



# **Legal Migration Fitness Check**

## **Contextual analysis : Literature review**

*Annex 1A*

Written by ICF Consulting Services  
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## 1 Introduction

The aim of this Synthesis report is to establish the knowledge base in the area of legal migration through a comprehensive review and stock-taking of existing sources at EU, national and international level. The Synthesis Report is intended to support the other outcomes under Task I (Outcome IB - the contextual overview, Outcome IC - intervention logics, and Outcome 1D - gap analysis) as well as Task II-the practical application of the Directives, and Task IV-evaluation of the functioning of the Directives.

The method used to compile the literature review involved three main steps. Firstly, a system for classifying the data was developed corresponding to the analytical categories of interest. Secondly, a comprehensive process of collecting and organising sources and information was carried out. The information was then reviewed by running 'queries' in NVivo on the basis of the above mentioned categorisation of sources.

The Synthesis Report is structured in three main sections, each covering the analytical categories of interest in the contextual analysis (Task I), the implementation study (Task II) and the evaluation (Task IV). In each section, the report provides a quantitative and qualitative overview of the volume and type of information available (geographical scope, type of source, main aspects covered, and main information gaps).

## 2 Contextual analysis (Task I)

### 2.1 Rationale for an EU legal migration policy

**Number of sources identified:** 101 at EU/international level, 44 at national level.

**Type of sources:** A majority of the sources consulted at EU/international level are academic books and articles (63). A smaller but still substantial number of sources are EU policy documents, including conclusions of Council meetings, Commission communications, proposals for Directives, reports by different European Parliament Committees, and reports by the European Economic and Social Committee (35). A smaller number of sources are think tank reports (3). At national level, the majority of sources consulted are academic articles (17) and books (15). Policy reports (4) and national legislation were also reviewed (3).

**Geographical scope:** All of the EU/international sources identified on this topic focus on EU wide developments. At national level, sources examining the rationale for an EU legal migration policy were identified in 13 countries: AT (9), BE (2), BG (1), DE (1), ES (1), FI (3), FR (2) HU (2), IT (12), MT (1), PL (1), PT (3), RO (3), SI (3).

**Main aspects examined at EU/international level:** Most of the EU policy documents focus on the rationale for the adoption of individual Directives; the emphasis that is presented varies somewhat by Directive, with the early proposals for Directives focusing more on the need to safeguard the rights of third-country nationals and promote integration; and the (later) proposals for labour migration Directives giving at least equal importance to economic, demographic and development considerations.<sup>1</sup> With the adoption of the 2020 Strategy in 2009, arguments based on the rise of a knowledge economy and the need to attract talent, advanced by the

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<sup>1</sup> See, for example, Proposal for a Council Directive on the right to family reunification, COM/99/0638 final - CNS 99/0258, Brussels, 1.12.199, Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, COM/2001/0127 final - CNS 2001/0074, Brussels, 13.03.2001, Proposal for a Council Directive on the conditions of entry and residence of third country nationals for the purposes of studies, vocational training or voluntary service, COM/2002/0548 final - CNS 2002/0242, Brussels, 7.10.2002, Communication from the Commission to the Council and the European Parliament on the presentation of a proposal for a directive and two proposals for recommendations on the admission of third-country nationals to carry out scientific research in the European Community, COM/2004/0178 final, Brussels, 16.3.2004.

European Commission in particular, became more important.<sup>2</sup> There is a particularly large volume of literature focusing on the political and economic rationale for and against the EU Blue Card Directive.<sup>3</sup> While much less substantial in volume, there is also literature mapping the economic, political and human rights rationale for and against the proposals for the other Directives – however, there is less academic literature on these other Directives so insights depend more on EU policy documents, including some EMN reports.<sup>4</sup>

The development rationale (i.e. the extent to which the EU's legal migration policy contributes or detracts from the EU's external policy priorities, in particular development cooperation), has become an important theme in EU policy documents and it is also extensively covered in the academic literature.<sup>5</sup> The extent to which the Directives facilitate the EU's development goals and priorities has therefore also become a rationale used by the proponents but also those opposed to certain provisions in the Directives (e.g. in relation to the Blue Card Directive and its potential contribution to brain drain). The think-tank literature (in particular by CEPS) has tended to focus on the inconsistency between the officially presented rationale (e.g. at the Tampere Council meeting) and the final text of the adopted Directives – which have tended to significantly lower the standards presented by the Commission in its original proposals.<sup>6</sup> The academic literature focuses attention on the tension between the security concerns of Member States (who tend to emphasise control measures) and the human rights concerns of the Commission and European Parliament.<sup>7</sup>

**Main aspects examined at national level:** The national literature provided concerns general overviews and analyses of EU and national migration laws and policies, either from an objective historical perspective or from the official standpoint of the authorities of the country in question, with a focus on the *communautarisation* of national immigration policies. Several articles were identified with a specific focus on the rationale for the EU Blue Card Directive.

**Gaps identified:** There is extensive secondary literature on the rationale for an EU legal migration policy and for the adoption of individual Directives – with a particular focus on the EU Blue Card Directive in both the international and national literature. There is also useful primary literature on the rationale of the EU legal migration acquis as presented in official communications by the Commission. The reasons for the European Parliament's opinions on the Commission's proposals for Directives are also readily available.

The main gap concerns the rationale for the positions taken by individual Member

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<sup>2</sup> Menz, G. Framing the matter differently: the political dynamics of European Union labour migration policymaking, *Cambridge Review of International Affairs*, Vol. 28, No. 4.

<sup>3</sup> See for example, Fridriksdottir, B. 'Negotiations on the Blue Card Directive in the Working Party on Migration and Expulsion', in Grutters, C. and T. Strik (eds). *The Blue Card Directive: Central themes, problem issues and implementation in Selected Member States*. Wolf Legal Publishers, Netherlands, 2013; Cerna, L. *The EU Blue Card - preferences, policies, and negotiations*, 2013; Gumus, Y.K. EU Blue Card Scheme: the right step in the right direction? *European Journal of Migration Law*, v 12 (2010); Sidonie, P. *The Blue Card Directive: Probing the Limits of EU Immigration Policy*, UACES 44th Annual Conference Cork, 1-3 September 2014.

<sup>4</sup> See for example EMN study on Immigration of International Students (2012) for insights into the rationale behind the adoption of the Directive on students. The reviews of EU migration law produced by Steve Peers are very useful in this respect, covering most of the Directives. See for example Peers, S. *EU Justice and Home Affairs Law*, Oxford University Press, 2011.

<sup>5</sup> See for example Communication from the Commission, *The Global Approach to Migration and Mobility*, COM(2011) 743 final, 18 November 2011. See also sections on the 'risks of brain drain' in this literature review.

<sup>6</sup> See for example Carrera, S. et al, *Labour Immigration Policy in the EU: A Renewed Agenda for Europe 2020*, CEPS Policy Brief, No. 240, 5 April 2011

<sup>7</sup> Geddes, A. *Immigration and European Integration: Beyond Fortress Europe?* (2nd edition), Manchester University Press, 2008.

States during the Council meetings as the discussions which took place are not publicly available.

## 2.2 Historical evolution of the legal migration Directives

**Number of sources identified:** 101 at EU/international level (these sources are the same as those consulted for the rationale for an EU legal migration policy) and at 28 national level.

**Type of sources:** At EU/international level, a majority of the sources consulted are academic publications and articles (63). A smaller but still substantial number of sources are EU policy documents, including conclusions of Council meetings, Commission communications, proposals for Directives, reports by different European Parliament Committees, and reports by the European Economic and Social Committee (35). A smaller number of sources are think tank reports (3). At national level, policy reports (8) are consulted most often, followed by academic articles (7) and books (6). Reports written for the European Migration Network also comprise some of the sources used at national level (4).

**Geographical scope:** EU/international level and national level sources were identified. At national level, sources examining this topic were identified in 12 Member States: BE (3), BG (1), CY (1) CZ (1), DE (1), EL (2), ES (2) HR (2), IT (1), PT (2), RO (2), SE (2), SI (8).

**Main aspects examined at EU/international level:** The literature covering the historical evolution of the EU legal migration Directives provides useful insights into the contextual background at the time of the adoption of each of the legal migration Directives.<sup>8</sup> Among the contextual factors highlighted in the literature are the steps taken to establish an internal market during the 1980s and 1990s, the growing importance attached to human rights considerations in the 1990s, especially in the context of the wars in the Balkans which led to significant flows of refugees into several Member States, and globalisation and the changing structure of European labour markets, which led to growing appreciation of the need to attract (highly qualified) migrant labour in order to address skills mismatches in European labour markets (see literature under the section on push and pull factors within this literature review).

There is a significant volume of literature analysing the Commission's 2001 proposal for an overarching Directive on the entry and stay of third-country nationals for reasons of employment and self-employment, and the rejection of this approach in favour of the 'sectoral' approach that is currently in place.<sup>9</sup> This literature likewise describes the gradual incorporation of the different categories of third-country nationals within the EU's evolving migration acquis, beginning with family members, long-term residents, students and researchers, and then moving on to certain categories of labour migrants, the highly qualified, seasonal workers and intra-corporate transferees. However, there is a noticeable imbalance in the literature on the development of the EU legal migration acquis, whereby the majority of academic sources focus on the development of the EU Blue Card Directive,<sup>10</sup> and less attention is given by academic sources to the other Directives. After the EU Blue Card Directive, the Directive that appears to have received most attention in the academic literature

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<sup>8</sup> See in particular Papagianni, G. *Institutional and Policy Dynamics of EU Migration Law*, Martinus Nijhoff Publishers 2006; Azoulay, L. and de Vries, K. (ed.), 2014, *EU Migration Law: Legal Complexities and Political Rationales*, Oxford University Press.

<sup>9</sup> See for example Carrera et al, *Labour Immigration Policy in the EU: A Renewed Agenda for Europe 2020*, CEPS Policy Brief, No. 240, 5 April 2011; Peers, S. *EU Justice and Home Affairs Law*, Oxford University Press, 2011.

<sup>9</sup> Geddes, A. 2008 *Op cit*

<sup>10</sup> See for example Hailbronner and Schmidt (2009), Cerna (2010, 2011, 2012, 2013), Paris Sidonie (2014).



is the Family Reunification Directive.<sup>11</sup> There is also a recently published volume of contributions on the Single Permit.<sup>12</sup> The analyses of specific Directives included in the volumes published by Steve Peers on EU migration and asylum law are also a noticeable exception.<sup>13</sup> For additional information on the evolution of the other Directives, the study team relied primarily on EU policy reports, including EMN Annual Policy Reports, Directive-specific implementation reports, Commission proposals for Directives as well as EMN studies which include sections on the evolution of relevant aspects of the EU legal migration acquis, but focus primarily on national policy developments.<sup>14</sup>

**Main aspects covered in national literature** are the overall development of the EU labour migration policy (BE, CZ, CY, EL, HU, PT, SE), although several of the sources cover only the early period (pre-2008). One source was identified with a focus on the interaction between the evolution of the EU legal migration acquis and EU citizenship policy (in particular the right to free movement of workers) (SE). Another source looked in particular at the impact of the 2008 economic crisis on the evolution of the EU legal migration acquis (ES). The evolution of EU policy on the integration of TCN is also addressed (EL, SI). Finally, two sources were identified focusing on the historical development of the Single Permit Directive (ES, NL) and Family Reunification Directive (FR, NL) in particular.

**Gaps identified:** The adoption of the various EU legal migration Directives is examined at EU, international and national level in a variety of sources. However, the most in-depth analyses focus on the negotiations which led to the adoption of the EU Blue Card Directive. There are much fewer Directive-specific analyses of the other Directives, although some notable exceptions exist in regards to the Family Reunification Directive and the Single Permit Directive. There is also a gap in the literature as regards comparative analyses of the provisions of the EU legal migration Directives i.e. few attempts have been made to analyse the similarities, gaps and inconsistencies in the applicable provisions across the different Directives.<sup>15</sup>

## 2.3 Statistics on migration

The following subsections identify the statistics available at EU, international and national level to describe the migration flows and the stock for categories of TCN covered by the legal migration Directives for the study's reference period (1999-2016). Migration flows refer to new permits issued each year, whereas stocks refer to the numbers of TCN holding a permit at a particular date.

**Number and type of sources identified:** At EU/international level, 26 sources were consulted, the majority of which were academic articles (14) followed by EU policy documents such as EMN studies. Further sources include data from Eurostat, OECD, and the UN Population Division. At national level, 83 sources of statistics on legal migration were identified (in addition to the statistics transmitted to Eurostat). The sources most commonly consulted were (statistical) reports (43), followed by books

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<sup>11</sup> See for example Groendijk, K. c.s., "The Family Reunification Directive in EU Member States: the first year of implementation", CMR, Nijmegen: Wolf Legal Publishers, 2007; and Strik, T, De Hart, B., Nissen, E., "Family Reunification: a barrier or facilitator of integration? A comparative study" Nijmegen: Wolf Legal Publishers, Research funded by the European Commission, 2013.

<sup>12</sup> Minderhoud, P. and T. Strik, *The Single Permit: Central Themes and Problem Issues*, Legal Publishers.

<sup>13</sup> See for example Peers, S. and N. Rogers, *Migration and Asylum Law: Text and Commentary*, 2006; and Steve Peers, *EU Justice and Home Affairs Law: Volume I: EU Immigration and Asylum Law*, Fourth Edition 2011.

<sup>14</sup> See for example, EMN Study on the Intra EU mobility of Third Country Nationals (2013). The full list of EMN studies consulted is included in the collection of Literature.

<sup>15</sup> Papagianni, G. (2006) *Op cit*; Fridriksdottir, B., 2013 *Op cit*; Potisepp, A. The Negotiations, in Minderhoud, P. and T. Strik, *The single Permit: Central Themes and Problem Issues*, Legal Publishers, NL, 2015.

(14) and other official websites (13). Academic articles and policy reports are less commonly cited.

**Geographical scope:** The international and EU sources contain comparative data covering all or many of the 25 MS covered by the Directives. At national level, the sources consulted include additional statistics in 22 Member States covered by the study: AT (3), BE (3), BG (1), DE (1), EE (5), EL (5), ES (3), FI (5), FR (8), HR (1), HU (5), IT (27), LU (2), MT (10), NL (1), PL (2), PT (5), RO (7), SE (2), SI (3).

### 2.3.1 Migration flows (1999-2016)

Eurostat provides comparable data on the inflow of third-country nationals into EU Member States from 2008 onwards, based on the number of first permits issued per year. This data is available for all valid permits including the Single Permit and long-term residence permits issued under the EU Long-Term Residence Directive and under national law. Eurostat also has data on key characteristics of these permits (reason and length of validity) and on key characteristics of the third-country nationals receiving the permits (age group, sex, country of origin, citizenship). The data on first permits issued are disaggregated into four overarching 'reasons': family, education, remunerated activities and 'other reasons'.

The Eurostat data available on permits issued for family reasons are in turn disaggregated into permits issued to (i) third-country nationals who are joining a third-country national (which is the main category of family migrants relevant for the study); and (ii) permits (or permissions to stay) issued to third-country nationals who are joining an EU citizen. However, the second group includes two sub-categories which are not disaggregated: third-country nationals who join family members who are mobile EU citizens i.e. who move to or reside in a Member State other than that of which they are a national (and thus fall under the EU's free movement *acquis*) and third-country nationals who join family members who are EU citizens residing in their own country of citizenship (in this case, national law applies). The non-disaggregation of Eurostat data on third-country nationals joining EU citizens represents a gap in the available information on family migration, and makes it difficult to measure the scale of persons affected by the lack of EU competences over the family reunification of third-country national joining 'static' EU citizens.

Eurostat data available on permits issued for education reasons is disaggregated into two groups: permits issued to third-country nationals accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study; and permits issued for 'other education reasons'. The latter include permits issued to third-country national unremunerated trainees, volunteers and school pupils i.e. third-country nationals admitted to the territory of a Member State to follow a recognised programme of secondary education in the context of an exchange scheme.

Eurostat data available on permits issued for remunerated activities are disaggregated into five groups: seasonal workers, highly skilled workers, researchers, EU Blue Card holders and 'others'. The category 'others' covers: first residence permits issued to persons granted authorisation to work not covered by the other categories, including both employed and self-employed persons, remunerated trainees, and remunerated au-pairs. The category of Highly Skilled Workers refers to third-country nationals who receive their first residence permit as a result of Member States' national programmes to facilitate the admission of highly-skilled workers. However, this data is concentrated in a few Member States (those who have national schemes to facilitate the admission of highly-skilled workers) while in other Member States highly skilled third-country nationals may be mixed with residence permits issued for the purpose of 'other remunerated activities' and cannot be singled out.

The data on first permits issued for 'other reasons' consists of residence permits issued for reasons of international protection status, refugee status and subsidiary

protection, humanitarian reasons, residence only, unaccompanied minors and victims of trafficking in human beings.

Data are also available on the changes of status of permits (for example, from education to remuneration reasons).

There is an important gap in the available data on the flow of third-country nationals concerning the period between 1999 and 2008. For this period, data on flows in the OECD Migration Statistics Database can be used; but the usefulness of this data for the purposes of the legal migration fitness check is limited in a number of ways. While the data covers the entire reference period, it is not disaggregated into the categories of interest and therefore cannot be used to extend the time-series of data on the flow of third-country nationals of different categories available in Eurostat (the OECD Migration Statistics data is disaggregated by country of birth/nationality, country of residence and sex). Even the total numbers of third-country nationals captured by the OECD Migration Statistics Database are difficult to use alongside Eurostat data on total flows because the two data sets are compiled using different methods. Whereas Eurostat data is based exclusively on information on residence permits issued, the OECD data on migrant inflows is for the majority of countries based on data collected from population registers (moreover, the registration criteria vary considerably across the OECD countries covered). For other countries (FR, EL, IT, PL and PT, the OECD data on inflows is based on a mix of sources, including residence permit issued and 'other' sources). The OECD Migration Statistics Database also does not cover all 25 Member States which have adopted the EU legal migration acquis (the missing countries are BG, CY, HR, LT, MT, RO).

Data on migration flows in the period between 1999 and 2008 is available in a number of Member State databases, including for example AT (from 2002), BE, ES, FI, FR, HU, IT, MT, PT, SE and SK. However, the usefulness of this data is limited by the different data collection methods used at national level, including surveys in some countries and administrative data in others. These differences significantly limit the comparability of the data.

**Gaps identified:** Overall there are a number of gaps in the available information on migration flows which present difficulties for the study. The most important gap concerns the non-availability of comparable information on migration flows for the categories of interest prior to 2008. This is particularly a problem for the purpose of showing the difference between the entry into force in 2005 and 2006 of the Directives on family reunification, long-term residence, study and researchers (to show the difference between entry into force of the Directives in 2005 and 2006). This data gap could be partially addressed by issuing an EMN Ad Hoc Query requesting any available data held by Member States on third-country national flows for reasons of family reunification, education and research during this period.

The information available from 2008-2016 also contains gaps. Only the data collected by Eurostat on highly qualified workers permits and long-term residence permits allows a comparison of the number of permits issued to these categories of third-country nationals on the basis of national schemes and on the basis of the EU Blue Card Directive. For all other types of first permits issued, it is not possible to distinguish whether they have been issued on the basis of the relevant EU Directive or on the basis of equivalent national schemes. This concerns both permits issued for the purpose of remunerated activities besides highly qualified work (i.e. seasonal workers, researchers, 'other') as well as for non-remuneration purposes (education). The data on family reunification necessary for the purpose of the fitness check is available, on the other hand, as there are no separate national schemes. The proportion of third-country nationals in each of the sub-categories included in 'other remunerated activities' (i.e. all employed and self-employed workers not included in the other groups) is also not available. This further complicates any effort to ascertain the precise number of third-country nationals who arrive for the purpose of

work on the basis of national labour migration permits. .

### 2.3.2 Migration stocks (1999-2015)

Eurostat also provides information on migrant stocks from 2008 onwards, measured in terms of the number of third-country nationals holding all valid residence permits in the 25 Member States at a specific moment in time (usually at the end of the reference year). This information is broken down into the same categories as the Eurostat data on flows (see above), i.e. by reason (family, remunerated activities, education), by period of validity of the permits, and by several characteristics of the third-country nationals holding the permits (age, sex, country of origin).

Eurostat consequently holds data on the number of third-country nationals holding Single Permits and Long-term residence permits (disaggregated by reason) at the end of the reference year. Eurostat data on the stock of long-term residence permits distinguishes (as in the case on flows) between the proportion of third-country nationals holding long-term residence permits on the basis of the EU Long-Term residence permit, and under national law. This information is also broken down by age, sex and citizenship in the case of 11 countries (for the period 2010-2015). 21 Member States have provided Eurostat with data on the stock of third-country nationals with Single Permits in 2016.

The Eurostat Single Permit data concerns permits held by third-country nationals to reside and work in the territory of a MS and those with a common set of rights for TCN legally residing in a MS as specified in Directive 2011/98/EU. This data is available for the period between 2013 and 2015 only for 11 Member States: DE, EE, ES, FR, HR, LU, PL, PT, RO, SE, SK. The information on the number of Single Permits held by third-country nationals is broken down by reason (family, remunerated activities, education – in the case of family and education purposes, the permits should in principle only be issued to third-country nationals who have arrived for these purposes yet have also been granted the right to work). However, third-country nationals who are the subject of a family formation/reunification residence permit and who also receive the right to work are included only in the statistics under the First permits issued for family reasons table and not under the First permits issued for remunerated activities table. Only family members granted an independent work permit (not linked to the sponsor) are recorded in the First permits issued for remunerated activities table.

