
DISCUSSION PAPER

Intra-EU mobility of third-country nationals State of play and prospects¹

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More than 10 years after the entry into force of the Amsterdam Treaty, legal migration remains the poor child² of the EU's immigration policy³. In one respect, member states have agreed to tackle family reunification⁴ and the status of long-term residents⁵ at EU level in directives that have implications for the better integration of migrants. On the other hand, they have been very reluctant to adopt common rules regarding admission of migrants.

In the field of admission, member states have preferred to follow a selective and sectoral approach⁶ and have adopted directives defining rules regarding entry and stay of students⁷, researchers⁸ and highly skilled migrants⁹. A directive on intra-corporate transferees¹⁰ and a directive on seasonal workers¹¹ are currently in the process of negotiation. Furthermore, a recently-presented proposal plans to improve existing Directives regarding third country national researchers, students, school pupils, unremunerated trainees and volunteers, and to develop common provisions to two new groups of third country nationals: remunerated trainees and au-pairs¹².

The entry into force of the Lisbon Treaty in December 2009, extending the co-decision procedure to the entire field of migration has established a new framework of action which could create a new impetus. This new situation has also to be combined with the Commission's plan, adopted to implement the Stockholm programme¹³, to develop a genuine common migration policy consisting of new and flexible frameworks for the admission of legal immigrants¹⁴.

Politically, expectations appeared pretty high. Indeed they were backed up by a series of structural modifications appearing at EU level and calling for a redefinition of the EU's immigration policy. Structural changes deal principally with the EU's demographic shrinking¹⁵, ageing European societies and skills and labour shortages¹⁶.

All of these challenges are intertwined. The demographic shrinking goes hand in hand with the ageing society and both have effects on labour/skills shortages. Indeed, persons who retire need to be replaced. At the same time, as ageing persons, they create new needs to be satisfied, particularly in areas related to personal care and assistance. The combination of these factors has an impact on existing and forthcoming

labour and skills shortages in the EU member states. These factors constitute robust pillars that frame any attempt to address labour migration issues.

However, the development of new policies in the field of immigration has been made difficult. The economic crisis has constituted a strong obstacle in this regard. While it has hit immigrants hard, as migrant workers have been the first ones suffering from the economic turmoil¹⁷, it has also created the grounds for populist parties to influence political debate as it has been the case inter alia in Denmark, the Netherlands, France and Finland¹⁸. These factors have nevertheless played out differently among the member states. Some states have been heavily hit by and/or are heavily suffering from the economic downturn whereas others are not. Populists' reactions have not fuelled all national political discourses, as in some cases they were not expressed. In the end, differences in domestic problems and the absence of converging needs and objectives have put on hold the need to develop an EU common policy.

Another obstacle lies in the leadership on issues related to labour migration, i.e. migrant workers coming from non-EU countries. The leadership on these issues remains in the vast majority of states, and in the European Commission, with Home affairs representatives. The latter may have less affinity with labour migration issues than Ministries of Labour, or similar Ministries¹⁹. Nevertheless, it should be underlined that a policy driven by Ministries of Labour may not lead to better results, particularly in current times. The agenda of European Ministers of Labour is focused on exploring ways to reduce booming national unemployment rates resulting from the economic crisis. This leaves little room available for discussions and measures to promote the admission of migrant workers.

This overall picture does not show any prospect for going beyond the sectoral approach adopted in the 2005 policy plan on legal migration²⁰. This should be considered as a problem as this stand still attitude does not help the development of new policies to overcome the effects of the crisis and demographic trends. The asymmetrical effects of the crisis²¹ should have led stakeholders to provide for enhanced workers' mobility in order to enable unemployed (migrant) workers to search for a position in well-functioning European economies. Forthcoming demographic shrinking should have invited decision makers to elaborate plans to respond adequately to labour shortages²², including EU-wide admission policies.

While the crisis calls for further steps to be taken with respect to the labour market, the political climate does not allow for any major move forward to be taken. More precisely, there is no political window to push for the development of any ambitious policy regarding legal migration, including the adoption of EU rules on admission of migrant workers. However, this should not prevent the proposal of alternative and acceptable solutions. One of them could be the improvement of intra-EU mobility for migrant workers already residing in the member states.

Improving intra-EU mobility to legally residing migrant workers would help to address a series of current shortcomings. Firstly, it would constitute an appropriate response to the asymmetrical effects of the crisis, as the reallocation of already residing labour migrants between states would allow for the absorption of the shocks resulting from the crisis. Secondly, improving migrants' mobility rules within the EU, which currently offer few possibilities to exercise intra-EU mobility, would constitute a step further in accomplishing the single European labour market. Currently, the number of migrant workers moving to another state is rather low. According to the EU-Labour Force survey, in the overall pool of working-age foreigners who have arrived from another EU member state since less than one year, third country nationals represent 7% on average in 2004-2010 and 10% for the last year available (2011). One explanation for these rather low figures may reside, amongst other reasons, in the current rules which are not very liberal in this field. Finally, improving intra-EU mobility would contribute to making the EU more attractive for migrant workers. This is crucial in the short and the long-term with forthcoming labour demand in consideration.

Having all of these challenges in mind, the purpose of this paper is to draw an overview of EU rules offering intra-EU mobility to migrant workers (1). On the basis of this overview, the paper seeks to propose further solutions to be developed in this specific field (2).

I. Rules organising intra-EU mobility for migrant workers

Intra-EU mobility, i.e. the possibility for one person to move to another member state in order to search for a job and reside there for this purpose, is available under two different schemes. The first scheme is a very open one and applicable to EU citizens who benefit from full freedom of movement²³. Proportionally, EU citizens do not make the most of their right to free movement²⁴. The second scheme concerns migrant workers. But rules applicable here are less generous and limited to specific categories of third country nationals, i.e. long-term residents (A), highly skilled workers (B), researchers and students (C). A balance sheet regarding EU rules on organising mobility reveals a rather incoherent, and somehow inefficient, landscape (D).

A. Long-term residents

Directive 2003/109/EC²⁵ concerning the status of third country nationals who are long-term residents²⁶ pursues the objective of enhancing the rights of migrants with respect to the length of their stay in the member states²⁷.

The Directive determines the conditions upon which third country nationals legally residing in a member state may acquire, upon application, a long-term resident status. In broad terms, this status is awarded where the applicant:

- has resided for five years immediately prior to the application in a member state,
- has stable, regular and sufficient resources,
- has a sickness insurance,
- complies, where requested by member states, with integration conditions, and
- does not constitute a threat to public policy or public security.

