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Accompanying document to the

Proposal for a

COUNCIL DIRECTIVE

on the conditions of entry and residence of third country nationals for the purpose of highly qualified employment

IMPACT ASSESSMENT

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1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

Lead DG: Justice, Freedom and Security

Directorate-General Justice, Freedom and Security

Other involved Services

Secretariat-General, Legal Service, Bureau of European Policy Advisors, DG Economic and Financial Affairs, Directorate-General Employment, Social Affairs and Equal Opportunities, DG Enterprise and Industry, DG Employment Social Affairs and Equal Opportunities, DG Research, DG Internal Market and Services, DG Education and Culture, DG External Relations, DG Trade, DG Development, DG EuropeAid, Eurostat.

Agenda Planning or Work Programme Reference:

Reference number 2007/JLS/004 of the Commission Legislative Work Programme of 2007

1.1. Organisation and timing

The Commission Legislative and Work Programme 2007, including this strategic initiative (reference number 2007/JLS/004) under the priority for 2007 "A better management of migration flows", states that "The pressures of demography have added to the need for the European labour market to attract economic immigrants. [...] Specific attention needs to be given to the position of highly skilled migrants, with a swifter response time to react to changing needs – something like a "green card" system¹". A road map was prepared for this strategic initiative².

The chronology of this Impact Assessment was as follows:

- March 2006 – July 2007: data gathering and discussion with Member States in the context of the Commission's Committee on Immigration and Asylum (CIA);
- January 2006 – July 2007: consultation and exchange of views with relevant stakeholders (including NGOs, social partners, countries of origin, etc) in a number of meetings and conferences.
- 18 December 2006 – 15 July 2007: external study³ (hereinafter "the external study") ordered by the Commission in December 2006.
- 7 May 2007 and 2 July 2007: meetings of the Inter-service Steering Group accompanying the Impact Assessment.
- 11 July 2007: oral discussion in front on the Commission Impact Assessment Board (written opinion received on 13 July 2007).

¹ COM(2006) 629, 24.10.2006, p. 6.

² http://ec.europa.eu/atwork/programmes/docs/clwp2007_roadmap_strategic_initiatives.pdf

³ Impact Assessment on a EC instrument on Highly Skilled Workers, Ernst & Young Rome - Specific contract n° JLS/2006/A1/FWC/001 – 30-CE-0096210/00-08 implementing Framework Service Contract N° JLS/2006/A1/004.

1.2. Consultation and expertise

1.2.1. Consultation within the Commission and external expertise

The external study and this report have been drafted with the substantial input of DG Employment, Social Affairs and Equal Opportunities (hereafter "DG EMPL") that has been involved in this exercise from the very beginning. The other concerned DG have been consulted by means of the Inter-service Steering Group meetings and of direct bilateral had-hoc meetings/contacts.

This report is based on consultations with Member States and other stakeholders and on the external study commissioned by the Commission in December 2006. The data were collected from the consultations set out below as well as from case studies and literature reviews. The problem, objectives and policy options assessed were based on the draft final report from the contractor prepared in close consultation with the Commission.

The Commission's Impact Assessment Board (IAB) was consulted during the second half of June 2007. In its the recommendations for improvement, the Board asked to better specify the consequences of the likely increase in HSW from third-countries admitted to the EU as a consequence of this policy, also in terms of possible brain drain impacts on the countries of origin. It also asked to better explain the links between this policy, intra-EU mobility and the Lisbon Agenda. As to the assessment of the impacts, the IAB asked to spell out more clearly the impacts of the main elements of each option, so to provide a better understanding of the net impacts of the preferred option. Finally, it was asked to analyse the costs for the target population and their (potential) employers. This paper has tried to take into account all these comments.