The EU Labour force survey provides information on the employment rates and level of educational attainment (primary / secondary / tertiary) of third country nationals living in EU Member States for the period 2005-2015.<sup>16</sup> The information on employment rates is broken down into sex, age and citizenship.

Information on the a broad range of demographic and labour market characteristics of third-country nationals is available in the OECD Database on immigrants in OECD countries (OECD DIOC) for 16 Member States: AT, BE, CZ, EL, ES, FI, FR, HU, IT, LU, NL, NO, PL, PT, SE and SK. This includes information on employment status, level of education (ISCED 0/1/2 up to ISCED 6), occupations (professionals, technicians, clerks, etc.), field of study (education, social sciences, humanities, etc.), and by sector (agriculture, manufacturing, construction). However, this information is not broken down into the categories of relevance to the fitness check. It is also only available for three specific years, 2000/2001, 2005/2006 and 2010/2011.<sup>17</sup> The main source of data in the OECD DIOC database is census data but it also includes extractions from population registers and has integrated Eurostat Labour Force survey data to fill in gaps related to specific countries.

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<sup>16</sup> Eurostat, Population by educational attainment level, sex, age and citizenship (%) [edat\_lfs\_9911]

<sup>17</sup> The online database is only based on the 2000/2001 data (the other data sets can be downloaded here: <http://www.oecd.org/els/mig/dioc.htm>).

The OECD Migration Statistics Database also includes information on stocks. However, the data on stock of foreign born population by country of birth is patchy. IT, CZ, PT, SI and LU in particular have little to no pre-2008 data. The stock of foreign born population by nationality is much more comprehensive over the same reference period.

Data on migration stocks for the period between 1999 and 2008 is available in a number of Member States (AT, BE, from 2007 only, HU, IT, MT, PT, SE, SK). However, the different forms of data collection used limit the comparability of the data. In some Member States, statistical information is available regarding the stock of certain categories of third-country nationals identified in the ToR as potential gaps in the EU legal migration acquis. For example, Austria and Hungary collect statistics on certain categories of third-country transport workers, notably in aviation and road transport. Hungary also collects statistics on medium and low-skilled workers (defined as third-country nationals working in particular sectors). Italy collects statistics on third-country national entrepreneurs and self-employed workers, but only in the province of Turin. Portugal has estimates of the number of third-country national domestic workers. Slovakia collects statistics on international service providers, third-country national self-employed workers, non-removable irregular migrants and third-country national family members of non-mobile EU citizens or citizens of associated countries. France collects data on "non-removable" irregular migrants, investors (since 2014), and third country family members of non-mobile EU citizens or citizens of associated countries. Finland collects data on third-country national entrepreneurs and medium and low-skilled workers.

An EMN Study on the Intra-EU Mobility of third-country nationals (TCNs), published in 2012, revealed that very limited statistics exist on the intra-EU mobility of third-country nationals. 20 MS<sup>18</sup> submitted data on intra-EU mobility for different categories of third-country nationals (workers, students and long-term residents) including both those falling under the EU legal migration acquis and those falling outside but still with possible mobility rights.<sup>19</sup> Only Austria, Germany, Finland, Netherlands and Sweden submitted data for the entire reference period of the study (2007-2011). Moreover, the data submitted, which includes administrative statistics, statistics drawn from the national population census and population registries, as well as data from ad hoc research reports and studies, is not comparable as it has been collected following different criteria<sup>20</sup>.

**Gaps identified:** The main gaps in the information available on the stock of third-country nationals in EU Member States concern the period prior to 2008. In contrast to the Eurostat data on stocks after 2008, the information available prior to 2008 held by the OECD databases is not disaggregated by the categories of third-country nationals of interest to the fitness check. The OECD's DIOC data, while including interesting levels of disaggregation, is not available for all Member States and is only available for three specific years, 2000, 2005 and 2010. The OECD's Migration Statistics database has information missing for many years in respect of several countries, especially insofar as the data on third-country nationals by country of birth is concerned.

In general there appears to be very patchy information on the stock of third country nationals for categories not covered by the Directives for across the entire reference period (1999-2016), with data reported to be available in many cases only in one or two countries.

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<sup>18</sup> Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Sweden.

<sup>19</sup> E.g. cross-border workers.

<sup>20</sup> Additionally, some Member State data included only mobility within the EU28, while others included EFTA countries.

Data on intra-EU mobility is limited to national datasets which therefore raises problems of comparability. The data is also not available for all of the Member States covered by the study.

## 2.4 Evolution of demand for migrant labour:

This section examines a number of pull and push factors affecting the demand and supply of migrant labour, including demographic challenges in the EU, socio-economic factors (such as labour market imbalances in the EU), wars/conflicts causing human displacements in countries of origin and the effects of climate change in the countries of origin.

**Overall gap identified:** Besides the factor-specific information gaps described in each of the sub-sections below, one notable gap is the absence of econometric studies which aim to examine the relative impact of each push and pull factor on labour migration flows.

### 2.4.1 Demographic challenges

**Number of sources identified:** 6 at EU/international level, 4 at national level (however, see also section on socio-economic factors which overlaps with this topic).

**Type of sources:** The majority of the sources with a focus on this topic are either outlook reports (4) produced by international organizations, namely by the UN (3) and the EU (2); the remainder are working papers prepared by International organizations (OECD) and by a Research Center (Vienna Institute for International Economic Studies).

**Geographical scope:** The majority of the sources (4) identify this question from a global perspective while the remainder focus on the EU.

**Main aspects examined:** The majority of EU/international sources provide data and analysis related to the evolution and projections of demographic indicators, with a particular focus on the size, composition and ageing of the workforce. One source provides data on literacy levels per region. The national literature identified also considers the question of ageing migrants and the pressure this puts on social security, housing, pensions, etc. (FI, FR, LU, PL, PT).

**Gaps identified:** Data and projections (at country level or at regional level) for the level of education and skills of the population is not available.

### 2.4.2 Other push-pull factors influencing the flow of migration

- Socio-economic factors

**Number of sources identified:** at EU/international level 40, at national level 73.

**Type of sources:** The majority of the sources with a focus on this topic are either research/working papers (15) produced by academia (13) and research centres (2) or working/policy papers (15) produced by international organizations - mainly by the OECD (6) and EU/EP (6); a smaller number of sources (6) are working papers produced by international or European Think Tanks; the remaining 4 are outlook reports prepared by International organizations, namely the EU (2), UN and IMF.

**Geographical scope:** The majority of EU/international sources (21) address this question at the EU and Member States level. Most of the remaining sources have a world focus and cover all regions of the world; 3 sources cover this topic for a single regional level, namely Africa (2), Middle East (1), non-EU Europe (1) and global level(15). At national level, sources examining socio-economic factors affecting demand for migrant labour were identified in 19 countries: AT (2), BE (2), BG (1), DE



(1), EE (2), EL (4), ES (3), FI (2), HU (4), IT (11), LT (2), LU (4), LV (1), MT (4), PL (3), PT (3), RO (12), SE (7), SI (3), SK (4).

**Main aspects examined:** The majority of EU/international sources (20) on socio-economic 'pull' factors provide an analysis of the recent evolution of the EU labour market with particular focus on the demand side of migrant labour, including existing and expecting labour market imbalances (4). Most of the remaining sources explore empirically how different pull and push factors can influence migration flows internationally or in the EU (3). A small number of sources provide data on evolution and projections of the main socio-economic indicators in the different world regions.

The national level sources analyse how labour shortages are linked to employment policies (BE, BG, EE, EL, FR, HU, LT, LU, MT, SE, PT). Youth migration flows are also further examined (BG). Forecasts on likely changes in labour shortages are also provided in some of the national sources (EE, LU, SE). Some sources refer to specific labour market need for highly skilled workers and goals and strategies to attract highly-skilled TCNs (EE). Other sources have been identified which focus on the impact of the economic crisis on migration flows and work (IT, PT).

**Gaps identified:** Projections for the EU and worldwide labour market shortages are only available for selected countries. Past data on unemployment rate per education level is not available at a regional level nor worldwide. Most empirical studies have not been replicated yet and reaching different conclusions regarding the impact of key variables on migration flows.

- Wars/conflicts/ political instability in third countries

**Number of sources identified:** 5 at EU/international level

**Type of sources:** The majority of the sources with a focus on this topic are policy papers (3) produced by Think Tanks for international organisations: the EC and US National Intelligence Council; of the remaining sources one is an academic paper and the other a working paper prepared by the OECD. At national level, sources examining XXX were identified in XX countries:

**Geographical scope:** Half of the sources (2) identified this question at the level of North Africa and Middle East and the EU, and the remaining three addresses the topic at a global level.

**Main aspects examined:** Two sources analyse historical conflicts that have affected migrant flows (both in the context of asylum and legal migration) and all explore future scenarios regarding conflicts that may influence the decisions taken by migrants to come to the EU.

**Gaps identified:** There is great uncertainty about potential new conflicts and also about when the existing ones will be solved.

- Displacement resulting from climate / environmental change

**Number of sources identified:** 10 at EU/international level

**Type of sources:** The majority of sources with a focus on this topic are working reports of international organisations (7), two are policy papers produced by international organisations: UNCCD (part of the UN) and UK Overseas Development Institute (ODI), a think tank and the remaining one is a research paper.

**Geographical scope:** All sources (10) identified this question at a global level, reflecting on the impact on the borderless nature of climate change.

**Main aspects examined:** All of the sources focus on the effects of climate change and global warming on environmental indicators such as sea level, rainfall intensity and droughts. In these reports mitigation measures are also suggested. Two sources explore the impact of environment degradation as a push factor.

**Gaps identified:** The literature on climate change is mostly at global level and there is less attention to the climate change on a local scale, other than anecdotal evidence.

## 2.5 Gaps in coverage

This section provides an overview of the literature focusing on certain categories of third-country nationals which the ToR for the fitness check identified as potential gaps in the coverage of the EU's legal migration acquis. A summary of the national literature examining the specific categories of third-country national is first of all provided, whereas, where this was possible, the summaries of the EU/international sources are further broken down by category of third-country national, including a presentation of the main gaps identified overall.

**Number of sources:** at national level, 53 sources were identified at national level.

**Type of sources:** At national level, academic articles are consulted most often (20), but policy reports (12), reports of the European Migration Network (8) and books (8) also play a role. One website is indicated, as well.

**Geographical scope:** At national level, sources examining specific gaps in the coverage of the EU legal migration Directives were identified in 18 countries, namely: BE (2), BG (2), CZ (2), DE (3), EE (1), EL (2), ES (2), FR (1), HU (4), IT (17), LU (2), MT (3), PL (3), PT (2), RO (4), SE (1), SI (2), SK (3).

**Main aspects covered in national literature:** The main categories of third-country nationals examined in the national literature concern self-employed workers (BE, EL, ES, HU, IT, LU, SE, SI, SK), investors (CZ, HU, LU, SI, SK), low and medium skilled workers (BE, EL, ES, HU, IT, PL), tolerated persons (FR, HU, SI, SK), and service providers (BE). Taxation issues were also covered (CZ).

### 2.5.1 International service providers (e.g. ICTs)

**Number of sources identified:** 15

**Type of sources:** Most of the EU/international sources that focus on this group of third country nationals are EU policy reports (7 out of 15); the other types consist mainly of reports by other international organisations (in particular the WTO, 8 sources).

**Geographical scope:** The sources examined have either an EU-wide or an international focus.

**Main aspects examined:** The majority of the sources examined focus on the policies, which Member States have developed to attract and facilitate the admission of international service providers not linked to commercial presence in the EU, such as contractual service suppliers and independent professionals (excluding ICTs).<sup>21</sup> The literature describes this category in different ways and identifies a number of challenges faced by Member States in the design and implementation of policies to attract and admit TCNs for business purposes. Other sources discuss the coverage of these groups under the Mode 4 of the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS)<sup>22</sup>. A smaller number of sources examine the

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<sup>21</sup> See for example Admitting third-country nationals for business purposes, European Migration Network, 2015

<sup>22</sup> For example Trade in Services by GATS Modes of Supply: Statistical Concepts and First EU Estimates, European Commission, DG Joint Research Centre, Issue 3, November 2016



possibility of legislating further at EU level in order to attract more TCNs service providers and to provide legal certainty to these categories of business persons.<sup>23</sup>

**Gaps identified:** The main gaps in the literature relate to a lack of data showing the exact number of international service providers and the sectors they are operating in, as the literature refers to different sources of data, which are not comparable.

### 2.5.2 Transport workers

**Number of sources identified:** 7

**Type of sources:** international, EU-level and national level.

**Main aspects examined:** The main aspects examined in the literature include the diverging issues of TCNs in the transport sector, focussing on road transport and aviation, as there are specific situations for TCNs operating in these sectors. The literature addresses the different regulations in place, and the ways companies make use of available schemes for TCNs across the EU. The literature criticises the implementation of workers' rights and conditions in both sectors and warns of a type of 'social law shopping' implemented by operators.

**Gaps identified:** In order to understand the scale of the problem statistical data on the number of TCNs in transport in the EU is necessary. However, such data is not collected at EU level, and the scale of the problem is not assessed by the analysed literature.

### 2.5.3 Low and medium skilled workers

**Number of sources identified:** 60

**Type of sources:** international, EU-level and national level.

**Main aspects examined:** The main aspects examined in the literature include the protection of rights of low and medium workers (about 5 sources), mapping of national policies for admission and labour shortages for low and medium-skilled workers (such as EMN studies and national reports)(about 30 sources) and approaches to manage labour migration (about 20 sources).

**Gaps identified:** In order to understand the scale of the problem statistical data on the number of medium and low skilled TCNs entering the EU is necessary. However, such data is not collected at EU level, but rather collected at MS level. Thus, the available data is not fully comparable across countries due to the different data sources. Another gap is in the analysis of the employment of low and medium-skilled workers in particular sectors and the respective outcomes.

### 2.5.4 Self-employed workers and entrepreneurs

**Number of sources identified:** 24

**Type of sources:** Most sources identified that focus on this group of third country nationals have been EU policy reports (15 out of 24); the other types consist of reports by other international organisations, academic studies and studies from the EMN.

**Geographical scope:** The sources examined have either an EU-wide or an international focus

**Main aspects examined:** A significant body of the identified literature examines policies and schemes to attract and facilitate the admission of self-employed workers and entrepreneurs in the EU. The literature describes self-employed workers and entrepreneurs in different ways, and the majority of the examined sources address the

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<sup>23</sup> See for example European Commission 2015. A European Agenda on Migration

issues that Member States report in designing their own policies to manage these forms of economic migration.<sup>24</sup> Other sources discuss the attractiveness of the EU for entrepreneurs. The focus is on innovative and potentially job-creating entrepreneurs and the problems Member States encounter in designing policies to attract these groups of TCNs as well as problems that entrepreneurs face in terms of meeting the entry and residence conditions applied in the EU.<sup>25</sup> Further, the EU-wide policy literature examines how effectively the legal migration acquis addresses these groups of TCNs.<sup>26</sup> More generally, the literature focuses on the consequences for the attractiveness of the EU to these groups in light of the vast number of permits existing in the Member States targeting different categories, with diverging admission and stay conditions.

**Gaps identified:** The main gaps in the literature relate to the scale of the problem and a lack of comprehensive statistical information and comparable data on the number of applications by third-country nationals for entrance/residence permits for self-employed activity, including admissions. Further, gaps in the data regarding the number and share of self-employed TCNs or TCN entrepreneurs already in the EU, compared with EU nationals.

### 2.5.5 Tolerated persons

**Number of sources identified:** 5

**Geographical scope:** EU-level.

**Main aspects examined:** The main aspects of the studies examine the situation and fundamental rights of third-country nationals pending return/removal but whose stay is tolerated.

**Gaps identified:** There are no data about those who have been issued a return decision, but have not left the EU. Some may have returned voluntarily while the rest still remains in the EU. There are few academic and international sources identified that deal with the issue of tolerated persons.

### 2.5.6 Investors

**Number of sources identified:** 35

**Type of sources:** The types of sources that deal with attracting investors and other TCNs for business purposes include EU-level sources (such as the EMN study on admitting TCNs for business purposes), sources of research institutes (such as the MPI), academic sources and national level sources.

**Geographical scope:** international, EU-level and national level.

**Main aspects examined:** The identified sources examine the policies and practices of Member States in attracting investors. Some sources (such as the E&Y attractiveness survey) also look into the attractiveness of the business climate from an economic and investment perspective. Another set of studies, particularly academic papers and studies, look into the admission conditions and the effects of attracting investors from third countries. Other aspects examined include the links of the investors schemes with acquisition of citizenship and the links of these schemes with potential corruption risks.

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<sup>24</sup> See for example Admitting third-country nationals for business purposes, European Migration Network, 2015

<sup>25</sup> See e.g. ECN Conclusions (2008); Entrepreneurship Action Plan 2020

<sup>26</sup> See e.g. Green Paper of 11 January 2005 on an 'EU approach to managing economic migration', (COM(2004) 811 - Not published in the Official Journal).

**Gaps identified:** Comprehensive statistical information on third country nationals applying and admitted for investment is scarce and not fully comparable across countries due to the different data sources. Further, some of the schemes to attract migrant investors in EU Member States have been introduced only recently and comprehensive statistics are not available yet.

### 2.5.7 Third-country national family members of non-mobile EU citizens

**Number of sources identified:** 22

**Type of sources:** Most identified sources that focus on this group of third country nationals are EU policy reports (6 out of 22) as well as CJEU case law (9 out of 22); the other types consist of academic studies and studies from the EMN.

**Geographical scope:** The sources examined have an EU-wide or a national focus.

**Main aspects examined:** The majority of the sources examine the rules for family reunification for family members of non-mobile EU citizens based on national law, given their exclusion from the legal migration acquis.<sup>27</sup> The examined literature identifies certain consequences with regard to the exclusion of TCN family members of non-mobile EU citizens from the legal migration acquis, such as legal uncertainty of these groups or possible discriminatory actions. The CJEU case law examines instances of discrimination of these groups.<sup>28</sup> EMN literatures analyses the possibility of abuse of the right to family reunification<sup>29</sup> and different approaches in the Member States with regard to family reunification of TCN family members of non-mobile EU citizens.<sup>30</sup>

**Gaps identified:** The main gaps refer to scale of the problem, as no specific statistics of non-mobile EU citizens wishing to reunite with their third-country family members are available (see also section on Statistics above). Further, there is incomplete information as regards EU level responses to the gap, in particular through the CJEU, and the literature refers to national level responses.

## 2.6 Key issues requiring further investigation

This section provides an overview of the literature on a series of key issues identified in the ToR of the study as requiring specific investigation for the purposes of the REFIT evaluation of the EU's legal migration acquis. A summary of the national literature is first of all provided, whereas, where this was possible, the summaries of the EU/international sources are further broken down by sub-themes, including a quick presentation of the main gaps identified.

**Number of sources identified:** 58 sources identified at national level.

**Type of sources:** At national level, policy reports are the most common source (31), followed by academic articles (11) and European Migration Network reports (9). Books (3) and websites (2) are used less frequently.

**Geographical scope:** At national level, sources examining the evolution of demand for migrant labour were identified in 17 countries, namely: AT (4), DE (2), EE (6), EL (6), FI (4), FR (2), HR (2), HU (5), IT (3), LU (1), LV (3), MT (3), PL (3), PT (2), RO (4), SE (1), SI (5), SK (3).

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<sup>27</sup> E.g. Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

<sup>28</sup> See for example Joined Cases 314-316/81 and 83/82 *Waterkeyn*, [1982] ECR 4337 and the line of cases starting with *Zambrano* (C-34/09), dealing with non-mobile citizens. See also Nathan Cambien, *The scope of EU Law in recent ECJ case law: reversing 'reverse discrimination' or aggravating inequalities?*, p. 129.

<sup>29</sup> Report prepared by the UK European Migration Network National Contact Point: *Misuse of the right to family reunification: marriages of convenience and false declarations of parenthood* (2012), p. 3.

<sup>30</sup> EMN Synthesis Report for the EMN Focussed Study 2016 *Family Reunification of Third- Country Nationals in the EU plus Norway: National Practices*, publication forthcoming in 2017

**Main aspects covered at national level:** The national literature provided considers the interaction of migration policies with asylum acquis (BG, EL, LV, LU, SI), global competition for talent (EE, HU), risks of brain drain (EL, FI, FR, PL, SI, SK), exploitation of legally residing third-country workers (EE, EL, FI, FR, HU, IT, PL, SE, SI), costs and benefits of the legal migration Directives (EL), and overstaying and transition into irregular stay (EL, IT, LV, SK). The gender perspective is examined in another source (EL).

### 2.6.1 Exploitation of legally residing third-country workers

**Number of sources identified:** 40

**Geographical scope:** international, EU level and national level.

**Type of sources:** Most of the sources identified are EU-level communications and reports, such as EU-commissioned studies and EMN reports. International organisations, such as ILO, IOM and OSCE have also examined this phenomenon. Finally, there are also academic sources which have tackled the issue of exploitation, including through an equal treatment angle (as guaranteed in the EU legal migration acquis).

**Main aspects examined:** The majority of sources examine measures and policies at national level to tackle different forms of exploitation and undeclared work. Some sources examine the practices of labour exploitation, such as a comprehensive 2015 FRA report on this issue. With regard to estimating the extent of this phenomenon, given the difficulty in measuring exploitation, international comparisons are hard to make. However, to cover the international aspect, some qualitative (and not comparative) studies are available.