The long-term resident status is accompanied with a set of rights – mainly equal treatment – which aim to enhance the integration of third country nationals in the host member state with respect to employment, education, vocational training, social protection and assistance as well as enhanced protection against expulsion. Among these improved rights, the Directive opens up the possibility for long-term residents to exercise the right of free movement.

According to article 14 of the Directive, a long-term resident shall acquire the right to reside in the territory of member states other than the one which granted him/her the long-term residence status, for a period exceeding three months, (...)²⁸. The provision adds that such possibility is open for the performance of an economic activity in an employed or self-employed capacity; pursuit of studies or vocational training or any other purposes.

This right constitutes an innovation in EU law. Indeed, previously to the adoption of the Directive, a third country national worker, having resided for a long period of time in one member state and wishing to reside in another, had to go through the normal immigration procedure, i.e. he/she was considered as a first migrant despite the long period of residence on EU territory.

The Directive further defines the conditions under which long-term residents are entitled to reside in other member states. This principally concerns procedural aspects covering documentary evidences and conditions to be fulfilled by the applicant with respect to resources or integration capacities²⁸. It should however be underlined that the Directive contains two specific provisions which allow member states to limit the right to move and reside in the second state.

According to article 14, paragraph 3, the second member state may apply a labour market test and implement national procedures regarding the requirements for filling a vacancy or carrying out such economic activities, if a long-term resident wants to pursue an economic activity in an employed or

unemployed capacity. The second member state may also give preference to Union citizens or third country nationals who reside legally and receive unemployment benefits in that member state or who are entitled to preferential treatment under Community law.

Article 14, paragraph 4, provides for the possibility for member states to limit the total number of persons entitled to be granted right to reside on the basis of a quota system. Such a rule should, however, exist at the time of adoption of the Directive. According to the Commission report, only one state – Austria – implements such a provision. As this provision is accompanied with a standstill clause, i.e. the rule should exist before the adoption of the Directive, further use of such a provision is now forbidden. This limits the possibility for member states to restrict the effects of the Directive.

In practice, the Directive has not reached the goal to constitute a major factor of mobility, notably on the Union's employment market²⁹. The report on the implementation of the Directive, published in September 2011³⁰, states that the transposition of rules related to intra-EU mobility has fallen short of meeting the objectives.

This is firstly due to the margins of manoeuvre left to the member states when putting into effect the Directive. Many of the Directive's provisions are accompanied with a may clause which entitles member states to implement the provision of the Directive or not. One example concerns the possibility for member states to use the labour market test provision. According to the Commission's implementation report, only seven member states did not transpose the labour market test provision. This means, in turn, that a vast majority of states may use this provision and limit intra-EU mobility on the basis of national law. This considerably weakens the Directive's potential.

Secondly, member states have not – or have not properly – implemented the provisions of the Directive, hampering the possibility for individuals to make use of the right to free movement. This point is problematic as the problem does not occur at the stage of granting the right to mobility, but it comes beforehand, at the moment of granting the long-term residence status in the first state. In this regard, the Commission points out the critical reluctance from some states to fully play the game. The Commission's report, based on Eurostat data, states that at the end of 2009 about four fifths of third country nationals holding an EU long-term residence status were living in four member states. As a comparison, where Estonia has granted 187 400 long-term residence statuses and Austria some 166 600, the number of long-term residence permits issued in France and Germany over the same period was... 2 000³¹. The number of statuses issued in Finland reached the level of 16³². This situation affects the rationale of the whole Directive as it restricts the possibilities for third country nationals to use the right to free movement which is dependent on the long-term resident status³³. Consequently, and as underlined by the Commission, fewer than fifty long-term residents per member state have moved within another one³⁴.

In May 2011, the scope of the Directive has been extended to beneficiaries of international protection, i.e. refugees and beneficiaries of subsidiary protection³⁵. While this could extend the number of long-term residents using their right to move and reside in another member states, figures put forward by the Commission regarding current use of intra-EU mobility by long-term residents are rather disappointing.

B. Highly qualified workers

Highly qualified workers are a second category of third country nationals to enjoy the right to free movement. Directive 2009/50/EC³⁶, also called Blue Card Directive", pursues two purposes. It sets firstly the conditions of entry and residence for more than three months in the territory of the member states of third country nationals for the purpose of highly qualified employment as EU Blue Card holders, and of their family members. It determines, secondly, the conditions for entry and residence of highly qualified workers and of their family members in member states other than the one of first admission.

The principle of intra-EU mobility is enshrined in Article 18 which states after eighteen months of legal residence in the first member state as an EU Blue Card holder, the person concerned and his family members may move to a member state other than the first member state for the purpose of highly qualified employment". The provision defines the procedure and conditions to be fulfilled by the applicant in the second member state. It also determines the rules under which national authorities process the application in the second member state and which rights are granted to the applicant during this process.

In this framework, member states enjoy comfortable leeway. On the one hand, the conditions that have to be fulfilled in the first member state are requested in the second. This means that the second member state may refuse to issue the EU Blue Card for a series of reasons based on salary requirements mismatch, a labour market test, ethical recruitment or because the employer has been sanctioned for undeclared work. On the other hand, the Directive does not affect the right of the second member state to determine the volume of admission of highly qualified workers. In the end, member states retain large discretionary powers which may be used to limit intra-EU mobility for highly skilled workers.

While the Blue Card Directive constitutes a step forward in the recognition of intra-EU mobility³⁷, the step is conditional. Freedom of movement depends on a series of conditions which can make this right hard to exercise. The major obstacle is to obtain the Blue Card in the first member state. Provisions organising the application and issuance of the Blue Card give enormous discretion to the member states. This concerns first and foremost the possibility for member states to disregard the Directive and use national rules for highly skilled workers³⁸. This parallel system does not confer any right to freedom of movement in another member state. Secondly, member states maintain strong leeway with respect to the definition of salary thresholds, the possibility to define volumes of admission, the possibility to verify whether the vacancy could be filled by other workers, the possibility to reject an application for ethical reasons etc. Hence, the chances of receiving a Blue Card may be extremely low.

The subsequent right to freedom of movement may be hampered as well. Moreover, and whenever the person is holding a Blue Card, his/her right to move and reside in another state may be refused by the second member state because the applicant does not meet the national requirements implementing the Directive or because pre-existing admission quotas have already been exhausted.