1.2.2. Consultation of stakeholders

A first consultation of stakeholders took place in the first half of 2005, with the Green Paper on an EU approach to managing economic migration⁴, that launched a vast public debate on the future of the common legal immigration policy, and more specifically on which rules should be adopted at EU level for the admission of third-country nationals for employment, as well as on the added value of having such a European approach. The Green Paper addressed the main issues at stake through a series of concrete questions on the following issues: the degree of harmonisation the EU should aim at; admission procedures for paid employment (preference for the domestic labour market and admission procedures) and for self-employment; applications for work and residence permit(s); possibility of changing employer/sector; rights of the third-country nationals; "accompanying measures" (integration, return and cooperation with third countries). The Commission received more than 130 contributions from Member States, the other EU institutions, social partners, NGOs, third countries, academia, etc. (all relevant contributions are available on http://ec.europa.eu/justice_home/news/consulting_public/economic_migration/news_contributions_economic_migration_en.htm) and a public hearing was held on 14 June 2005. The outcome of this consultation process did not only constitute the basis for the Commission's Policy Plan on Legal Migration⁵ but benefited also the work on this report.

⁴ COM(2004) 811, 11.1.2005.

⁵ COM(2005) 669, 21.12.2005.

Further more specific consultations were held by means of seminars and workshops, including discussions on relevant opinions issued by the European Parliament and the Committee of the Regions. By way of example, a conference organised by the Dutch Government on "Migration of high-skilled workers to Europe: Can member states get the people they want?" took place in Scheveningen (The Hague) on 25th of January 2007: participants came from Member States' administrations, academia, social partners and the Commission (DG JLS and EMPL). Member States were consulted within the framework of the Commission's Committee on Immigration and Asylum (hereafter "CIA"). Through the external study commissioned to support the impact assessment, further consultations of the main stakeholders were undertaken by means of questionnaires and interviews. However, as these consultations were specifically addressed to test the selected policy options and to inform the analysis of their impacts, it was not possible to send out the relevant questionnaires before mid-may: as many of the stakeholders addressed are umbrella organisations (NGOs and social partners), these asked for a prorogation of the deadline.

2. Main results and follow-up of the consultations

The analysis of the more than 130 written contributions received in 2005 in response to the Green Paper showed a general support for a common EU policy for economic immigration, albeit with important differences in the approaches to be followed and in the expected end result. Some clear elements emerged, i.e. the need for EU common rules regulating at least the conditions of admission for some key categories of economic immigrants (highly skilled and seasonal workers), coupled with the request to ensure a secure legal position to all immigrants in employment. These two categories – for which many Member States have special schemes already in place – were actually considered vital for EU competitiveness. Another clear request was to propose simple, non-bureaucratic and flexible solutions.

Comments made to the Policy Plan on Legal Migration⁶ - that set down the Commission's vision on how to further develop the common policy on legal migration, based on the public consultation - have also been taken into account. This approach has been supported by the Member States in the framework of the CIA: data gathered and specific problems/positions expressed have been taken into account by the external study and by this impact assessment.

Further exchanges of views with the relevant stakeholders (other than Member States) lead to similar results to those that emerged during the 2005 public consultation. It must be however be recalled that NGOs and trade unions expressed some criticism in respect of a possible specific scheme for highly skilled immigrants: the main concern was that this would have created first and second class immigrants and that the same conditions should be offered to all third-country nationals seeking to enter the EU for employment purposes. On the other hand, many experts consulted recognised that this situation is inevitable if the EU wants seriously to be a major actor in the international competition for sought-for highly qualified workers. The Commission has carefully weighted both arguments both in drafting its Policy Plan on Legal Migration and in conducting this impact assessment and the one on an EC instrument on "a single application procedure for a single permit for third country nationals to work in the territory of a Member State and on a set of rights for third country workers legally residing in a Member State" (done in parallel).

⁶ COM(2005) 669, 21.12.2005.

