: The EU Blue Card

Question 20: Had you ever heard of the EU Blue Card before this survey?



Profile 1: Employer, Employers' Association, Manager 76	Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
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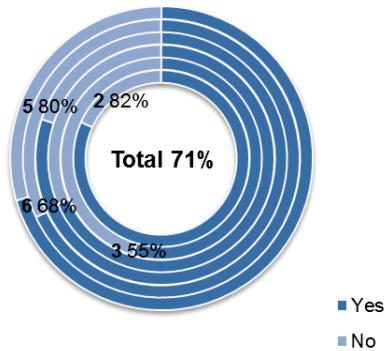
Question 21: Were/Are you employed as, or were/are you interested in coming to the EU as a highly qualified worker? If yes, did you apply for/would you apply for a BC?



Profile 1: Employer, Employers' Association, Manager 76	Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
Profile 2: Private/Public Employment Service, Trade Union 31	Profile 5: Non-EU migrant worker residing inside the EU 76
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Follow-up to question 21: If yes, do you consider that its attractiveness could be improved?

Total: 268
 Profile 1: 5
 Profile 2: 22
 Profile 3: 33
 Profile 4: 111
 Profile 5: 50
 Profile 6: 47



Profile 1: Employer, Employers' Association, Manager 76	Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
Profile 2: Private/Public Employment Service, Trade Union 31	Profile 5: Non-EU migrant worker residing inside the EU 76
Profile 3: NGO, National/Regional/Local Authority, Embassy 52	Profile 6: Potential non-Eu migrant worker residing outside the EU 92

Follow-up to question 21: If no, please explain why you have not applied for an EU Blue Card

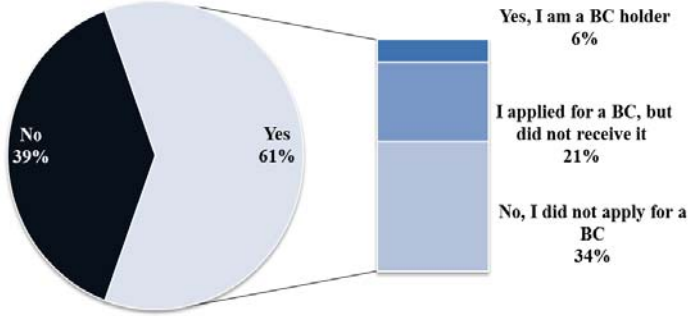
▪ **TCNs residing outside the EU**

From this category 13 responses were received. Five respondents answered that they have applied or consider applying for a Blue Card. In four cases, respondents struggled to receive a job offer. Two respondents highlighted that the required salary level is too high. For example, one respondent said that within academia salaries are not generally high, so sometimes the 1.5 times average salary threshold is exclusive even for the very highly educated. One respondent flagged that most of the companies ask for advanced knowledge of the host country's language, which is considered a major barrier to work in the multilingual Europe. Finally, one respondent shared that they had been misinformed of a need to stay in Europe for 5 years to be able to apply for an EU Blue Card.

▪ **TCNs residing in the EU**

15 responses were received from this category. Six respondents replied that they are considering applying for an EU Blue Card, and a further five respondents had considered applying but opted for a national residence permit (e.g. from Finland, France and Italy) instead. One respondent pointed out that under the national scheme it was easier to apply for family reunification. Another respondent regretted the lack of mobility rights as all the documentation has to be presented again in the second Member State.

Question 22: Have you ever employed a non-EU highly qualified worker? If yes, what work permit did you use?



Profile 1: Employer, Employers' Association, Manager 76
Profile 2: Private/Public Employment Service, Trade Union 31
Profile 3: NGO, National/Regional/Local Authority, Embassy 52

Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
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Strasbourg, 7.6.2016
SWD(2016) 193 final

PART 4/6

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Annexes to the Impact Assessment

Accompanying the document

Proposal for a Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment

{COM(2016) 378 final}

{SWD(2016) 194 final}

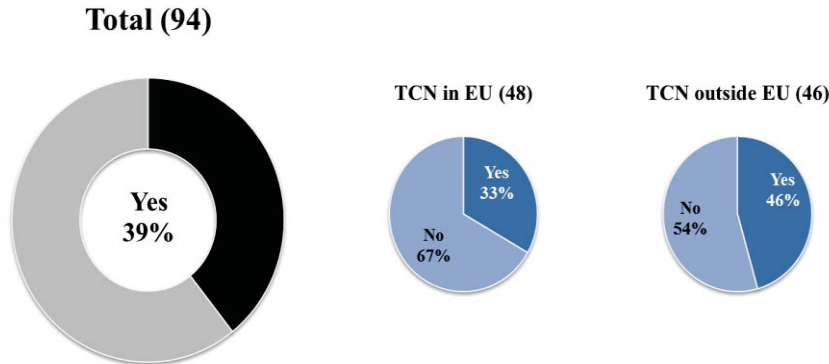
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ANNEX 2 – PART 3

2.3.4. Chapter 4: The EU Blue Card

Question 23: Did you apply for/would you consider applying for another program for highly qualified workers other than the EU Blue Card?



Profile 1: Employer, Employers' Association, Manager 76
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Follow-up to question 23: If yes, please specify for which other program you applied.

▪ Non-EU migrant workers and entrepreneurs currently outside the EU

16 responses were received from this category. Four respondents said that they have applied for or considering the Danish Green Card; one mentioned the Red-White-Wed card for employment in Austria; one mentioned UK Tier 2 and another respondent said that they are considering schemes in Canada, USA and Australia. Further responses included a Working Holiday Visa and entrepreneur visas of various EU countries.

▪ Non-EU migrant workers and entrepreneurs currently in the EU

Out of the total of 12 respondents, three had applied for or considered the Critical Skills permit in Ireland; one a Finnish specialist permit; one a Danish Green Card; one a Dutch residence permit and one a USA scheme. Two respondents expressed that they would consider any programme for the highly skilled.

Follow-up to question 23: Why did you apply for another programme?

▪ Non-EU migrant workers and entrepreneurs currently outside the EU

Out of 11 respondents, two respondents applied for another programme because they did not have a job offer as required for the EU Blue Card. Two respondents found the procedure for the other scheme to be more open and flexible. Another respondent said that UK and Denmark (which do not apply the EU Blue Card) are attractive because of the English language used in these countries.

▪ **Non-EU migrant workers and entrepreneurs currently in the EU**

Out of the seven respondents, four respondents said that applying for the national permit was easier. One respondent also emphasized that under the other scheme the applicant may change employers freely rather than being tied to a contract with the EU Blue Card.

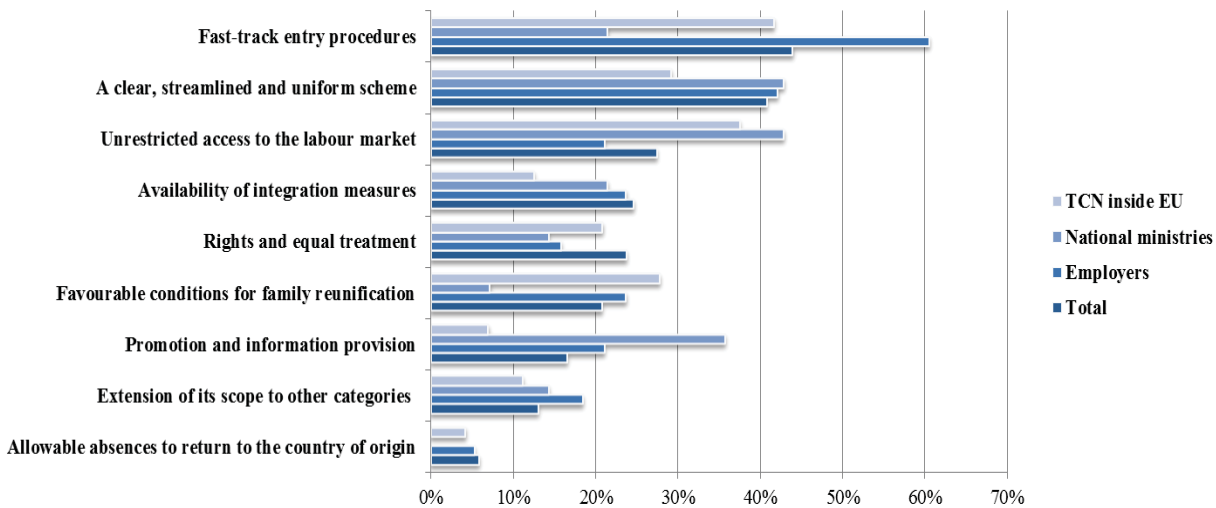
Question 24: Are you aware of any specific reason why you were recruited under a different program than the EU Blue Card?

The number of responses was 41, of which thirteen respondents were not aware of a specific reason. Reasons given included:

- Salary threshold is too high (5 respondents);
- EU Blue Card was unavailable in the country (4 respondents);
- EU Blue Card did not exist at the time of application (2 respondents);
- Recruitment under another scheme cost less for the employer (1 respondent);
- Applicant was not eligible for the EU Blue Card (1 respondent);
- Employer proposed another option (2 respondents);
- Employers are not aware of the EU Blue Card and there is general reluctance to engage in bureaucratic work permit procedures (1 respondent);
- National immigration officers stated it is too complicated to get an EU Blue Card (1 respondent).