The effects of the Directive remain unknown, but it is unlikely that it will have a big impact on intra-EU mobility. Hence, it is likely that the Directive will fall short of attracting highly skilled migrants in the EU member states in order to fill gaps regarding skills shortages and mobility as underlined in the preamble³⁹. In this view, the exclusion from the scope of the Directive of beneficiaries of international protection makes the positive impact of the Directive even less relevant. This is particularly the case when taking into account the fact that refugees are often over-qualified for the job they are employed in. Offering refugees or beneficiaries of subsidiary protection a proper freedom of movement may help in responding to the effects of the crisis, filling in skills shortages and avoiding qualification mismatches.

C. Researchers and students

Both the Students Directive⁴⁰, adopted in 2004, and the Researchers Directive⁴¹, adopted in 2005, open new possibilities for persons admitted in one member state to move to another one. However, this possibility is strictly framed by the Directives which may limit its effect in practice.

The Students Directive has introduced an innovation under the heading "Mobility of students". According to article 8, a third country national who has already been admitted as a student and applies to follow in another member state part of the studies already commenced, or to complement them with a related course of study in another member state, shall be admitted by the latter member state within a period that does not hamper the pursuit of the relevant studies, whilst leaving the competent authorities sufficient time to process the application (...)". However, the exercise of this right is subject to conditions. The general and specific

conditions requested to be fulfilled in the first member state apply in the second one. Moreover the applicant must have been studying in the first state for at least two years, or have participated in an exchange programme, unless the study period abroad is a mandatory part of the chosen study programme⁴². With respect to researchers, and as a principle, article 13 of the directive states that a third country national who has been admitted as a researcher under this Directive shall be allowed to carry out part of his/her research in another member state⁴³. The procedure differs according to the length of the stay planned in the second member state. For a short stay, i.e. up to 3 months, a researcher is able to move on the basis of the hosting agreement concluded in the first member state⁴³. He/she has also to prove he/she has sufficient resources and hold a residence permit or a visa (for researchers holding a residence permit issued by a state outside of the Schengen area). For periods of research longer than 3 months, a new hosting agreement may be required. In this case, the second member state may refuse to admit the applicant because he/she does not fulfil the conditions related to content of the hosting agreement (article 6) and/or general conditions for admission (article 7) as they are applicable in the first state.

The implementation of both Directives in the member states has been assessed by the European Commission⁴⁴. With respect to intra-EU mobility, the assessment provided for by the Commission demonstrates that there are still some problems of transposition in some member states. Both reports highlighted however the importance of being able to attract students and researchers in the EU, in particular regarding the global war for talent⁴⁵. In this regard, intra-EU mobility appears as a major incentive which should be more keenly addressed and put forward in dialogues with third countries. According to the Commission this point should be tackled in the near future with the expected proposals to modify Directives 2004/114/EC and 2005/71/EC.

In a single proposal published in March 2013 addressing several types of third country nationals, the Commission proposed to facilitate and simplify intra-EU mobility for students and researchers⁴⁵. For researchers, the period of which they are allowed to move to a second member state on the basis of the hosting agreement concluded in the first member state has been extended from 3 to 6 months (Article 26). For students and remunerated trainees, new provisions allow them to move to a second member state for a period of up to 6 months on the basis of the authorisation granted by the first member state. The condition for having been admitted as a student in the first member state for no less than two years has disappeared from the Commission's proposal (Article 26).

The right to move between member states should also be reinforced for researchers and students admitted under EU mobility programmes, for example the current Erasmus Mundus or Marie Curie programmes. When the full list of member states where the researcher or student intends to go is known prior to entry to the first member state, an authorisation covering the whole duration of their stay in the member states concerned should be granted. According to the Commission, this rule will limit situations in which third country nationals who qualify for scholarships of fellowships under EU mobility programmes cannot take them up as they cannot enter the territory of the member state concerned. In addition to this, and in line with the provisions of the Blue Card Directive, researchers' family members can move between member states together with the researcher.

In order to make intra-EU mobility for these categories of persons more effective, the proposal also plans to request member states to establish contact points for receiving and transmitting information needed to implement intra-EU mobility. This would follow the example of the contact points already established under existing migration *acquis*, such as the Blue Card Directive and the proposal for a Directive on intra-corporate transferees.

While, the proposal should be welcomed as it seeks to improve intra-EU mobility for researchers and students, it now has to be negotiated by the Council and the European Parliament. Given the current climate, it is difficult to predict how the proposal will be accepted by the relevant actors, how long the negotiation process will last and to what extent provisions related to intra-EU mobility will be maintained or undermined.

D. Balance sheet of intra-EU mobility possibilities under EU rules

Provisions governing mobility differ from one EU Directive to another and as a consequence offer a patchy picture. This goes from the intensity of movement rights awarded (1) to the prior length of legal residence requested (2) and the margins of manoeuvre retained by member states which may heavily undermine mobility (3).

1. *Right to move?*

Provisions allowing for the possibility to move are not worded in the same manner. Indeed, where long-term residents shall acquire the right to move", students shall be admitted in another member state and researchers shall be allowed to carry out part of his/her research in another member state". On the contrary EU Blue Card holders may move to another member state.

From a legal point of view, this has a major impact as a shall clause is mandatory whereas a may clause is not. In other words, a may clause leaves important margins of manoeuvre to member states on whether to grant the right to move or not. In contrast, a shall clause obliges the states to grant the right whenever the applicant fulfils the conditions requested. In such a situation, long-term residents, researchers and students have a right to move whereas highly skilled workers may only enjoy this possibility.

The wording of the Directives reveals the extent to which member states agree to grant the right to free movement. Shall clauses have been introduced in the first series of instruments adopted in the field of legal migration, i.e. before 2005. The selective approach following the Commission's policy plan published in December 2005⁴⁶ is accompanied with provisions less liberal with respect to intra-EU mobility, as illustrated by the EU Blue Card directive and the currently negotiated directive on intra-corporate transferees. The latter text currently under negotiation has been heavily downgraded. The European Commission initially proposed that intra-corporate transferees shall be allowed to work in another entity established in another member state in so far minimal conditions are fulfilled. The Council proposes a different wording stating that when the intra-corporate transferee intends to work in another state, the transfer may take place". This possibility to move is also accompanied with a list of conditions and may clauses making the procedure quite dense and giving back some extra leeway to states⁴⁷.

Alongside the wording, conditions to be fulfilled, as well as member states margins of manoeuvre, are highly relevant when assessing the extent of rights awarded to third country nationals.

2. *Different conditions regarding prior residence*

Directives define sometimes differing conditions for exercising the right to move to another member state. This is particularly the case with respect to the length of legal residence requested before being entitled to move.