2. PROBLEM DEFINITION

2.1. Context

Since the Tampere European Council of 1999 the EU has sought to develop a comprehensive immigration policy that would address the phenomenon in all its main dimensions, i.e. legal and illegal immigration, integration and cooperation with the countries of origin of immigrants. As concerns legal immigration, and in particular economic immigration, in 2001 the Commission adopted a proposal for a Directive dealing with “the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities”⁷. Whilst the other European Institutions gave positive opinions⁸, discussion in Council was limited to a first reading of the text and the proposal was officially withdrawn in 2006. It has to be recalled in this context that legal immigration is still subject to unanimity in the Council and simple consultation of the European Parliament. More recently, the Hague Programme, adopted by the European Council on 4-5 November 2004, recognised that “legal migration will play an important role in enhancing the knowledge-based economy in Europe, in advancing economic development, and thus contributing to the implementation of the Lisbon strategy” and asked the Commission to present a policy plan on legal migration⁹, “including admission procedures, capable of responding promptly to fluctuating demands for migrant labour in the labour market”. The December 2006 European Council conclusions agreed on a series of steps for 2007, among which to “develop, as far as legal migration is concerned, well-managed migration policies, fully respecting national competences, to assist Member States to meet existing and future labour needs [...]; in particular, the forthcoming Commission proposals within the framework of the Policy Plan on Legal Migration of December 2005 should be rapidly examined”.

The Lisbon strategy, launched by the European Council in Lisbon (March 2000) and further developed subsequently, aims at making the EU the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion. However, the first five years had seen insufficient delivery¹⁰. Therefore the Commission revised the original strategy and, by introducing the Lisbon Action Plan¹¹, proposed a partnership with Member States focusing on growth and jobs. Achieving the Lisbon objectives requires a skilled and adaptable labour force and a more open and accessible European labour market. Since the revision of the strategy in 2005, employment growth picked up well resulting in increasing employment rates, and declining unemployment rates. At the same time European enterprises are confronted with increasing vacancy rates, especially for highly-skilled workers. To cover these needs, measures are needed to further reduce unemployment levels; to better use the potential of the inactive population (of which approximately 8% are high-skilled¹²); to facilitate mobility within and between MS and to improve educational attainments of many young people. These actions, however, require investments and time to deliver. In addition to developing and using human resources available in the EU already, Europe should therefore better recognise the relevance

⁷ COM(2001) 386.

⁸ Opinions of the: European Parliament of 12.2.2003 (A5-0010/2003); Economic and Social Committee of 16.1.2002 (SOC/084, CES 28/2002); Committee of the Regions of 13.3.2002 (CdR 386/2001).

⁹ Adopted by the Commission on 21.12.2005 - COM(2005) 669.

¹⁰ Council of the European Union, 2005.

¹¹ SEC(2005) 1920

¹² Employment in Europe report 2005, Chapter 5.

of labour supply resulting from immigration of third country nationals supported by an appropriate management of economic migration¹³.

The reviewed Sustainable Development Strategy clearly recognised that the effective management of migration flows, including the integration of immigrants and their families, should form part of the response needed to “prepare Europe's economy and society for the onset of ageing”.

Notwithstanding these clear political mandates, no EC instrument addressing the management of economic immigration yet exists.

2.1.1. Community preference principle: the transitional arrangements

The transitional arrangements contained in the Acts of Accession of 16 April 2003 and 25 April 2005 provide that Member States shall give preference to workers from the Member States subject to the transitional arrangements over workers who are nationals of third countries as regards access to their labour market, to mitigate the fact that the transitional arrangements limit the freedom of workers from the Member States concerned to freely move to other EU Member States to work. Furthermore, Member States cannot treat EU nationals who are subject to the transitional arrangements more restrictively than third-country nationals.

