



**CANADA-EUROPE TRANSATLANTIC DIALOGUE:**

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**Creating a more attractive European Union – is the EU Blue  
Card just cosmetic?**

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**Introduction**

The European Union (EU) is experiencing an economic and demographic dilemma. It currently produces an insufficient number of “home-grown” highly qualified or skilled workers needed to maintain global competitiveness and to adequately support its ageing population. The European Commission proposal launched in 2007 aims to attract and retain more highly skilled migrants through an EU Blue card initiative. The scheme would implement a common, streamlined procedure to ease the path of these much-needed workers into the European job market. However, it would appear that this initiative falls short of real needs and expectations. What is more, highly skilled migrants are in demand across the globe and so any EU-wide immigration scheme must present Europe as a favourable alternative to other popular destination countries such as Canada. Though contentious and seemingly inadequate, the EU Blue card is seen as a step in the right direction, and could up the ante in the global “talent war” for highly skilled migrants.

**The challenges of attracting highly skilled migrants to the EU**

Despite the current global economic downturn and rise in unemployment, Europe continues to produce insufficient numbers of “home-grown” qualified workers to satisfy pressing demographic and economic needs. There is a growing shortage of highly qualified workers in fields such as engineering and informatics, which, when combined with an ageing population and too few births, will render the social systems of the European Union unsustainable in the twenty-first century. By the year 2010, the working population is set to be in decline in Europe and according to the European Commission, the EU needs 20 million highly-qualified migrants over the next 20 years just to maintain global competitiveness.<sup>1</sup> Belgium, Estonia, Germany, Ireland and Sweden

are among those Member States reporting chronic shortages of highly qualified workers. Concerns over the drop in replacement levels of the EU's working-age population could mean that by 2025, two full-time employees will be required to support one pensioner as opposed to the current level of four employees.<sup>2</sup> Such a decline in human resources would directly impact Europe's ability to develop technologically, which in turn has ramifications for all sectors of the economy and for social development. Highly qualified immigration is seen as a means to meet this demand by recruiting third-country nationals; for whom the EU is in direct competition with other destination countries such as the US, Canada and Australia. Currently, the EU is not only lagging behind these destination countries in terms of attracting highly-skilled migrants, it is also losing its own skilled workers to these same destination countries. According to David Reizenzein, head of media relations at the International Organization for Migration in Vienna, these talented workers are following the money (higher salaries) and fleeing archaic systems, hierarchies and facilities in Europe.<sup>3</sup> For a start, better pay and a more meritocratic system would make the EU a favourable option for local top talent as well as third-country nationals, and would help stem the flow of highly qualified migrants away from Europe. However the fact remains that the EU is not producing enough highly qualified workers to begin with, and so must try to attract them from third countries.

When it comes to selecting a destination country, there are a number of factors that play into the decision-making process of the highly-skilled migrant, not least of which is the immigration system of the destination country. Currently, access to the EU job market by third-country nationals is hampered by 27 different immigration systems, one per Member State. The systems entail different and sometimes cumbersome procedures that are often bogged down by uncertain time-scales and decisions. Complications in the present immigration process also include language issues, recognition of qualifications (especially in fields requiring a license e.g. aircraft engineers) and age discrimination. Further obstacles are presented by the inability of the migrant to move from one Member State to another (a problem currently experienced even by EU citizens of some Member States), the "right's gap" between legal immigrants and EU citizens and the difficulty for the employer in securing a work permit for an employee who may or may not already be in the destination country. The scarcity of "home grown" highly qualified workers – compounded by limited mobility of EU citizens and mismatches between educational and professional choices and labour market needs – has already led some Member States to set up specific schemes to attract highly qualified immigrants on their own (the UK points-based system for example). Should the global economic situation soon improve and the European Commission not take steps to amend the EU's immigration system, Europe will find itself even more in need of highly qualified workers, and even further behind the other main immigration countries in terms of development and growth. In order to compete, the EU must introduce a common, transparent, fast-track procedure for highly qualified third-country nationals seeking to apply from their country of origin. The EU Blue Card proposal seeks to provide such a procedure.