Researchers are entitled to move immediately to carry out part of their research in another member state. Highly skilled workers may exercise this possibility after 18 months. Long-term residents have a right to free movement after a period of five years of legal residence.

In practice, few people will benefit from an accelerated access to freedom of movement, i.e. researchers and Blue Card holders. The vast majority of third country nationals will have to wait for a longer period of time, i.e. 5 years, provided they meet the requested conditions. Hence, the category within which a migrant falls will define whether he/she falls under a preferential status or not.

Such a differentiation is hard to defend from a practical and economic point of view. Since shortages are experienced mainly in medium skilled jobs, the absence of any right to move before 5 years does not help

address the effects of the crisis through making the allocation of workforce in another member state easier. Furthermore, this also fails to make the EU attractive for workers.

3. Member states' discretionary powers

The Directives' provisions enable member states to keep strong control over the right to move. First, member states may destroy any perspective to exercise the right to move through preventing third country nationals to acquire the appropriate status. As underlined, some states do not deliver the EU long-term residence status which constitutes a barrier to the exercising of the right to move. The same situation may apply to applicants for EU Blue Card status under two different schemes. On the one hand, member states may make attaining that status very difficult or even impossible and as a consequence may eliminate the possibility to enjoy freedom of movement⁴⁸. On the other hand, and according to article 3, Paragraph 4 of the Directive⁴⁹, member states may decide to issue other residence permits than the EU Blue Card. If they decide to do so, such national permits – or parallel systems – do not allow for any right to movement.

Second, states may refuse freedom of movement on the basis of a series of different grounds. The possibility to refuse movement due to the situation of the labour market exists in the long-term resident and the Blue Card Directives. In the long-term resident Directive, member states may prefer to award the job position to Union citizens or third country nationals who reside legally and receive unemployment benefits in this state⁵⁰. In the Blue Card Directive, member states may verify whether vacancies could be filled by national or Community workforce, third country nationals already residing and employed in the labour market or by long-term residents wishing to move⁵¹.

Another ground for restricting intra-EU mobility is grounded in the capacity to adopt quotas limiting the number of persons entitled to move. While this provision is accompanied in the long-term resident Directive with a stand still clause⁵², the Blue Card Directive does not contain any provision of that kind. Hence, member states are always able to adopt a quota system limiting the possibility for highly skilled workers to move within the EU.

Safeguarding member states' stranglehold over admission has been particularly important in the Blue Card Directive. Indeed, grounds to refuse application for the status and movement have been extended to two additional and specific fields: ethical recruitment⁵³ and where the employer has been sanctioned for undeclared work and/or illegal employment⁵⁴.

These examples illustrate a series of problems linked to intra-EU mobility. Firstly, the legal scheme lacks coherence. While the researcher and student Directives define administrative requirements for movement to be exercised, the long-term resident and the Blue Card Directives establish criteria to restrict the possibility to move.

Secondly, the extension of grounds to refuse intra-EU mobility in the Blue Card Directive goes hand in hand with the ever growing reluctance of member states to act in common in the field of legal migration. In practice, member states have the weapon in their hands to kill intra-EU mobility of long-term residents and highly skilled workers. The labour market test provision is one of the most powerful tools in this regard.

Thirdly, the wide margins of manoeuvre granted to member states does not allow for any kind of harmonisation in the field. As a consequence, migrants willing to move into the EU and wishing to exercise the right to freedom of movement face a fragmented legal landscape. This makes the system hard to understand. This does not provide for any incentive to choose the EU as a destination. This is problematic considering the need to attract not only highly qualified, but also qualified migrants, to the EU.

Finally, such a legal patchwork does not help to address the needs deriving from the crisis. Indeed, the crisis makes it imperative to lift barriers to the movement of people within the Union in order to better allocate the workforce regarding the changing nature of labour demand among member states. For the time being there is no answer of that kind available in EU law and practice.

In the end, there is no common response to this collective challenge. This requires important changes to make intra-EU mobility a reality that helps respond to the challenges deriving from the crisis and, which is forward looking and attracts migrants from outside the EU. Put differently, intra-EU mobility should become a priority and be improved.

II. Proposals to improve intra-EU mobility of third country nationals

There are three main ways to improve intra-EU mobility of third country nationals. The first one is to make sure that existing rules are correctly implemented (A). The second is to adapt existing mechanisms in order to enhance the intra-EU mobility of third country nationals (B). A third way would be to adopt new EU legislation aimed at improving intra-EU mobility for third country nationals and graduates (C).

A. Improving the implementation of existing rules

Such an improvement will involve the proper implementation of current EU rules in the member states. This mission falls within the remit of the European Commission through infringement procedures. As guardian of the Treaties", the Commission has the power to launch an infringement procedure before the European Court of Justice against a failing member state⁵⁵.

This has already been the case with respect to Directive 2003/109/EC. The Commission has requested the Court of Justice to declare that by requiring third country nationals and their family members to apply for long-term resident status to pay high and unfair fees, the Kingdom of Netherlands has failed to fulfil its obligations under Directive 2003/109/EC⁵⁶.

This case law is, for the time being, the only one introduced by the European Commission against one member state in the field of immigration and asylum. In other words, despite several infringements identified by the European Commission's reports⁵⁷, it has not brought member states before the Court of Justice for non-implementation or bad implementation of EU rules at national level.

Under EU law, it is the responsibility of the European Commission to monitor member states' implementation of EU rules and to introduce infringement procedures where national rules do not fulfil with the Directive's requirements and objectives. In practice, this type of action is rarely introduced in the field of immigration for several reasons⁵⁸.

This situation is all but satisfactory as it leaves states free to block the proper implementation of individual rights including freedom of movement. The European Commission should then have the political willingness, and courage, to introduce infringement procedures against member states. If it refrains from doing so, intra-EU mobility rights will in some cases remain just that.

B. Enhancing mobility through better use of existing tools

This section seeks to highlight areas where improvement could lead to a better organisation of intra-EU mobility for third country national workers already residing in EU member states. In particular, this covers access to job opportunities (1) and recognition of qualifications (2).

1. Enhancing access to the EURES Network

A step forward could concern the possibility for third country nationals to have access to the existing EURES network⁵⁹ in order to have greater access to job opportunities across the European Union.