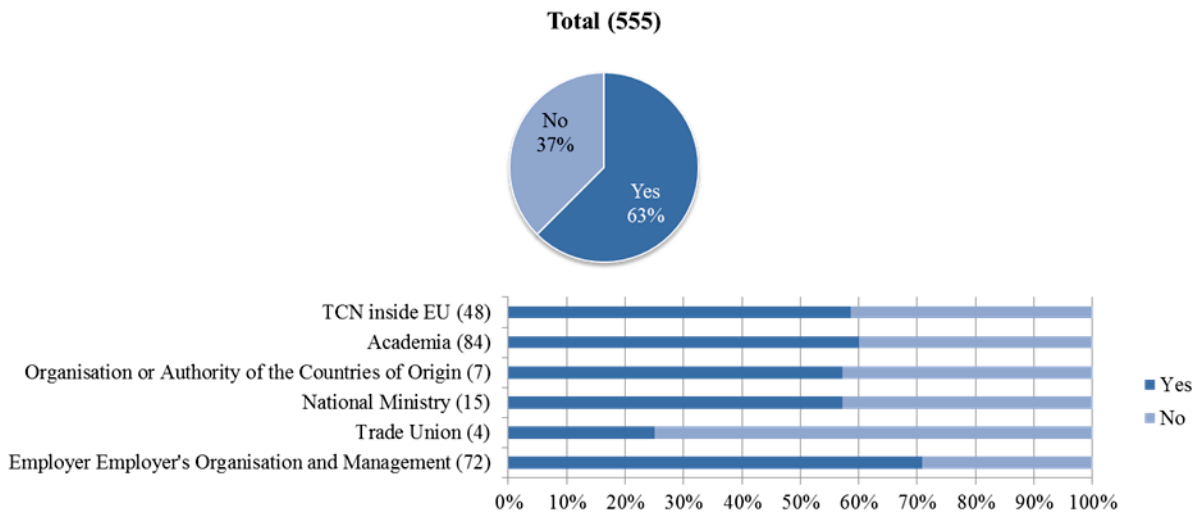
Question 25: What aspects are most important for the attractiveness of the EU Blue Card? Please indicate the factors you consider important. (max. three answers possible)

Total: 1232 responses by 569 respondents

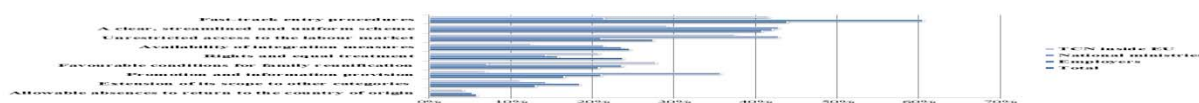
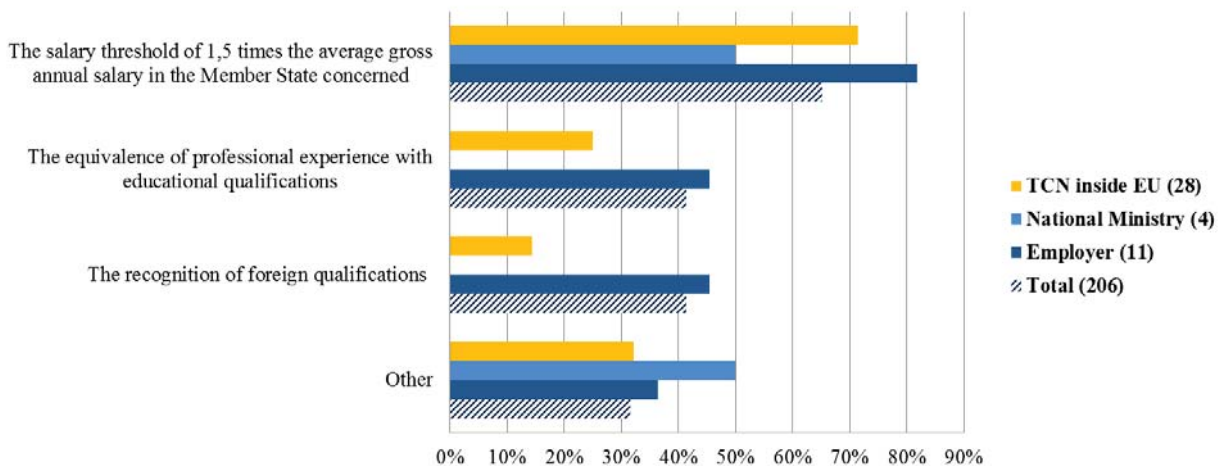


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Question 26: Do you consider that the admission conditions of the current EU Blue Card Directive are adequate? If no, please indicate the specific criteria which you consider should be made more flexible.



If no [to 26], which ones should be made more flexible?



Follow-up to question 26: If you selected 'other' please specify.

The following arguments were voiced across categories:

- The requirement to have a binding contract before arrival is too restrictive;
- The Blue Card does not address some key categories, such as recent graduates and start-ups.

Selected responses from the following profiles:

▪ Academia

Four academics suggested that the requirement of a one-year work contract should be loosened. On the other hand, one respondent flagged that even one year might be too short to carry out an international move and therefore, at least two years should be required. In addition, the better portability of social benefits and pensions was mentioned by one respondent.

▪ Employer, employer's organisation and executive and senior-level management

Three employers and employers' organisations argued that a salary threshold at EU level interferes with the freedom of individual employers and workers to negotiate the salary. Setting the threshold too high can also discourage employers from recruiting highly skilled TCNs through the EU Blue Card scheme. Two respondents demanded a more flexible definition of highly qualified. For example, the binding work contract together with the salary requirement make the scheme unattainable for entrepreneurs and shareholders that would like to work in their own company, particularly if this is a start-up. Two respondents demanded more flexibility and transparency to the eligibility criteria. One respondent highlighted that the lengthy process of recognition of qualifications jeopardises the fast and easy entry through the EU Blue Card. This was seen as particularly problematic in cases where individual immigration offices have varied interpretations of adequate recognition. One respondent argued that the EU Blue Card scheme should be discontinued as it exacerbates the problems in re-training and adequately recruiting EU citizens.

▪ NGOs

One respondent was in favour of introducing a job seeking permit for TCNs in order to open legal and safe avenues for migration to the EU. From the viewpoint of start-up companies it was seen as problematic that only regular, monetary wages are taken into account for meeting the salary threshold, but not for instance company shares.

▪ Private individuals

Two respondents expressed the view that the EU Blue Card should be made more restrictive and apply the labour market test more rigorously to make sure that job openings are adequately filled by EU nationals. In addition, it should be verified that TCNs do not have a criminal record or figure on a terrorist list.

▪ Non-EU migrant workers and entrepreneurs currently outside the EU

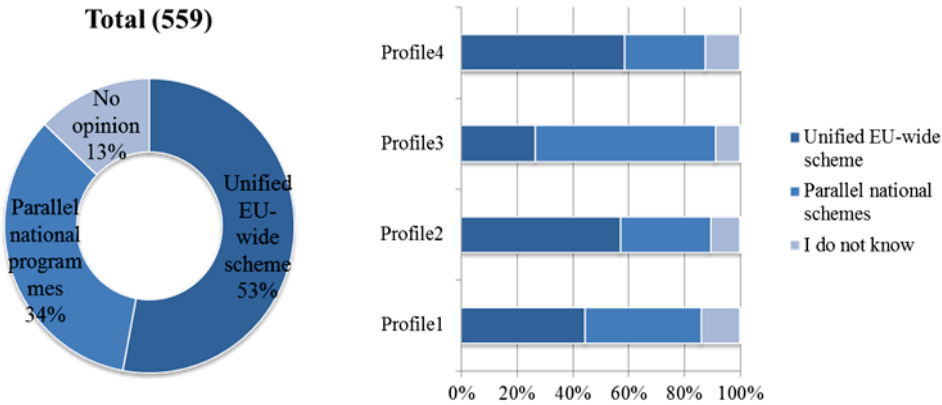
The requirement to have a binding contract before arrival makes it very hard to apply for the Blue Card. In addition, companies should be more flexible for TCN applicants who have English language proficiency, but do not speak the local language. Because the work contract/job offer requirement does not reflect the multifaceted nature of the modern labour market, there should be a dedicated path for freelancers and the self-employed.

▪ Non-EU migrant workers and entrepreneurs currently in the EU

Three respondents confirm that it is difficult to obtain a work contract without a work permit, which effectively hinders access to the EU Blue Card. Employees should be allowed to

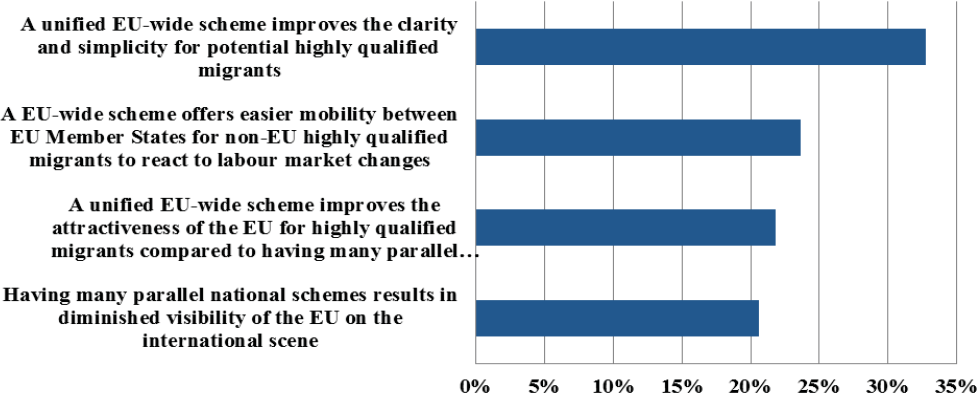
request and apply for the EU Blue Card on their own accord independently of the employer, as many employers are not aware that such a card exists or they believe that the application process is too difficult or time-consuming. It was also argued that any legal residence in an EU Member State should count towards the long-term residence status.

Question 27: In your opinion, in order to make the EU as a whole more attractive for highly qualified migrant workers: A) it is better to opt for one unified and visible EU-wide scheme, such as an improved EU Blue Card without parallel national programmes, or B) it is better to keep parallel national programmes for highly qualified migrants workers?