### **What does the Blue Card propose to do?**

On 23 October 2007, the Commission adopted two long-awaited legislative proposals on economic migration: A draft Framework Directive on the admission of highly-qualified migrants to the EU - the so-called EU Blue Card proposal, and a draft Directive establishing a single application procedure for a single residency and work permit and a common set of rights for third-country workers legally residing in the EU. For the sake of brevity, these two draft directives will be referred to collectively as the EU Blue Card proposal. The EU Blue Card proposal is the direct result of the 2004 Hague Programme<sup>4</sup> which seeks to formulate a response to fluctuating demands for highly qualified immigrant labour which could offset present and anticipated skilled worker shortages. The EU Blue Card proposal seeks to create a level playing field that facilitates the admission of this category of worker and promotes their efficient distribution across the EU labour market. The proposed system would be demand-driven, with common criteria whereby applicants must have recognized professional qualifications and a pre-arranged one-year job contract with a salary of three times the national minimum wage. A number of schemes have been built in to deliver a common fast-track procedure that emphasizes flexibility and speed throughout the application process. Though not without their drawbacks, these measures include:

- Recognition of professional qualifications, despite the difficulty of proving equivalency. Mutual recognition of qualifications is yet to be resolved fully even within the EU, particularly in the regulated professions (law, medicine, etc.). However, professional experience may be taken into consideration and the proposal does not stipulate or define institutions of tertiary education for recognition of qualifications.
- Salary thresholds of at least three times the minimum gross monthly wage (or higher at Member State discretion). This feature could prove a pull factor for some as highly skilled migrants are more likely to choose a destination country due to the level of financial reward, especially when remittances to the country of origin are a major factor. It would be prudent of Member States to consider reducing the cost of transferring remittances to countries of origin in order for the system to be more persuasive to potential applicants, especially if remittances are seen as balancing the cost of the “brain drain” for the country of origin.
- Rights of the highly skilled migrant. This includes ease of movement between the country of residence and the country of origin. These rights are also relevant to cases of family reunification. Efforts towards integration are emphasized, but employment is still considered the surest means of integrating into the host society. Nevertheless, these rights cannot be greater than those of EU citizens, some of whom are not free to work in all Member States.
- Permanent residency. Though not immediately granted under the proposal, the EU Blue Card is valid for up to two years, and is renewable. Permanent residency is automatic after five years and geographically mobile workers are allowed to add up periods of residence in different Member States in order to obtain permanent residency.

- Re-location within the EU. Holders of an EU Blue Card can move to a second Member State for highly qualified work under certain conditions after two years of legal residence in the first Member State.

The "one-stop-shop" single application procedure would feature other common standards such as access to information on the required documents, an obligation to provide reasons for the rejection of an application, and a timescale for a decision. Ultimately, the Blue Card aims to support Member States' efforts to fill gaps in the labour markets that cannot be filled by highly qualified EU nationals. By presenting clear, consistent admission criteria with definite time-scales for the issue of a work permit and visa, the EU Blue Card proposal will quickly gain support from the private sector, provide a cushion for the ageing population and help close the economic gap between the EU and its global competitors.

### **Looks good on paper, but how would the EU Blue Card proposal work in reality?**

The EU Blue Card proposal is a step in the right direction, but as it stands it is not a panacea for all the challenges posed by a lack of highly qualified workers, an ageing population and the welfare dilemma in the EU. In fact, some of the built-in features may further hinder the ability of highly qualified migrants to access the job market in Europe. Not least of these is the feasibility of securing a job offer before entering the EU, one of the proposed "common criteria" of the fast-track procedure - how do the prospective employers make contact with the highly qualified workers seeking to migrate to the EU? Should there be a dedicated database/website whereby both sides can find each other before the worker makes the decision to uproot and migrate? This could be facilitated by a job-interview-visa or a job-seeker-visa which is currently not offered under the Blue Card proposal.

In addition, where does the responsibility for submission of the application lie, with the employer or with the third-country national? The preference for the Member State to facilitate the application process outside the country goes against the greater likelihood of the applicant coming into contact with the employment opportunity while in the Member State, whether they are in the EU for education or some other purpose. Other "common criteria" such as a recognized diploma, three years professional experience, and a job offer that could not be filled by an EU citizen are not new and have already been proven to be inadequate throughout the EU and easily circumvented in many Member States.