EURES – European Employment Services – is a cooperation network designed to facilitate the free movement of workers within the European Economic Area and Switzerland. The purpose of EURES is to exchange vacancies and applications for employment ("clearance"), provide information, advice and recruitment/placement (job-

matching) services for the benefit of workers and employers as well as any citizen wishing to benefit from the principle of the free movement for workers in the European Union and the European Economic Area (EEA). The main target population of EURES is, in accordance with the right of freedom of movement, EU citizens and their families, EEA citizens and their families and Swiss citizens and their families. EURES has two pillars: a Job Mobility Portal (one million vacancies, online services⁶⁰) and a network of more than 850 EURES Advisers in 31 countries ("personalised or mediated services").

With regard to intra-EU mobility, the efficiency of the EURES network could be improved in two main ways. The first one relates to the possibility of ensuring better access to services from the EURES Network for migrant workers legally residing in the member states⁶⁰. Indeed, and while it is commonly acknowledged that the EURES Network covers primarily EU citizens and workers from EEA countries, some third country workers fall within the scope of EURES services. This is the case for third country nationals with an EU long-term residence status. According to article 11 of Directive 2003/109/EC long-term residents shall enjoy equal treatment with nationals regarding access to employment". In other words, where nationals have access to the EURES Network in order to exercise their right to freedom of movement, long-term residents have the same right⁶¹.

Despite the legal possibility of opening it up to third country nationals, the practical use of the EURES system is low. Indeed, and according to some officials, the number of third country users is small and the focus of the system is geared towards EU and EEA citizens. In this context, a move forward would be to broaden EURES' priorities. The Network could be more active in raising awareness that this category of migrant workers has the right to move and also has access to the EURES Network. At the same time this could help fulfil the Commission's objectives to better inform third country nationals about their rights⁶².

The second improvement regarding intra-EU mobility of third country nationals could reside in using the opportunities offered by EURES reforms launched in 2012 to increase the potential of the network to ensure the matching of jobseekers to jobs across borders. The aim is to transform EURES into an employment instrument that enables member states to offer mobility services to jobseekers, job changers and employers in a flexible, demand-driven way, according to the specific needs of their national labour market and employers.

Hence, and alongside public and specific private employment services, having access to the Network, a decision adopted in 2012 extends the scope of the EURES Network to new actors, i.e. associated EURES Partners⁶³. The latter consists of organisations that do not provide all the obligatory Universal services⁶⁴ but which provide information and advice such as intermediaries and social partners.

According to this definition, migrants' organisations may also apply to become associated EURES partners and participate in the provision of services (advice, information, mediation) regarding mobility, thereby supporting the machinery at EU level on the exchange of vacancies as well as applications for employment by jobseekers interested in working in another member state⁶⁵. In other words, a new space is potentially available for migrants' organisations to enable them to play a greater role in the promotion of intra-EU mobility. However, this opportunity will be conditioned by criteria and conditions developed by each member state in this regard⁶⁶. Discussions taking place in 2013 may nevertheless lead to the inclusion of some common principles and criteria about the associated partners in the EURES Charter". This could take the form of a common guidance document for the implementation of the 2012 Decision.

The EURES Network offers important possibilities to enhance intra-EU mobility of migrant workers entitled to freedom of movement. In practice, however, such potentialities are not fully used, particularly due to a lack of information. Raising awareness about mobility rights and possibilities to have access to the EURES Network should therefore be a key priority.

This could create the basis for a sound system where available workforce residing in the member states could be invited to fill labour and skills shortages without having recourse to external labour migration. Such an option would also bring the single European labour market to a dimension it has not reached so far.

2. Exploring ways to enhance recognition of qualifications and skills

A proper allocation of workers should be accompanied with a clear system of recognition of qualification and/or skills. At EU level, rules have been adopted to facilitate the mutual recognition of professional qualifications between member states. The system, despite its intricacies, implies an important set of Directives covering specific sectors⁶⁷ or a general system which is applicable to all professions that are not covered by a specific directive. The general system is organised by the Directive 2005/36/EC on the recognition of professional qualifications⁶⁸.

A short insight into the general system covered by Directive 2005/36/EC illustrates how complex the system is. It is so complex that a specific user's guide⁶⁹ has been published by the European Commission in order to help citizens find their way".

As a first rule, the Directive is primarily applicable to the nationals of the 27 EU member states and nationals of Iceland, Norway and Liechtenstein. However, and according to the Commission's user's guide⁷⁰, a selected group of third country nationals may fall within the scope of Directive 2005/36/EC. These people are: family members of an EU citizen exercising his/her right to free movement; long-term residents; refugees; and highly skilled workers holding an EU Blue Card.

Secondly, and because the Directive 2005/36/EC targets primarily Europeans", it does not apply where qualifications have been obtained in a third country. In this case, recognition remains dealt with by national law. However, the Directive indicates in article 3, paragraph 3, that Evidence of formal qualifications issued by a third country shall be regarded as evidence of formal qualifications if the holder has three years' professional experience in the profession concerned on the territory of the member state which recognised that evidence of formal qualifications in accordance with Article 2(2), certified by that member state". Hence, the general rule covers qualifications obtained outside the EU as well.

As explained by the user's guide", Directive 2005/36/EC applies only as of the second application for recognition if the conditions for benefiting from this recognition are met. In other words, where member state A has recognised foreign qualifications of M. X, member state B should recognise this qualification as member state A did. However, where member state A did not recognise M. X's qualification, member state B is not bound and may or may not decide to recognise his qualification. In practice, member states have a strong influence on the system as states may recognise qualifications acquired in the third country whereas others might not. There is a risk of discrepancies among member states which may have an important effect in the exercise of intra-EU mobility.

This legal situation does not help in making the European labour market attractive. On the contrary, the legal complexity may repel some categories of migrants. Therefore, some further steps should be taken in order to facilitate the recognition of qualifications acquired in third countries.

One solution would be to make the system of recognition more flexible and to recognise the skills and qualifications after three years of exercising the profession in one state, notwithstanding the existence of a formal recognition of qualification by the state.

Another way would be to entrust the European Commission with a mandate to negotiate with third countries a list of qualifications acquired in third states and recognised in all the EU member states. While this solution would appear as being the clearest one, its achievement would take decades. In the end, such an option should not be primarily followed.

An alternative would be to have a pragmatic approach and to use existing frameworks to discuss questions related to skills and qualification recognition. The Global Approach to Migration and Mobility forms the framework within which further steps regarding recognition of diplomas and skills could be achieved⁷¹. Indeed, the framework of Mobility Partnerships¹⁸⁷² might constitute one of the most efficient fora where the issue of recognition of qualification could be seriously discussed and implemented.

