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# The EU's Labour Migration Policy: Recent Developments and What More is Needed

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The Lisbon Treaty, – Article 79 of the Treaty on the Functioning of the European Union (TFEU) to be more precise – gives the Union the competence to “develop **a common immigration policy** aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.” While common rules in the area of legal/labour migration are an essential component of a European immigration policy, EU Member States have always shown reluctance to harmonize this area of law. In fact, due to the national governments' willingness to maintain their exclusive competence to determine the volume of admissions of third country nationals entering their territories to seek work, the EU's labour migration policy is developing slowly and in a fragmented way. Several EU legislative instruments have been adopted to manage the admission and the conditions under which different categories of third country nationals can move to an EU state for work or education (such as: the Blue Card Directive 2009/50/EC, the Intra-Corporate Transferees Directive 2014/66/EU, the Seasonal Workers Directive 2014/36/EU and the recently adopted – recast version of – Students and Researchers Directive). This piecemeal approach shows that the design of the EU's legal migration policy lacks comprehensiveness. However, the demographic decline in Eu-

rope and the labour shortages in certain sectors in several Member States require a more ambitious policy to attract labour force to the EU. European leaders seem to have understood this and the European Commission has recently made developing a new legal migration policy one of its priorities. But how far-reaching will the Commission's proposals be, taking into consideration how controversial immigration-related issues are? Will these proposals be supported by the Member States who are struggling with both high unemployment and underemployment as a consequence of the economic crisis? This article gives an overview of the EU's labour market needs in the context of the refugee crisis and analyzes the recent policy trends in this area.

## An Assessment of the EU's Labour Market Needs

According to a study<sup>1</sup> by the Organization for Economic Co-operation and Development (OECD), almost all OECD countries are facing demographic challenges, or will be in the near future. Indeed, the OECD explains that the baby boom generation is currently retiring and there will not be enough workers, or at least not enough workers with the right skills, to replace them. The same study explains that in Europe the working-age population (15-64 years old) will decline by 7.5 million people between 2013 and 2020. In a scenario of zero net migration, Germany, Italy and Poland would be the most affected of all the EU Member States, as each of these three countries would lose more than 1.5 million working-age individuals by 2020. Look-

<sup>1</sup> ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. “The fiscal and economic impact of migration.” *Policy Brief*, Paris, 2014.

ing further ahead, scholars<sup>2</sup> have estimated that if no migration was to take place, EU27 would lose 87 million people of working age (-27%) between 2010 and 2050.

### **Does Europe still Need Labour Migration in the Current Context of the Refugee Crisis?**

Naturally, the refugee crisis is prompting questions as to whether these needs could be met by the numerous refugees coming to Europe. According to Eurostat, 1,255,600 first-time asylum seekers applied for international protection in the EU in 2015 (twice more than in 2014). This could certainly represent an opportunity for the EU labour market. If well integrated, refugees can add to a country's workforce and can contribute to the sustainability of the welfare state. However, the arrival of significant numbers of asylum seekers in Europe, mostly in Germany (35% of all the applicants in 2015), Hungary (14%) and Sweden (12%), does not replace the need for opening legal channels for migration.

### **The demographic decline in Europe and the labour shortages in certain sectors in several Member States require a more ambitious policy to attract labour force to the EU**

On the one hand, there are issues related to labour market integration. Although integration support varies from country to country, asylum seekers face similar labour market integration challenges in all states. One of them is the waiting time before they are allowed to access the labour market after the asylum application is introduced. The duration of this waiting time varies between three months (Austria, Germany) and one year (Malta, UK, Romania). While Greece, Portugal and Sweden offer immediate access to the labour market once the asylum

demand is introduced, Lithuania and Ireland have not yet opened their labour markets to asylum seekers. Other important obstacles are an absence of, or limited, language skills, the complex process of diplomas and qualifications recognition, the need for civic education, etc.

### **Scenario of zero net migration, Germany, Italy and Poland would be the most affected of all the EU Member States, as each of these three countries would lose more than 1.5 million working-age individuals by 2020**

All these factors, combined with the very traumatic experiences they have been through (in their country of origin, throughout their journey or even in host countries), make refugees' assimilation in the labour market more difficult. While the national data related to refugees' performance on the labour market is somewhat imperfect, statistics in some countries with significant experience in refugees' integration, such as Sweden, are particularly relevant. A comparison between the labour market participation of Swedish citizens and refugees shows that initially there is a gap of 27-28%, which decreases to 10% after ten years of residence.<sup>3</sup> So, despite the significant numbers of refugees arriving in Europe as of last year, the EU's need to attract international labour remains unchanged.

On the other hand, more legal, labour-related channels for migration are needed to reduce the overwhelming number of people currently arriving on Europe's shores. Certainly this must only be seen as part of a more comprehensive strategy to solve the refugee crisis (involving cooperation with third countries such as Turkey and the Western Balkan countries; more responsibility sharing among EU Member States; a more integrated external border management, etc.). Yet, in the context of the current migration

<sup>2</sup> MARTIN, Ivan, et al. "Exploring new avenues for legislation for labour migration to the European Union," *Study for the Civil liberties, Justice and Home Affairs Committee of the European Parliament*, Brussels, 2015.