Other technicalities in the proposal are somewhat more surprising: Compatibility of the Blue Card with current immigration policy would prove challenging as many Member States are already bound by international agreements with other countries regarding labour migration, such as the ILO Convention 97 which ten Member States signed and ratified.<sup>5</sup> Should the standards of the Blue Card proposal fall below the standards set by these international agreements, the Member State would not be able to support it. Member States can also determine volumes of labour migration, or quotas, and may set their quota at zero as a means of "turning off the tap".

This would be appealing to Member States as a means to control how many highly qualified workers will enter their labour markets, an important feature as labour market needs and unemployment rates differ widely from one Member State to another. However a specific, built-in instrument to “turn off the tap” when the markets shift would be preferred by most Member States and would encourage their endorsement of the proposal.

Other Member State concerns include whether or not the EU Blue Card scheme would replace national labour migration programmes for highly qualified workers or run alongside them. By and large, most Member States would prefer the bulk of migration policies to remain in their hands, with the EU designing broad frameworks for national policies. However, with “common criteria” such as salary level regulation being left to the discretion of Member States, businesses would be unable to adjust quickly to market fluctuations as they need very precise guidelines in order to be effective employers. Health insurance could pose a problem as certain Member States must uphold convention agreements that require equal treatment with their own nationals. Family reunification provisions under the proposal are contentious as they appear to be more favourable to highly qualified migrants than those provisions in place for long-term resident third-country nationals. It is also necessary for Member States to commit to full labour integration. This requires more thorough orientation in the country of origin, such as language training and foreign credential recognition whereby the integration process starts early with pre-departure measures that continue post-arrival.

Cooperation with countries of origin must also be factored into the proposal in the sense that an active co-development policy is needed to enable both legal and illegal migration to be managed effectively between destination and country of origin. In the fight against illegal immigration, the EU Blue Card hopes to better facilitate legal and regulated means for highly qualified migrants to access the European labour market. At the same time, efforts must be made not to drain away the reservoir of skills that third countries need. Still, countries with a glut of over-qualified workers who cannot find jobs locally should endorse legal migration to those countries in need of highly qualified workers, with a means of ‘turning off the tap’ should the labour market change in certain sectors. Ironically, the EU itself is suffering from a drain of its reservoir of skills as EU scientists and researchers emigrate in increasing numbers to other destination countries such as Canada, drawn by higher wages, more funding for research and development, modern facilities and a meritocratic culture. Should there be a sudden drop in demand for highly qualified workers, are there sufficient provisions for the individual who has migrated to the EU with the expectation of employment? At the moment there is a three month grace period to find new employment in the case of termination, but this three month limit does not adequately take into account the rapid changes in the labour market. The threat of expulsion soon after unemployment plays into the hands of unscrupulous employers.

This circular argument has led to the inclusion of the prospect of “circular migration” in the proposal. However, this approach is not only unfeasible when the difficult reality of migrating and settling in a country of destination is considered, but the concept of “circular migration” calls

to mind the unpopular “gastarbeiter”<sup>6</sup> programmes of the 1960’s in Germany, Austria and the Benelux countries. Another approach is to borrow or incorporate a number of immigration features and procedures from other popular destination countries, such as the points-based system from Canada, and the ability of the applicant and their family to live, work and travel in the EU (a feature of the US Green Card). Though other immigration schemes are not without criticism and flaws, it would appear that other destination countries are actively modifying and adapting their immigration schemes in order to remain ahead of the curve and globally competitive. The EU cannot afford to be seen to be standing still.

### **How does the EU Blue Card proposal relate to the global competition for the ‘best brains’?**

Competing economies such as the US, Canada, Australia, New Zealand and Switzerland are managing to attract highly-skilled migrants much more successfully than the EU. In fact the EU attracts more low-skilled migrants than any of these popular destination countries, which is an important factor to be considered in any new European immigration scheme. Another phenomenon frustrating migration policy-makers and the European business and technology sectors is the increasing number of skilled workers leaving the EU, whether on a temporary or a permanent basis, to countries such as Canada and the US. This trend has turned Europe from being a beneficiary of the so-called brain-drain phenomenon into a region that is losing talent to overseas economies. European scientists and researchers, a sector much in demand in Europe, are being lured away by better funding, facilities and salaries that can be three times as high as those in their home countries. What is worse, streamlined immigration and naturalization procedures in these destination countries make it more attractive for these highly skilled workers to stay for the long term; a trend illustrated by a European Commission survey that found that only 13% of European science professionals working abroad intend to return home.<sup>7</sup>