Profile 1: Employer, Employers' Association, Manager 76
 Profile 2: Private/Public Employment Service, Trade Union 31
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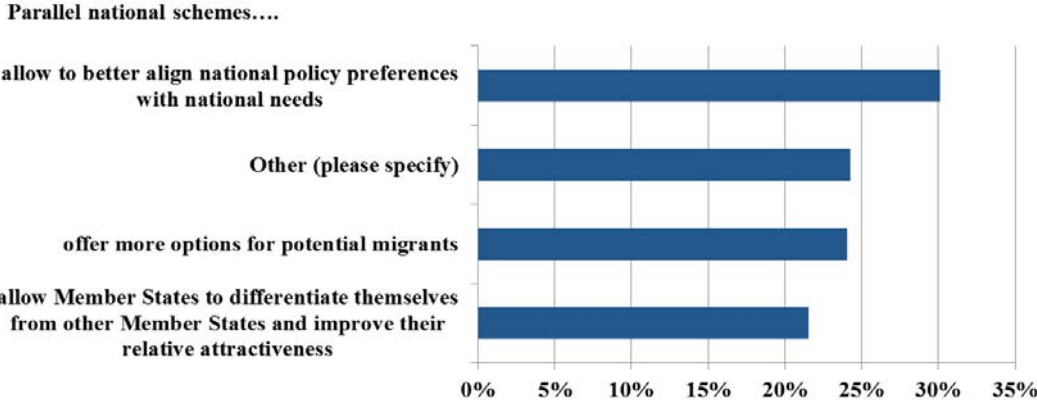
Follow-up to question 27: Why are you in favour of one unified and visible EU-wide scheme, such as an improved EU Blue Card without parallel national programmes? Please indicate the factors you consider important. Multiple answers possible.



Profile 1: Employer, Employers' Association, Manager 76 Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
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Total: 659 responses by 293 respondents

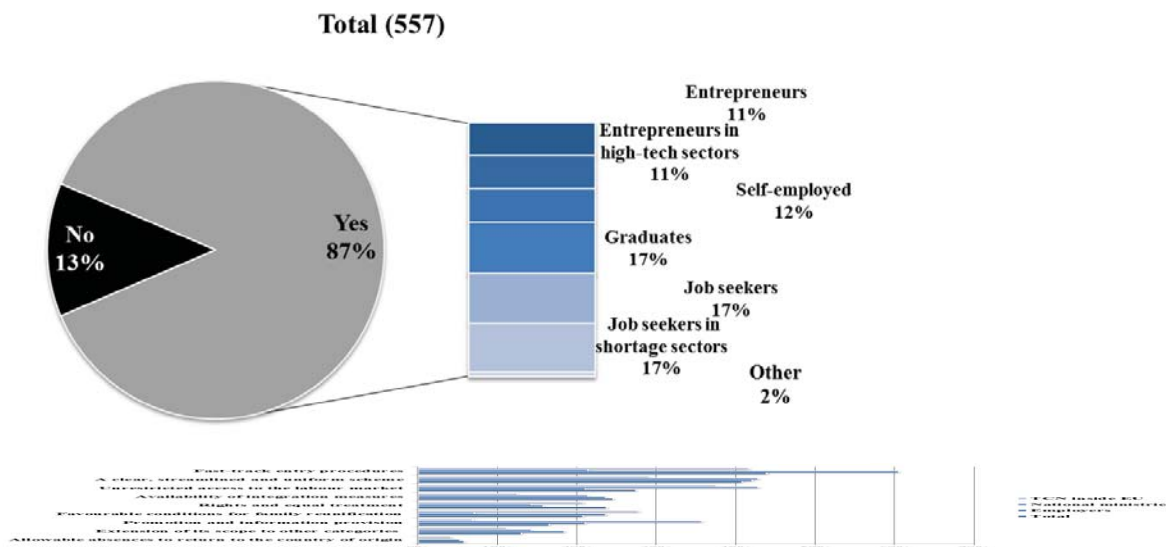
Follow-up to question 27: Why are in favour of keeping parallel national programmes for highly qualified migrants? Please indicate the factors you consider important - multiple answers possible.



Profile 1: Employer, Employers' Association, Manager 76 Profile 4: Media, Academia, NGO, IO, Country of Origin, Individual 283
 Profile 2: Private/Public Employment Service, Trade Union 31 Profile 5: Non-EU migrant worker residing inside the EU 76
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Total: 445 responses by 189 respondents

Question 28: Do you consider that the EU Blue Card scheme could be more attractive if its scope were to be expanded to certain additional categories? If yes, which additional categories should be included?



Question 29: Do you have further comments on how the EU can be made more attractive for highly qualified workers (in particular in relation to the Blue Card directive)?

The following ideas were frequently voiced across all categories:

- Facilitating entry conditions and reducing red tape;
- Improving consistency in implementation across Member States;
- Increasing efforts to actively promote the EU Blue Card;
- Developing the recognition of qualifications;
- Lowering the salary requirements to accommodate (a) specialists in shortage occupations, also with mid-level skills; (b) start-ups and (c) graduates.

Selected responses from the following profiles:

▪ **Academia**

Five respondents suggested that the EU should facilitate and simplify entry and residence conditions for the highly skilled. In addition it was suggested that the EU could devote more attention to filling shortages also in occupations belonging to ISCO major group 3¹. Another respondent encouraged the EU to improve the prospects for family reunification as well as integration assistance. It was also mentioned that more could be done to promote the EU Blue Card. To this end the scheme should encompass some distinct benefit that no main competitor country offers.

▪ **Employer, employer's organisation and executive and Senior-Level management**

Four respondents asked for entry procedures and conditions for intra-EU mobility to be streamlined for all TCNs and EU nationals alike. The same number proposed to reduce application processing times. Three respondents called attention to the lack of consistency in

¹ ISCO major group 3 includes technicians and associate professionals. For more information on ISCO classifications, see Annex 7.

the implementation of the EU Blue Card across Member States. It was also suggested that all existing EU instruments on labour migration should be promoted more intensively. In addition, the EU Blue Card should not replace but complement the national schemes. Mechanisms for pre-arrival recognition of qualifications and professional experience should be developed. One respondent argued that the EU Blue Card should be discontinued as it is damaging the employment prospects of EU citizens. One respondent mentioned specific problems in recruiting nurses and regretted that medium skilled persons cannot be attracted under the EU schemes, mostly because of the high salary requirements.

- **International organisations, NGOs, private employment services, organisations of authorities in countries of origin**

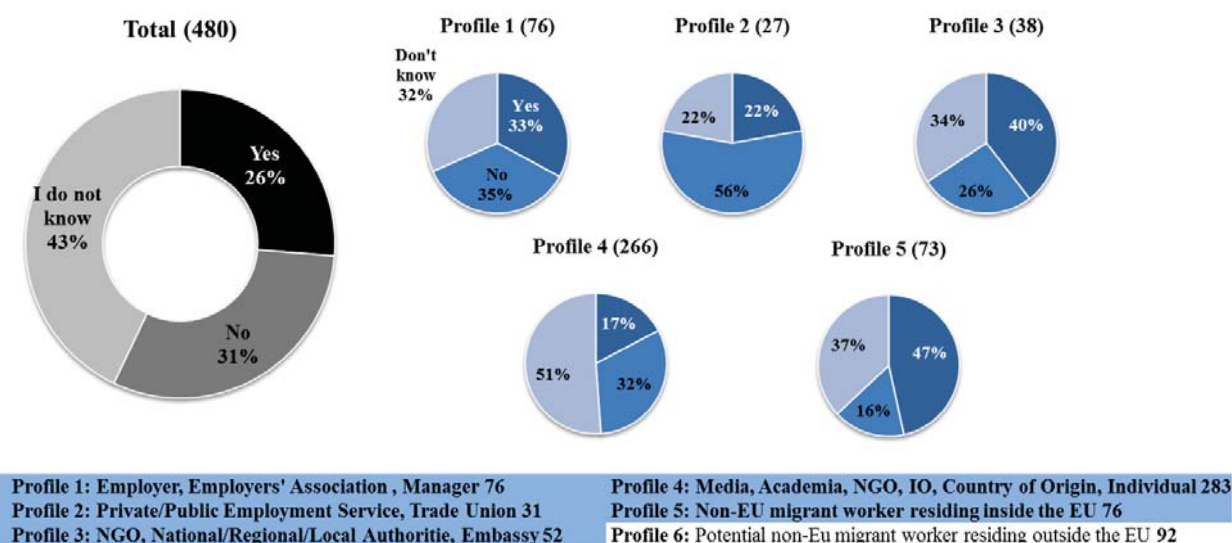
Five respondents were of the opinion that the requirements, especially the salary threshold, should be lowered because the EU must attract young, qualified workers having difficulties to reach the high threshold. Five respondents asked for increased efforts regarding the recognition of qualifications. Three respondents demanded more attention to be paid to the loss of human capital and brain drain in developing countries, especially in key sectors such as healthcare. One respondent proposed to expand the scope of the EU Blue Card to start-up entrepreneurs.

- **Private individuals**

Four respondents asked efforts and funds to be devoted to labour market activation of EU citizens and not on attracting people from outside the EU. Four others suggested providing more information on the scheme and increasing transparency.

2.3.5. Chapter 5: Qualifications

Question 30: Do you consider the current procedures for the recognition of non-EU qualifications adequate?



Selected responses from the following profiles:

- **Academia**

All respondents highlighted the need for a more unified scheme for recognition that would abolish bureaucratic and lengthy procedures and prevent that every Member State applies its own rules. Respondents emphasized the aim for a more transparent, clear and simple one-stop-shop procedure. One respondent flagged that even between Member States many qualifications are not recognised.