<sup>3</sup> GATHMANN, Christina. "Asylum seekers: an untapped resource in the European labour market?," *European University Institute Brief*, Florence, 2014.

crisis, some people come to Europe not in search of protection, but to look for better living conditions. For example, Eurostat data shows that in the second quarter of 2015, out of the 13,570 Kosovars applying for international protection in the EU only 250 (2%) received a positive decision. Also, only 240 (4%) out of the 5,640 Albanians were granted refugee or subsidiary protection status. Should these individuals have other legal options to come to Europe, the number of irregular migrants mixing up with refugees could decrease, leading to less chaos and disorder in countries such as Greece and Italy which are now under enormous pressure.

### Labour Migration – a Policy Priority at the EU Level?

The latest policy developments show that labour migration is increasingly being acknowledged as a priority by European policy makers. In fact, in June 2014, one year before the beginning of the refugee crisis, the European Council defined the strategic guidelines for legislative and operational planning within the area of freedom, security and justice. Although criticized due to a lack of ambitious goals and characterized by commentators<sup>4</sup> as a missed opportunity, these strategic guidelines emphasize that: “To remain an attractive destination for talent and skills, Europe must develop strategies to maximize the opportunities of legal migration through coherent and efficient rules, and informed by a dialogue with the business community and social partners.”

### The arrival of significant numbers of asylum seekers in Europe, mostly in Germany, Hungary and Sweden, does not replace the need for opening legal channels for migration

This general statement became a priority for the Commission led by Jean-Claude Juncker. Indeed, the objective of the new team of Commissioners in

office since November 2014 is to set up a **new policy on legal migration**. This was later confirmed in the European Agenda on Migration adopted in May 2015 which highlights the need to maintain Europe as “an attractive destination for migrants.”

In this context, the European Commission launched a public consultation on the revision of the Blue Card Directive (targeting highly qualified migrants) and the EU’s labour migration policies, which ended in September 2015. Following this consultation at the beginning of April 2016, a communication focused *inter alia* on “enhancing legal avenues to Europe” was published. Among the priorities put forward by the Commission in this communication, the most important in the area of labour migration are:

- strengthening the Blue Card Directive by providing more flexible admission conditions, improving and facilitating admission procedures and enhancing the rights of third country nationals, including their intra-EU mobility.
- attracting innovative entrepreneurs to the EU.
- launching a study aimed at evaluating the possible development of an EU mechanism to improve transparency and facilitate matching potential migrants and employers, for example a “pool of pre-screened candidates.”

For the time being, the Commission has not come forward with any concrete legislative proposals. It is expected to do so this summer after receiving feedback on the April Communication.

### What to Expect and What More Is Needed?

All in all, these initiatives are very important pieces of a complex puzzle, which the EU must put together in order to compensate its labour market shortages and ensure its economic growth by facilitating innovation and competitiveness. One could argue that their timing is appropriate. Indeed, studies have revealed that despite the adverse effects of the economic crisis, high-skilled migration poli-

<sup>4</sup> COLLETT, Elizabeth. “The EU’s strategic guidelines on migration: uncontentious consensus, but missed opportunity,” *Migration Policy Institute Commentary*, Brussels, 2014.

cies in OECD countries have not become more restrictive.<sup>5</sup> This shows that national authorities do understand the persistent need for skilled migration. In addition, the political climate is favourable for a recast of the Blue Card Directive. Several parliamentary groups (for example: EPP and ALDE) support its revision and a majority of Member States have an interest in making it more attractive.<sup>6</sup> Yet, the refugee crisis, the rise of populist parties and the reluctant public opinion might lead to reducing the ambition of the instruments to be proposed in the coming months.

But the EU needs more than just highly skilled migration. While it is understandable that in this field it is easier to reach a political agreement because highly skilled workers are seen as net contributors to the host societies, the determination to move forward in the area of highly skilled migrants should not overshadow other gaps the EU's labour migration policy has to bridge. For instance, the EU also needs to attract low and medium-skilled workers. In fact, in specific sectors such as cleaning, catering, agriculture, construction and manufacturing

there is an increasing demand for migrant workers in several Member States.<sup>7</sup>

### Studies have revealed that despite the adverse effects of the economic crisis, high-skilled migration policies in OECD countries have not become more restrictive

Therefore, the policy initiatives presented in the coming months by the European Commission will need to be complemented by measures that focus on other types of labour migrants than the highly skilled ones. This would ensure the comprehensiveness of EU policy. Also, more legal channels for migration for low and medium-skilled workers could contribute to reducing the irregular migration flows towards the EU, which is very much needed in the difficult situation which the EU finds itself in because of the refugee and migration crisis.

<sup>5</sup> CZAİKA, Mathias and PARSONS, Christopher. "High-skilled migration in times of economic crisis," *Policy Brief*, International Migration Institute, 31p. Oxford, 2016.

<sup>6</sup> BELMONTE, Martina. "The EU Blue Card - is there a need for a more comprehensive approach?," *Policy Brief*, Institute for European Studies, Vrije Universiteit Brussel, 4p. Brussels, 2015.

<sup>7</sup> TRIANDAFYLIDOU, Anna and MARCHETTI, Sabrina. "Europe 2020: addressing low skill labour migration at times of fragile recovery," *Policy Paper*, Robert Schuman Centre for Advanced Studies Global Governance Programme, 15p. Florence, 2014.