More precisely, Mobility Partnerships should enable the development of in-depth discussions regarding recognition of qualifications acquired in the country subject to the partnership. This could take the form of the conclusion of agreements between member states and third countries regarding a list of qualifications as well as diplomas delivered in specific schools, universities or institutions. This recognition scheme would first be applicable to the member states voluntarily engaged in the partnership. It could later be extended to other states or form the basis of an agreement between the EU and the third country concerned.

C. Developing new rules for extending intra-EU mobility

The development of new rules means that some legislative proposals should be presented and adopted, alongside existing ones⁷³, in order to facilitate intra-EU mobility for third country nationals already residing in the member states. This perspective could concern the adoption of a general regime of intra-EU mobility (1). It could also concern a specific category of third country nationals, i.e. students (2).

1. Towards a general regime of intra-EU mobility?

Currently, intra-EU mobility is awarded to specific categories of persons under different conditions. It is immediately open for students and researchers for the purpose of studies or research, after 18 months of legal residence for EU Blue Card holders and after 5 years of legal residence for long-term residents. With the exception of highly skilled workers, the right to move to another state is basically open after five years of legal residence. This situation does not seem to be very helpful when it comes to envisaging intra-EU mobility as a tool to respond to the effects of the crisis and/or labour mismatches in the member states and as an additional possibility to make the EU more attractive.

Hence, it might be worth adopting a new rule on the basis of article 79, paragraph 2, b) of TFEU⁷⁴ in order to grant mobility rights to legally residing migrants before five years of legal residence. Such a rule would only have the objective of broadening mobility rights to migrant workers. It will not have the objective of reinforcing the legal status of third country nationals as this aim is covered and achieved by the long-term resident Directive.

In this context, the new EU rule should determine the conditions under which third country nationals legally residing in a member state should have the right to move in another member state. The right to move should be open after a defined length of legal residence. In order to introduce some consistency in EU law a period of three years, corresponding to the period after which recognition of qualification is applicable, could be established. Secondly, conditions for exercising the right to move should be linked to employment purposes, i.e. the applicant should have a job opportunity or a firm job offer. In this context, this category of migrant workers should also have access to the EURES Network. Enabling intra-EU mobility under such a scheme would help reallocate the workforce whenever needed and consequently help to complete the single European labour market. Finally, rights under which migrants workers would exercise freedom of movement are those defined by the single permit directive⁷⁵, i.e. the right to have access to work⁷⁶ and the right to equal treatment⁷⁷. These migrant workers would also fall⁷⁸ within the scope of EU rules on the coordination of social security systems⁷⁸.

Making intra-EU mobility easier for a greater number of third country nationals constitutes a win-win project. It would help to avoid labour mismatches in enabling legally residing migrant workers to apply for vacancies in another member state. This could alleviate the burden of unemployment in some states and fill in shortages in others. On the other hand, having recourse to an already residing workforce makes it less necessary to recruit persons outside of the Union. In other words, this solution does not touch upon admission policies. Finally, it will constitute an important element in making the EU an attractive destination for migrant workers.

2. Improving student access to the labour market

Another area for further development could concentrate on students. In this domain, EU legislation is limited to the definition of conditions for entry and residence. Directive 2004/114/EC⁷⁹ does not contain rules related

to the right for students to have access to the labour market after their studies. In this field, member states have implemented divergent policies.

Germany has implemented programmes to retain foreign students by removing the labour market test for foreign graduates from German universities if they take up a job in their field⁸⁰. Before the 2012 Presidential elections, France pursued the opposite policy aimed at sending students back to their country of origin after graduation. The willingness or inability for member states to retain foreign graduates in their domestic market is a loss in terms of investments from which others profit⁸¹.

The absence of any EU common approach in this field enables member states to develop policies which could lead to competition amongst each other. Indeed, some states may develop smart policies in order to attract foreign students and be more competitive than the others. The absence of an EU-wide strategy based on the single labour market also has the effect of weakening EU member states' capacities to compete with other regions of the world in the global war for talents⁸².

In this context, the recent proposal presented by the Commission dealing *inter alia* with researchers and students is good news⁸³. The proposal plans that both graduates and researchers after their research contract comes to an end shall be entitled to stay on the territory of the member state for a period of 12 months in order to look for work or set up a business (Art. 24). This facility will be subject to the general conditions for admission remaining fulfilled. Furthermore, the provision states that in a period of more than 3 and less than 6 months, member states could ask non-EU nationals to provide documentation that they are genuinely looking for a job or are in the process of setting up a business. The provision indicates that after 6 months, states could also ask non-EU nationals to provide evidence that they have a genuine chance of being hired or of setting up a business.

The possibility for students to have access to the labour market after completing their studies is a strong incentive for studying in the EU. It is also a gain for member states which have supported the costs of the studies and are able to welcome already-integrated workers. Moreover, the adoption of common rules in this regard diminishes the risk of competitive policies among member states.

However there is a risk that the Commission's proposal will be undermined by member states during the negotiation process. In particular some states may, as they did in other directives, accompany the right to seek for a job or set up a business with extremely heavy and bureaucratic procedures. As a result, the provision may finally establish a very detailed procedure which will secure states' control over the issue but undermine the right and its attractiveness.

While the proposal to allow students and researchers to remain on the national labour market is an interesting step forward, the attractiveness of the EU may be further improved with the possibility of offering intra-EU mobility rights to this category of new workers after a short period of time, i.e. 18 months to 2 years. Here again, it is in the interests of the Single European Labour Market to organise mobility schemes for graduates to have access to the labour market of a member state.

Recommendations

Given the demographic and economic challenges the EU and its member states will have to face in the near future, or are already facing, with respect to labour shortages, a move forward in the field of labour migration is needed.

Such a move could derive from the greater coordination of national economic policies, if such a step is taken as a solution to the Euro crisis. However, it will take some time and effort before states agree to go ahead on this. The only window of opportunity that might be worth looking at in the current political and economic situation resides in the development of intra-EU mobility facilities for migrant workers already residing in the member states.