**Gaps identified:** As labour exploitation is a hidden and complex phenomenon, making reliable estimates of its magnitude is by definition challenging. Different methodologies exist - such as surveys and using proxy data - to provide estimates of the phenomenon in different Member States (see Factsheet for more details). The absence of EU wide estimates based on common methodologies makes it difficult to ascertain the overall scale of the problem.

### 2.6.2 Attractiveness of the EU to third-country nationals and competition with other third countries

**Number of sources identified:** 9

**Type of sources:** The identified sources that focus on this specific issue are international reports and studies (5), EU policy reports (3) as well as a study from the EMN.

**Geographical scope:** The sources examined have an EU-wide or an international focus.

**Main aspects examined:** The majority of the sources examine the challenges the EU is facing in terms of changing demographics, technological changes and development, leading to increasing demand for certain categories of labour from outside the EU to address some of the challenges.<sup>31</sup> The literature further examines factors that influence the attractiveness of the EU as a popular destination for certain groups of TCNs and the competition with other major immigration destinations such as the US or Canada.<sup>32</sup>

**Gaps identified:** The main gaps refer to the types of TCNs addressed. The analysed

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<sup>31</sup> E.g. Communication from the European Commission, Brussels, "Towards a Reform of the Common European Asylum System and Enhancing Legal avenues to Europe" 6.4.2016 COM(2016) 197 final

<sup>32</sup> E.g. OECD (2016), 'Recruiting Immigrant Workers', OECD publication

literature mainly focuses on how the EU can attract highly-skilled TCNs and innovative entrepreneurs. Other groups of TCNs are addressed only to a limited extent.

### 2.6.3 Risks of 'brain drain' from third countries

**Number of sources identified:** 38

**Type of sources:** Most of the EU/international sources identified are EU-level communications and reports, such as Green Papers and Communications by the European Commission, reports produced by the European Migration Network and DG SANTE papers on ethical recruitment (approx. 30 sources). The WHO Global Code on international recruitment of health professionals is also a notable resource. A number of academic papers have been identified on this topic as well.

**Geographical scope:** The sources examined have either an EU-wide or an international focus.

**Main aspects examined:** The majority of sources (approx. 30) focus on the effects of European policies on the supply of highly skilled and skilled labour in third-countries (particularly in Africa and Asia). The effects on the supply of labour in certain sectors tend to be mentioned in particular: medical professionals, researchers/scientists, teachers, etc. A smaller but still substantial number of sources focus on measures that can alleviate the problem, including investment in the countries of origin e.g. in the context of mobility partnerships ; by facilitating circular migration; or by prohibiting the recruitment of third-country nationals in certain key professions identified as being in short-supply in the countries of origin (ethical recruitment).

**Gaps identified:** With the exception of a few national studies, the literature on the risks of brain drain is mostly at EU level and there is less attention on the risks of brain drain resulting from the specific policies implemented by individual Member States.

### 2.6.4 Overstaying and transition into irregular stay

**Number of sources identified:** 20

**Type of sources:** Most of the sources identified are EU-level communications and reports and EMN studies, particularly those with focus on irregular stay. Some academic studies examining cases of overstaying and transitioning into irregular stay have also been identified.

**Geographical scope:** The sources examined have either an EU-wide or an international focus.

**Main aspects examined:** Main aspects examined include types of migrants and situations in which migrants can fall into overstaying and irregular stay and any related consequences, such as discrimination and vulnerability due to their irregular status and loss of rights.

**Gaps identified:** With the exception of National Reports to some EMN studies, there seem to be lack of literature at national level and not sufficient attention in the academic literature to this issue.

### 2.6.5 Interaction with asylum acquis

**Number of sources identified:** 35

**Type of sources:** The majority of the sources identified are EU-level communications and reports and EMN studies, such as an EMN study on family reunification. Some academic studies examining the right of family reunifications for beneficiaries of

international protection have also been identified. EMN National Reports to relevant studies present the situation at national level.

**Geographical scope:** EU-wide and national focus.

**Main aspects examined:** The main aspects examined in the literature focus on the conditions of entry and stay of family members of beneficiaries for international protection. Some sources examine the interpretation of the definition of family members in EU *acquis*, including when implementing the Qualification Directive. Other studies focus on the right to family reunification for beneficiaries of subsidiary protection which is generally more restrictive compared to the rights of refugees..

**Gaps identified:** No substantial gaps in the literature at EU level have been identified as regards the consequences for family reunification of the interaction between the EU legal migration *acquis* and the EU asylum *acquis*. However, other aspects of the interaction – such as equal treatment issues or access to employment – are more rarely explored in the literature consulted.

### 2.6.6 Costs and benefits of the legal migration Directives.

**Number of sources identified:** 29

**Type of sources:** A significant body of literature has examined the costs and benefits of migration for both sending and receiving countries; a much smaller volume of literature focuses specifically on the costs and benefits associated with the implementation of the legal migration Directives. Most sources which examine this more specific question have been EU policy reports (15 out of the 29 sources examined); the other types of sources consist of reports by other international organisations (in particular OECD, 2 sources) and academic literature (12 sources).

**Geographical scope:** All of the sources examined have had an EU-wide focus

**Main aspects examined:** Several high-level EU policy documents comment broadly on the benefits of strengthening the EU's legal migration *acquis* in the course of identifying the EU's political priorities in the area of migration.<sup>33</sup> These benefits include improving the EU's position in the global competition for talent, addressing specific labour market needs and improving the integration of third-country nationals. As regards costs, EU policy documents discuss the need to mitigate against certain social and economic costs which the legal migration Directives may have for sending countries, including the risk of 'brain drain', dependence of the workforce on foreign labour markets and the social costs resulting from non-transparent and over-bureaucratic admission procedures in EU Member States, which can lead third-country nationals to turn to informal intermediaries, often with links to organised crime.

References to the costs and benefits of specific legal migration Directives can also be found in studies on the application of individual Directives. In terms of costs, the reports mention the administrative costs for Member States associated with setting up new procedures, although it is suggested that these costs are quickly off-set by the simpler more easily administrable schemes.<sup>34</sup> Fewer reports try to measure the administrative costs, although there are some estimates in this regard (e.g. implementing the Seasonal Workers Directive). Various policy documents also mentioned costs associated with the use of 'may clauses' in certain areas which, if not used proportionately, may affect the fundamental rights of third-country nationals – for instance, the use of interviews and the conduct of other types of investigations in

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<sup>33</sup> The Stockholm Programme, the European Agenda for Migration, and the Global Approach to Migration and Mobility.

<sup>34</sup> Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment



the course of determining individual applications for family reunification.<sup>35</sup> The discretion which Member States enjoy to set application fees results in significant variations across Member States, e.g. with regard to applications for family reunification, some Member States establish symbolic fee levels (e.g. BE and ES) and others apply very significant fee levels (e.g. NL).<sup>36</sup>

The academic literature also tends to look more broadly at the costs and benefits of legal migration<sup>37</sup> rather than specifically at the implementation of the legal migration Directives, but several academic sources do focus on the latter identifying similar benefits as those highlighted above. The academic literature is also more candid about the political costs resulting from the reduced ability of Member States to exert sovereignty to grant or restrict migrant rights.<sup>38</sup> On the other hand, it is also pointed out that the EU legal migration acquis can also help Member States that face high transaction costs of reaching domestic consensus at national level. The same source suggests that, by involving migrant networks in policy-making, it is possible to transform trade-offs between costs and benefits (e.g. migration vs social cohesion, or migration vs development) into win-win opportunities.<sup>39</sup>

**Gaps identified:** The literature, including one particular source identified in Greece, identifies wide-ranging costs and benefits of the Directives. However, no attempts appear to have been made to quantify the costs and benefits. Another gap concerns the distribution of costs and benefits across Member States. Most of the literature identifies costs and benefits in general terms. Only some literature delves deeper to compare the costs and benefits for different stakeholder groups within Member States.

### 3 Practical implementation of the Directives (Task II)

This section provides an overview of the literature identified in support of the research on the practical implementation of the EU acquis on legal migration, by migration phase. A summary of the national literature identified is provided directly under each migration phase, whereas, where this was possible, the summaries of the EU/international sources are further broken down by sub-themes, including a quick presentation of the main gaps identified overall.

#### 3.1 Phase 1: Provision of information to prospective TCN applicants on the application procedure

**Number of sources identified:** 31 at national level.

**Type of sources:** At national level, a majority of the sources consulted are policy reports from governments and NGOs (12). A smaller but still substantial number of sources are books (8) and academic articles (5). A smaller number of sources are study reports, in particular from the EMN (4) and websites (2).

**Geographical scope:** At national level, sources examining the provision of information to prospective TCN applicants were identified in 11 Member States: AT (9 sources), DE (7), EE (1), ES (1), HU (1), LT (1), LV (3), MT (2), SE (3), SI (2), SK (1).

**Main aspects identified at national level:** The national literature identified on the topic varies from sources which provide an introduction into the law of labour migration in general (AT, DE), information material on admission procedures targeting

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<sup>35</sup> Report on the application of Directive 2003/86/EC on the right to family reunification

<sup>36</sup> Report on the application of Directive 2003/86/EC on the right to family reunification

<sup>37</sup> For example, Munz,

<sup>38</sup> For example, Ruhs, Guild et al, 2014.

<sup>39</sup> OECD, Gaining from migration: Towards a new mobility system.

third-country nationals (LT) and prospective employers (LV), as well as information on the easiness of access and availability of information (EE, ES, HU). Moreover, the national literature contains information on the different categories of migrant workers and whether they are specifically addressed in policy (MT).

### 3.1.1 Ease of access to information

**Number of sources identified:** 20 at EU/international level.

**Type of sources:** A majority of the EU/international sources are proposals for EU directives (3) or reports on their application in Member States (4), policy papers produced by the European Commission (3) and EMN (8), followed by academic studies (2).

**Geographical scope:** All EU/international sources examine this topic from an EU-level perspective.

**Main aspects identified:** At EU/international level, given the nature of the documents, a substantial number focus on Member States' obligations to provide access to information on legal migration to third country nationals through relevant channels of communication, such as internet websites and guidelines. They also stress the need for transparency on the application procedures and the necessary documentary evidence.<sup>40</sup> Some sources also highlight the need for EU-wide communication tools such as EU websites to be better publicised by the European Commission and made available to the wider public,<sup>41</sup> also in third countries.

A smaller but substantial number of sources provide information on the legal and policy measures actually implemented by Member States to make information on the possibilities and conditions for legal migration more accessible for third country nationals.<sup>42</sup> More concrete measures taken by Member States, such as one-stop shops and information points, are described in a smaller number of sources.<sup>43</sup> A number of Member States provide information through general communication channels, such as internet, notably in the view of preventing migrant smuggling.<sup>44</sup>

**Gaps identified:** With few exceptions, the literature screened provides less information on the information available and accessible to third country nationals outside the territory of the EU Member States through their consulates or embassies abroad.<sup>45</sup>

### 3.1.2 Availability of tailored information

**Number of sources identified:** 25 at EU/international level.

**Type of sources:** These are proposals for EU directives (9) or reports on application of EU Directives in Member States (3), policy papers produced by the European Commission (2), EMN (9) and OECD (1), followed by academic papers (1).

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<sup>40</sup> For e.g. proposals for the Recast Blue Card Directive, paid employment and self-employed economic activities, students and researchers directive, as well as the Communication on the application of the right to family reunification and Communication on conditions of entry for highly qualified third country nationals, Report on the application of the LTR Directive.

<sup>41</sup> For e.g. Communication on conditions of entry for highly qualified third country nationals, Report on the application of the LTR Directive, Belmonte M. *The EU Blue Card*.

<sup>42</sup> For e.g. EMN AHQ on Campaigns to attract TCNs, EMN 2009, 2010, 2014 and 2015 Annual Policy Reports, EMN 2013 Study on Highly Qualified TCNs, EMN 2015 Study on Change of Status.

<sup>43</sup> For example, EMN 2014 and 2015 Annual Reports, EMN 2013 Study on Highly Qualified TCNs, EMN 2012 Study on International Students to the EU, EMN AHQ on pre-departure campaigns to attract TCNs 2014, Blue Card Transposition.

<sup>44</sup> EMN 2014 and 2015 Annual Policy Reports, La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) *Inventory of visa policies and agreements: Italy, Spain, France, and the United Kingdom*.

<sup>45</sup> EMN 2010, 2014, 2015 Annual Report



**Geographical scope:** These sources all embrace a comparative perspective of legal and policy practices in Member States.

**Main aspects identified:** Most proposals for EU Directives include provisions on the need for Member States to provide for tailored information to third country nationals as relevant within their scope of application. However, more recent proposals provide more guidance on the type of information to be made available.<sup>46</sup> A number of publications highlight the need for information on opportunities for legal migration to be tailored and targeted to the needs of the different categories of migrants.<sup>47</sup>

A number of policy documents and reports on the application of Directives focus on the measures implemented by Member States to provide tailored information to third country nationals.<sup>48</sup> Other sources point out at a lack of information among third country nationals on relevant status and uniform implementation of the provisions of certain Directives.<sup>49</sup>

**Gaps identified:** Most of the literature identified points at the provisions and obligations on Member States to provide for information to third-country nationals. Few documents focus on the measures implemented by Member States to provide tailored information and whether there are differences between the information provided to certain groups of third country nationals (workers, students, family reunification, etc.).

### 3.1.3 Usefulness of information

**Number of sources identified:** 3 at EU level.

**Type of sources:** Information is found in EMN studies (2) and an implementation report (1).

**Geographical scope:** EU level.

**Main aspects identified:** Literature identified some of the challenges encountered to assess the usefulness of the information provided to third country nationals on legal migration opportunities to their Member State and the challenges to implement measures effectively targeting certain categories of third country nationals.<sup>50</sup>

**Gaps identified:** With the exception of few studies, there seem to be a lack of literature at both national and EU level and not sufficient attention in the academic literature to this issue.

## 3.2 Phase 2: Requirements / conditions to apply for residence permits

**Number of sources identified:** 57 at national level.

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<sup>46</sup> For e.g. development of the information requirement in the Commission guidelines on the application of the family reunification Directive (language requirements); more recent proposals provide for more details on this requirement directly in the proposal. For example, publication of a list of research organisations for the purpose of the proposal for a recast students and researchers Directive, information on salary thresholds set in Member States and business activities allowed in a Member State in the Proposal for the recast Blue Card Directive.

<sup>47</sup> Belmonte, M. (2015) The EU Blue Card: is there a need for a more comprehensive approach, OECD Migration Brief, Commission Action Plan on Integration.

<sup>48</sup> EMN 2014 and 2015 Annual Reports, OECD Policy Brief

<sup>49</sup> Information on the implementation is available on reports of the application of the Researchers Directive and the long-term residence directive.

<sup>50</sup> EMN AHQ on pre-departure campaigns to attract TCNs 2014, Implementation report of the Students and Researchers Directive.

**Type of sources:** At national level, the types of sources consulted are more or less evenly spread between policy reports (17), academic articles (12), books (11) and study reports (8). A smaller number of sources are websites (3) and practical guides provided by the government (3).

**Geographical scope:** At national level, sources focusing on requirements and conditions to apply for residence permits were identified in 19 Member States: AT (3), BE (2), BG (2), DE (7), EL (5), ES (2), FI (2), HR (1), HU (2), IT (2), LT (5), LU (2), LV (4), MT (3), PL (6), PT (1), SE (4), SI (1), SK (3).

**Main aspects identified at national level:** The national literature identified primarily covers the requirements to apply for residence permits (AT, EL, ES, FI, HR, HU, IT, LT, LV, PL, SK) and requirements and conditions for family reunification (BE, BG, DE, EL, IT, LU, PL, SE). Furthermore, the national literature concerns the requirements and practical implementation of the Blue Card Directive (AT, BG, HU, LV), practical obstacles regarding the employment of third-country nationals (MT, PL), conditions for self-employment of third-country nationals (EL, FI), and the issue of recognition of skills and qualifications (PT). In ES one source was identified focusing specifically on the conditions established by the Seasonal Workers and ICT Directives. Lastly, a number of sources provide information on integration requirements (BE, LT, LU, MT).

### 3.2.1 Time and costs involved in putting necessary documents together

**Number of sources identified:** 19 at EU level.

**Type of sources:** At EU level, these are mainly proposals for Directives (4) accompanied by implementation reports (6), followed by Commission policy documents (2) and a number of academic publications (7).

**Geographical scope:** EU-level.

**Main aspects identified:** Most sources identified at EU level provide information on the documentary evidence that third country nationals have to produce when submitting an application, which depends on the specific category of residence permit applied for.<sup>51</sup> Fewer sources provide indications so as to the assessment that is needed to gather all supporting documents. Some point out to the role played by some organisations in reducing the time necessary for certain categories of third country nationals to gather the necessary application documents.<sup>52</sup>

**Gaps identified:** Few documents provide information on the costs involved in gathering the necessary documents for a residence permit application.<sup>53</sup> An assessment of the time necessary to gather the application documents is also generally lacking in the sources screened.

### 3.2.2 User-friendliness of application forms

**Gaps identified:** No literature screened provided information on the aspect of user-friendliness of application forms when applying for residence permits.

### 3.2.3 Pre-integration measures or conditions

**Number of sources identified:** 31 at EU level.

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<sup>51</sup> For e.g. Proposals for a recast students and researchers directive, Proposal for a Blue Card Directive, Commission Report on the application of the long term residents' permit, Report on the application of the Students Directive.

<sup>52</sup> For e.g. the role of research organisations regarding the application for researchers' residence permit.

<sup>53</sup> For example, payment of enrolment fees for educational establishment in the proposal for a students' directive. Or the costs for a DNA test to prove family ties (Family Reunification Directive).

**Type of sources:** At EU level, the literature review identified several proposals of EU Directives (5) and implementation reports (6). Pre-integration measures are also mentioned in a number of policy documents produced by the Commission (4), the Council (2) and the European Parliament (1), as well as in EMN studies (5) and academic papers (8).

**Geographical scope:** All sources identified examine this topic from an EU-level perspective.

**Main aspects identified:** At EU level, a number of policy documents mention the role of pre-integration measures in supporting the integration of migrants in the host country,<sup>54</sup> and several proposals for Directives include the possibility for Member States to enact pre-integration or pre-departure measures as part of the application procedure for a residence permit.<sup>55</sup> These measures appear to be applicable to specific categories of migrants only.<sup>56</sup> The proposals for Directives, together with other EU-wide studies and academic publications provide for a comparative insight into measures implemented by Member States. These range from language courses, integration type of agreements to a points-based system which takes into account the language and qualifications of a third country national.<sup>57</sup> n.

**Gaps identified:** No substantial gaps in literature at EU level identified. Only limited literature available at national level on integration requirements.

### 3.3 Phase 3: Procedures for applying for residence permits

**Number of sources identified:** 48 at national level.

**Type of sources:** At national level, a majority of books (16) and policy reports (16) were identified, in addition to study reports (6), websites (4) and academic articles (4).

**Geographical scope:** At national level, sources on procedures for applying for residence permits were identified in 16 Member States, namely: AT (1), BE (1), BG (1), DE (8), EE (1), EL (2), ES (2) HU (1), IT (6), LT (2), LV (6), MT (3), PL (5), PT (1), SE (3), SI (1), SK (1).

**Main aspects identified at national level:** The national literature identified provides information on the procedures for applying for residence permits in general (AT, BE, EE, EL, FI, HU, IT, LT, LV) and the time limits for a renewal of a residence permit more specifically (DE). One source specifically outlines the problems in procedures in the processing of applications to employ third-country nationals (MT), and another focuses on the requirements and procedures for applying for resident permit for students (PL). Two sources focusing on the caselaw of the CJEU and ECtHR on admission procedures were identified in Spain. Lastly, the literature provides an evaluation of the National Services that provide support to third-country nationals (PT).

#### 3.3.1 Clarity of the procedures

**Number of sources identified: 10.**

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<sup>54</sup> Action Plan on the integration of TCNs, Hague programme, Stockholm programme.

<sup>55</sup> Proposal for a Directive on the right to family reunification, proposal for a Students Directive, proposal for a Blue Card Directive, proposal for a recast Students Directive.

<sup>56</sup> Guidelines for the application of the Family Reunification Directive, report on the application of the Family Reunification Directive, stakeholders responses to the green paper on the family reunification of TCNs, Proposal for a recast students directive, Report on the transposition of the Long term residents Directive, EMN Annual Policy Report 2008, 2010; EMN Study on Intra-EU Mobility, Au-pairs implementation report.

<sup>57</sup> For e.g. EP Comparative Study of national immigration laws, EPC Measures and rules developed in the EU MS regarding the integration of TCNs, Commission Report on the application of the long term residents' permit, Action Plan on the integration of TCNs,

**Type of sources:** Most of the sources identified are proposals for directives (6) and implementation reports (3).

**Geographical scope:** EU-wide.

**Main aspects identified:** Clarity of procedures is addressed in a number of proposals in provisions that mention the steps to be followed in the application procedure and providing for an obligation on Member States to publicise the competent authorities in charge of receiving the application procedure. Some proposals explicitly include the requirement to publicise a list of recognised research organisations, employers or undertakings in order to simplify the application process.<sup>58</sup> Application of this criteria appears to be assessed in few certain implementation reports.<sup>59</sup> Some implementation reports highlight the leeway that certain national authorities have in setting the list of necessary documents for a residence permit application due to the lack of clarity of national implementing provisions on this point.<sup>60</sup>

**Gaps identified:** While some reports provide some information for certain categories of TCNs (family reunification and LTR), there seems to be a lack of literature at EU level on the assessment of the clarity of application procedures. National literature is equally lacking, with one source examining problems in the processing of applications which may relate to (a lack of) clarity.

