

The Blue Card Impasse

Three Options for EU Policy on Highly Qualified Immigrants

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In May 2009, after long and difficult negotiations, the EU Member States agreed on common rules to govern the immigration of highly qualified workers from outside the Union. Even before its entry into force, however, the Directive has become the target criticism. Many observers consider the program inadequate to meet the EU's large and growing need for high-skilled workers. Analysis of the failure of the European Commission's more far-reaching proposals reveals three ways out of the current deadlock. The options include promoting forms of cooperation on immigration policy that preserve national sovereignty, better utilizing domestic labor potential, and creating an EU education market to induce high-potential foreign nationals to study and remain in the EU.

The Directive on an EU-wide work permit for high-skilled non-EU citizens ("Blue Card") has to be implemented by the Member States by 2011 (with the exception of Denmark, the UK, and Ireland which have not participated). The Directive allows highly qualified workers from third countries to work in the EU for an initial period of four years if they fulfill the following criteria: they have to possess a college diploma or have completed five years occupational training, enjoy a job contract or a job offer, and their gross income has to be at least 50 percent above the national average. Individual decisions as to whether a Blue Card will be issued are left to the Member State in question. This is also true when a Blue Card holder applies (at the ear-

liest after 18 months) to work in another EU country.

The Blue Card is renewable and can lead to permanent residency after five years. Blue Card holders are granted the same social and labor rights as the citizens of the receiving country as well as the right to family reunification. From 2013, the Member States will keep statistics on the number of Blue Cards issued each year.

Original goals of the Commission

With these rules, the Member States signaled that they recognize the recruitment of high-skilled workers to be necessary, but that they are unwilling to establish a truly common EU policy. But precisely such a

common policy was the objective of the original Commission proposal in 2007, as developed by then-European Commissioner for Justice, Freedom and Security, Franco Frattini. While 55 percent of US immigrants are highly qualified, he argued, this is only true of 5 percent of immigrants to the EU. 85 percent of immigrants to the EU have only limited skills. According to Frattini, the main reason why the EU is so unattractive for high-skilled immigrants is the fragmented nature of the European labor market. If the EU was to compete with the United States for high-skilled immigrants, Frattini said, it would have to offer them access to an EU-wide labor market and create an immigration status that is valid across Europe with no temporal limitations, is granted through a straightforward application procedure and provides generous terms for family reunification.

Key components of this Commission proposal are missing from the Blue Card legislation. In particular, third-country nationals are not granted access to an EU-wide labor market. Looking back, two reasons are evident for the failure of the original proposal. An analysis of these reasons provides important insights that can be used in developing supplementary approaches to augment EU policy on high-skilled migration.

Concerns about national sovereignty

First and foremost, the Member States rejected the Commission proposals because they feared a loss of national sovereignty. Although immigration is a politically sensitive area of policy, such fears seem surprising. EU countries were and are largely in agreement regarding the potential economic and social benefits of high-skilled migration. All of the Member States show a significant need for additional highly qualified workers (and one that is increasing in the face of demographic change). There is also general agreement that new

labor market and training policies for domestic workers will not suffice to meet this need. High-skilled migrants are considered relatively unproblematic from the viewpoint of integration policy, meaning that arguments about the “limited absorption capacity” of Members have scarcely arisen. And according to findings of the Organisation for Economic Cooperation and Development (OECD), nothing in this positive assessment of high-skilled immigration has changed—regardless of the financial and economic crisis.

The Member States’ concerns about EU cooperation only really make sense when looking at the ongoing structural differences between the countries. Despite the convergence processes in the EU economic area, the EU Members still differ widely in terms of production structure, degree of value added, structure of employment, and the level of government regulation. At the same time, the Member State governments place high priority on maintaining both their flexibility in determining labor-market policy and their ability to act independently in order to respond quickly to changes or downturns in the economy. Among the instruments of labor market policy used to this end are immigration regulations, in particular the right to decide which immigrants are granted entry to the country and its labor market. The Member States’ willingness to hand over authority to the EU in this key area of national sovereignty is extremely low.

Just how important it is to Member States to maintain national control over immigration is reflected in the fact that some governments began revising their national policies on the recruitment of high-skilled workers even while Blue Card negotiations were still underway. These divergent reforms tended to be on the cautious side (Germany), but some were more sweeping in scope (Sweden). Whether the revised national policies will contribute to increased high-skilled immigration over the coming years remains to be seen. The existing data suggest, however, that the

total number of immigrants will not increase to the degree expected. The revised immigration regulations in Germany, for example, did not seem to be the cause for an increase in the number of high-skilled foreign immigrants—at only 151 in 2007 and still just 157 in 2008.