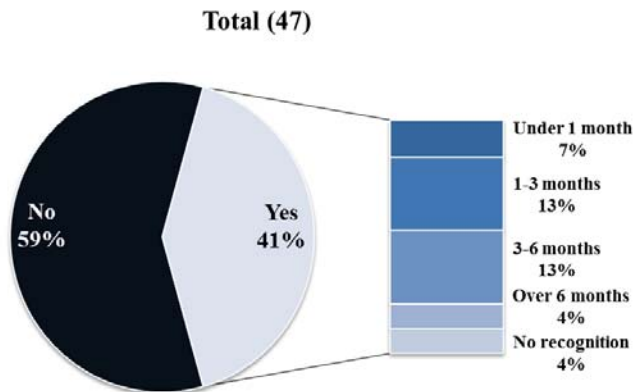
- **Employers, employers' organizations and executives and Senior-Level management**

Opinions from this group centred on the lack of uniform recognition of qualifications, and non-transparency and inefficiency of the process. Employers' organisations urged the Commission to ensure that all Member States establish proper recognition systems and to promote transparency of these systems at EU level. Recognition needs to be facilitated through greater trust between the relevant actors in the countries of origin and countries of destination respectively.

- **International organisations, national ministries, NGOs and organisations in the countries of origin**

Respondents called for further efforts in achieving streamlined, transparent and time-efficient systems for the recognition of qualifications, also at pre-arrival stage. Procedures need to be better tailored to the needs of various sectors, and employers need to be able to foresee recognition outcomes. One respondent argued through an example that a narrow interpretation of "equivalent degree" can lead to unreasonable outcomes if the degree or profession does not currently exist in the Member State in question.

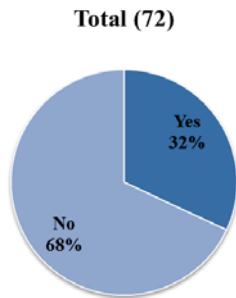
Question 31: Did you have to apply to have a worker's non-EU qualification officially recognized? If yes, how long did it take?



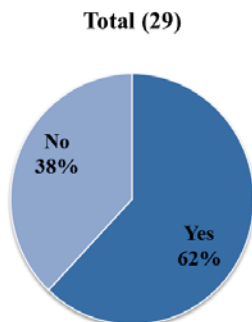
Profile 1: Employer, Employers' Association , Manager 76
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Question 32: Do you provide help/advice on the recognition of qualifications from outside the EU

Question 33: Are you employed below your qualifications in your current job?

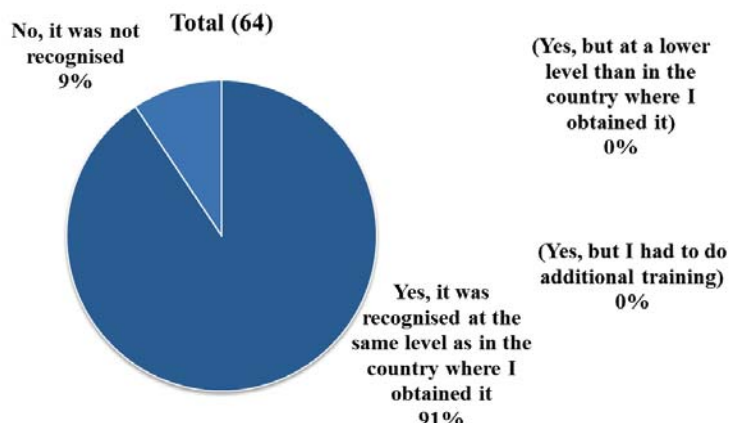


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Question 34: Was your qualification recognised in the Member State where you work?

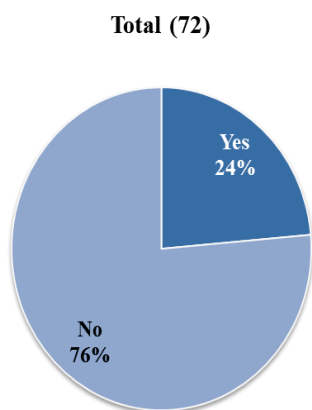


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Question 35: Was it difficult to get your non-EU qualification recognized?

Follow-up to question 35: If yes, please explain.



Profile 1: Employers, Employers' Associations, Managers, 76
Profile 2: Private/Public Employment Services, Trade Unions, 31
Profile 3: National/Regional/Local Authorities, Embassies, NGOs 52

Profile 4: Media, Academia, NGOs, IOs, Countries of Origin, Individuals 283
Profile 5: Non-EU migrant workers residing inside the EU 76
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▪ **Non-EU migrant workers and entrepreneurs currently in the EU**

Respondents repeatedly mentioned the burdensome requirements. One respondent, for instance, listed the documents that were needed to get a PhD recognised in a Member State, including translations, an apostille certificate, conventions, and notary works. Another example given by a respondent is that their certificates written in English had to be translated into the local language which further had to be equated vis-à-vis the national education system. In addition, it was mentioned that the process of having qualifications recognised takes a long time and the results are difficult to predict.

Question 36: Did you use a third party to help with the recognition of qualifications and the authorities? If yes, please explain.

- **Employers**

One employer shared a negative experience whereby national authorities had refused to recognise a diploma despite a preceding check against a recognition database and by an employment agency. Employers reported using lawyers and global service providers to help with the application process.

- **Non-EU migrant workers and entrepreneurs currently in the EU**

The following service providers were mentioned: translators, lawyers, and WES (World Education Services) in validating a non-EU certificate.

2.4. Responses to the public consultation received through position papers

2.4.1. Respondents and overview of common positions

In response to the public consultation **14 individuals and organisations** sent extensive position papers to inform the Commission of their views and make their interests known.

Contributions were received from a **wide variety of actors**: employers' trade and business associations (DKG, NASSCOM, PEARLE, USCIB), trade unions (DGB, EUROCADRES, ECA), international organisations (UNHCR), (Members of Parliament (DE), employment agencies (SAZ), regional governments (Land Baden-Wuerttemberg (DE), and Regional Land Kärnten (AT)), NGOs (EPHA) and experts' associations (SVR).

Most business organisations and trade unions reflected on the specific features and needs of the sectors they represent, suggesting ways to improve the attractiveness of the EU Blue Card for their member organisations. UNHCR reflected on the possibilities for making the EU Blue Card more accessible for refugees. All contributions mentioned the importance of internationalisation for modern companies and acknowledged their need for mobile workers. There was also a widespread agreement that labour migration policies need to become more consistent across Member States. It was also noted, however, that the price for a uniform policy cannot be an agreement reflecting the lowest common denominator.

Nearly all contributions (except ECA) called for some requirements of the EU Blue Card to be relaxed in order to make it more attractive and effective. The following suggestions emerged repeatedly:

- Including refugees in the scope of the Directive (DGB, UNHCR and the MPs).
- Waiving the requirement for educational qualifications (DGB, MPs, Pearle, SAZ).
- Lowering the salary threshold and/or changing its calculation method (DGB, DKG, MPs, Pearle).
- Improving the information available on the EU Blue Card (DGB, SAZ, SVR, USCIB).
- Enhancing intra-EU mobility (Eurocadres, Pearle, NASSCOM, USCIB).
- Introducing a job-seeker permit for highly skilled workers (MPs, SAZ).
- Waiving the requirement of a one-year work contract (Pearle, UESCIB).
- Including admission conditions for the self-employed (Pearle, SAZ).
- Harmonising schemes for the highly qualified across Member States (SVR, NASSCOM, Eurocadres, USCIB).

2.4.2. Summaries of the contributions

Ministry for the Federal Council, Europe and International Affairs of the German state of Baden-Württemberg

Baden-Württemberg is the third biggest of the German States in terms of both surface area and population size, with an area of 35,751 square kilometres supporting a population of around 10.8 million people.²³ As of May 31 2015, 3 274 Blue Card holders lived in Baden-Württemberg as well as 849 former Blue Card holders who had become permanent residents.

In light of existing labour shortages for skilled professionals without tertiary education, the ministry suggests that the EU Blue Card should be opened up to **medium-skilled** TCNs, provided they can provide proof of higher professional qualifications, in line with the national prerequisites for the position in question. In addition a certain, not clearly identified, minimal salary threshold should be observed. The current **salary thresholds are hard to reach** for young professionals, especially those employed by universities, and should therefore be reduced.

In addition, the recruitment of TCNs for professions on the national **shortage list** should be allowed independently of any salary requirements. Member States should be allowed to introduce additional criteria, such as language skills, along the lines of a **points-based system**. Both **refugees and tolerated TCNs** should be allowed to apply for the EU Blue Card. According to the German Institute for Employment Research, Sweden has successfully encouraged this kind of status change.⁴

In its 11 Welcome Centres, the state of Baden-Württemberg informs potential candidates about the EU Blue Card. In contrast, **lack of the necessary expertise** seems to obstruct the delivery of similar services through the **German representations abroad**. This is likely to be a widespread problem that could be remedied with information and advertisement campaigns.

DGB (Confederation of the German Trade Unions)

The Confederation of German Trade Unions (German: Deutscher Gewerkschaftsbund, DGB) is an umbrella organisation for eight German trade unions, in total representing more than 6 million people.⁵

General comments

In its contribution the DGB stresses the central importance of human and workers' rights as well as the fundamental principle of equal pay for equal work. It furthermore expresses that common rules need to be based on a shared and comprehensive approach towards migration, which takes account of the interests of countries of origin and destination as well as those of potential immigrants and domestic workforce in the Member States. In light of the variety of parallel national schemes for highly qualified third country nationals, the DGB sees the Blue Card Directive as only one instrument, albeit an important one, for attracting highly qualified workers.

The Blue Card: scope and admission requirements

² www.baden-wuerttemberg.de/en/our-state/the-state-and-its-people/

³ www.dgb.de/uber-uns/dgb-heute/mitgliederzahlen/2010 (accessed on: 14/01/2016)

⁴ doku.iab.de/aktuell/2015/aktueller_bericht_1508.pdf

⁵ www.dgb.de/uber-uns/dgb-heute/mitgliederzahlen/2010 (accessed on: 14/01/2016)

DGB argues that Article 3 should be amended so that some of the, **currently excluded categories of persons could obtain an EU Blue Card**, in particular beneficiaries of international protection, persons residing on a discretionary basis and third-country seasonal workers already living in the EU.