Despite a negative political climate surrounding labour migration, here are reasons and ways to move ahead and develop intra-EU mobility schemes:

- **Enhancing the movement of already residing third country nationals decreases the need to admit similar groups of migrants from outside of the EU.** This reduces – temporarily at least – the pressure to discuss the adoption of an EU scheme regarding admission of third country national workers, a topic which is perceived as a political minefield.
- **Intra-EU mobility is a step to complete the single European labour market.** Deepening the single European labour market calls for giving greater freedom of movement to legally residing migrants.
- **Intra-EU mobility helps to overcome the effects of the economic crisis.** It allows the asymmetrical effects of the crisis to be addressed through reallocating the available workforce among member states.
- **Intra-EU mobility is a strong incentive to attract migrant workers to the EU.** Being entitled to take up jobs in an EU-wide area makes it more relevant to choose the EU as a destination for migrant workers.
- **Moving ahead on this issue will constitute a strong basis to build a more comprehensive EU labour migration policy.** This will be important once the economic recovery starts.
- **Strong political leadership is needed.** Stronger support to EU legal migration solutions should be supported by stakeholders at national and EU level.
- **Reinforcing coordination between the Commission's Directorate Generals** to enable the Commission to launch a coherent and comprehensive policy on EU labour migration policy.
- **Reinforcing the European Parliament's position.** Given the European dimension of migration challenges and impact on citizens, the European Parliament should become a key player in defining policies and in the public debate.

If no progress is made, there is a chance that the EU will not be able to meet forthcoming challenges and that it will still be lagging behind the high attractiveness and dynamism of emerging countries.

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Endnotes

1. This discussion paper has received the support of DG Employment, Social affairs and inclusion of the European Commission, in the frame of the project 'Completing the Single European Labour market'. It has been elaborated on the basis of researches and discussions held within the framework of a LAB MIG GOV project which benefits from the support of the 'Europe and Global Challenges' Programme, promoted by Compagnia di San Paolo, Riksbankens Jubileumsfond and VolkswagenStiftung. For more information, www.labmiggov.eu/
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3. On progress achieved in the field of immigration, asylum and integration, see, S. Peers, E. Guild, D. Acosta Arcarazo, K. Groenendijk and V. Moreno-Lax "EU Immigration and Asylum Law (text and commentary): Second Revised Edition", Volume 2: EU Immigration Law, Martinus Nijhoff Publishers, 2012; K. Hailbronner (edited by) "European Immigration and Asylum Law", Hart Publishing, Oxford, 2010; Y. Pascouau "La politique migration de l'Union européenne. De Schengen à Lisbonne", Fondation Varenne, LGDJ, Paris, 2011.
4. Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251, 3.10.2003.
5. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents, OJ L 16, 23.1.2004.
6. Communication from the Commission, Policy Plan on Legal Migration, COM(2005) 669 final, 21.12.2005.
7. Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; OJ L 375, 23.12.2004.
8. Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third country nationals for the purposes of scientific research, OJ L 289, 03.11.2005.
9. Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment, OJ L 155, 18.06.2009.
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12. Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing, COM(2013) 151 final, 25.03.2013.
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16. As explained by Commissioner Andor "Despite high levels of unemployment (over 25 million people in the EU) there are still labour shortages and vacancy bottlenecks", IP/12/1262, 26.11.2012.
17. As underlined by the OECD, "the economic downturn hit immigrants hard, and almost immediately, in most OECD countries. The evidence suggests that overall the impact of the economic crisis on unemployment has been more pronounced for migrants than for native-born", International Migration Outlook 2012, OECD, 2012, p. 23
18. For a bigger list, see L. Collett "Future prospects for a common EU immigration policy" in J. O. Karlsson and L. Pelling "Moving Beyond Demographics", Global Utmaning, 2011.
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22. On options available, see for instance, "Prospects for 2025: Skilled Workers for Germany", Bundesagentur für Arbeit/Federal Employment Agency, January 2011. See also H. Martens "Demographics, the European welfare state and migration" in Think Global - Act European Project, forthcoming 2013.
23. On this issue, see for instance, B. Fauvarque-Casson, E. Pataut et J. Rochfeld (sous la direction de) "La Citoyenneté européenne", Société de Législation Comparée, Coll. Trans Europe Experts, Paris, 2011; P. Minderhoud & N. Trimikliniotis (eds) "Rethinking the Free Movement of Workers: the European Challenges Ahead", Wolf Legal Publishers, 2009; J.Y. Carlier "La condition des personnes dans l'Union européenne. Recueil de jurisprudence", Bruylant, 2012
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28. Article 15 of Directive 2003/109/EC concerning the status of third country nationals who are long-term residents.
29. Point 18 of the preamble of Directive 2003/109/EC.
30. Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third country nationals who are long-term residents, COM(2011) 585 final, 28.09.2011.
31. *Ibidem*.
32. See also, S. Peers, E. Guild, D. Acosta Arcarazo, K. Groenendijk and V. Moreno-Lax "EU Immigration and Asylum Law (text and commentary): Second Revised Edition", Volume 2: EU Immigration Law, Martinus Nijhoff Publishers, 2012.
33. According to article 14, paragraph 1, of the Directive, the right to move is awarded to "long-term resident", i.e. individuals having already been granted the status.
34. Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third country nationals who are long-term residents, COM(2011) 585 final, 28.09.2011, p. 10.
35. Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection, OJ L 132, 19.05.2011.
36. Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment, OJ L 155, 18.06.2009.
37. For a general comment, see A. Wiesbrock "Legal Migration to the European Union", Martinus Nijhoff Publisher, 2010; S. Peers, E. Guild, D. Acosta Arcarazo, K. Groenendijk and V. Moreno-Lax "EU Immigration and Asylum Law (text and commentary): Second Revised Edition", Volume 2: EU Immigration Law, Martinus Nijhoff Publishers, 2012.
38. Article 3, paragraph 4, of Directive 2009/50/EC states "This Directive shall be without prejudice to the right of the member states to issue residence permits other than an EU Blue Card for any purpose of employment. Such residence permits shall not confer the right of residence in the other member states as provided for in this Directive".
39. As stated in point 7 of the preamble of Directive 2009/50/EC "This Directive is intended to contribute to achieving these goals and addressing labour shortages by fostering the admission and mobility - for the purposes of highly qualified employment - of third country nationals for stays of more than three months, in order to make the Community more attractive to such workers from around the world and sustain its competitiveness and economic growth. To reach these goals, it is necessary to facilitate the admission of highly qualified workers and their families by establishing a fast-track admission procedure and by granting them equal social and economic rights as nationals of the host member state in a number of areas (...)".
40. Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375, 23.12.2004.
41. Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third country nationals for the purposes of scientific research, OJ L 289, 03.11.2005.
42. For an overview, see A. Wiesbrock "Legal Migration to the European Union", op. cit.
43. According to the article 6 of Directive 2005/71/EC "A research organisation wishing to host a researcher shall sign a hosting agreement with the latter whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher for that purpose (...)". According to Article 7, the hosting agreement should be joined in the application for admission submitted to national authorities.
44. Report from the Commission to the Council and the European Parliament on the application of Directive 2004/114/EC on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, COM(2011) 587 final, 28.09.2011; Report from the Commission to the Council and the European Parliament on the application of Directive 2005/71/EC on a specific procedure for admitting third country nationals for the purposes of scientific research, COM(2011)901, 20.12.2011.
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47. See article 16 of proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third country nationals in the framework of an intra-corporate transfer, Doc. 6667/13, 22 February 2013.
48. According to Article 18 of the Highly-skilled Workers Directive, movement may take place "after eighteen months of legal residence in the first member state as an EU Blue Card holder", Italics added.
49. Article 3, paragraph 4, states "This Directive shall be without prejudice to the right of the member states to issue residence permits other than an EU Blue Card for any purpose of employment. Such residence permits shall not confer the right of residence in the other member states as provided for in this Directive".
50. Article 14, paragraph 3, of Directive 2003/109/EC.
51. According to Article 18, paragraph 4, a) of Directive 2009/50/EC, Article 8, paragraph 2, of Directive 2009/50/EC is applicable where the second member state process to the application to move.
52. Article 14, paragraph 4, of Directive 2003/109/EC "By way of derogation from the provisions of paragraph 1, member states may limit the total number of persons entitled to be granted right of residence, provided that such limitations are already set out for the admission of third country nationals in the existing legislation at the time of the adoption of this Directive".
53. Article 8, paragraph 4, of Directive 2009/50/EC "Member states may reject an application for an EU Blue Card in order to ensure ethical