### 3.3.2 Efficiency of the application procedure (time and other costs involved in processing applications)

**Number of sources identified:** 37 at EU level.

**Type of sources:** Proposals for directives (11) and implementation reports (6), Commission policy documents (2) and EMN studies (8). A significant number of academic papers also focus on this topic (8).

**Geographical scope:** EU-level.

**Main aspects identified:** A significant number of documents reviewed focus on the fees required for the application of a residence permit. While some proposals do not touch upon application procedure fees,<sup>61</sup> most proposals for EU directives provide that while Member States can impose application fees, their amount has to be proportionate and based on the service received.<sup>62</sup> A few implementation reports and other policy documents point to the lack of harmonisation on this topic among Member States: high application fees for example, may impact on the achievement of the objectives of directives.<sup>63</sup> Other reports note a lack of clarity surrounding the amount of certain fees enacted by Member States, blurring the line between costs for an application procedure or the entry visa.<sup>64</sup>

Processing times of applications is also mentioned in a number of proposals and policy documents. Some proposals provide for administrative deadlines to be respected by Member States as well as a number of cases where national administrations can derogate from them.<sup>65</sup> Additionally, a number of legal instruments provide for

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<sup>58</sup> Proposal for a Blue Card Directive, Proposal for a Researcher Directive, Proposal for a Students and Researchers Directive, Proposal for a Single Permit Directive, Proposal for an ICT Directive

<sup>59</sup> Transposition of the Blue Card Directive.

<sup>60</sup> Report on the application of the family reunification directive, Report on the application of the LTR Directive.

<sup>61</sup> Proposals for family reunification directive, LTR Directive, Blue Card Directive, seasonal employment Directive, ICT directive. Guidelines on the application of the family reunification Directive.

<sup>62</sup> The remaining proposals.

<sup>63</sup> Summary of stakeholders responses to the green paper on the right to family reunification of TCNs, Report application LTR Directive, Guidelines on Family Reunification

<sup>64</sup> Commission report on the application of the Family Reunification Directive

<sup>65</sup> For e.g. due to the complexity of the case

simplified and faster application procedures when certain conditions are met: 'fast-track' procedures or in case of change of status.<sup>66</sup> Assessment of the implementation of these timeframes for processing applications and their impact is touched upon in several policy documents and academic publications.<sup>67</sup>

**Gaps identified:** The main gaps refer to the processing times of residence permit applications. While sources identified provide for the timeframes to be respected by national authorities, their application in practice is addressed only with regards to the application for a Blue Card, family reunification and students. There seems to be a lack of literature on the application in practice of these timeframes for other categories of migrants. National literature is equally lacking, with one source examining problems in the processing of applications which may include efficiency issues. Another national source evaluates the National Services that provide support to third-country nationals which may include findings as to the efficiency of these services.

### 3.3.3 Procedures used to inform applicants of the decision

**Number of sources identified: 16** at EU level.

**Type of sources:** Documents identified include proposals for directives (11) and reports on the application of directives (3). A smaller number of Commission policy documents (1) and academic articles (1) also focus on this topic.

**Geographical scope:** EU level.

**Main aspects identified:** All legal migration proposals reviewed contain provisions on the requirement for Member States to inform or notify a third country national on the outcome of his or her application for a residence permit. Some proposals provide more details regarding this notification procedure and associated timeframes,<sup>68</sup> and others include requirements to inform a third country national whether additional documentary evidence is needed to complete the application.<sup>69</sup>

**Gaps identified:** Few sources focus on the timeframes within which Member States implement this requirement in practice.<sup>70</sup> One national source looks at time limits for renewal.

### 3.3.4 Appeal procedures

**Number of sources identified: 15** at EU level.

**Type of sources:** proposals for Directives (11), reports on the implementation of Directives (3), and policy documents from the Commission (1)

**Geographical scope:** EU level.

**Main aspects identified:** Closely linked to the notification procedures mentioned above, all proposals provide for provisions on appeal procedures or possibilities to

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<sup>66</sup> For e.g.: EMN Study on Change of Status, Students Directive proposal and implementation report, proposal for ICT Directive, Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level.

<sup>67</sup> For example on the attractiveness of EU for highly-skilled workers: Gümüs, Y. K. (2010). EU blue card scheme: the right step in the right direction; Kalantaryan, S., Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool: Policy Brief May 2015; Kosci, P. (2013). Domestic adaptation and modalities of implementation of the Blue Card directive. Also see EMN Annual Report 2015, EMN Study Intra-Mobility.

<sup>68</sup> For e.g. compare Proposal Family Reunification Directive, proposal for LTR Directive, proposal for a Students Directive with Recast Students and Researchers Directive

<sup>69</sup> For e.g. Proposal for a Single Permit Directive, Blue Card Directive, Seasonal Employment Directive

<sup>70</sup> For e.g. Guidelines on the application of the Family Reunification Directive mentions the workload of national authorities as a criteria to be taken into account. Report on the application of the LTR Directive.

legally challenge decisions taken by national authorities. Accordingly, Member States have to provide their decision in writing and third country nationals can challenge rejection of a residence permit application, refusal to renew and withdrawal.<sup>71</sup> Appeals are also foreseen against other decisions.<sup>72</sup>

Some implementation reports and policy documents focus on the modalities of the appeal, such as procedural deadlines, which vary from one national legal framework to another.<sup>73</sup>

**Gaps identified:** While proposals for Directives contain provisions on the possibility lodge an appeal against a decision taken by national authorities regarding the granting, renewal or withdrawal of a residence permit, there only few sources focusing on the application of these appeals procedures in Member States.

### 3.4 Phase 4: Procedures for applying for entry and transit visas

**Number of sources identified:** 37 at national level

**Type of sources:** At national level, the majority of sources consulted for this phase are books (13), followed by reports/studies by the European Migration Network (8), academic articles (5), university theses (3), policy reports (5), as well as governmental websites (2).

**Geographical scope:** At national level, sources on procedures for applying for entry and transit visas were identified in 12 Member States, namely: BE (2), DE (7), EL (1), ES (1), FI (3), HU (1), IT (8), LU (1), LV (2), PL (5), RO (3), SE (2), SI (1), SK (1)

**Main aspects identified at national level:** This phase includes national literature regarding the practical implementation and organisation of the visa procedure for third-country nationals (BE, DE, ES, FI, HU, IT, LV, SI, SK), as well as information to specifically inform potential foreign students on ways to apply for a visa (EL, LU, PL) and visa facilitation procedures for certain categories of third-country nationals, in particular the highly skilled (FI). In addition, a national source covers the problems relating to the procedure for applying for entry visa for family reunification (IT).

#### 3.4.1 Ease of acquiring entry and transit visas

**Number of sources identified:** 18 at EU level.

**Type of sources:** a majority of sources are (6) proposals for directives, followed by implementation reports (3), EMN (5), European Parliament (1) and Commission policy documents (4).

**Geographical scope:** EU level

**Main aspects identified:** Closely linked to the visa policies implemented by Member States and the EU, most proposals include provisions encouraging Member States to facilitate the issuance of necessary visas once all requirements for a residence permit have been complied with.<sup>75</sup> In a few proposals, this requirement is an obligation for Member States.<sup>76</sup> Implementation reports of certain Directives show that some Member States continue to apply controls on a third country national both during an

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<sup>71</sup> All proposals, with some exceptions: proposal for a family reunification directive does not provide procedural

**Gaps identified:** Few sources focus on the ease of acquiring transit visas.<sup>74</sup> One national source discusses problems with the procedure for applying for entry visa for family reunification. Other national sources review visa procedures in general.

<sup>74</sup> E.g. proposal for a Family Reunification Directive.

<sup>75</sup> For e.g. proposals for family reunification directive, students directive, researchers directive, Blue Card Directive, seasonal employment directive

<sup>76</sup> For e.g. proposal for a recast students and researchers Directive.



application for a residence permit and an entry visa while other Member States adopt measures to simplify procedures in this regard.<sup>77</sup>

### 3.4.2 Procedures that apply upon arrival in country of destination

**Number of sources identified:** 4 at EU level.

**Type of sources:** Directive proposals (1), implementation reports (2) and Commission policy documents (1).

**Geographical scope:** EU level.

**Main aspects identified:** Few documents in the literature review focus on the procedures that apply upon arrival in the country of destination, for example, the procedures (possibly lengthy ones in some cases) to apply for entry – and sometimes short term stay visas – in order to then obtain the permits in the country of destination. Indeed, explanatory paragraphs of the proposal for a family reunification directive indicate that Member States should take into account the specific circumstances of certain categories of migrants (e.g. of refugees).

**Gaps identified:** With the exception of few sources, there seems to be a lack of literature and not sufficient attention in the sources examined to issues such as lengthier procedures or additional steps upon arrival in the country of destination. No literature has been identified at national level.

## 3.5 Phase 5: Delivery of the residence permit

**Number of sources identified:** 30 at national level

**Type of sources:** Literature identified at national level includes books (11), policy reports (8) and reports/studies by the European Migration Network (5), university theses (2). The number of academic articles (1) and websites (1) is much smaller than in previous phases.

**Geographical scope:** At national level, sources on the topic of the delivery of the residence permit were identified in 10 Member States, namely: BE (2), DE (7), FI, (2), IT (2), LV (2), MT (3), PL (5), SE (3), SI (1), SK (3).

**Main aspects identified at national level:** The national literature identified for this phase concerns the delivery of the EU long-term residence directive (DE, BE, PL) and the delivery of residence permits in general (FI, IT, LV, MT, SK). Sources also focus on the delivery of residence permits to students (PL).

### 3.5.1 Procedures used

**Number of sources identified:** 7.

**Type of sources:** proposals for Directives (5) and implementation reports (2).

**Geographical scope:** EU level

**Main aspects identified:** Most proposals point out at the fact that residence permits are delivered by competent authorities designated by Member States and that residence permits should follow a uniform format laid down in Regulation

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<sup>77</sup> For example implementation report of the family reunification directive and students' directive, EMN 2014 and 2015 Annual Reports, EMN Study on International Students.

1030/2002.<sup>78</sup> For specific categories of migrants, additional documents are delivered<sup>79</sup> or additional information is added on the residence permit.<sup>80</sup>

**Gaps identified:** Few sources identified delve into the application of the application of the procedures for the delivery of residence permit,<sup>81</sup> assessing how Member States designate the different competent authorities. National sources include some information on procedures for the delivery of residence permits.

### 3.5.2 Time it takes to deliver permits

**Gaps identified:** As opposed to timeframes on the assessment of applications for residence permits, there is no information in the literature review at EU level on the timeframes to deliver permits and information appears also to be very limited at national level.

## 3.6 Phase 6: Treatment of TCN applicants

**Number of sources identified:** 82 sources at national level

**Type of sources:** The majority of sources identified at national level for this topic are books (24), academic articles (19) and policy reports (17). Policy/study reports by the European Migration network (11) are also among the sources, in addition to university theses (1), websites (4) and practical guides provided by the government (2).

**Geographical scope:** At national level, sources on treatment of TCN applicants were identified in 17 Member States, namely: BE (2), BG (3), CY (2), CZ (3), DE (7), EE (1), EL (2), ES (3), FI (3), HU (1), IT (27), LV (6), MT (3), PL (2), PT (3), SE (6), SI (3), SK (8).

Main aspects identified at national level: The national literature provided for this phase covers opportunities related to the change of status (BE, IT, LV, SE, SI, SK), the requirements for naturalisation (BE, DE, EL, ES, IT, SE, SK), workforce mobility (BG), and more broadly the rights and obligation related to the stay and employment of third-country nationals (CY, CZ, DE, EL, ES, FI, HU, IT, LV, MT, PL, PT, SI, SK). Various sources also look into migrant access to social security and healthcare (EE, FI, SE, SK), housing (ES) and the renewal of residence permits (IT, PT).

### 3.6.1 Equal treatment provisions

**Number of sources identified:** 39 at EU level.

**Type of sources:** The majority are EU policy documents (12), proposals for Directives (10), followed by EMN reports (8) and academic studies and international reports.

**Geographical scope:** EU level, international.

**Main aspects identified:** Most proposals, EU policy documents and EMN reports address equal treatment as regards access to employed- and self-employed activity for certain categories of migrants (in particular long-term residents), working conditions and pay, education and training, goods and services, social services and/or family benefits.<sup>82</sup> Specifically the EMN reports focus on policies and provisions in the

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<sup>78</sup> Proposal for a Blue Card Directive; proposal for a Directive on a single permit; proposal for a recast Blue Card Directive, proposal for seasonal employment, proposal for an ICT Directive.

<sup>79</sup> For e.g. where third country nationals are holders of an ICT residence permit, Member States should deliver an additional document containing a list of entities authorities to host the third-country nationals.

<sup>80</sup> For e.g. where an EU Blue Card is issued to a beneficiary of international protection in another Member State.

<sup>81</sup> For e.g. the overall report on the transposition of LTR Directive.

<sup>82</sup> E.g. Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final



Member States transposing equal treatment rules included in the legal migration Directives.<sup>83</sup>

**Gaps identified:** No substantive gaps identified. At national level, limited sources have been identified concerning access to social security and healthcare.

### 3.6.2 Employment related rights on the basis of a residence permit

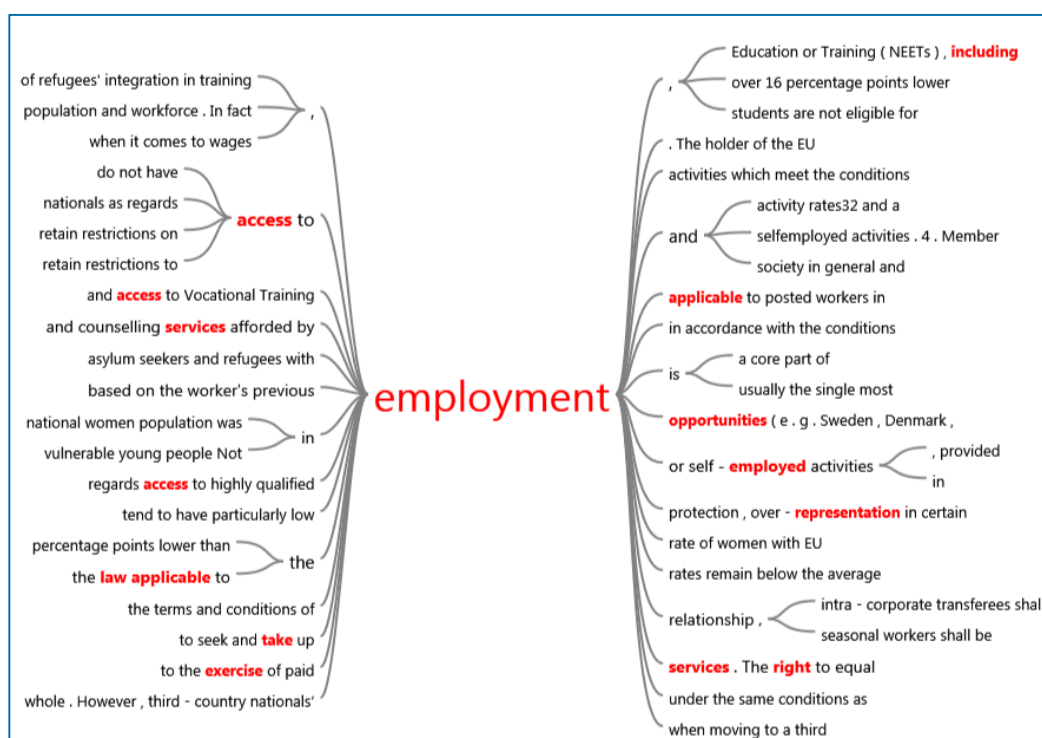
**Number of sources identified:** 28 at EU level.

**Type of sources:** The majority of the documents are proposals for Directives (10) and EU policy documents (10), followed by academic studies and few EMN reports.

**Geographical scope:** EU level.

**Main aspects identified:** The sources identified mainly focus on access (or restrictions) to the labour market by different TCNs, e.g. focussing on the hours TCN students are allowed to work, or which groups of TCNs have the possibility to engage in self-employment.<sup>84</sup> The following figure shows a 'word-tree' extracted from the analysis conducted in Nvivo. The figure indicates the main topics discussed in the identified studies with regard to employment related rights of TCNs, which are access to the labour market and the associated rights.

Figure 1. Main topics discussed with regard to employment related rights on the basis of a residence permit



Source: Nvivo

<sup>83</sup> See e.g. EMN Annual reports on migration and asylum

<sup>84</sup> See e.g. Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of research, studies, etc COM(2013)151 final

**Gaps identified:** Majority of sources focus on the access to the labour market by third country nationals. While proposals for Directives provide for information on which employment related rights certain categories of migrants have access to, little information is available on their application in practice by Member States. At national level, a few sources look at the rights and obligation related to the employment of third-country nationals.

### 3.6.3 Validity and renewal of residence permits

**Number of sources identified:** 29 at EU level.

**Type of sources:** a majority are proposals for Directives (10), and EU policy documents (10), followed by academic studies (5), and EMN and international reports (4).

**Geographical scope:** EU level.

**Main aspects identified:** Most proposals and Commission policy documents include provisions regarding the validity and renewal of residence permits. The validity of residence permits are linked to the purpose of the stay (employment, studies, etc.) and in most documents the conditions for renewal of a residence permit are laid out.<sup>85</sup> Few sources assess the renewal of permits with regard to the role of an easy renewal for the attractiveness of the permit.<sup>86</sup>

**Gaps identified:** No major gaps in the literature identified.

### 3.6.4 Change of status and naturalisation

**Number of sources identified:** 19 at EU level.

**Type of sources:** The majority of documents are EMN reports (10), followed by EU policy documents, and proposals for Directives.

**Geographical scope:** EU level.

**Main aspects identified:** The documents mainly discuss the provisions implemented by Member States concerning citizenship and the requirements to be fulfilled by TCNs to become naturalised.<sup>87</sup>

**Gaps identified:** Few EU and national sources refer to the possibilities for third country nationals to change their status.<sup>88</sup> There are some national sources which address the requirements for naturalisation.

## 3.7 Phase 7: Intra-EU mobility

**Number of sources identified:** 28 sources at national level.

**Type of sources:** at national level, books (10), reports by the European Migration Network (8), policy reports (5) and academic articles (4) are identified at national level.

**Geographical scope:** At national level, sources on intra-EU mobility were identified in 14 Member States, namely: BE (2), BG (1), DE (7), EE (1), EL (1), ES (1), FI (2), HU (1), IT (3), LV (2), PL (1), SE (6), SI (1).

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<sup>85</sup> E.g. Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final.

<sup>86</sup> See e.g. Eisele, K., (2013) "Why come here if I can go there. Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants" and the Final Implementation Report of Dir 2004/114.

<sup>87</sup> For example EMN Annual Policy Report 2010

<sup>88</sup> EMN Study 2015.

**Main aspects identified:** The national literature provided covers the mobility rights and free movement of third-country nationals in general (BE, BG, DE, EE, EL, ES, FI, HU, IT, LV, PL, SE), including specific information on the rights of students (LU) and high-qualified workers (IT). In one country (ES) a specific source was identified examining the new mobility provisions included in the recently adopted Student and Researchers Directive.

### **3.7.1 Conditions and procedures for applicants for a residence or work permit who apply from another MS**

**Number of sources identified: 18.**

**Type of sources:** majority of documents are proposals for Directives (7) and academic sources (7), followed by EMN and EU policy reports.

**Geographical scope:** EU level.

**Main aspects identified:** The documents focus mainly on the right to mobility for certain TCN groups from one Member State to another (for e.g. long-term residents, EU Blue Card holders, students, researchers and posted workers), either for the short or longer-term. They further include the provisions that need to be fulfilled in order to be able to benefit from intra-EU mobility. Some documents focus on measures that are implemented, in case TCNs exceed the duration of residence in another Member State.<sup>89</sup> Not all third-country nationals applying from another Member State are exercising mobility strictly speaking. There are specific circumstances for facilitated intra-EU mobility defined in various directives.

**Gaps identified:** Few sources seem to refer to the application of the conditions and procedures for intra-EU mobility, and the extent to which administrative procedures and timeframes may be a limitation to the exercise of the intra-EU mobility rights in practice.<sup>90</sup> While some sources provide some information on certain categories of migrants (highly-skilled employment and students), there seems to be a lack of information for other categories of migrants.<sup>91</sup> Several national sources cover the mobility rights and free movement of third-country nationals in general.

### **3.7.2 Differences between newly arriving TCNs and intra-EU mobile TCNs**

**Number of sources identified: 6** at EU level.

**Type of sources:** EU policy documents.

**Geographical scope:** EU level.

**Main aspects identified:** The documents mainly address the requirements for TCNs in order to be able to enjoy intra-EU mobility based on their initial length of stay, as well as any differences in treatment between newly arrived TCNs and those that came from another Member State (e.g. preferential treatment for those TCNs moving from one Member State to another compared to those TCNs that newly enter the EU).<sup>92</sup>

**Gaps identified:** With the exception of few EU policy documents, there seems to be a lack of literature on this issue at EU level.

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<sup>89</sup> See for example Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer;

<sup>90</sup> See e.g. EMN Study Labour Shortages.

<sup>91</sup> See e.g. Kalantaryan, S., Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool, Policy Brief May 2015; EMN Study on International Students.

<sup>92</sup> See e.g. Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of highly qualified employment;

### 3.7.3 Short term mobility for TCNs (work travel, study exchange, holidays)

**Number of sources identified:** 11 at EU level.

- **Type of sources:** The majority of documents are EU policy documents (6), followed by proposals for Directives (5).