The requirement of formal **education qualifications may be a tangible obstacle for potential migrants**, especially given that the recognition procedure often has to be initiated from abroad. The alternative admission condition, namely at least 5 years of **professional experience is difficult to implement**. The DGB is generally in favour of facilitated **entry and residence for skilled workers without higher education qualifications**, but does not consider that the Blue Card Directive should be extended to cover this category.

The DGB is of the opinion that highly qualified workers should be remunerated in line with their technical qualifications and actual position in the organisation. It therefore suggested **linking the salary threshold to the average gross annual salary of the relevant qualification group**. The DGB alleges that in Germany the salary threshold lies below the reference value and that the country has made no use of the possibility mentioned in article 5(4) to enforce the application of collective agreements. This might lead to attempts by companies to pay Blue Card holders less than the customary wage of a domestic employee in a comparable position.

DGB finds that an investigation into the *practical implementation* of the rights of EU Blue Card holders such as mobility, social rights and equal treatment should be carried out. More *information* to employers and potential migrants should be disseminated to increase the number of EU Blue Cards issued.

DKG (German Hospital Association)

The ‘Deutsche Krankenhausgesellschaft e.V. (DKG)’ is a Federal Association of Hospital Operators and represents 28 member associations of hospital owners: 16 state associations and 12 national ones. It currently represents 1 996 hospitals with 1.1 million employees.⁶

DKG recognises that TCNs help to alleviate **skill shortages in the health care sector**. At the end of 2014 German hospitals employed around 28 000 foreign doctors, almost half of whom came from outside the EU. As a result of demographic changes, the shortages and thereby the demand for foreign workforce will only increase.

In these circumstances the DKG welcomes the EU Blue Card in principle, but regrets that its scope and usefulness are very much limited. Main problems are the high **salary threshold** as well as the fact that **the lower threshold for shortage occupations is applied only to ISCO major groups 1 and 2**. The DKG therefore proposes the salary requirements in the Directive to be lowered. In the DKG's view, for employment on the basis of the EU Blue Card, it would be sufficient to pay the relevant **industry-standard rate**. At least, **ISCO major group 3 (Technicians and associate professionals)** should be included as potential beneficiary of the lower salary threshold.

European Public Health Alliance (EPHA)

The European Public Health Alliance is a member-led non-profit association registered in

⁶ www.dkgev.de/dkg.php/cat/26/aid/12923/title/Mitglieder_der_DKG

Belgium, which reunites public health NGOs, patient groups, health professionals, and disease groups.⁷

The EPHA emphasises that the revision of the Blue Card Directive must not result in increased '**brain drain**' of **highly qualified health workers** from non-EU countries to the EU-28 Member States. While few Blue Cards have so far been granted to nationals of the least developed countries, even a small loss can make a huge impact where such professionals are desperately needed. Moreover, middle-income countries that are already sending large amounts of health workers may be at even higher risk of brain drain following the revision of the Directive.

To alleviate the risk of brain drain, the EPHA supports the following recommendations, which are also advanced by their partners of the HW4All project:

- Articles 3.3. and 8.4. on ethical recruitment should be maintained in any revised version of the DIR and must be transposed in national legislation across the EU;
- A health sector impact assessment should be integrated into the reporting process on numbers of Blue Cards awarded by occupation;
- Countries of origin not officially listing 'shortage professions' but which are nonetheless sending significant numbers of health workers to Europe, should be engaged in political dialogue in line with WHO Code provisions;
- For health workers, ensuring the possibility of return under satisfying conditions is an incentive to continue their careers at home (and transfer skills). A specific section on conditions of return should therefore be added to the Directive including the following: 1. portability of acquired social security rights abroad (e.g. old age, invalidity, occupational accidents, sickness, maternity and unemployment benefits); 2. reimbursement of the social security contributions which do not give rise to rights (where third country nationals have not met the qualifying conditions for acquiring social security rights, and in absence of specific agreements); 3. assistance for reintegration into the work market of origin (e.g. training, financial aid, valorising acquired competences, access to micro-credit)

With a view to the current humanitarian crisis EPHA furthermore argues for more legal migration channels, especially for TCNs who are not highly skilled. In light of the aging population in Europe, the health and care sector holds immense opportunities for migrants of all education levels.

Lastly, in order to maintain a sustainable health care system, Europe needs to invest in training health professionals and potential health workers already living here in Europe.

EUROCADRES (Council of European Professional and Managerial Staff)

The Council of European Professional and Managerial Staff is an umbrella organisation that reunites 59 national and European trade unions and represents almost 6 million professionals and managers.⁸

⁷ www.eph.org/r/163

Eurocadres highlights the importance of professional mobility and the exchange of skills for a dynamic labour market. The EU Blue Card will only be more widely used in the future if it presents clear advantages over comparable national permits. In terms of **admission conditions** certain criteria need to be upheld, in particular the requirement for professional qualifications. Regarding **salaries** complete equality with nationals and the prevention of wage dumping is crucial.

Eurocadres proposes the following three measures to increase the attractiveness of the EU Blue Card:

- fast-track entry procedures;
- availability of integration support (e.g. language courses, job orientation); and
- easy intra-EU mobility to take up employment opportunities in other Member States.

In principle, Eurocadres finds that one unified and visible **EU-wide scheme without national parallel schemes** would increase the attractiveness of the EU, add clarity and simplicity and provide easier intra-EU mobility. It would, however, be counter-productive if the abolition of national schemes would lead to further restrictions and reduction of the possibilities for highly skilled workers to migrate to the EU. Therefore, those national systems that cover workers ineligible for the EU Blue Card will inevitably have to remain in place. While the abolition of national schemes could improve matters in some Member States, in others it might result in greater administrative burden and costs.

Eurocadres would, furthermore, welcome making **the EU Blue Card scheme** more accessible to **international students** who obtained a higher education degree in the EU. If **job-seeking permits** were to be granted, the job-seekers sustenance would have to be secured in order to prevent them from falling victim to work exploitation. Expanding the EU Blue Card scheme to **entrepreneurs** could, in principle, be beneficial, given their positive impact on job creation, innovation and mobility. Yet, in the absence of a salary threshold other prerequisites would be needed to prevent social dumping.

Eurocadres further states that taking into account the enduring difficulties with the **recognition of foreign qualifications**, the most important effort needed from Member States would be to better use the qualifications frameworks to support recognition.

ECA (European Cockpit Association)

The European Cockpit Association is the representative body of European pilots at EU level. It represents over 38 000 European pilots from the national pilot associations in 37 European countries. In addition, ECA has 2 associate members from outside the European region.⁹

The ECA notes that the inherently cross-border nature of the aviation sector exposes it to particular challenges in terms of labour law, social security and choice of jurisdiction. In particular, the following two questions remain unsolved:

- When does a pilot from a third country need a work permit to enter the EU?

⁸ www.eurocadres.eu/about-us/our-member-organisations/

⁹ www.eurocockpit.be/pages/about-eca

- Under which conditions can an EU carrier hire a TCN?

The ECA argues that the sector of civil aviation is particularly exposed to **commercial practices and behaviours that are on the verge of legality**. The patchwork of national policies concerning pilots encourages ‘rule shopping’, for example regarding the most advantageous location to register an airplane.

The ECA suggests the following remedies:

- Admissions under the EU Blue Card scheme should be based on real and proven skill shortages;
- Harmonised labour markets test for the aviation sector should be conducted across the EU, instead of national tests;
- Abuse of the EU Blue Card by importing TCN workers in order to undercut the wages of domestic workers needs to be prevented.

According to the ECA, although some companies hire foreign personnel, the civil aviation sector does not suffer from shortages. Moreover, the actions of employers themselves have an effect on perceived shortages; they may e.g. be reluctant to provide training for qualified but unexperienced pilots. Admission of TCN workers should be allowed only based on genuine demand, and an EU-wide labour market test should be compulsory and enforced. When for cultural or language-related reasons companies need to employ foreign personnel, this should be possible only under strict conditions.

The ECA underlines that the same rights for EU nationals and TCNs should be guaranteed and the EU Regulations on social security rights should be enforced. Member States should keep the right not to issue residence permits for certain professions, sectors or regions. As employing foreign workers should be the result of the lack of a suitable European workforce, EU Blue Card holders should not be allowed to change employers, unless the same conditions under which they were originally admitted still apply.

Letter from Members of Parliament Volker Beck and Brigitte Pothmer (Alliance '90/The Greens, DE Bundestag)

Alliance '90/The Greens (German: Bündnis 90/Die Grünen) is a political party in Germany. In the 2013 federal elections, the party won 8,4% of the votes and 63 out of 630 seats in the Bundestag.¹⁰

The MPs demand that at least in certain employment sectors that register shortages, the EU Blue Card should be opened to qualified professionals without a higher education degree. There should be no exclusion of certain categories, and especially refugees should be able to apply. Furthermore, EU Blue Card holders should at an early stage be granted unrestricted access to the EU labour market. Lowering the salary threshold should be explored, as shortages of skilled professionals exist also in sectors in which salaries do not meet the average annual salary. The MPs find that granting job-seeker permits is also an option to be considered. In general, a comprehensive approach to labour shortages and demographic

¹⁰www.bundeswahlleiter.de/de/bundestagswahlen/BTW_BUND_13/presse/w13034_Endgueltiges_amtliches_Ergebnis.html

challenges should be adopted, including fighting youth unemployment and increasing the employment rate of women and elderly.