Hopes for domestic labor potential

The second reason for the limited success of the Commission proposal lies in an important concern of many Member States—the desire to better utilize the labor-market potential of residents of immigrant origin before encouraging increased immigration. In past decades, the EU Member States allowed a large number of immigrants to settle on their territories. Many of these newcomers are now integrated into the labor market and society, but a significant proportion is not. The reasons for their non-integration are manifold, ranging from inadequate government integration programs and a lack of strategic guidance to the immigrants' own unclear ideas about their goals and the duration of their stay. These failures apply to many immigrant groups, not just the workers recruited under “guest worker” programs.

From a labor-market perspective, integration failures mean squandered potential. Tapping this potential is undoubtedly in the interest of all EU countries, especially in light of the growing lack of skilled labor and the high costs of non-integration. There is also a clear need for Member States to work with one another on these issues. After all, each has a stake in the others' economic and social health. Yet the Commission's proposal on high-skilled immigration did not provide a satisfactory response to this challenge. Until the entry into force of the Lisbon Treaty in 2009, the EU lacked a clear competence in the area of immigrant integration. The Commission proposal was thus aimed at the recruitment of new third-country nationals and ignored the vast potential that already exists within the EU and its Member States.

Options for action

Three possible courses of action present themselves as measures to supplement existing policy:

► *Find a form of cooperation that preserves national sovereignty:* The Blue Card proposal was based on the assumption that the differences between the Member States would be detrimental to the EU's attractiveness to high-skilled immigrants. This may be true, but given the Member States' unwillingness to give up their idiosyncrasies and indeed the immutability of some of these differences (language, geography) it is worth asking whether the divergences between Members might not be turned to the advantage of the Union.

The reasons why workers migrate are diverse: they range from the economic demand in a specific sector to the language or geographic location of the receiving country or to historic connections between receiving country and country of origin. Most EU countries are able to compete with the “classic” immigration countries—the United States, Canada, and Australia—in at least some of these areas. So for EU Member States that share a similar need for high-skilled labor and are able to offer similar working and living conditions, it could make sense to work together to recruit foreign workers with the right profile.

Replacing its futile effort to emulate Australia and the US, the EU would make concerted use of the differences between its Members. Through targeted agreements with third countries—the EU's Mobility Partnership scheme, perhaps—groupings of Member States with similar points of attraction would woo high-skilled immigrants. They would club together to offer easy access to their own and to their partners' labor markets.

► *Better utilizing existing potential:* There is no doubt that the integration of immigrants needs to be improved in all of the Member States. For some time now, the EU has been calling for discussion of “best

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practices” in promoting integration, but so far, the Member States have not succeeded in agreeing on a common integration model. Without a robust agenda, integration policy is in danger of taking a back seat to migration control. Efforts to provide asylum seekers with access to the labor market, for example, are still viewed primarily as a hindrance to the management of irregular immigration.

Allowing the EU to make fuller use of its new integration policy mandate does not necessarily mean that the Union would interfere in sensitive cultural issues at the national level. Rather, the EU could concentrate on promoting labor market integration by providing support for education and training, while leaving cultural aspects of integration up to the Member States. This option would entail allocating increased resources to EU programs (particularly the Integration Fund) and to use them more intensively for the education and training of immigrants already living in the EU than has been done so far.

- ▶ *Attracting high-potential immigrants:* With the Bologna Process and the Lisbon Agenda, the Member States have begun reforming and harmonizing their systems of higher education to make the EU more attractive to foreign students. The intention so far has not, however, been to create incentives for foreign graduates to remain in the EU after completion of their degrees. Here too the Member States are failing to utilize a potential labor source.

A third option could thus be for the EU—despite its limited remit in educational policy—to become more engaged in this policy field and help create a common educational market to attract and retain promising young students. Numerous questions would still have to be answered regarding tuition fees, labor market access after graduation, conditions for mobility within the EU, avoidance of brain drain, and other issues. If

such an approach were designed intelligently, however, it could create advantages for everyone involved—countries of origin, destination countries, and the immigrants themselves—and better utilize the potentials of such “educational immigrants”.