**Geographical scope:** EU level.

**Main aspects identified:** The documents address the right for mobility between Member States for different groups of TCNs as per the legal migration acquis (students, researchers, trainees, highly skilled workers, Intra-Corporate Transferees, holders of Long-Term Residence status) and the conditions these need to fulfil in order to benefit from this right. Documents address the provisions in Member States regarding short term intra-EU mobility and the compliance of Member States in transposing relevant provisions resulting from the legal migration Directives.<sup>93</sup>

**Gaps identified:** With the exception of proposals and few policy documents, few EU and national sources refer specifically to the application in practice of short-term mobility of TCNs in Member States (for e.g. notification procedures between first and second Member State of mobility).<sup>94</sup>

## 3.8 Phase 8: Leaving the EU territory

**Number of sources identified:** 54 at national level.

**Type of sources:** At national level, reports by the European Migration Network were the source mainly identified (17), followed by books (165), academic articles (9) and policy reports (10).

**Geographical scope:** At national level, sources on the issue of leaving the EU territory were identified in 14 Member States, namely: BE (3), BG (1), DE (7), EE (1), EL (1), ES (3), FI (1) IT (13), LT ( ), LV (3), PL (2), PT (1), SE (7), SI (8), SK (3).

**Main aspects identified:** The national literature includes information on the legal framework in relation to temporary and circular migration (BE, ES, IT, LV, PT, SE, SI, SK), expulsion (BE, EL, ES, IT), voluntary/forced return procedures (BE, BG, DE, EE, EL, ES, IT, LV, PL, SE, SI, SK), short stays outside of the EU territory (IT, SE, SK), export of pensions (FI).

### 3.8.1 Voluntary/forced return

**Number of sources identified:** 14.

**Type of sources:** EMN reports (8) followed by EU policy documents and proposals for Directives.

**Geographical scope:** EU level.

**Main aspects identified:** The documents address the reasons for return of TCNs, as well protection against expulsion for some groups of TCNs (such as long-term residents).<sup>95</sup> The EMN reports provide data on the number of TCNs who voluntarily returned and additional information provided by Member States on measures to prevent abuse of voluntary return programmes.<sup>96</sup>

**Gaps identified:** Most sources refer to voluntary return. There appears to be a lack

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<sup>93</sup> See e.g. Final implementation report of Council Directive 2004/114 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

<sup>94</sup> See e.g. Commission minutes contact group legal migration ICT, 2016, 2014.

<sup>95</sup> See e.g. Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final

<sup>96</sup> For example EMN Annual Policy Report 2009

of information on forced return at EU level. Some national sources address expulsion and voluntary / forced return procedures.

### 3.8.2 Short stays outside of the EU territory

**Number of sources identified:** 9 at EU level.

**Type of sources:** proposals for Directives (3), EU policy documents (6).

**Geographical scope:** EU level.

**Main aspects identified:** The documents address provisions for certain categories of migrants (highly skilled, LTR) that allow for short term stays outside of their territory. They further provide information about the conditions that need to be fulfilled by the TCN to be granted short term stays and to be granted re-entry in the concerned Member States. These are for example periods of absence specified, or flexibility provided for certain groups of TCNs.<sup>97</sup>

**Gaps identified:** With the exception of few policy documents and proposals, the issue of short stays outside the EU territory appears to be limited to certain categories of migrants and lacks attention in the academic literature. Only few national sources address short extra-EU stays.

### 3.8.3 Circular migration

**Number of sources identified:** 17 at EU level.

**Type of sources:** EMN reports (8) and EU policy documents (5), followed by proposals for Directives (4).

**Geographical scope:** EU level.

**Main aspects identified:** The documents mainly address the facilitation of circular migration through e.g. eased re-entry of certain categories of migrants (e.g. seasonal workers) or agreements between Member States and third countries. They also focus on facilitation of temporary migration of different groups of TCNs. Some documents focus on the benefits for the home country of the third country national when enabling circular migration.<sup>98</sup>

**Gaps identified:** While a majority of sources delve into the benefits of facilitating circular migration policies, fewer refer to the link between circular migration and brain drain in the countries of origin or between circular migration and return policies. Temporary and circulation migration is examined in some national sources.

## 4 Evaluation (Task IV)

### 4.1 Relevance

Overall a larger number of EU/international sources (51) than national sources (13 in seven Member States: AT (2), BE (1), DE (2), HU (1), IT (3), MT (3), RO (1)) were identified, examining the relevance of the EU legal migration directives. This section provides an overview of the literature identified, which tends to focus on three aspect of relevance: the continuing relevance of the **objectives** of the Directives (where the literature tends to be positive); the relevance of **specific rules of the Directives** (where the literature identifies more issues); and the **relevance of the way the Directives are implemented** by Member States (this is the aspect which the literature questions the most). These questions are explored in the literature most

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<sup>97</sup> See e.g. Communication 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

<sup>98</sup> E.g. European Agenda for the Integration of Third-Country Nationals

frequently in respect of the EU Blue Card Directive, but also (albeit to a lesser extent) in respect of the Family Reunification Directive, Students and Researchers Directives, and Long-term Residence Directive. The more recent Directives (Single Permit, ICT and Seasonal Workers) receive less attention in the literature.

**The national literature** provided covers recent developments in national law regarding labour migration in general (BE, MT), and more specifically also the relevance of the objectives and implementation of the Researcher Directive (DE, IT) and the Blue Card Directive (HU, IT). Moreover, the relevance of the way in which the Family Reunification Directive is interpreted and implemented is addressed (ES, IT). In two countries (ES and EL), a source on the relevance of the Single Permit for addressing labour market problems was identified.

### Relevance of the objectives of the Directives

**Type of sources:** The majority of **EU/international publications** which discuss the relevance of the objectives come from the European Commission (12), including five reports on the application of various Directives (e.g. family reunification, highly-skilled, researchers, students, long-term residents), four Communications setting out the EU's migration and integration strategy, and one summary of stakeholder responses to the green paper on family reunification. Three publications come from other EU institutions: two from the Council (The Hague and Stockholm programmes) and one report from the European Parliament on discrimination against migrants in the work place. A total of six academic reports dealing with the issue of highly-skilled migration into the EU also feature. Finally an impact assessment on TCN au pairs also covers issues of relevance.

**Main aspects identified:** The most recurrent issue concerns the continuing relevance of the objectives of the Blue Card Directive dealing with highly-skilled TCNs. When discussing the relevance of the EU Blue Card Directive, the literature repeatedly identifies the perceived difficulties encountered by the EU as a whole in attracting highly-skilled TCNs compared to other world regions (e.g. North America, Asia). Another key objective of the EU legal migration aquis, that the literature cites as remaining relevant, concerns the need to improve legal certainty across the Member States regarding the migration of different types of TCN to enhance labour mobility.

### Relevance of the rules

**Main aspects covered:** As regards the relevance of the rules of the Directives (vis-à-vis the overall objectives of the EU legal migration aquis), the literature cites the need to facilitate access to work for TCN students at the end of their studies to enhance the attractiveness of EU Member States for these types of TCN and further favour "brain circulation"<sup>99</sup>. Questions concerning the relevance of certain rules in the Directives is also examined in respect of the Researchers Directive, where it is found that the Directive is not sufficiently clear on the information to be provided on application procedures and gives too much discretion on the way Member States publish and update the lists of organisations applying the EU scheme for TCN researchers.

The EU Commission's Report on the application of the 2005 Researchers Directive highlights that implementation and transposition issues in the Member States (see further below on the relevance of the implementation) mainly come from the lack of clarity and a certain level of ambiguity in the definition of researchers' rights. The report points out that basic definitions such as 'researcher' and 'research organisation' need to gain a uniform understanding in all Member States bound by the Directive<sup>100</sup>. In addition to this, an evaluation study reveals that the rights of TCN researchers

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<sup>99</sup> COM(2011) 587 final: Report on the application of [Students] Directive 2004/114/EC

<sup>100</sup> COM(2011) 901 final: Report on the application of [Researchers] Directive 2005/71/EC

granted under the Directive are not always clearly specified in national legislation (particularly regarding mobility and equal treatment rights)<sup>101</sup>.

### **Relevance of the way the Directives are implemented**

**Type of sources:** Ten publications cover the issue of the relevance of the way the EU legal migration Directives have been implemented. These include four EU Commission Directive application reports, two other Commission publications, three academic studies on the Blue Card Directive, and one evaluation study on the implementation and impact of the Scientific Visa package. The geographical scope mostly concerns the EU as a whole with also a special focus on legal migration schemes in place in the Member States, particularly in relation to highly skilled TCNs.

**Main aspects covered:** As regards the implementation practices of Member States, which affect the relevance of the Directives, the literature identified a general lack of information supplied to TCNs by Member States about the status of LTR and the rights attached to it, as well as many deficiencies in the transposition of the Directive which are as many obstacles to the integration and mobility of TCNs within the EU<sup>102</sup>. High levels of discretion applied by Member States as regards family reunification also called into question the relevance of the 2003 Directive on family reunification.<sup>103</sup>

The relatively substantial national adaptations made in the implementation of the Blue Card Directive suggest that EU Member States all present different levels of commitment to the creation of a common migration approach for highly skilled workers. A study explains that the implementation of the Blue Card Directive, coupled with a well-developed national admission system, are an emanation of competitive behaviours on the part of Member States in terms of attracting highly skilled TCNs<sup>104</sup>. Another academic study also highlights the national divergences in implementation which stem from heterogeneous interests and divergent viewpoints among the Member States, with a number of them being sceptical of the attempt to centralise this type of migration at the EU level considering the existence of different labour market needs across Europe<sup>105</sup>.

**Gaps identified:** There is less literature focusing on the relevance of the objectives of the newer Directives including the Single Permit Directive, the ICT Directive and the Seasonal Workers' (besides the justifications presented in the proposals for the Directives) as compared to the amount of attention which the literature gives to the relevance of the objectives of the older Directives.

The issue of relevance in terms of national-level implementation and transposition tends to be limited to the Directives covering skilled migrants and researchers in the literature.

## **4.2 Coherence**

This section summarises the literature identified on the coherence of the EU legal migration acquis. It considers first the literature which examines coherence between the provisions of the different Directives, and then moves on to consider the literature on coherence between the Directives and national schemes, and coherence between the Directives and other EU policies.

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<sup>101</sup> Assessment for the Directive 2005/71/EC, International Centre for Migration Policy Development (ICMPD) 2011

<sup>102</sup> COM(2011) 585 final: Report on the application of [LTR] Directive 2003/109/EC

<sup>103</sup> COM(2008) 610 final: Report on the application of [Family Reunification] Directive 2003/86/EC

<sup>104</sup> Kość. D. (2013): Domestic adaptation and modalities of implementation of the Blue Card Directive. Maastricht University

<sup>105</sup> Smis, A. (2010): The European Blue Card: an Instrument for the Attraction of High Skilled Immigrants? Université Libre de Bruxelles (ULB)



Overall, 38 relevant publications were identified at EU level and 25 at national level (across 8 Member States, namely: BE (1), DE (1), ES (1), FI (3), HU (3), IT (4), SE (8)). At national level, the majority of sources identified are policy reports (12), followed by academic articles (6), books (4) and a study report (1). The main aspects considered by the national level sources are external coherence issues, in particular between the implementation of the Family Reunification Directive and international human rights law (ES, FI), coherence issues overall within EU labour migration law and policy (BE, FI, MT), as well as issues of coherence with respect to national schemes and the Researchers Directive (IT), the Blue Card Directive (DE, HU, IT) and the Family Reunification Directive (HU, IT).

The EU/international level literature is analysed in more detail across the three aspects of coherence described above.

#### 4.2.1 Coherence between the provisions of the Directives

**Type of sources:** At EU level, these predominantly include EU Commission publications (10): three EC reports on the application of various directives, four EC staff working group reports on seasonal workers and intra-corporate transfers, one EC proposal for a recast of the Directives on researchers and students, one EC guidance application document on the implementation of the 2003 Family Reunification Directive, one EC summary of stakeholder responses received in 2012 to the Green Paper on family reunification. The European Council's 2010 Stockholm Programme is also included in this grouping of publications. A further three academic studies on the attractiveness and effectiveness of EU immigration policies and four EMN outputs (three studies and one ad-hoc queries) also deal with the issue of coherence between the objectives of various EU legal migration Directives. **Geographical scope:** EU level and national level.

**Main aspects identified at EU/international level:** In the Stockholm Programme of 2010, the European Council notes that the development of EU legislation in the area of freedom, security and justice is impressive, but that there are potential overlaps which partly result from the language or terminology used in some of the legal acts. Other issues have been reported as regards the coherence of EU policy objectives with regard to the application of the 2003 Family Reunification Directive whereby the provisions linked to refugees have created some degree of legal confusion leading Member States to apply different rules to refugees and other beneficiaries of international protection whereas the initial objective of the Directive was to ensure a more favourable family reunification regime for these types of migrants<sup>106</sup>. Concerns have been raised around the LTR Directive as well as the newer Intra-corporate transferee (ICT) Directive as regards the coherence of its labour mobility objectives, particularly in relation to securing the mobility and LTR rights of mobile TCNs such as artists, athletes, and various types of field workers<sup>107</sup>.

Various other studies highlight that the fragmented approach and complex multi-layered system resulting from the co-existence of individual Directives focusing on the conditions of entry and residence of specific categories of TCNs has given rise to a number of policy challenges<sup>108</sup>. Labour mobility objectives do not uniformly apply to all types of TCN workers, for instance, and challenges remain in ensuring that social security access does not have a negative impact on the legal status of TCNs. More generally, the highly fragmented EU legal framework potentially exposes national-level practitioners to litigation issues<sup>109</sup>.

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<sup>106</sup> COM(2008) 610 final: Report on the application of [Family Reunification] Directive 2003/86/EC

<sup>107</sup> EC SWDs: Contact Group on Legal Migration reports (ICT 2014, 2015, 2016)

<sup>108</sup> Carrera, S., Guild, E., & Eisele, K. (2014): Rethinking the Attractiveness of EU Labour Immigration Policies. Centre for European Policy Studies (CEPS); EMN study on Labour Shortages (2015); EMN study on Change in immigration status (2015); EMN study on Migrants' access to social security (2014)

<sup>109</sup> Ibid



The Single Permit Directive, as stated in the Global Approach to Migration and Mobility Communication of 2011, is presented as a move towards legal simplification whereby all legally staying and working non-EU nationals are to be granted equal treatment to nationals irrespective of their initial reason for admission. The Communication also highlights that possible revisions of the Directives on researchers and students could further facilitate admission, residence and intra-EU mobility of these key groups for preserving the EU's future innovation capacity and competitiveness<sup>110</sup>.

The EC report on the application of the LTR Directive highlights the necessity to provide for more flexible arrangements as regards periods of absence from the EU territory, in line with the EU Blue Card scheme, to advance the integration of third-country nationals and improve the functioning of internal market. Finally, the EC Contact Group on Legal Migration notes that while intra-corporate transferees cannot apply for LTR status, the Directive does not prevent status changes by TCNs, which enables a former transferee to apply for LTR status<sup>111</sup>.

#### 4.2.2 Coherence between the Directives and other EU policy areas

**Type of sources:** The degree of coherence between the EU legal migration Directives and EU policies in other areas is covered in 18 publications<sup>112</sup>, most of which include EC documents (11) such as implementation reports and staff working documents focusing on various Directives (family reunification, LTR, ICT, researchers). EC proposals for revised Directives covering researchers and students on the one hand, and highly skilled TCNs on the other also focus on improving coherence between EU laws across different policy fields (i.e. labour mobility and social rights). This is also the case with three strategic EU documents (on the Global Approach to Migration, The Hague and Stockholm Programmes) which, in addition, address coherence with EU policies in the field of justice and border protection. Three academic studies cover this aspect of coherence in relation to the Blue Card Directive, the Single Permit Directive and from a more general perspective as well. The EMN study on international students and an evaluation report on the 2001 Researchers Directive also contribute to this particular aspect of the evaluation.

**Geographical scope:** The geographical scope is mainly limited to the EU as a whole given that few national sources tackle this aspect.

**Main aspects covered:** In the Stockholm programme, the European Council acknowledges the need to find practical solutions to increase coherence between EU migration policies and other policy areas such as foreign and development policy and trade, employment, health and education policies in terms of objectives pursued. The EU's global approach to migration, first presented in 2005, also considers the importance of setting coherent and consistent goals with respect to migration policy taking into account the sustainability of Member States reception capacities, defence imperatives and the fight against illegal migration and criminal activity (e.g. human trafficking)<sup>113</sup>.

The evaluation study of the 2005 Researchers Directive highlights the need to update its provision to accommodate the implications of Regulation 265/2010 on the intra-EU movement of persons with a long-stay visa either by introducing additional provisions related to the possibility of issuing long-stay visas to TCN researchers, while fully guaranteeing them the rights under the Directive, or by making it mandatory for Member States to issue a particular residence permit to TCN researchers that bears

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<sup>110</sup> COM(2011) 743 final

<sup>111</sup> MIGRAPOL Contact Committee (Mig-Dir – 78; 7.6.2016): "Summary of discussions on Directive 2014/66/EU"

<sup>112</sup> See Annex X

<sup>113</sup> COM(2011) 743 final

the term “researcher” as required under the Researchers Directive, rather than issuing long-term visas for research work by TCNs<sup>114</sup>.

The EC proposal for a new Blue Card Directive, issued last year, highlights the importance of ensuring coherence between schemes regulating the migration of highly skilled TCNs and EU labour mobility laws, notably Regulation 492/2011 of on freedom of movement for workers within the Union and Regulation 2016/589 on a European network of employment services (EURES), as well as in anticipation of the forthcoming Labour Mobility package as regards the coordination of social security. The lack of a common EU system for the recognition of qualifications obtained in a third country is also presented as an area for which action is needed to improve the coherence of intra-EU mobility laws as enshrined in the EURES Regulation and various legal migration Directives (LTR, researchers and students, Blue Card)<sup>115</sup>.

Several international sources, and one national source (ES) were identified, examining the coherence between aspects of the EU legal migration Directives and international human rights law (including the Charter on Fundamental Rights).<sup>116</sup>

#### 4.2.3 Coherence between EU Directives and national schemes

**Type of sources:** The degree of coherence between EU Directives and national schemes and policies in the area of legal migration is an issue that has received attention in the literature reviewed (48 publications<sup>117</sup>). Coverage is particularly extensive in the outputs produced by the EMN (25), in particular in ad-hoc queries on the Blue Card Directive, labour market access for TCNs and seasonal workers, as well in EMN Annual Policy Reports. The issue is also covered in EC publications (12), particularly in its implementation reports and staff working documents on specific Directives. Academic studies also deal with this issue (11), in particular with regard to the effects of the Blue Card Directive on national policies and strategies to attract highly-skilled TCNs.

**Geographical coverage:** The geographical coverage is not exhaustive across the 25 Member States, but rather there is a greater focus on the experience of some EU Member States are concerned given that the publications address the issue of coherence between national policies and EU Directives. One academic study looks at good practice examples from Oceania in the management of climate-induced seasonal worker inflows.

**Main aspects covered:** Coherence issues in this respect appear to be prominent with regard to the migration of highly skilled TCNs. The EC acknowledges that the wide variations between Member States in the number of EU Blue Cards granted due to a high degree of heterogeneity (as well as deficiencies) in the transposition of the 2009 Directive among the Member States and the preference given to parallel national schemes<sup>118</sup>. It has also been argued that the minimum standards contained in the 2009 Blue Card Directive give too much discretionary powers to Member States, which is seemingly at odds with the very purpose of the Blue Card, which was to create a harmonized if not single legal framework regulating admission and residence of highly-

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<sup>114</sup> Assessment for the Directive 2005/71/EC, International Centre for Migration Policy Development (ICMPD) 2011

<sup>115</sup> COM(2016) 378 final

<sup>116</sup> FRA, Handbook on European law relating to asylum, borders and immigration (2014), Steve Peers, ‘Immigration, Asylum and the European Union Charter of Fundamental Rights’ 3 *European Journal of Migration and Law* [2001]; La Spina, E (2015), Aspectos de la armonización asimétrica para la entrada y residencia de familiares nacionales de terceros estados en la UE’, Cuadernos europeos de Deusto, No. 53.

<sup>117</sup> See Annex X

<sup>118</sup> COM(2016) 378 final; Research on Migration: Facing Realities and Maximising Opportunities, European Commission 2016

qualified TCNs<sup>119</sup>. However, it is argued elsewhere that the existence of parallel national schemes is not necessarily negative, inasmuch as they can play a complementary role to the Blue Card if they target a different group of highly-skilled workers (e.g. self-employed or job seeking TCNs who are currently excluded from the Directive)<sup>120</sup>. On the other hand, there is overlap and competition if both the Blue Card and national schemes target the same groups of highly skilled TCNs undermining the harmonisation and branding objectives of the EU Blue Card<sup>121</sup>.

EMN Ad-Hoc Queries show the contradiction and tension existing between labour market protection and attraction of highly-skilled workers across the Member States. Certain countries protect their labour market by applying labour market tests, or favouring access for specific groups of highly-skilled TCNs or to industries for which there are labour shortages<sup>122</sup>. The EMN also provides useful insights regarding differences in the length and complexity of procedures for issuing a Blue Card across the Member States, whereby specific criteria and conditions often apply (e.g. qualifications and diplomas undergoing a mandatory recognition procedure in Bulgaria)<sup>123</sup>.