This clause is therefore an important element to be considered for any EU intervention on economic migration of third-country nationals. In this regard, it is important to note that the preferential treatment clause in the transitional arrangements is primary EC law and, as such, it prevails over secondary EC legislation. This means that it obliges a Member State to implement a possible instrument of secondary EC legislation on economic migration in such a way that it complies with the clauses of the Accession Treaty, provided the instrument of secondary EC legislation itself complies with it (e.g. it cannot create a right for third-country nationals to access the labour market of Member States by obliging Member States to grant them access if certain conditions are fulfilled).

It should, however, be stressed that the respective clauses in the 2003 and 2005 Accession Treaties are of temporary importance as they will irrevocably come to an end in April 2011 and December 2013 at the very latest. In addition, Member States may decide to lift restrictions and apply full free movement to the EU nationals concerned earlier. In this context, it should be recalled that the transitional arrangements can be extended for another 2 years beyond the 5 year period (April 2009 and December 2011) only in the case the Member State concerned experiences serious disturbances in its labour market or a threat thereof.

¹³ Integrated guidelines for growth and jobs (2005-2008) – guideline 19 “Improve matching of labour market needs through: the modernisation and strengthening of labour market institutions, notably employment services; greater transparency of employment and training opportunities at national and European level to facilitate mobility across Europe; better anticipation of skill needs, labour market shortages and bottlenecks; appropriate management of economic migration”.

2.2. The scope of the problem

2.2.1. The general problem: the demographic ageing and the challenge of economic immigration

In the context of the global economy the issue of immigration has seen its importance grow constantly in the course of the last decade. The role of economic immigration assumes even more significance in the context of demographic ageing which European countries are already experiencing and are expected to face in the next decades. Indeed, as a consequence of interactive demographic trends, it is expected that the total population of EU-25 will fall slightly, but will become much older in 2050. In economic terms, the main change will involve the size of the working-age population (15-64 years), which will decrease by 48 million between now and 2050. As a consequence, the dependency ratio (the number of people aged 65 years and above relative to those aged from 15 to 64) is set to double and reach 51% by 2050, which means that the EU will change from having four to only two people of working age for each citizen aged 65 and above.

This ageing of the EU population could have relevant implications on the socio-economic development: apart from the direct effect on pension systems (an increasing difficulty to finance pensions through employment growth should be expected), the stagnation and decline of working age population will substantially affect the potential of economic growth as a whole as it may become a limiting factor for GDP growth. Indeed, unless the fall in the volume of employment is compensated through higher net immigration inflows, in a context of shrinking EU working age population, higher productivity growth will be necessary in order to maintain the same level of GDP growth in the long period.

On the whole, this evidence, as well as further elements confirmed by the literature on this issue, suggests some preliminary remarks. The demographic ageing could call for the attraction of more economic immigrants in the future in order to compensate trend of EU population at all levels of skills and qualifications; at the same time, a skilled and adaptable labour force could be increasingly crucial in order to achieve higher level of productivity. As a matter of fact and as a result of growing shortages of labour at both skilled and unskilled levels, a number of Member States have already begun to actively recruit third country nationals from outside the Union, with a significant consequence also with respect to the typology of migrants entering EU¹⁴.

2.2.2. The specific problem: the situation and trends in the highly qualified sector of the labour market from a socio-economic perspective

As a preliminary remark, it should be noted that the analysis here presented has been partly constrained by limitations in data availability and significant lack of comparability in migration statistics at EU and international level, as explained in the Annexes.

The size of the problem: EU and Third-country highly skilled workers in the EU

The recent and current rates and patterns of employment within the EU suggest the growing need for highly skilled workers (hereafter "HSW") in the European labour market:

¹⁴ High level Task Force on skills and mobility, Final Report, December 2001.

- The employment growth rates increase together with educational attainments (between 1996 and 2003, employment of people with a high level of educational attainments increased by 2.9%, while it was simply negative for people with lower education)¹⁵;
- The greater employment growth in high-education sectors¹⁶ (such as manufacture of office machinery and equipment, computer and related activities, education, health and social work, or activities of membership organizations) equal to 3% per year as compared to 1% in other sectors¹⁷;
- The change in the occupational structure of the employed population in EU in favour of high-skilled non-manual workers (i.e. “legislators, senior officials and managers”, “professionals” and “technicians and associate professionals”, according to the ISCO-88 classification of occupations)¹⁸ between 2000 and 2005.