NASSCOM (Indian National Association of Software and Services Companies)

NASSCOM is the industry association for the information technology and business process management sector in India. It represents 1 400 companies which collectively generate 95 % of industry revenue in the country.¹¹

Many NASSCOM members operate in the EU and hire TCN workers. However, NASSCOM members do not currently apply for EU Blue Cards on a systematic basis due to, among other things, the patchy implementation of the scheme, the lack of clarity, and the difficult recognition of Indian qualifications. A harmonised set of admission rules and procedures for migration and mobility across the EU should be aimed at. Complying with national rules and procedures is often onerous, costly and time-consuming for employers, especially when hiring TCNs or when sending workers to another EU country on assignment for more than 3 months.

Pearle (Performing Arts Employers' Associations League Europe)

Pearle is the European federation representing through its members and associations about 7 000 theatres, theatre production companies, orchestras and music ensembles, opera houses, ballet and dance companies, festivals, concert halls, venues and other organisations within the performing arts and music sector across Europe.¹²

- *The mobility needs of the artistic sector*

The artistic sector is much internationalised and often employs workers from outside the EU. At the moment Pearle finds that the EU legislation neglects the needs of this sector. The logic of shortages does not apply here, as employers want to hire people with the appropriate skills and artistic portfolio. An EU labour migration policy should provide for a framework which allows a level playing field *for all sectors*, so that sectors that need to attract third-country nationals, in particular for *short-term periods* (up to one year, possibly two years) are able to employ them. The Touring visa is a step in the right direction, although it remains subject to restrictive conditions such as a stay of maximum ninety days on the territory of one Member State. With regard to *mobility*, TCN workers shall be able to perform in any EU Member State taking part in the tours planned across Europe, including the possibility to travel both inside and outside of Schengen area. An EU labour migration policy should also build further on *specific rules* that exist in different Member States, which for example exempt certain economic sectors and occupations from the economic needs test. EU legislation should also cover self-employed workers.

- *The EU Blue Card*

Pearle notes that the EU Blue Card has not been used by employers in the live performance sector. The *conditions* are too strict for the performance sector: while it is obvious that performers are highly skilled, often they do not have *tertiary education qualifications*. Often performers are young talents, so the *professional experience requirement* is not a suitable

¹¹ www.nasscom.in/vision-and-mission

¹² www.pearle.ws/en/pearle

requirement either. Yet, the years of training and scholarship could be taken into consideration, though a flexible interpretation of experience. The requirement of a one-year work contract is too long, and it should be changed into “up to a year or more”, as programmes in the theatre last maximum 9 months. Since the performers often combine or alternate self-employed and employed statuses, the Blue Card could address their needs if “work or service contacts” were included. The salary requirement is too high, and it should rather be comparable to the salary for the same job or activity in the sector concerned. It is important that Member States keep the possibility not to apply the *labour market test*, and in fact many of them have specific regulations in place for artists.

SAZ (Polish Association of Employment Agency)

The Stowarzyszenie Agencji Zatrudnienia is the biggest employers' organisation in Poland. The members of the association are agencies specialising in delivering various HR services, such as recruitment for permanent employment in Poland and abroad, personal counselling and temporary work/outsourcing. This Association has 200 offices and branches across Poland and around 7000 clients, being Polish and foreign enterprises.¹³

- *Labour migration legislation*

The SAZ argues that mobility should be fostered through the complete implementation of the Free Movement Directive 2004/38/EC. Poland is increasingly experiencing immigration flows. The present rules to guarantee equal treatment in terms of salary are sufficient for third-country nationals, whereas the situation is more problematic for posted workers. Simplified immigration procedures which grant rights gradually should be adopted. The labour migration legislation should be needs-based, and therefore not require qualifications or experience. The system to recognise foreign qualifications should be harmonised and simplified. Labour shortages should be addressed primarily by activating EU internal resources and fostering mobility.

- *The Blue Card*

The EU is already attractive for foreign workers. When the EU Blue Card is not used, as it is the case in Poland, more information should be provided to employers and workers. Job seekers and the self-employed should be included in the scope.

SVR (Expert Council of German Foundations on Integration and Migration)

The Sachverstaendigenrat Deutscher Stiftungen fuer Integration und Migration brings together migration experts from seven independent foundations: Mercator Foundation, Volkswagen Foundation, Bertelsmann Foundation, Freudenberg Foundation, Robert Bosch Foundation, Donors' Association for German Science and the Vodafone Foundation.¹⁴

According to the SVR, Germany is satisfied with the current EU Blue Card and considers that all that is needed is *better marketing*. It is recognised, however, that at EU level the EU Blue Card is less successful. One reason for this is the presence of *national parallel schemes*. The large number of different systems creates an *excess of red tape* and a *major information*

¹³ www.saz.org.pl/przylacz-sie/

¹⁴ www.svr-migration.de/sachverstaendigenrat/aufgaben-und-ziele/

barrier for the EU Blue Card. One of the key challenges for the Commission will therefore be to draw the attention of national decision-makers more effectively to the advantages of the EU Blue Card as an independent European instrument.

UNHCR

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established by the United Nations General Assembly in 1950. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country. It also has a mandate to help stateless people.

The UNHCR argues that although refugee protection and labour migration are based on different rationales, they can intersect, and the need for international protection runs parallel to the need of self-reliance. Highly qualified refugees should be included in the EU Blue Card, as well as in any EU labour migration instrument. This is because refugees need to have the same employment opportunities as other migrants. In particular, by including them in the EU Blue Card, they could benefit from information about legal migration opportunities, facilitation of contact with employers, mechanisms to recognise qualifications, better targeted skills development and the issuance of Convention Travel Documents or, where not possible, other valid travel documents. In addition, the right to family life needs to be protected.

The UNHCR stresses that the status under the EU Blue Card scheme should not be less favourable than the previous refugee status, and it should be acquired only on a voluntary basis, after an informed decision.

USCIB (United States Council for International Business)

The United States Council for International Business is a pro-trade, pro-market liberalization organization with an active membership base of some 300 multinational companies, law firms and business associations.

- *The needs of multinational companies*

According to the USCIB, Mobility of highly skilled workers is crucial for competitiveness and there is an increasing demand for it in the service sector. Companies need clear and consistent labour migration rules. The business models of all multinational companies require managers, professionals and technical specialists moving across countries, both by intra-corporate transfers of existing staff and by moving individuals employed on a contractual or project basis. Current labour migration policies impose costs and administrative burden on employers that can be sustained only by large companies. A successful skilled migration policy should be transparent and certain, simple and efficient, and consistent across multiple jurisdictions.

- *The Blue Card*

The EU Blue Card weaknesses as identified by the USCIB are (1) the impossibility to work in another Member State without applying for another EU Blue Card, (2) the requirement of a

one-year work contract, (3) the lack of implementation of the Blue Card in some Member States and (4) the presence of parallel national schemes. A consistent scheme across Member States, rising above the lowest common denominator, should be developed. A model for a more integrated EU Blue Card system could be the World Trade Organization Agreement on Trade Facilitation. This should include streamlined processing, universal protocols for the movement of workers into and within the EU, and information in a single portal.

- *Recognition of skills*

The USCIB alleges that the procedures for recognition are at the moment lengthy. The suggestions are a harmonisation of qualifications accreditation across the EU, engaging industry associations and representative bodies to develop accords for mutual recognition of accreditation bodies, and providing exemptions for certain highly skilled occupations.

3. Targeted stakeholder consultations

3.1 Member States

Between October 2015 and January 2016, a number of bilateral meetings on the Blue Card were held with certain Member States (AT, BE, DE, ES, FI, FR, IT, LU, NL, PT, SE and SK). These Member States generally had successfully implemented the Blue Card Directive or were asked to share their experiences with a relevant national scheme for highly qualified workers. In addition, a targeted consultation of Member States representatives in the Trade Policy Committee (Services and Investment) was held in October 2015 with the aim to collect data for the impact assessment, in particular on the issue of service providers.

3.2 International Organisations

Throughout the review the Commission carried out a constructive exchange with major international organisations (OECD, UNHCR, IOM). A shared research project with the OECD on the effect of different salary thresholds on various social groups has already led to many directly relevant results and will culminate in a paper scheduled for publication in spring 2015. In discussions with the UNHCR on a potential humanitarian dimension of the Blue Card Directive was highlighted the need to continue to respect the rights of refugees (including *non-refoulement*) even if a parallel labour migration track was to be established or promoted.. Additional topics touched upon the challenges that refugees can face in obtaining travel documents as well as presenting the necessary qualifications. It was suggested that waiving some admission conditions for refugees would make the scheme more accessible to them. Also non-legislative support measures such as enhanced job-matching and skills validation could be envisaged.

3.3 Business representatives and social partners

A [workshop "Towards a revised Blue Card Directive: Results of the public consultation"](#) was organised in collaboration with the Labour Market Observatory (LMO) and the Permanent Study Group on Immigration and Integration (IMI) of European Economic and Social Committee on 3 December 2015. The aim of the workshop was to obtain the views of national social partners on the use of the Blue Card in their countries and on possible improvements of the scheme.

During the workshop, the Commission informed the social partners of the review of the Blue Card as well as the results of the public consultation. This presentation was followed by a panel discussion involving a Blue Card holder, a representative of Eurocadres (view of the trade union of managerial and professional staff), and a representative of Eurochambres (view of the entrepreneurs at European and national level), and a targeted discussion with participating (national) social partners as well as current and potential Blue Card holders.

During the debate some of the following arguments and suggestions were presented and questions raised:

- How can we ensure compliance with wage norms and working conditions? Should we set up an EU-wide "social Europol", create an EU-wide database of TCN or help Member States in coordinating their efforts to monitor and fight abuses?