Elsewhere, concerns raised by certain stakeholders as regards the use of integration measures by Member States (such as minimum language proficiency standards) in the context of family reunification, arguing that these were in practice aimed at reducing immigration rather than promoting integration, and as such were in breach of the Directive<sup>124</sup>. It was also reported that the flexibility and discretion given to the Member States under the 2003 Directive goes against its harmonisation objective. A study on the Seasonal Workers Directive raises similar issues given that the Commission emphasises the harmonisation of national rules in this regard but that the flexible legislative style used in the Directive may undermine this goal<sup>125</sup>. Another study reveals significant divergence between the legislation of different Member States in regard to definition, duration of stay, the procedure and the level of legal rights granted to seasonal workers: in some Member States, rules were much stricter than in others, with, for instance, no right to re-entry provided<sup>126</sup>.

An analysis of the current provisions of the EU acquis suggests that, for stays exceeding three months, there is a fundamental difference between mobility rights for EU citizens and for mobile third-country nationals, with conditions more limited for mobile third-country nationals. Differences in the conditions for entry and stay of more than three months between mobile TCNs and third-country nationals arriving directly from a third country also appeared to be minor, despite the mobility provisions stipulated in the EU acquis<sup>127</sup>.

**Gaps identified:** Most of the literature addressing coherence issues focuses on the coherence between the Directives and national schemes; and coherence between the Directives and other EU policies. There is very little literature addressing the

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<sup>119</sup> Eisele, K., (2013): Why come here if I can go there: Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants. NEUJOBS Working Paper No. D18.2

<sup>120</sup> Belmonte, M. (2015): The EU Blue Card – is there a need for a more comprehensive approach? Institute for European Studies, Issue 2015/3, June 2015

<sup>121</sup> Ibid

<sup>122</sup> EMN Ad-Hoc Query 171 on Admission System for Labour Migration purposes

<sup>123</sup> EMN Ad-Hoc Queries 465, 502, 529

<sup>124</sup> EC summary of stakeholder responses to the Green Paper on the right to family reunification for TCNs (2012)

<sup>125</sup> Lazarowicz, A. (2014): A success story for the EU and seasonal workers' rights without reinventing the wheel. EPC Policy Brief

<sup>126</sup> Fudge, J., Herzfeld Olsson, P. (2014): The EU Seasonal Workers Directive: When Immigration Controls Meet Labour Rights. University of Kent

<sup>127</sup> EMN study on the Intra-EU Mobility of third-country nationals (2013)

coherence between the specific provisions of the different Directives. The literature which exists tends to be quite superficial, and highlights area of potential incoherence rather than analysing the specific provisions in detail.

While there is literature on the external coherence of the EU legal migration Directives, this tends to focus more on certain other areas of EU policy, in particular freedom of movement, EURES and EU visa policy, with less attention given to other important areas such as EU policy on equal treatment, EU policy on irregular migration and fundamental rights (although one national source and several EU level sources were identified which include insights on the latter).

### 4.3 Effectiveness

This section summarises the literature available on three aspects of effectiveness: (1) the extent to which the objectives of the Directives have been achieved, (2) the intended and unintended effects of the Directives, (3) and the factors influencing the effects. In total, the study team identified 106 sources at EU / international level and 15 sources at national level which examine more or more of these aspects.

At national level, sources on effectiveness were identified in 6 Member States, namely: BE (2), BG (3), HU (1), IT (2), SE (3). The sources focus on the intended and unintended effects of the implementation of the Blue Card Directive (BE, DE, IT), the Long-term residence Directive (DE) and the Researchers Directive (IT). One source also focuses on the effects of Third-country national students on higher education (HU).

The EU/international level literature on effectiveness is analysed in more detail across the three aspects of effectiveness listed above.

#### 4.3.1 Extent to which objectives of the Directives have been achieved

**Type of sources:** 31 sources have been identified at EU level with a focus on this aspect of effectiveness: 14 come from the EMN in the form of thematic studies, annual policy reports and ad-hoc queries. Various EC publications also cover this aspect (8), including two proposals (one issued in 2013 for a new Directive on TCN researchers and students, and one issued in 2016 for a revised Blue Card Directive), two implementation reports, two staff working documents, and two strategic communications on extra-European migration and TCN integration respectively. The European Council's Stockholm Programme of 2010 also addresses this issue from a general perspective. Six academic studies also look into the effectiveness of the EU Blue Card scheme, particularly in terms of attracting highly qualified TCNs. The geographical scope is mainly the EU as a whole, with an EMN study on highly qualified TCNs and two academic studies on the Blue Card providing insights into the systems in place in other parts of the world (i.e. North America, Asia, Oceania) to attract highly skilled TCNs.

#### **Main aspects covered:**

There is considerable focus on the effectiveness of the EU Blue Card scheme in the literature reviewed overall. The proposal for a new EU Blue Card Directive and various academic studies highlight the limited effectiveness of the EU Blue Card scheme based on the low number of Blue Card permits issued across the Member States. This in turn is often attributed to the restrictive admission conditions and limited facilitation for intra-EU mobility combined with many different sets of parallel national schemes for admitting the same categories of highly skilled TCNs.<sup>128</sup> Improving the effectiveness of the scheme implies ensuring that faster procedures, more flexible and inclusive

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<sup>128</sup> Belmonte, M. (2015): The EU Blue Card – is there a need for a more comprehensive approach? Institute for European Studies, Issue 2015/3, June 2015; Martin I., Kalantaryan S. (2015): Reforming the EU Blue Card as a Labour Migration Policy Tool. European University Institute

admission criteria, and more extensive mobility rights can be uniformly applied across the EU, which is indeed the purpose of the proposal for a new EU Blue Card Directive put forward by the EC<sup>129</sup>.

It is argued that the EU Blue Card Directive has fallen short of the EC's original goal to do away with 28 different national systems for highly qualified migrant workers, and can therefore merely be regarded as an upgraded national residence and work permit<sup>130</sup>. This is relatively apparent when reviewing EMN Ad-Hoc Queries which show the many particularisms of Member States' EU Blue Card schemes<sup>131</sup>. An EMN study also notes that the EU Blue Card initiative has not been sufficiently effective in helping to make the EU an attractive destination for highly skilled migrants due to its limited effects in terms of improving intra-EU labour mobility, particularly when compared with the opportunities available globally in larger countries such as China and the USA<sup>132</sup>. On the other hand, a study published in 2015 argues that the original EU Blue Card Directive effectively introduced a dedicated programme for highly qualified TCNs in Member States where none existed before (e.g. Cyprus, Poland, and Romania) or where such arrangements were limited in scope (e.g. Belgium, Italy, and Sweden)<sup>133</sup>.

Issues have been raised in an EC implementation report around the effectiveness of the 2003 Family Reunification Directive and the 2005 Researchers' Directive in terms of harmonising national rules and guaranteeing legal certainty as regards the status of the TCN groups concerned. The lack of clear definitions of researchers' rights under the 2005 Researchers Directive limited its effectiveness as it gave rise to complex and differentiated schemes across the Member States<sup>134</sup>. Additionally, an EMN study highlights that the effectiveness of the 2003 Family Reunification Directive in preventing the misuse of family reunification rights (e.g. through false marriages) has been negligible<sup>135</sup>.

An EMN study on labour shortages published in 2015 offers a practical summary of the general situation by noting that the effects of the Directives currently in place to regulate labour migration are considered to be limited, either because they have been adopted very recently (i.e. Seasonal Workers Directive and Intra-Corporate Transferees Directive both adopted in 2014), or because deficiencies have been identified in relation to their implementation and transposition across the Member States (i.e. the EU Blue Card and Researchers Directives).

#### **4.3.2 Intended and unintended effects of the EU legal migration Directives**

**Type of sources:** 32 EU/international sources have been identified with a focus on the intended and unintended effects of the EU legal migration Directives. This includes a total of 18 academic studies, among which seven focus on the EU Blue Card. The remaining academic studies look more broadly at EU legal migration policies, their rationale and macroeconomic consequences, or how their objectives can change over time. Seven publications from the EC (mainly staff working documents and implementation reports) and a European Parliament study on discrimination in the workplace have been consulted on this particular evaluation issue. Six EMN reports and studies also look at the effects of EU Directives on the migration of highly-qualified TCNs, on intra-EU mobility, labour demand, and the granting of visas.

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<sup>129</sup> COM(2016) 378 final

<sup>130</sup> Eisele, K., (2013): Why come here if I can go there: Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants. NEUJOBS Working Paper No. D18.2

<sup>131</sup> EMN Ad-Hoc Queries 465, 502, 529

<sup>132</sup> EMN study on Attracting Highly Qualified and Qualified Third-Country Nationals (2013)

<sup>133</sup> Belmonte, M. (2015): The EU Blue Card – is there a need for a more comprehensive approach? Institute for European Studies, Issue 2015/3, June 2015

<sup>134</sup> COM(2011) 901 final: Report on the application of [Researchers] Directive 2005/71/EC

<sup>135</sup> EMN study for the EC on the Misuse of the Right to Family Reunification (2012)

**Main aspects covered:** One academic study compares the macroeconomic consequences of migration policy choices in Germany and the United Kingdom. Three academic studies offer a more global perspective on the issue; two compare the effects of selective migration policy models across different world regions (notably Europe, North America and Oceania), and another focuses on future international migration trends and global population projections.

A study on the attractiveness of EU migration policies explains that migration control or temporary migration policies achieve the opposite effects of what was initially intended: i.e. temporary migration evolves into permanent settlement and there may be integration issues due to the lack of measures to promote integration from the outset<sup>136</sup>.

Many of the publications reviewed point out that directives as a policy instrument can have a series of unintended effects due to the flexibility given to Member States in transposing and implementing them. While some of the policies adopted by Member States are the result of incorrect implementation (e.g.: high fees, obstacles to intra-EU mobility, the watering down of the right of equal treatment and protection against expulsion), in other cases the policy divergence is the result of the flexibility permitted by the Directives. For example, an EC impact assessment conducted prior to the adoption of the Seasonal Workers Directive found that while the overstaying of seasonal workers would be prevented to some extent, the effects of the Directive on the functioning of the EU internal market would be marginal as seasonal workers would still be faced with diverging and complex national entry procedures<sup>137</sup>.

A study on cooperative competition in international relations<sup>138</sup> reveals that while the initial proposal for a Blue Card Directive had bold ambitions in terms of attracting highly skilled TCNs, the Council negotiations led to the adoption of a Directive in 2009 which was less generous than anticipated as far as admission and rights for TCNs are concerned. More specifically, the study argues that the salary threshold set at 1.5 average national salary is in many cases difficult to achieve by highly qualified professionals without substantial work experience, who tend to be more mobile than older TCNs. One of the consequences of this is that the EU struggles to compete globally in terms of attracting highly skilled TCNs. It has also been argued that the EU Blue Card Directive has been contradictory in terms of combating brain drain, as it partly tries to abide by the EU's external development policies but at the same time aims to attract as many highly skilled TCNs as possible by focusing on the EU's economic needs instead of including effective measures and safeguards to limit brain drain in the sending countries<sup>139</sup>.

Similarly to the point made about the unintended effects of Directives as a policy instrument considering the leeway Member States have in implementing them, a study concludes that the EU's sectoral approach in labour migration has contributed to creating a highly fragmented legal framework for TCNs raising serious concerns relating to coherence, transparency and legal certainty<sup>140</sup>. Furthermore, another EMN study highlights that from the limited statistics available on intra-EU movements of TCNs, it seems clear that these remain rather limited and small when compared with movements of EU citizens across Member States<sup>141</sup>. More positively, a study

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<sup>136</sup> Carrera, S., Guild, E., & Eisele, K. (2014): Rethinking the Attractiveness of EU Labour Immigration Policies. Centre for European Policy Studies (CEPS)

<sup>137</sup> COM(2010) 379

<sup>138</sup> Kość P (2012): Cooperative competition in international relations: a cooperation theory of EU highly skilled migration policy. Maastricht University

<sup>139</sup> Sjödin E. (2011): The Blue Card Directive and its safeguards against Brain Drain. Örebro University

<sup>140</sup> Eisele, K., (2013): Why come here if I can go there: Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants. NEUJOBS Working Paper No. D18.2

<sup>141</sup> EMN study on the Intra-EU Mobility of third-country nationals (2013)

conducted by the European Policy Centre<sup>142</sup> states that the impact of EU law is relevant inasmuch as the Family Reunification and Long Term Residence Directives have played a crucial role in terms of the adaptation of national rules, and that the transposition of EU Directives has generally made national rules more open and welcoming in many Member States.

#### **4.3.3 Factors influencing the effects of the EU legal migration Directives**

**Type of sources:** 43 EU/international publications were identified with a focus on different factors influencing the effects of EU legal migration Directives. Most of these are academic studies (28). Among them, nine focus on the EU Blue Card Directive, four present cross-country comparative reviews of legal migration schemes (both within and outside the EU), two focus on global competition in attracting highly qualified TCNs and the remaining focus on either general or more specific aspects of labour migration policy (e.g. circular migration, seasonal work). This particular aspect of the evaluation is also addressed in EU institution publications (15), including four EC implementation reports, two EC staff working documents, the European Council's Hague and Stockholm Programmes, three migration working papers from the Joint Research Centre, two EC Communications, one EC policy guidance document on family reunification, and one EP study on discrimination in the workplace.

**Geographical coverage:** The geographical scope covered in the literature reviewed varies relatively often, with a number of academic studies drawing policy comparisons across different EU Member States and world regions, also examining the effects of migration policies in a number of sending countries (e.g. China, India).

**Aspects covered:** From an EU-level perspective, the EC Communication of 2011 on a Global Approach to Migration and Mobility reveals the degree of interplay between migration policy and policies in other areas. It highlights that without well-functioning border controls, lower levels of irregular migration and an effective return policy, it will not be possible for the EU to offer more opportunities for legal migration and mobility, which also guarantee the well-being and successful integration of migrants.

On the other hand, considerable attention is given to national policies as factors affecting the effectiveness of EU migration policies. A study highlights that the lack of a commonly shared definition of 'skill' or of skills levels (low, medium, high) in the EU is a factor which potentially prevents the effectiveness of EU labour migration policies<sup>143</sup>. Elsewhere, the EC report on the application of the 2003 Family Reunification Directive explains that the differences in the fees charged by the Member States for applications is a factor which can potentially undermine the Directive's effect on the right to family reunification. A study on the forecasting of labour skills points out that sectoral or occupation-based employment programmes in the Member States plays a positive role in attracting qualified workers to fill positions where there are labour shortages and contributes towards the objectives of EU migration policy overall<sup>144</sup>. From a general perspective, there is the existence of a persistent implementation gap, regardless of the policy instrument used, at lower levels of governance whereby interpretation of certain rules or principles (e.g. whether there are no citizens available for a job for which a foreigner seeks to obtain a work permit) leaves open considerable room for subjective judgement<sup>145</sup>.

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<sup>142</sup> Pascouau Y. (2014): Measures and rules developed in the EU Member States regarding the integration of third country nationals. European Policy Centre

<sup>143</sup> Carrera, S., Guild, E., & Eisele, K. (2014): Rethinking the Attractiveness of EU Labour Immigration Policies. Centre for European Policy Studies (CEPS)

<sup>144</sup> Boswell, C., Stiller, S., Straubhaar, T. (2004): Forecasting Labour and Skills Shortages: How Can Projections Better Inform Labour Migration Policies. Migration Policy Institute

<sup>145</sup> Czaika, M., de Haas, H. (2001): On the effectiveness of Immigration Policies. International Migration Institute, University of Oxford



In the same vein, a comparative study of national visa policies and practices reveals that these still seem to be shaped by geopolitical factors such as economic connections and colonial rules between Member States and third countries, which potentially determine legal migration flows regardless of the existence of EU Directives in this area<sup>146</sup>. An academic study on the future of international migration<sup>147</sup> also points out that migration policies are, to some degree, endogenously determined by prior migration flows and can reflect existing migration patterns, which are in turn affected by the effectiveness of past migration policies. This also goes some way to explaining the diversity of national legal migration schemes as well as Member States' reluctance to give away sovereignty on those matters. In response to these issues, the Joint Research Centre's policy work package for 2017 includes plans to analyse and monitor how the different national approaches for naturalisation, integration and border control in the EU may influence migratory flows and routes.

There are also wider factors at play, beyond the realm of policymaking, which influence the performance of migration policies generally. In the EU context, a study established a relationship between temporary migration and social mobility, explaining that factors influencing the vertical mobility of temporary migrants include the recognition of formal qualifications as well as socio-economic factors such as, for instance, discrimination through stereotyping<sup>148</sup>. Previous research also shows that migration laws are only one factor among many determining the migrant's decision on country of destination<sup>149</sup>. Another study supports this view by arguing that even an optimally designed scheme to attract highly skilled TCNs would not be successful if there is no labour demand due to a downturn of the economy, or if there is failing acceptance of credentials and qualifications, or intense prejudice against foreigners<sup>150</sup>. It concludes by explaining that success of immigration policies depend on economic conditions in general. An academic study examining the EU Blue Card scheme a year after its adoption explains that while some effective sectoral approach is suggested by the Directive, no two countries have the exact same needs<sup>151</sup>. It is possible to conclude from this observation that diverging labour market needs across Member States is one of the main factors limiting the effectiveness of the EU Blue Card scheme.

How migration is framed in political discourse is also a factor which can potentially influence both the aims of future policies and the performance of existing ones. An academic study looking at the liberalisation of the global market and the competition for talent points out that multi-stakeholder partnerships (e.g. between government, international institutions, policy think-tanks and the private sector) is a potential success factor in migration policy design. Hence, favouring the exchange of information and knowledge is essential to ensure that bias and misconceptions do not override evidence-based policymaking<sup>152</sup>. However, it is important to note that the Open Method of Coordination (OMC) in the EU policymaking context has not yet been

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<sup>146</sup> La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015): Inventory of visa policies and agreements: Italy, Spain, France, and the United Kingdom. TEMPER EU Project

<sup>147</sup> Sander N., Guy J., Abel, Riosmena F, (2013). The future of international migration: Developing expert-based assumptions for global population projections, Vienna Demography Institute.

<sup>148</sup> Aksakal, M., Schmidt-Verkerk, K., (2015): Conceptual Framework on Temporary Migration. EURA-NET Project

<sup>149</sup> Belmonte, M. (2015): The EU Blue Card – is there a need for a more comprehensive approach? Institute for European Studies, Issue 2015/3, June 2015

<sup>150</sup> Doomernik, J., Koslowski, R., Thränhardt, D. (2009). The Battle for the brains: why immigration policy is not enough to attract the highly skilled. German Marshal Fund of the United States (GMF)

<sup>151</sup> Gümüs, Y. K. (2010). EU blue card scheme: the right step in the right direction. *European Journal of Migration and Law* 12 (2010) 435–453 b

<sup>152</sup> Luthria M., Dale P. (2013): Liberalising the global market for labour: from paralysis to policy innovation. INSEAD

extended to the field of migration, where negotiations primarily take place within the European Council.

**Gaps identified:** While significant literature has been identified on the effectiveness of the EU legal migration Directives, including the factors which appear to be affecting this, a number of gaps in the information available can also be discerned.

As regards the *extent to which the Directives have achieved their objectives*, existing sources focus more on certain overall objectives of the EU legal migration acquis, namely the aim of enhancing EU economic growth and competitiveness by responding to demands for highly skilled labour and offsetting skills shortages. Less attention appears to be given to the objectives of simplifying / harmonising EU admission policies, and advancing the fair treatment of third-country nationals in order to contribute to their integration.

As regards the Directives' *intended and unintended consequences*, the existing literature likewise focuses more on the effects of the Directives on the degree to which the EU is attractive to third-country nationals (in particular highly skilled third-country nationals) including by strengthening (or not) their rights to intra-EU mobility. Once again less attention is given in the literature to the intended and unintended effects on other rights of third-country nationals, including the right to equal treatment in key areas of social and economic life.

#### 4.4 Efficiency

This section reviews the existing literature on the efficiency of the EU legal migration acquis, focusing on two specific dimensions of efficiency: (1) the costs and benefits associated with the Directives, and the distribution of these across stakeholders, (2) the factors influencing the efficiency, including the impact of different approaches to implementation chosen by Member States. Overall a smaller number of sources were identified on this aspect of the functioning of the Directives: 29 at EU level, and only 5 at national level (one in Hungary, one in Italy and three in Finland) - an academic article, a national report developed in the context of a an EMN study and three policy reports (respectively).

The aspects examined by the national level sources focus on concerns about the costs associated with misuse of family reunification residence permits (HU), and the efficiency of the implementation practices relating to the Researchers Directive (IT), the Blue Card Directive (IT) and the Family Reunification Directive (FI). In addition, 23 of the 25 countries covered by the study have submitted information on the costs of the social security provisions of their migration policies as part of the 2014 EMN study on Migrant access to social security and healthcare. The aspects examined by the EU literature are considered in more detail below.

##### 4.4.1 Costs and benefits associated with the Directives, and the distribution of these across stakeholders

**Type of sources:** at EU level, the main sources identified with insights on this topic are EC policy documents (4) and an academic paper (1).

**Main aspects covered:** In the EC stakeholder consultation results on the Green Paper on family reunification, it is mentioned that different administrative costs are incurred by Member States on issuing permits and that a number of Member States asked for fees to reflect this, also arguing that the harmonisation of family reunification fees via the Directive could lead to inconsistencies in the costs of different residence permits within the country. Regarding the implementation of the 2005 Researcher Directive, the EC reports that ten Member States have made use of the provision (Art. 6(3)) giving them discretion to regulate the need for research organisations to provide the researcher with an individual statement of financial

responsibility for the costs that would be incurred by public funds should there be an illegal stay and return<sup>153</sup>. These examples show the extent to which Member States are concerned with the administrative burden on their respective public services arising from the implementation of EU legal migration Directive. At the same time, Member States appreciate considerably the flexibility and options provided for in the Directives to control costs and maximise in their own ways the benefits of having common EU rules.