recruitment in sectors suffering from a lack of qualified workers in the countries of origin". Applicable also in the second member state as enshrined in Article 18, paragraph 4, a) of Directive 2009/50/EC.

54. Article 8, paragraph 5, of Directive 2009/50/EC "Member states may reject an application for an EU Blue Card if the employer has been sanctioned in conformity with national law for undeclared work and/or illegal employment".
55. According to Article 258 of TFEU "If the Commission considers that a member state has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union."
56. ECJ, 26 April 2012, European Commission v. Kingdom of the Netherlands, case C.-508/10.
57. Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third country nationals who are long-term residents, COM(2011) 585 final, 28.09.2011; Report from the Commission to the Council and the European Parliament on the application of Directive 2005/71/EC on a specific procedure for admitting third country nationals for the purposes of scientific research, COM(2011)901, 20.12.2011.
58. For a more developed approach, see Y. Pascouau "Human Rights Violations in the Field of Migration: A Collective responsibility", Policy Brief, EPC, 2012.
59. Commission Decision (2003/8/EC) of 23 December 2002 implementing Council Regulation (EEC) n° 1612/68 as regards the clearance of vacancies and applications for employment, OJ L 5, 10.01.2003.
60. On a legal point of view, article 74 TFEU allows for such an administrative cooperation between relevant national authorities. This Article states "The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the member states in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article 76, and after consulting the European Parliament".
61. The same possibly does not appear to apply to other third country nationals entitled to intra-EU mobility. Regarding students and researchers, they have the right to move but to pursue a specific task, studies for the ones and research for the others. Concerning highly skilled workers, the Blue Card Directive ensures equal treatment with regard to working conditions and not access to employment. One provision deals with access to the labour market but does not deal with access to employment.
62. "Moreover, long-term residents should be better informed about their rights under the Directive. The Commission will make the best use of existing websites, mainly via the future Immigration Portal, and is considering preparing a simplified guide for long-term residents. The Commission could also encourage and support member states in launching awareness-raising campaigns to inform long-term residents of their rights", Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third country nationals who are long-term residents, COM(2011) 585 final, 28.09.2011, p. 11.
63. Article 3 of Commission implementing decision of 26 November 2012 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES, OJ L 328, 28.11.2012.
64. Commission Staff Working Document "Reforming EURES to meet the goals of Europe 2020", SWD(2012)100, 18.04.2012.
65. Article 6, paragraph 4, of Commission implementing decision of 26 November 2012 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES, OJ L 328, 28.11.2012.
66. "Member states could envisage developing different criteria and modalities for the participation of associated EURES Partners to reflect the national, territorial and institutional set-up and competences and build up the best possible composition of the national EURES network", Commission Staff Working Document "Reforming EURES to meet the goals of Europe 2020", SWD(2012)100, 18.04.2012.
67. As explained by the European Commission in the User Guide on Directive 2005/36/EC "if you are a Slovenian air traffic controller who wants to work in Italy, the recognition of your professional qualifications is covered by Directive 2006/23/EC; if you are a Czech airline pilot and you want to work in Poland, you come under Directive 91/670/EC; several professions in the maritime sector are covered by Directives 2005/45/EC and 2008/106/EC".
68. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.09.2005. The Directive has been amended several times.
69. Available: http://ec.europa.eu/internal_market/qualifications/docs/guide/users_guide_en.pdf
70. Available: http://ec.europa.eu/internal_market/qualifications/docs/guide/users_guide_en.pdf
71. The European Commission recommended it in its Communication to focus on "twinning between higher education and training institutions, to encourage cross border cooperation and exchanges on aligning curricula, certification and qualifications and ensuring efficient recognition thereof (through effective quality assurance, comparable and consistent use of EU transparency tools and linking qualifications to the European Qualifications Framework) with a view to improving long-term labour market complementarity", Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "The Global Approach to Migration and Mobility", COM(2011) 743 final, 18.11.2011, sp. 15.
72. Mobility partnerships are negotiated between the EU, EU member states and third countries. These partnerships deal with a series of issues including irregular migration, development policies and legal migration. So far, two mobility partnerships have been concluded with Moldova and Cape-Verde and two others are in the process of being negotiated with Morocco and Tunisia. Mobility partnerships are specific tools as they are not legally binding and do not involve all of the EU member states. The latter may engage in a partnership on a voluntary basis.
73. It should be underlined that the coordination of social security rules of legally residing third country nationals who move between member states is ensured by Regulation (EU) n° 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344, 29.12.2010.
74. This provision states that the European Parliament and the Council shall adopt measures on "the definition of the rights of third country nationals

residing legally in a member state, including the conditions governing freedom of movement and of residence in other member states”.

75. Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third country nationals to reside and work in the territory of a member state and on a common set of rights for third country workers legally residing in a member state, OJ L 343, 23.12.2011.
76. Article 11 Directive 2011/98/EU.
77. Article 12 Directive 2011/98/EU.
78. Regulation (EU) n° 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344, 29.12.2010.
79. Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; OJ L 375, 23.12.2004.
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