- Can we improve the recognition of qualifications? Can it be speeded up, can Member States draw on each other's experiences in the recognition process and in tackling false degrees?
- Why is the EU Blue Card needed at all, given that there are so few cards issued in certain Member States? Why continue with the sectorial approach on legal migration?
- How can we improve access to permanent residence, so as to provide certainty to the highly qualified worker and to improve intra-EU mobility rights?
- Some wished to see the EU Blue Card used to address needs of asylum seekers, but reactions were mixed.
- Could we envisage the creation of a pool of EU Blue Card holders, allowing employers to look for these profiles in a database?
- Can the role of social partners be strengthened, e.g. when assessing and recognising foreign qualifications.

On 5 November 2015 a meeting with major German employers' organisations organized in cooperation with the BDA/BDI helped to further clarify and substantiate the position of multinational companies as well as SMEs. The following organisations were present, shared their experiences with the recruitment of (highly qualified) third country nationals and provided input for the Impact Assessment: German Retail Federation (HDE), The German Confederation of Skilled Crafts (ZDH), Federation of German Employers' Associations in the Metal and Electrical Engineering Industries (Gesamtmetall), German construction industry (Bauindustrie), Bavarian industry Association (VBW), and Confederation of German Employers' Associations (BDA).

3.4 Expert consultations

3.4.1 Commission Expert Group on Economic Migration (EGEM)

In early 2015, a Commission *Expert Group on Economic Migration* (EGEM)¹⁵ was established to provide expertise on a range of issues related to economic migration with a view to contribute to the elaboration of a new European policy on legal migration and a review of the Blue Card Directive. The EGEM is chaired by DG HOME but other DGs (EAC, ECFIN, EMPL, GROW, RTD) also follow its activities closely.

After a public call for interest, launched on 21 January 2015 and open until 20 February 2015, 21 members were withheld. Members of the expert group might represent common or specific interests (migrants, business or public interest, specific economic sectors such as health care, IT, international recruitment advisers or agencies), as well as European level interest groups such as trade unions, employers' organisations, academic institutions, small and medium-sized enterprises and international organisations. The members are either individual experts appointed in their personal capacity, individuals appointed to represent a common interest shared by stakeholders in a particular policy area, or various organisations including companies, associations, non-governmental organisations, trade unions, universities, research institutes, EU agencies, EU and international organisations.

Concretely, the EGEM consist of 21 members of which **4 experts in a personal capacity and 17 organisations representing academics** (Migration Observatory Oxford, MPC, FIERI, MPI, OECD), recruitment and immigration law practitioners (FRAGOMEN, MIGREAT) representatives of large employers (BDA, BUSINESSSEUROPE, Council for Global

¹⁵ Register of Commission Expert Groups: [Expert Group Economic Migration \(E03253\)](#)

Immigration, TABC, EESC) and SMEs (UEAPME, EESC), trade unions (ETUC, ITUC, EESC) and migrants' organisations (European Network of Migrant Women).

More information on the selection procedure, the members, the mission and tasks, the meeting agendas, discussion papers and meeting reports as well as written contributions by the members are [publically available](#) on the Register of Commission Expert Groups.

During the **first meeting** on 25 March 2015, the experts discussed ways to "better manage Labour Migration at EU level". The main subject for discussion was the review of the EU Blue Card. A [summary of the meeting](#) is available online.

The **second meeting** on 7 December 2015 was focused on the "Policy options for a revised Blue Card". A summary of the meeting will also be made available online shortly.

Summary of the second meeting of the Expert group on economic migration (7 December 2015)

Participants:

Experts: Sverker Rudeberg (BUSINESSEUROPE), José Manuel Olivar (UEAPME), Séverine Féraud (BDA), Iván Martín (MPC), Paul Adamson (TABC), Christine Nanlohy (ENoMW), Lynn Shotwell (CFGI), Marco Cilento (ETUC), Josephine Goube (MIGREAT), Kornelia Lienhart (EUROCHAMBRES)¹, Jonathan Chaloff (OECD), Jo Antoons and Andrea De Bie (FRAGOMEN), Maria Vincenza Desiderio (MPI), Zuzanna Muskat-Gorska (ITUC), Madeleine Sumption (The Migration Observatory), Matthias Mayer (Bertelsmann Foundation)

LIBE Secretariat of the EP (Rosa Raffaelli), **Secretariat of the EESC** (Iriní Pári), **ICF Consulting Services** (Nick Bozeat and Martina Belmonte), and the **European Commission** (HOME B1)

Introduction

The central objective of the second EGEM meeting on 7 December 2015 was to discuss selected policy options relevant for the upcoming Impact Assessment report related to the review of the Blue Card Directive¹⁶. The options are presented in the discussion paper (N^o 3) distributed to EGEM members by COM ahead of the meeting to serve as a basis for the assessment of feasibility and impacts of the different options.

The meeting was divided in five thematic blocks, the first two of which were devoted to admission conditions (qualifications and salary threshold), role of the private sector, labour market tests and labour market access. The three remaining rounds of discussions centred on the intra-EU mobility rights of EU Blue Card (BC) holders, access to the BC for asylum seekers and beneficiaries of international protection, and non-legislative measures to promote the BC.

Block 1: Admission conditions - qualifications and salary threshold

¹⁶ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0050&from=EN>

Views varied widely on the fundamental question whether the **admission conditions** should be further tightened, upheld as they stand, or liberalised. Experts were divided between those who argued that the BC should remain first and foremost a selective instrument for a small coveted and privileged group of the very highly skilled, and others who advocated for more flexible admission conditions in order to respond more effectively to existing labour market needs and employment opportunities. Some encouraged the extension of the scope to the medium-skilled, given that this category might reasonably be expected to be of particular importance to SMEs. Alternatively, it was suggested to waive certain conditions for shortage sectors, where both high and medium skilled workforce may be needed.

It was agreed that there is a probable trade-off between the inclusiveness of the BC scheme and the rights granted to BC holders. Several experts underscored the importance of intra-EU mobility as a central benefit of the BC, and cautioned that more lenient admission conditions might jeopardise the political attainability of increased mobility. One participant suggested that these conflicting objectives could be rendered compatible through a two-tier system with different admission conditions and granting differentiated rights.

As a quantitative backdrop to the debate was heard a **presentation by Jonathan Chaloff (OECD)**, featuring his quantitative analysis on the exclusionary effects of different **salary thresholds**. The data suggested that the current BC salary threshold has widely varying effects in different MS, and in some countries it would seem necessary to be able to set a lower threshold than the current 1.5 times the average salary. However, there are also many MS where the current threshold is not extremely exclusive when compared to the average income of domestic workforce by education levels. Furthermore, there was no clear correlation identifiable between the inclusiveness of the salary threshold in a given MS and the number of issued BCs.

A number of experts upheld the salary threshold as the most adequate proxy for skills, arguing that a selection based on qualifications alone would increase the likelihood of fraud, and that the salary represents a precise reflection of the employer's skills assessment. Others pointed out the problems associated with a salary threshold - especially for employers - and argued that there is no need to set requirements at EU level. A particular issue is that in some sectors and for third country nationals in particular, the non-monetary or non-taxable benefits make up a large share of the material compensation, which is a concept not easily compatible with a salary threshold.

Some participants called for the salary threshold to be abolished completely, while others thought it would be enough to lower it, but they all agreed that it represents an important obstacle for SMEs to hire highly skilled workers. In addition, many spoke out in support of Jonathan Chaloff's findings on the uneven effect of the harmonised multiplier, arguing that salary thresholds should largely be a matter of domestic policy; MS authorities (in cooperation with social partners) are best equipped to adapt to the different features of their labour markets. It was proposed that instead of a threshold, only a minimum safeguard concerning salaries should be included in the Directive. One expert recalled that, independent of the salary requirements for admission, the right to equal treatment with national workers remains a fundamental principle.

Next, the idea of differentiated thresholds by sector was discussed and also embraced by some, as the rudimentary nature of the current threshold was seen as a problem. Others warned that differentiated thresholds by sector would unduly overcomplicate matters, especially in countries where collective agreements and negotiations between social partners

play an important role in the determination of wage levels.

It was generally agreed that the **recognition of qualifications** needs to be streamlined, either through EU level mechanisms or closer cooperation between Member States, but that the requirement to prove higher educational qualifications should be maintained. One expert pointed out that the requirement for *any* type of tertiary degree is too general, suggesting that particular disciplines should be targeted more specifically.

When it comes to ensuring fair competition between large and small enterprises for international recruitment, experts recognised that the condition of a **contract or a binding job offer** imposes large costs on employers and therefore represents a significant disadvantage for SMEs. This problem could be solved through an '**expression of interest system**' or a pool of candidates whose qualifications have been recognized in advance. TCNs who respond to a particular labour market need should be allowed to enter, even without a pre-existing job offer.

Finally, it was emphasized that relevant **professional experience** should be better identified and recognised, and potentially imposed on MS to accept as alternative to education certificates. It was suggested that the period of professional experience required (now five years) should be the same as the time it takes to acquire the minimum educational qualification, namely a Bachelor's degree, that is to say it should not be longer than three years.

Linked to the discussion on admission conditions, there were inquiries as to the **numerical target** of permits to be issued under the revised BC scheme. COM indicated that any substantial increase from the current low numbers would be seen as positive, but setting any specific target would be difficult. The objective for the BC review is twofold: to attract higher numbers of workers, but without watering down the status of the BC as a prioritised scheme. In addition, the results depend largely on issues outside the sphere of migration policy, such as economic situation in MS. On this point, one participant speculated that 100 000 to 200 000 BCs issued per annum could be a realistic target, seeing how successfully some smaller countries already attract highly skilled workers.

Block 2: Role of the private sector, labour market tests and labour market access

Many experts, especially but not only those representing businesses, expressed support for a **greater involvement by employers or other private sector entities in the admission procedures**, voicing their hope that this would increase the efficiency and predictability of the process. It was reminded by many that the system needs to be attractive for employers, because often they are the ones who make the choice of applying for a BC – instead of another permit.