A study examining possible options for a new Blue Card Directive<sup>154</sup> notes that any future reforms should acknowledge that current EU Blue Card related procedures are extremely costly for all stakeholders: for applicants due to cumbersome bureaucracy, for national authorities due to the necessity of case-by-case processing for which these authorities are often not prepared, and for employers due to the one-year minimum contract duration and the minimum salary threshold. A possible option for resolving these issues would be to create a system of certified employers or trusted partners entitled to obtain EU Blue Cards for their TCN employees through a much lighter procedure, as is applied in the national scheme of the Netherlands<sup>155</sup>.

There is only very little coverage of the costs and benefits of EU legal migration policies in countries not implementing the Directives in the literature reviewed so far. The studies on the EU Blue Card scheme reveal that they do not create a particular disadvantage for a country like, for instance, the United Kingdom, which has had considerable success in attracting highly qualified TCNs through its own schemes<sup>156</sup>. From a third country perspective, some studies have explored the risks of brain drain arising from certain EU labour migration policies (e.g. researchers, students and highly qualified TCNs) or the extent to which they may distort the efficient allocation of labour in third countries<sup>157</sup>.

#### **4.4.2 Factors influencing the efficiency of the EU legal migration Directives, including the role of different approaches to implementation chosen by Member States**

This section reviews the factors mentioned in the existing literature which may contribute to the efficiency of the EU legal migration Directives.

**Type of sources:** 24 EU level publications were identified with insights on this topic, including EC reports on the application of various Directives (Family Reunification, LTR, Students, Researchers), an EC stakeholder consultation report on the green paper for a new Family Reunification Directive, academic studies (one on the Blue Card Directive, one on the Single Permit Directive and one on circular migration) and an EP study on discrimination

**Aspects covered:** The factors influencing the efficiency of the Directives that are covered by the literature include: aspects associated with the rules established by the Directives, the role of different approaches to implementation chosen by Member States, good external relations with third countries, general lack of information about the Directives among third-country national applicants, discrimination faced by third-country nationals in particular as regards access to the labour market, and the fragmented nature of the EU legal framework on legal migration.

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<sup>153</sup> COM(2011) 901 final: Report on the application of [Researchers] Directive 2005/71/EC

<sup>154</sup> Martin I., Kalantaryan S. (2015): Reforming the EU Blue Card as a Labour Migration Policy Tool. European University Institute

<sup>155</sup> Ibid

<sup>156</sup> Cerna, L. (2010): The EU Blue Card: A Bridge Too Far. University of Oxford; Cerna, L. (2008): Towards an EU Blue Card: The delegation of National High Skilled Immigration Policies to the EU level. University of Oxford

<sup>157</sup> Lundborg, P. (2010): Immigration Policy for Circular Migration. Swedish Institute for European Policy Studies; Sjödin E. (2011): The Blue Card Directive and its safeguards against Brain Drain. Örebro University

### **Aspects associated with the rules established by the Directives**

In terms of international protection the Stockholm Programme calls for a uniform protection status, which is also mentioned in the EC summary of the 2012 stakeholder consultation on a Green Paper for a new Family Reunification Directive. Indeed, a factor of inefficiency with the 2003 Directive was that beneficiaries of subsidiary protection were not included in its scope. Albeit a minor issue, the Green Paper also notes that inefficiencies arise as a result of the situation where sponsors have residence permits valid for less than one year but to be renewed, with conflicting rules in the 2003 Directive whereby it is stated that family members' residence permits should be granted for at least one year, but that residence permits granted to family members should not be longer than those for sponsors.

Another study identifies as a factor contributing to inefficiency the remaining restrictions in the Directives to free circulation of third-country nationals, not just within, but also outside of the EU. According to this source, the restrictions reduce efforts to achieve an optimal usage of the world's labour force.<sup>158</sup>

#### **- Variations in implementation practices**

Variations in implementation practices across the Member States are well documented in the literature reviewed. While a detailed comparison of the efficiency of various national practices is missing from the literature, there is the understanding that the discretion applied by Member States in the application of the various Directives' provisions creates inefficiencies overall due to the complexity and legal uncertainty this generates.

For example, in relation to the Family Reunification Directive, over half of Member States authorise family reunification for parents of the sponsor and/or his/her spouse, whereas seven allow reunification of an unmarried partner either under a registered partnership or an evidence-based stable long-term relationship. In addition, the EC report on the application of the 2004 Students Directive notes that the time taken to process applications could range from 7 working days to 6 months depending on the Member State. An academic study published in 2010, a year after the adoption of the EU Blue Card Directive, notes the various derogations it contains which offer as many possibilities for interpretation by the Member States. One in particular concerns salary thresholds whereby Member states are allowed to tighten the group of eligible TCNs by setting a higher salary level than the minimum identified in the Blue Card Directive (1.5 times the national average salary).<sup>159</sup>

Finally, the academic study on the Single Permit Directive<sup>160</sup> notes that its efficiency lies in the issuance of a single permit covering both residence and work permits, which would provide true procedural simplification by reducing the number of steps and authorities involved. On the other hand, the study highlights that the time limit for examining the application is long and subject to significant derogations in the Directive – the time limit may be extended due to the complexity of examining a particular application, but the Directive does not give any detail on this, which leaves room for manoeuvre regarding its interpretation and implementation.

### **External relations**

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<sup>158</sup> Lundborg, P. (2010): Immigration Policy for Circular Migration. Swedish Institute for European Policy Studies

<sup>159</sup> Smis, A. (2010): The European Blue Card: an Instrument for the Attraction of High Skilled Immigrants? Universite Libre de Bruxelles (ULB)

<sup>160</sup> Pascouau, Y. and McLoughlin, S. (2012): EU Single Permit Directive: a small step forward in EU migration policy. European Policy Centre

The strategic documents reviewed<sup>161</sup> highlight good external relations with neighbouring EU countries as well as practical cooperation between the EU and those countries to improve the efficiency of external borders as a key factor to ensure the control of migration flows into the EU and the well-being of migrants. The 2010 Stockholm Programme in particular highlights that the adoption of the Lisbon Treaty offers new possibilities for the EU to act more efficiently in the external relations, through better coherence between traditional external policy instruments with internal policy dimensions, such as freedom, security and justice.

### **Discrimination in the workplace**

Discrimination experienced by third-country national workers in different EU Member States is presented in a recent European Parliament study as a damaging factor to the efficiency of EU labour migration policies.

### **Lack of information among TCNs**

The EC report on application of the LTR Directive points out that a major factor of inefficiency lies in the general lack of information among TCNs about their status and the rights attached to it, which stems from a lack of clear requirements for Member States to comply with in this particular area.

### **Fragmented nature of the EU legal framework**

It is also argued that the fragmented EU legal framework creates higher implementation and negotiation costs, also leading to a society where its members all have different rights and benefits, which again impacts on the costs of policymaking as well as on social cohesion<sup>162</sup>.

**Gaps identified in the literature on efficiency:** Despite a number of interesting findings, there are certain gaps in the literature on the costs and benefits of the EU legal migration Directives. The references to this issue tend to rather cursory, rather than the subject of an entire study. The costs which are examined tend to focus on the certain aspects of administrative burden presented by the Directives, in particular to national authorities. Less attention is given to a wider conception of costs and benefits, including those resulting from the adoption of measures on intra-EU labour mobility such as those guaranteed under the Long-Term Residence Directive. See also section of the literature review on the costs and benefits.

While the literature provides many suggestions on factors which may affect the costs and benefits of the legal migration Directives, no study has been identified which attempts to combine all of these insights in order to produce a wide-ranging cost-benefit analysis.

## **4.5 EU Added Value**

This section reviews the information and analysis which is currently available on the EU Added Value of the EU legal migration Directives. Overall, 33 EU level sources were identified of relevance to this topic, 6 at national level (BE (1), HU (2), IT (1), LV (2)). At national level: the sources consulted are comprised of academic articles (3), policy reports (2) and one study report. The national level literature examines in particular the effects of the Long-term residence Directive (BE), the Family Reunification Directive (IT), the Researchers Directive (HU) and the Blue Card Directive (HU). One source also looks into the effects of high-skilled third-country nationals in general (LV).

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<sup>161</sup> The Hague (2005) and Stockholm (2011) Programmes; COM(2011) 743 final on a Global Approach to Migration and Mobility

<sup>162</sup> Carrera, S., Guild, E., & Eisele, K. (2014): Rethinking the Attractiveness of EU Labour Immigration Policies. Centre for European Policy Studies (CEPS);

The insights on the EU Added Value of the EU legal migration Directives which are identified in the literature are of two kinds: (1) quantitative and qualitative positive results brought about by the Directives; and (2) considerations of the likely effects of withdrawing from the Directives.

#### **4.5.1 Quantitative and qualitative positive results brought about by the Directives**

**Type of sources:** at EU level, these are European Commission policy documents (2)<sup>163</sup>, Council policy document (1), EMN publications (4)<sup>164</sup> and academic studies (2).

**Main aspects identified:** Several studies focus on the reasons why the EU legal migration Directives have not contributed substantially to policy trends in the countries where they have been adopted. On the one hand-the opt-outs permitted and the flexibility associated with many of the provisions have led some authors to conclude that some of the Directives (in particular the Family Reunification Directive) has not resulted in any policies which would not have been adopted by Member States in any case (Tineke Strik).

For example, a study on the EU Blue Card scheme published in 2008<sup>165</sup>, a year before the adoption of the Directive introducing it, explains that many Member States were reluctant or even hostile to this centralised scheme arguing that national sovereignty needs to be respected on (highly qualified) labour migration matters. The United Kingdom, Ireland and (in a different form) Denmark decided to opt out of the scheme. The United Kingdom had already developed its own tier or points-based system, and indeed saw at the time very little added value in the EU Blue Card scheme as the country was already very successful in attracting high-skilled immigrants.

The value of EU labour migration policies in terms of achieving a Single European Labour Market becomes somewhat limited when Member States can opt out of certain measures. This is for instance the case with the LTR Directive, as pointed out by the 2013 EMN study on intra-EU mobility. The study gives the example of Ireland where no concessions apply for long-term resident TCNs in other EU Member States seeking to obtain LTR status in Ireland, despite some room for discretion. The study goes on to describe the United Kingdom's points-based system that applies to residence applications, irrespective of the long-term residence status of the TCN in another EU Member State.

On the other hand, the 2013 EMN study on highly qualified TCNs explains that one aspect of the added value of the EU Blue Card scheme is that it has influenced the concepts of the Member States offering it by setting out common definitions for both "highly qualified employment" and "higher professional qualifications" when Member States had no prior concepts and definitions. This common conceptual understanding among the Member States can be potentially beneficial in terms of facilitating the intra-EU job mobility of highly-qualified TCNs.

A study on measures developed in the Member States for the integration of TCNs highlights that legislative negotiations and transposition of pre-entry and post-entry EU measures for TCNs have brought Member States to discuss these issues, exchange information regarding national schemes and evaluate good and bad practices. From

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<sup>163</sup> EC Green Paper on EU approach to managing economic migration; EC report on the application of the 2003 Family Reunification Directive

<sup>164</sup> EMN study on highly qualified TCNs; study on intra-EU mobility; annual policy report 2008; ad-hoc query on ethical treatment.

<sup>165</sup> Cerna, L. (2008): Towards an EU Blue Card: The delegation of National High Skilled Immigration Policies to the EU level. University of Oxford

this particular perspective, the existence of EU measures can therefore be considered as a strong basis for common action<sup>166</sup>.

However, Member State negotiations on EU migration policies can also limit their added value. With evidence in previous sections relating to the limited effectiveness of the EU Blue Card scheme, work has been recently undertaken by the EC to come up with a revised EU Blue Card Directive. The logic behind the revisions, as pointed out in the EC impact assessment accompanying the proposal, is to establish a single, transparent and streamlined scheme for highly skilled TCNs that can better compete with schemes of traditional immigration countries, such as the United States, Canada or Australia<sup>167</sup>. The rationale, as set out in the EC proposal itself, is to make the Blue Card scheme accessible to a wider group of highly skilled TCNs and improve their rights to intra-EU mobility, while removing duplicate national schemes in the Member States. The added value of such a move would be market the EU globally with an attractive and clear EU brand<sup>168</sup>.

As regards the Seasonal Workers Directive, the EC impact assessment that fed into its preparation identified the EU added value for both Member States and employers of a common, transparent and accessible seasonal worker admission system to cope with seasonable shortages allowing TCNs to move legally towards Member States in need of labour. The Seasonal Workers Directive can generate further benefits down the line by reducing illegal immigration and employment, sending out a cooperation-oriented message to third countries concerning the management of labour migration while fostering mutually beneficial circular migration<sup>169</sup>.

Beneficial circular migration or so-called "brain circulation" was already a factor of EU added value identified in the EC assessment of the application of the 2004 Students Directive. The facilitation of TCN students' entry into the EU is an approach that supports cooperation with third countries in the field of human capital and employment, which benefits both the sending and the receiving countries. An area for improvement identified in the EC report related to the issue of access to work for TCN students at the end of the studies in the EU, as this seems to be a decisive factor in students' choice of a destination country and particularly relevant in the context of a declining working-age population in the EU and a global need for highly-qualified workers. This particular issue is addressed in the EC proposal that led to the adoption in 2016 of a Recast Directive covering both TCN researchers and students with provisions guaranteeing better access to the labour market of the Member States<sup>170</sup>.

While the sectorial approach to legal migration still shapes EU policy, there has been in more recent years a move towards legislative and procedural simplification to maximise the added value of EU migration law. This is for instance the case with the Single Permit Directive, with its added value lying in the issuance of a single permit covering both residence and work permits, providing procedural simplification by reducing the number of steps and authorities involved while making it easier to control the legality and residence of migrant workers. The Directive can have real scope effects as it potentially opens the door for further rules to be adopted to consolidate a common EU-level vision in the fields of legal and labour migration<sup>171</sup>.

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<sup>166</sup> Pascouau Y. (2014): Measures and rules developed in the EU Member States regarding the integration of third country nationals. European Policy Centre

<sup>167</sup> SWD(2016) 194 final – Executive summary of the impact assessment accompanying the proposal for revised Blue Card Directive

<sup>168</sup> COM(2016) 378 final

<sup>169</sup> COM(2010) 379

<sup>170</sup> COM(2013) 151 final

<sup>171</sup> Pascouau, Y. and McLoughlin, S. (2012): EU Single Permit Directive: a small step forward in EU migration policy. European Policy Centre



Other issues relating to the added value of EU-level actions are mentioned, such as enhancing the EU's global role to address the root causes of migration and to try and halt the human misery created by those who exploit migrants<sup>172</sup>. The EU also generates added value in terms of policy scope as it constitutes a forum for knowledge exchange and information dissemination on various aspects of migration<sup>173</sup>. Finally, an academic study also argues that the Commission's role as "policy entrepreneur" has been crucial in accounting for migration policy developments across the Member States, both before and after the Lisbon Treaty<sup>174</sup>.

#### 4.5.2 Likely effects of a withdrawal from the Directives

Coverage of the counterfactual scenario of an EU without a legal migration policy framework, or of the likely effects of a withdrawal from the Directives, is very limited in the literature reviewed so far. The EC report on the 2012 stakeholder consultation on the Green Paper on Family Reunification mentions that many organisations feared that reopening the Directive in a rather difficult political climate could lead to a more restrictive application of family reunification rights, or even result in more Member States opting out. In the 2010 Stockholm Programme, the EU Council acknowledges that without flexible migration policies, the EU's economic development and performance in the longer term could be impacted considering the important demographic challenges that will face many Member States in the future with an increased demand for labour.

**Gaps identified:** There is almost no detailed information on the extent to which the EU legal migration policy framework generates value in the Schengen non-EU States (Iceland, Norway and Switzerland).

There is also very little consideration in the literature as to the likely effects of a withdrawal from the EU legal migration Directives.

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<sup>172</sup> COM(2015) 240 final: A European Agenda on Migration

<sup>173</sup> COM(2005) 669 final: Policy Plan on Legal Migration

<sup>174</sup> Menz, G. (2015). Framing the matter differently: the political dynamics of European Union labour migration policymaking. *Cambridge Review of International Affairs*, 28:4, 554-570

## **List of Literature**

## **1 Introduction**

This section includes the literature used for Outcome IA – the Synthesis Report of the literature review. The sections include all literature utilised for this part of task I. In some cases, the same literature was used for more than one section; for this reason there are repetitions in several of the lists of sources. They were nevertheless included to provide an overview of all sources utilised in the different sections.

All documents listed in this overview are stored in Nvivo and can be made available to the Commission.

## 2 Contextual analysis: List of sources

### 2.1 Rationale for an EU legal migration policy

- Proposal for a Council Directive on the right to family reunification COM\_99\_0638 final
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of research, studies, etc COM(2013)151 final (2)
- The global approach to migration and mobility
- Summary of stakeholders responses to the green paper on the right to family reunification of TCNs
- European Commission 2015. A European Agenda on Migration
- Action Plan on the integration of TCNs
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment
- The Hague program strengthening freedom security and Justice
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purpose of paid employment and self-employed economic activities COM\_2001\_0386 final
- Green paper on an EU approach to managing economic migration
- Proposal for a directive and two proposals for recommendations on the admission of TCNs to carry out scientific research in the European Community COM\_2004\_0178 final
- Report on the application of Directive 2003 86 EC on the right to family reunification
- Proposal for a Directive on a single application procedure for a single permit for TCNs and on a common set of rights for TC workers legally residing in a MS COM\_2007\_0638
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- The Stockholm Programme. An open and secure Europe serving and protecting citizens
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of seasonal employment COM\_2010\_0379 final
- Report from the Commission to the Council and the EP on the application of Directive 2005 71 ec on TCNs for the purposes of scientific research
- Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer COM\_2010\_0378 final
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- BSc' thesis\_The BC Directive
- Carrera, S., Guild, E., & Eisele, K. 2014. Rethinking the Attractiveness of EU Labour Immigration Policies
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- Cerna, L. (2010). Policies and practices of highly skilled migration in times of the economic crisis

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- EC report on application of LTR Directive
- Eisele, K., (2013) Why come here if I can go there\_Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants
- EMN Annual Policy Report 2008
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- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
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- Olsson and Fudge\_SWD when immigration controls meet labour rights\_2014
- Pascouau, Y. and McLoughlin, S., 2012. EU Single Permit Directive\_a small step forward in EU migration policy

- Sander N., Guy J. Abel, Riosmena F, (2013). The future of international migration\_Developing expert-based assumptions for global population projections
- Sidonie\_The Blue Card Directive - Probing the Limits of EU Immigration Policy\_2014
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- Tottos\_The Past Present and Future of the SWD\_2014

## 2.2 Historical evolution of the legal migration Directives

See under 2.1

## 2.3 Statistics on migration

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- Service providers on the move OECD
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- Eurostat data (see annex in Task IB – contextual analysis)

## 2.4 Evolution of demand for migrant labour

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### 2.4.2 Other push-pull factors influencing the flow of migration

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## 2.5 Gaps in coverage

### 2.5.1 Service providers

#### EU institutional documents

- COM(2015) 240 final: A European Agenda on Migration
- Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purpose of paid employment and self-employed economic activities COM\_2001\_0386 final
- Proposal for a Directive on a single application procedure for a single permit for TCNs and on a common set of rights for TC workers legally residing in a MS COM\_2007\_0638
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of seasonal employment COM\_2010\_0379 final
- Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer COM\_2010\_0378 final
- COM\_BC Inception Impact Assessment\_2016
- Trade in Services by GATS Modes of Supply: Statistical Concepts and First EU Estimates, European Commission, DG Joint Research Centre, Issue 3, November 2016

#### Reports and Studies by international organisations

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- Exploitation of construction, forestry and wood workers in connection with migrant and cross border work, IFBWW
- GATS Mode 4: How Trade in Services Can Help Developing Countries, Development Research Centre on Migration, Globalisation & Poverty, November 2005 No.4
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#### European Migration Network (EMN) outputs

- EMN study on Admitting third-country nationals for business purposes (2015)

### 2.5.2 Transport workers

- Regulation (EC) 1072/2009 on common rules for access to the international road haulage market (recast)
- Conference on social dumping in the civil aviation sector, available here: <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-aviation-social-dumping-presentations.35402>

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- European Commission (n.d.). Simplifying visa rules, [https://ec.europa.eu/growth/sectors/tourism/promoting-europe/visa\\_en](https://ec.europa.eu/growth/sectors/tourism/promoting-europe/visa_en)
- European Council (2005). The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XG0303\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XG0303(01)&from=EN)
- European Council (2009). The Stockholm Programme – An open and secure Europe serving and protecting the citizens, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the\\_stockholm\\_programme\\_-\\_an\\_open\\_and\\_secure\\_europe\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_stockholm_programme_-_an_open_and_secure_europe_en_1.pdf)

## 2.6.5 Interaction with asylum acquis

### Legal instruments/Communications:

- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)
- Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents
- Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
- Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), COM(2016) 270 final
- Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification COM(2014) 210 final

### Other

- Behrens, J.; Labayle, M.; Duro Mansilla, M.; Lekka, L.; van Nierop, P.; Deodato, M.; Hayward, L.; Nicoletti, R.; Valenti, A., Evaluation of the application of the