Several EU Member States are not waiting for the European Commission to come up with a better system for attracting highly skilled migrants and have already set up schemes for attracting qualified labour from outside the EU. Points-based systems such as that operating in Canada are currently under discussion in Germany and Poland, though without fixed time scales for implementation. Ireland, the UK and Sweden are discussing residence permits that quickly lead to permanent residency. Sweden is also planning to grant jobseeker visas and the possibility for asylum applicants and persons with subsidiary protection to shift to this labour migration scheme at any time, thus taking better advantage of the reservoir of such highly qualified persons already residing in Sweden. These Member States are looking at what is working for the US, Canada and Australia, and are making quick adjustments to their own immigration schemes to incorporate these best practices in a way that works for them.

Though haste is needed in terms of catching up with other destination countries, care must be given to how the particular circumstances of the EU Member States would dictate the manner in which best practices in immigration schemes from other countries are adopted. Such an example would be the criteria for regulated professions, criteria which are not yet standardized in the EU.

Equivalency and recognition of qualifications could be designated to a single point of contact, as is the case in Canada with the *Foreign Credential Referral Office*, but it must be noted that it is still difficult to achieve equivalency within Canada as standards vary from province to province. Though borrowing wholesale from other immigration systems may not be the answer to all the EU's problems in attracting highly skilled migrants, further positive development in this area in countries such as Canada will only encourage more to choose that destination country over the EU.

## Conclusion

It is understandable in these times of global economic crisis that the national governments in Europe are preoccupied with propping up national industries, banks, the job market, etc. Yet the US and Canada are continuing to pursue important foreign initiatives and updated immigration schemes that can better handle both legal and illegal immigration. So economic crisis or not, the EU is still not producing enough "home-grown" highly skilled labour to keep technological and economic development apace with that of North America and other popular destination countries. Nevertheless, a reformed immigration scheme cannot be the only solution to the EU's lack of highly qualified workers, plummeting birth rates and endangered welfare system. Other social initiatives, such as those that incorporate more women and older people into the workforce, must be developed in tandem with re-training and placement programs for the unemployed and under-employed in order to fill the gaps. An improved immigration system may constitute an important part of a larger plan developed to encompass different policies that take the many facets of the issue into consideration. Such a plan can continue to be supported by borrowing the best practices from other destination countries; however the EU cannot rely wholesale on other immigration schemes. All factors considered, the EU Blue Card is a step towards an immigration scheme tailored to the needs of the EU, but it is only the first step in a long climb to the level of global competition for highly qualified workers.

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<sup>1</sup> <http://www.euractiv.com/en/socialeurope/eu-blue-card-high-skilled-immigrants/article-170986>

<sup>2</sup> Select Committee on European Union Thirteenth Report, Annex 1, *The Demographic and Economic Context*: <http://www.publications.parliament.uk/pa/ld200001/ldselect/ldecom/64/6420.htm>

<sup>3</sup> The "EU Blue Card": Towards a proactive legal migration policy, Public Seminar, 25 June 2008, European Parliament, Brussels, Dr. David Reizenzein, Head of Development, Policy and Media Unit, IOM Vienna, National Contact Point to the European Migration Network, Austria.

<sup>4</sup> The Hague Programme – Ten Priorities for the next Five Years, 5<sup>th</sup> May 2005: [http://ec.europa.eu/justice\\_home/news/information\\_dossiers/the\\_hague\\_priorities/index\\_en.htm](http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/index_en.htm)

<sup>5</sup> International Labour Organization - International Labour Standards: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C143>

<sup>6</sup> "Gastarbeiter" – a German word that literally means "guest worker" that referred to people who moved to Germany for jobs after the end of World War II, but is considered outdated. <http://www.nationmaster.com/encyclopedia/Gastarbeiter>

<sup>7</sup> TIME Europe Magazine, "How to Plug Europe's Brain Drain?" <http://www.time.com/time/europe/html/040119/brain/story.html>