Yet, many also urged some caution, warning that a mandatory **sponsorship system**, or one that would introduce any form of differentiation in terms of admission conditions (e.g. exemption from the official check of qualifications), would grant a potentially distorting monopoly position to a group of agencies and employers. In addition, such a system would favour larger enterprises. According to one expert, one could level the ground for SMEs by complementing such a trusted employers system with a system of trusted intermediary agencies.

Further to the same question, one expert expressed his concern that a mandatory employer

sponsorship system would hamper the application of the Directive and would adversely affect the objective of facilitating access, because MS could use the system to create additional obstacles. Even if MS were to act in good faith, the system might still complicate matters unnecessarily. A complementary, optional sponsorship system with fast track procedures is something that MS could in theory already apply today, and the fact that no such systems exist for the BC suggests that no real need for them exists. In any case, if the general BC scheme works well, there is not supposed to be much room for trusted employer systems.

The experts largely agreed that **labour market tests** (for the highly skilled) are a political device that are often driven by local, short-term objectives and have questionable effectiveness. They have a definite negative impact in terms of administrative burden. Based on this observation some concluded that they should ideally be abolished. Given that this approach might be politically challenging, a compromise option was espoused by many, according to which the application of labour market tests to BC applicants should at least be aligned with existing national schemes for highly qualified workers, or only be permissible under exceptional circumstances. Alternatively, national public employment agencies could be given a timeframe (10 days to 2 weeks) to veto an application before it would automatically count as granted. The example of Sweden, where the EU preference test can be fulfilled simply by putting the job advertisement on EURES for a short period of time, was presented as an alternative third model.

In opposition to this negative assessment of labour market tests, two experts argued that they function as an important safeguard for the Member States who should be free to apply them in accordance with their domestic needs. Labour market tests also help in identifying shortages. This viewpoint was backed by a third intervention, which argued that while the test is an administrative hurdle, this might be a goal in itself: applying the labour market test discourages the employment of TCN workers thus inducing employers to favour domestic workers. Therefore, even if the rejection rate was zero, the labour market test would still fulfil its purpose and employers would have to be transparent about the jobs they offer. Overall, it was concluded that the (perceived) need for labour market tests will depend on the revised target group of the BC. Experts also repeatedly stated that the issuance of the first BC could be treated differently from subsequent entries into other MS.

The option that BC holders could be explicitly allowed to pursue an **entrepreneurial activity in parallel to their primary employment** was enthusiastically welcomed. This would not only increase the attractiveness of the BC to (potential) migrants, but should also be relatively uncontroversial, seeing that entrepreneurial activities generate tax revenues and jobs. In addition, having an explicit provision on the issue would abolish the current grey area and diverging practices across MS. As a safeguard against using the BC as a stepping stone, access to self-employment could be restricted for an initial period.

Further to the question of **labour market access**, many experts advocated for a general liberalisation, allowing BC holders greater flexibility in their choice of employer. Immigration policies should not serve as retention tools, which can be more appropriately provided through in-house practices or tax incentives.

Block 3: Intra-EU mobility

BC is meant to provide a distinctly attractive scheme for a group of migrants who are likely to have a long term positive effect on the EU economy – and who also tend to have a wider range of professional options than lower skilled workers. In this context, experts agreed on the

importance of mobility as a central benefit of the BC and advocated for a significant reduction of barriers to mobility. It is often argued that enhanced mobility is not positive for smaller MS which may end up losing talent they have managed to attract in favour of bigger MS with more opportunities. On the other hand, with a high-mobility BC also smaller MS could potentially attract highly skilled workers well above the numbers that they would be receiving under a purely national scheme – either for a shorter or a longer period.

In terms of concrete conditions for mobility it was suggested that the second MS makes use of the information already available about the individual, particularly regarding their skills and employability. Consequently, only country-specific conditions, such as qualifications for regulated professions and the salary threshold should be maintained, while genuinely comparable factors should not again be checked. In particular, no labour market test should be applied in mobility situations, given that the worker is already part of the common labour market.

Experts had varied views on the need or not to differentiate between **long-term and short-term mobility**. Generally, the business representatives emphasized the need to regulate short-term business trips and the temporary mobility of employees within the same company; these were seen as existing areas of uncertainty for the employers. Some form of notification was suggested for short-term mobility, even if it was agreed that it could lead to procedural complexity. There were some who favoured having the intra-corporate transferee¹⁷ mobility scheme also for the BC, even though the target group there is different. On the other hand, it was argued that while *employers* already have the possibility to move their workers around, the central idea of the BC should be to give individual *employees* mobility options allowing them to pursue professional opportunities across Member States.

Returning to the seemingly unavoidable **trade-off between mobility and admission conditions**, the experts agreed that as precondition for increased mobility the admission conditions would have to be sufficiently stringent. If the salary threshold was so exclusive that only top talent would be admitted, there would be no major obstacles to giving them extensive mobility rights. In contrast, it would be tricky to increase mobility while simultaneously extending the personal scope. It was suggested that the distinction between short-term and long-term mobility could help to address as many situations as possible.

Block 4: Humanitarian link of the EU Blue Card scheme

It was widely agreed that any inclusion of asylum seekers or beneficiaries of international protection in the BC scheme would not be likely to lead to high numbers of permits issued. In addition, several experts reminded that the asylum system should in no way be seen as a solution to the demographic problems faced by the EU, as international protection has to be granted to those who qualify independently of these contextual reasons. A certain separation of the labour migration and international protection track should therefore be maintained. It was also concluded that the situation of asylum seekers is different from those who have already been granted a protection status.

The inclusion of **beneficiaries of international protection** in the BC was seen as a relatively uncontroversial option, and there were no major objections voiced. However, the added value

¹⁷ Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0066&from=EN>

was not seen as very evident, as the protection status already brings extensive rights including full labour market access. Experts agreed that the obtained BC should not in any case lead to the loss of protection status. It was suggested that a parallel BC status could help refugees avoid stigmatisation and thereby enhance their labour market integration.

In the case of **asylum seekers** the issue was identified as more complicated and controversial. Arguing for the inclusion, some mainly business representatives stated it is currently risky for employers to hire asylum seekers, as the latter can be forced to leave the country should the asylum claim prove unsuccessful. Employers tend to favour early labour market access for asylum seekers, and the possibility to apply for a BC would complement this right, even if only for a limited group. Trade unions reminded that asylum seekers could be at risk of falling victim to abuse and inferior working conditions and therefore, if a BC was to be issued, it would have to provide all the same rights as any BC. The potential pull factor created by giving access to asylum seekers was acknowledged, but it was also argued that the selective nature of the BC would make the risk limited. However, it was pointed out by one expert that opening the BC to asylum seekers would bring pressure to give them access to other residence permits as well, which would not necessarily be advisable. One expert also pointed out that if **rejected asylum seekers** were given access to the BC, also any other categories of (regular or irregular) migrants should get this right.

Block 5: Non-legislative measures to increase the attractiveness of the EU Blue Card

Some experts found that central stakeholders – especially employers – lack adequate knowledge of the BC scheme, and even the EURES portal is not so widely known. In principle, the idea to better **promote** the BC, for instance at European and MS representations outside of the EU as well as university campuses, was widely supported. Yet, some experts warned that it could be counterproductive to advertise the BC without being able to offer concrete opportunities in terms of job offers or permits, or even to present a united EU front in attracting the highly skilled. It was also argued that the EU and MS should focus on things private entities cannot cover, such as implementation guidelines and cooperation between authorities, actions which fall under **support** rather than promotion.

In addition, it was indicated that it is important to focus future efforts on **employers** to improve not only their knowledge of the BC but also job matching, and to provide concrete support especially to SMEs. In particular, a European support system for the recognition of qualifications was seen as potentially helpful. If one wanted to be more ambitious one could consider creating a pool of highly skilled migrants who have been pre-selected as potential applicants for a BC.

3.4.2. European Migration Network's Sub-Group on Skilled Migrants (SMEG)

On 13 November 2015, a first meeting of the new EMN Skilled Migrants Expert Group took place with experts from Member States for a technical discussion on issues related to the Blue Card, the national parallel schemes for highly skilled workers and their interaction. The two main topics discussed during the first meeting were (1) Reasons for high/low numbers of EU Blue Cards vs. national schemes in Member States; (2) What could be done from MS perspective to improve the EU Blue Card scheme.

3.4.3 Topical Expert Groups

On 20 May 2015 RTD hosted an expert meeting on a support scheme for innovative entrepreneurs in cooperation with HOME. JRC and REGIO held a meeting on the regional aspects of the Blue Card directive on 13 November 2015, in cooperation with HOME.

3.4.4 Additional expert and stakeholder consultation activities by external contractor

Activities undertaken by the external contractor in preparation of their Interim Report to complement the information gathering already conducted by the Commission:

<i>Activity undertaken</i>	<i>Progress and results</i>
Expert Groups and Meetings	
(1) Expert workshops of ICF expert group	An expert group of 11 experts was set up for the purpose of ICF's study. Two whole-day expert workshops were organised on the 29 th October and on 1 st December 2015. During the first meeting the experts were asked to comment on the advantages and disadvantages of different options for potential improvements to the EU Blue Card. At the second meeting the discussion focussed on the merits and potential impacts of changes to admission procedures and the rights of Blue Card holders that had been organised into specific policy options.
Focussed stakeholder consultations	
(1) National authorities	National authorities in six selected Member States have been contacted and invited for interviews.
(2) EU level Employer organisations	A total number of 14 employer organisations at EU level at EU level were selected and contacted for interviews.
(3) Employer organisations at national level	A total number of 19 employer organisations at national level were selected on the basis of sectors where labour shortages were experienced as well as national umbrella organisations.
(4) Trade unions at EU level	A total number of 3 trade unions at EU level were selected and contacted for interviews.
(5) Organisations in sending countries	Seven countries were selected based on a combination of statistical sources and covering different regions: India, China, Philippines, Iran, Ukraine, Brazil and Egypt. A total number of 22 organisations in the seven countries were selected.