- recast Qualification Directive (2011/95/EU), study commissioned by DG Migration and Home Affairs of the European Commission, (publication forthcoming 2017)
- European Legal Network on Migration: Information Note on Family Reunification for Beneficiaries of International Protection in Europe (2016)
- EMN Synthesis Report for the EMN Focussed Study 2016 Family Reunification of Third- Country Nationals in the EU plus Norway: National Practices (publication forthcoming in 2017)
- EC implementation report family reunification
- EMN Ad-hoc Query 561 Asylum seekers access labour market
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Policy Report 2009
- EMN Annual Report on Immigration and Asylum 2014
- EMN Study Access to Social Security
- EMN Study Change of Status
- EMN Study Labour Shortages
- EMN Study Misuse Family Reunification
- EMN Study on International Students
- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
- Czaika, M. and de Haas, H. (2001) On the effectiveness of Immigration Policies. IMI working Paper

#### **2.6.6 Costs and benefits of the legal migration Directives**

- European Agenda for the Integration of Third-Country Nationals
- The global approach to migration and mobility
- European Commission 2015. A European Agenda on Migration
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment
- Green paper on an EU approach to managing economic migration
- Report on the application of Directive 2003 86 EC on the right to family reunification
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- The Stockholm Programme. An open and secure Europe serving and protecting citizens
- Report from the Commission to the Council and the EP on the application of Directive 2005 71 ec on TCNs for the purposes of scientific research
- Report from the Commission on the application of Directive 2003 109 EC concerning the status of TCNs who are LTRs
- Carrera, S., Guild, E., & Eisele, K. 2014. Rethinking the Attractiveness of EU Labour Immigration Policies
- Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level
- Cerna, L. (2010). The EU Blue Card\_A Bridge Too Far
- EMN Study Access to Social Security
- EMN Study on International Students
- EMN Study Temporary Circular Migration
- Helbling, M., Bjerre, L., Römer, F., Zobel, M. eds. (2013) How to measure immigration policies. Migration and Citizenship.
- JRC\_Work Package Sheet 2017 b
- JRC\_Work Package Sheet 2017 c impacts
- Lundborg\_Immigration Policy for Circular Migration\_2008 prob
- Martin and Kalantaryan\_Reforming the EU Blue Card as a Labour Migration Policy Tool\_2015

- MA's thesis\_Brain drain effects of blue card\_2010
- Münz\_The global race for talent\_2014
- OECD\_Gaining from Migration\_2007
- OECD\_The global Competition for Talent\_2009
- Rinne, U. (2012) The Evaluation of Immigration Policies
- Ros et al\_Migration and information flows\_2007
- Rottas and Givens\_High-skilled migration\_2015
- Sarkar\_Student migration from India\_2015

### **3 Practical implementation of the Directives: List of sources**

#### **3.1 Phase 1: Provision of information to prospective TCN applicants on application procedure**

- Report from the Commission on the application of Directive 2004/114/EC (so called students Directive)
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final
- Summary of stakeholders responses to the green paper on the right to family reunification of TCNs
- Communication from EC on guidance for application for Directive 2003/86/EC on the right to family reunification
- Action Plan on the integration of TCNs
- Report on the application of Directive 2003/86/EC on the right to family reunification
- Proposal for a Directive on a single application procedure for a single permit for TCNs and on a common set of rights for TC workers legally residing in a MS COM\_2007\_0638
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of highly qualified employment, COM\_2007\_0637 final
- Belmonte, M. (2015) The EU Blue Card - is there a need for a more comprehensive approach
- CEPS\_Impact Seasonal Employment on local and regional authorities\_2010
- COM\_minutes Contact Group Legal Migration\_Single Permit and BC\_2014
- EMN Ad-hoc Query 525 Ethical treatment
- EMN Ad-hoc Query 554 Campaigns to attract TCNs
- EMN Annual Policy Report 2009
- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2014
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study (Highly) Qualified TCNs
- EMN Study Access to Social Security
- EMN Study Change of Status
- EMN Study For Business Purposes
- EMN Study on International Students
- European Policy Centre (2014). Measures and rules developed in the EU Member States regarding integration of third country nationals
- Final Overall report on the transposition of Directive 2003/109/EC LTR
- La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) Inventory of visa policies and agreements\_Italy, Spain, France, and the United Kingdom
- Pascouau, Y. and McLoughlin, S., 2012. EU Single Permit Directive\_a small step forward in EU migration policy

#### **3.2 Phase 2: Requirements / conditions to apply for residence permits**

- Proposal for a Council Directive on the right to family reunification COM\_99\_0638 final
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of research, studies, etc COM(2013)151 final (2)
- Report from the Commission on the application of Directive 2004/114/EC (so called students Directive)
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final
- European Agenda for the Integration of Third-Country Nationals



- The global approach to migration and mobility
- Summary of stakeholders responses to the green paper on the right to family reunification of TCNs
- Communication from EC on guidance for application for Directive 2003 86 EC on the right to family reunification
- Action Plan on the integration of TCNs
- Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of studies vocational training or voluntary service COM\_2002\_0548 final
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purpose of paid employment and self-employed economic activities COM\_2001\_0386 final
- Green paper on an EU approach to managing economic migration
- Proposal for a directive and two proposals for recommendations on the admission of TCNs to carry out scientific research in the European Community COM\_2004\_0178 final
- Report on the application of Directive 2003 86 EC on the right to family reunification
- Proposal for a Directive on a single application procedure for a single permit for TCNs and on a common set of rights for TC workers legally residing in a MS COM\_2007\_0638
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of highly qualified employment, COM\_2007\_0637 final
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of seasonal employment COM\_2010\_0379 final
- Report from the Commission to the Council and the EP on the application of Directive 2005 71 ec on TCNs for the purposes of scientific research
- Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer COM\_2010\_0378 final
- Report from the Commission on the application of Directive 2003 109 EC concerning the status of TCNs who are LTRs
- Aksakal, M., Schmidt-Verkerk, K., (2015) Internal report on conceptual classifications, Document from the EURA-NET project
- Belmonte, M. (2015) The EU Blue Card - is there a need for a more comprehensive approach
- BEPA-IOM\_opening Europe's doors to unskilled and low-skilled workers. Handbook\_2010
- Carrera, S., Guild, E., & Eisele, K. 2014. Rethinking the Attractiveness of EU Labour Immigration Policies
- CEPS\_Impact Seasonal Employment on local and regional authorities\_2010
- Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level
- Cerna, L. (2010). Policies and practices of highly skilled migration in times of the economic crisis
- COM\_minutes 71 contact group legal migration discussion on SWD\_2016
- COM\_minutes 77 contact group legal migration discussion on SWD\_2016
- COM\_minutes contact group ICT\_2016
- COM\_minutes contact group legal migration ICT\_2014
- COM\_minutes contact group legal migration ICT\_2015
- COM\_minutes contact group legal migration SW\_2015
- COM\_minutes contact group legal migration SW\_March 2016
- COM\_minutes Contact Group Legal Migration\_Single Permit and BC\_2014
- COM\_minutes contact group SWD\_2016

- Doomernik, J., Koslowski, R., Thränhardt, D. (2009) The Battle for the brains\_why immigration policy is not enough to attract the highly skilled.
- EC COM on conditions of entry for highly qualified TCNs
- EC implementation report family reunification
- Eisele, K., (2013) Why come here if I can go there\_Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants
- EMN Ad-hoc Query 171 Admission labour market
- EMN Ad-hoc Query 236 Employment and Work of Aliens
- EMN Ad-hoc Query 565 Requirements for operating business activity
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study For Business Purposes
- EMN Study Intra-EU Mobility
- European Policy Centre (2014). Measures and rules developed in the EU Member States regarding integration of third country nationals
- Fudge, J. and Herzfeld Olsson, P. The EU Seasonal Workers Directive\_When Immigration Controls Meet Labour Rights
- Kalantaryan, S. , Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool\_Policy Brief May 2015
- Kosc, P. (2013). Domestic adaptation and modalities of implementation of the Blue Card directive
- La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) Inventory of visa policies and agreements\_Italy, Spain, France, and the United Kingdom
- Lazarowicz, A. 2014. A success story for the EU and seasonal workers' rights without reinventing the wheel, EPC Policy Brief
- MA's thesis\_The European Blue Card\_2010
- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
- Menz, G. (2016). Framing competitiveness\_the advocacy of migration as an essential human resources strategy in Europe
- Olsson and Fudge\_SWD when immigration controls meet labour rights\_2014
- Overall implementation report family reunification
- Pascouau, Y. and McLoughlin, S., 2012. EU Single Permit Directive\_a small step forward in EU migration policy
- Rinne, U. (2012) The Evaluation of Immigration Policies
- Tottos\_The Past Present and Future of the SWD\_2014

### **3.3 Phase 3: Procedures for applying for residence permits**

- Proposal for a Council Directive on the right to family reunification COM\_99\_0638 final
- Report from the Commission on the application of Directive 2004/114 EC (so called students Directive)
- The global approach to migration and mobility
- Summary of stakeholders responses to the green paper on the right to family reunification of TCNs
- Communication from EC on guidance for application for Directive 2003/86 EC on the right to family reunification
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of studies vocational training or voluntary service COM\_2002\_0548 final
- Green paper on an EU approach to managing economic migration
- Proposal for a directive and two proposals for recommendations on the admission of TCNs to carry out scientific research in the European Community COM\_2004\_0178 final

- Report on the application of Directive 2003 86 EC on the right to family reunification
- Proposal for a Directive on a single application procedure for a single permit for TCNs and on a common set of rights for TC workers legally residing in a MS COM\_2007\_0638
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- Report from the Commission to the Council and the EP on the application of Directive 2005 71 ec on TCNs for the purposes of scientific research
- Report from the Commission on the application of Directive 2003 109 EC concerning the status of TCNs who are LTRs
- Blue Card 2009 Transposition
- Carrera, S., Guild, E., & Eisele, K. 2014. Rethinking the Attractiveness of EU Labour Immigration Policies
- Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level
- COM\_minutes 71 contact group legal migration discussion on SWD\_2016
- COM\_minutes 77 contact group legal migration discussion on SWD\_2016
- COM\_minutes contact group ICT\_2016
- COM\_minutes contact group legal migration ICT\_2014
- COM\_minutes contact group legal migration ICT\_2015
- COM\_minutes contact group legal migration SW\_2015
- COM\_minutes contact group legal migration SW\_March 2016
- COM\_minutes Contact Group Legal Migration\_Single Permit and BC\_2014
- COM\_minutes contact group SWD\_2016
- Doomernik, J., Koslowski, R., Thränhardt, D. (2009) The Battle for the brains\_why immigration policy is not enough to attract the highly skilled.
- EC implementation report family reunification
- EC report on application of LTR Directive
- EMN Ad-hoc Query 171 Admission labour market
- EMN Ad-hoc Query 181 Labour Market Legislation Limiting TCNs
- EMN Ad-hoc Query 388 Complex monitoring system for TCN employment
- EMN Ad-hoc Query 465 EU Blue Card
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Report on Immigration and Asylum 2014
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study Access to Social Security
- EMN Study Change of Status
- EMN Study For Business Purposes
- EMN Study Intra-EU Mobility
- EMN Study Misuse Family Reunification
- EMN Study on International Students
- Fudge, J. and Herzfeld Olsson, P. The EU Seasonal Workers Directive\_When Immigration Controls Meet Labour Rights
- Gümüs, Y. K. (2010). EU blue card scheme\_the right step in the right direction
- Kalantaryan, S. , Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool\_Policy Brief May 2015
- Kosc, P. (2013). Domestic adaptation and modalities of implementation of the Blue Card directive
- La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) Inventory of visa policies and agreements\_Italy, Spain, France, and the United Kingdom
- MA's thesis\_The European Blue Card\_2010
- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
- Olsson and Fudge\_SWD when immigration controls meet labour rights\_2014
- Overall implementation report family reunification

- Pascouau, Y. and McLoughlin, S., 2012. EU Single Permit Directive\_a small step forward in EU migration policy
- Tottos\_The Past Present and Future of the SWD\_2014

### **3.4 Phase 4: Procedures for applying for entry and transit visas**

- Proposal for a Council Directive on the right to family reunification COM\_99\_0638 final
- Report from the Commission on the application of Directive 2004/114/EC (so called students Directive)
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final
- The global approach to migration and mobility
- Communication from EC on guidance for application for Directive 2003/86/EC on the right to family reunification
- European Commission 2015. A European Agenda on Migration
- The Hague program strengthening freedom security and Justice
- Green paper on an EU approach to managing economic migration
- Report on the application of Directive 2003/86/EC on the right to family reunification
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- The Stockholm Programme. An open and secure Europe serving and protecting citizens
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of seasonal employment COM\_2010\_0379 final
- Blue Card 2009 Transposition
- EMN Ad-hoc Query 388 Complex monitoring system for TCN employment
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Policy Report 2009
- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2014
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study For Business Purposes
- EMN Study Misuse Family Reunification
- EMN Study on International Students
- EMN Study on Visa Policy

### **3.5 Phase 5: Delivery of the residence permit**

- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of research, studies, etc COM(2013)151 final (2)
- Report from the Commission on the application of Directive 2004/114/EC (so called students Directive)
- Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final
- Report on the application of Directive 2003/86/EC on the right to family reunification
- Report from the Commission on the application of Directive 2003/109/EC concerning the status of TCNs who are LTRs
- Blue Card 2009 Transposition
- COM\_minutes contact group ICT\_2016
- COM\_minutes Contact Group Legal Migration\_Single Permit and BC\_2014
- EC implementation report family reunification
- EMN Ad-hoc Query 181 Labour Market Legislation Limiting TCNs
- EMN Ad-hoc Query 465 EU Blue Card
- EMN Annual Policy Report 2009

- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2014
- EMN Study on International Students
- Final Overall report on the transposition of Directive 2003/109/EC LTR
- Tottos\_The Past Present and Future of the SWD\_2014

### **3.6 Phase 6: Treatment of TCN applicants**

- Tampere European Council 15-16.10.1999\_ Conclusions of the Presidency - European Council Tampere 15-16.10
- Report from the Commission on the application of Directive 2004/114/EC (so called students Directive)
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final
- European Agenda for the Integration of Third-Country Nationals
- Communication from EC on guidance for application for Directive 2003/86/EC on the right to family reunification
- Action Plan on the integration of TCNs
- Green paper on an EU approach to managing economic migration
- Report on the application of Directive 2003/86/EC on the right to family reunification
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- The Stockholm Programme. An open and secure Europe serving and protecting citizens
- Report from the Commission to the Council and the EP on the application of Directive 2005/71/EC on TCNs for the purposes of scientific research
- Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer COM\_2010\_0378 final
- Report from the Commission on the application of Directive 2003/109/EC concerning the status of TCNs who are LTRs
- BEPA-IOM\_opening Europe's doors to unskilled and low-skilled workers. Handbook\_2010
- CEPS\_Impact Seasonal Employment on local and regional authorities\_2010
- Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level
- Cerna, L. (2010). Policies and practices of highly skilled migration in times of the economic crisis
- COM\_minutes 71 contact group legal migration discussion on SWD\_2016
- COM\_minutes 77 contact group legal migration discussion on SWD\_2016
- COM\_minutes contact group ICT\_2016
- COM\_minutes contact group legal migration ICT\_2015
- COM\_minutes contact group legal migration SW\_2015
- COM\_minutes contact group legal migration SW\_March 2016
- COM\_minutes contact group SWD\_2016
- Desiderio, M. V. (2014) Policies to support immigrant entrepreneurship
- Doomernik, J., Koslowski, R., Thranhardt, D. (2009) The Battle for the brains\_why immigration policy is not enough to attract the highly skilled.
- Eisele, K., (2013) Why come here if I can go there\_Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants
- EMN Ad-hoc Query 502 Holders of EU Blue Card
- EMN Ad-hoc Query 565 Requirements for operating business activity
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Policy Report 2009
- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2014
- EMN Annual Report on Immigration and Asylum 2015

- EMN Study Access to Social Security
- EMN Study Change of Status
- EMN Study For Business Purposes
- EMN Study Intra-EU Mobility
- EMN Study on International Students
- EP\_EMPL\_Discrimination of migrant workers at the workplace\_2014
- European Policy Centre (2014). Measures and rules developed in the EU Member States regarding integration of third country nationals
- Fudge, J. and Herzfeld Olsson, P. The EU Seasonal Workers Directive\_When Immigration Controls Meet Labour Rights
- Gümüs, Y. K. (2010). EU blue card scheme\_the right step in the right direction
- Kalantaryan, S. , Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool\_Policy Brief May 2015
- Kosc, P. (2013). Domestic adaptation and modalities of implementation of the Blue Card directive
- Kość\_Domestic adaptation and modalities of implementation of the BCD\_2013
- La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) Inventory of visa policies and agreements\_Italy, Spain, France, and the United Kingdom
- MA's thesis\_The European Blue Card\_2010
- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
- Tottos\_The Past Present and Future of the SWD\_2014

### **3.7 Phase 7: Intra EU mobility**

- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of research, studies, etc COM(2013)151 final (2)
- Report from the Commission on the application of Directive 2004/114 EC (so called students Directive)
- Proposal for a Directive on the conditions of entry and residence of TCNs for the purposes of highly skilled employment COM(2016)378 final
- Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final
- Proposal for a Council Directive on the conditions of entry and residence of TCNs for the purposes of studies vocational training or voluntary service COM\_2002\_0548 final
- Communication on a policy plan on legal Migration from the EU Commission
- Green paper on an EU approach to managing economic migration
- Proposal for a directive and two proposals for recommendations on the admission of TCNs to carry out scientific research in the European Community COM\_2004\_0178 final
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- Report from the Commission to the Council and the EP on the application of Directive 2005/71 EC on TCNs for the purposes of scientific research
- Proposal for a Directive on conditions of entry and residence of TCNs in the framework of an intra-corporate transfer COM\_2010\_0378 final
- Report from the Commission on the application of Directive 2003/109 EC concerning the status of TCNs who are LTRs
- Aksakal, M., Schmidt-Verkerk, K., (2015) Internal report on conceptual classifications, Document from the EURA-NET project
- Belmonte, M. (2015) The EU Blue Card - is there a need for a more comprehensive approach
- Blue Card 2009 Transposition
- Cerna, L. (2008). Towards an EU Blue Card\_The delegation of National High Skilled Immigration Policies to the EU level
- Cerna, L. (2010). Policies and practices of highly skilled migration in times of the economic crisis

- COM\_minutes contact group ICT\_2016
- COM\_minutes contact group legal migration ICT\_2014
- COM\_minutes contact group legal migration ICT\_2015
- COM\_minutes Contact Group Legal Migration\_Single Permit and BC\_2014
- EC report on application of LTR Directive
- Eisele, K., (2013) Why come here if I can go there\_Addressing the attractiveness of the EU's Blue Card Directive for 'Highly Qualified' immigrants
- EMN Annual Report on Immigration and Asylum 2014
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study Intra-EU Mobility
- EMN Study Labour Demand
- EMN Study Labour Shortages
- EMN Study on International Students
- European Policy Centre, 2011. Temporary and circular migration\_opportunities and challenges
- Final\_Report\_ICMPD\_Researchers\_Directive\_15\_11\_2011 (2)
- Kalantaryan, S. , Martin, I. (2015). Reforming the EU Blue Card as a Labour Migration Policy Tool\_Policy Brief May 2015
- La Barbera, M.C., Arango Vila-Belda, J., Finotelli, C. (2015) Inventory of visa policies and agreements\_Italy, Spain, France, and the United Kingdom
- Menz, G. (2015). Framing the matter differently\_the political dynamics of European Union labour migration policymaking
- Münz\_The global race for talent\_2014

### **3.8 Phase 8: Leaving the EU territory**

- European Agenda for the Integration of Third-Country Nationals
- Proposal for a Council Directive concerning the status of TCNs who are long-term residents COM\_2001\_0127 final
- The Hague program strenghtening freedom security and Justice
- Green paper on an EU approach to managing economic migration
- Commission staff working document, Summary of the Impact Assessment accompanying the proposal for a Directive on seasonal workers
- The Stockolm Programme. An open and secure Europe serving and protecting citizens
- Report from the Commission on the application of Directive 2003 109 EC concerning the status of TCNs who are LTRs
- Aksakal, M., Schmidt-Verkerk, K., (2015) Internal report on conceptual classifications, Document from the EURA-NET project
- EMN Ad-hoc Query 218 Skilled Immigration
- EMN Ad-hoc Query 525 Ethical treatment
- EMN Ad-hoc Query 576 Policies for Circular Migration
- EMN Annual Policy Report 2007
- EMN Annual Policy Report 2008
- EMN Annual Policy Report 2009
- EMN Annual Policy Report 2010
- EMN Annual Report on Immigration and Asylum 2015
- EMN Study Labour Demand
- EMN Study on International Students
- EMN Study on Visa Policy
- EMN Study Temporary Circular Migration
- Ramboll\_Study on non-removable TCN\_2013

## 4 Evaluation

### 4.1 Relevance

#### EU institutional documents

- COM(2016) 378 final: Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment
- COM(2016) 377 final: Action Plan on the integration of third country nationals
- SWD(2016) 194 final: Executive summary of the impact assessment accompanying the 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
- MIGRAPOL Contact Committee (Mig-Dir – 78; 7.6.2016): "Summary of discussions on Directive 2014/66/EU"
- COM(2015) 240 final: A European Agenda on Migration
- COM(2014) 287 final: Communication from the Commission to the European Parliament and the Council on the implementation of Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment
- COM(2014) 210 final: Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification
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**European Migration Network (EMN) outputs**

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