On the other side, the current differentials in employment rates according to educational/skill levels¹⁹ should be considered. In fact, in the EU, people with high educational attainments²⁰ have actually reached high employment rates. This is particularly evident in EU 15²¹, where the employment rate of highly educated people was 82.5% in 2004. Moreover, in several Member States (such as United Kingdom, Nederland, Ireland), the high employment rates recorded for people with high education are associated with low unemployment rates for the same categories²². The result is a further tightness of the internal labour markets and the increasing possibility that labour and skills shortages arise²³.

In fact, another key element, which substantially calls for an increase in the supply of HSW, relates to the current and estimated labour and skills shortages²⁴ within EU.

Presently, in several EU Member States, employers have already started to experience difficulties in filling vacant positions and, overall, concerns about the availability of labour on

¹⁵ European Commission - JRC and IPTS, 2005; elaboration based on Eurostat, LSF data.

¹⁶ i.e. sectors with at least 40 % of their workforce having attained higher education level.

¹⁷ COM(2002) 72; elaboration on Eurostat LFS data. See also Statistical Appendix, Figure 6.

¹⁸ In particular, in 2005 the occupational structure of the employed population in EU 25 was broadly composed of approximately 38.7% of total employment in high-skilled non-manual occupations. Source: European Commission, Employment in Europe 2006. See also Statistical Appendix, Table 19.

¹⁹ See Statistical Appendix, Figure 4 and 5.

²⁰ In the ISCED classification, the educational level are defined as follows: High (ISCED 5-6: tertiary); Medium (ISCED 3-4: upper secondary); Low (ISCED 0-2: lower secondary).

²¹ Italy excluded.

²² Eurostat, LSF 2006. The employment/unemployment rates are calculated as the ratio between employed/unemployed with high education and the relative population with high education. See Statistical Appendix, Tables 10-15.

²³ However, it is worth noting that labour shortages and high unemployment rates can co-exist in the labour market. For example, several MS (such Germany and Sweden) are currently experiencing high unemployment rates, also among people with a high education level, and at the same time are reporting relevant labour and skills shortages in highly qualified occupations.

²⁴ In the most basic terms, labour shortages occur where the demand for workers in a particular occupation exceeds the supply of workers who are qualified, available, and willing to do that job. Within this definition, two types of shortages can be distinguished: (i) aggregate labour shortage (where the labour market is near to full employment) and (ii) shortages due to a mismatch with the labour market (due to a skills shortage, regional or preference mismatch, information deficits).

domestic markets are growing²⁵. Several investigations at national level show that the shortages of highly qualified workers are particularly widespread in engineering, information technology, pharmaceuticals, healthcare and education sectors (e.g. such shortages are recorded in Belgium, Estonia, Germany, Ireland, Sweden). In this context, many of these countries are currently filling job vacancies on the internal labour market by looking to third countries immigrants. For example, this the case of UK and BE, where the immigrants have given a strong contribution to meet the labour market demand for qualified labour as well as to compensate the outflows of highly skilled nationals.

Because of the above mentioned limits in data collection, it is difficult for the time being to evaluate the flows and stocks of HSW from third countries legally resident in the EU. According to the estimates, in 2003 the inflow of third-country HSW was 74,300 (11.7% of total work permit issued in EU25)²⁶. On the basis of the existing surveys at MS level, it is possible to obtain more up-to-date and detailed data: in the 14 Member States that provided data in the context of this study, a total of 34,219 work permits were issued for HSW in 2005. With reference to the 6 Member States for which information on the total number of work permits issued in 2005 is available²⁷, the share of work permits for HSW appears to be 3.6% of total work permits.

As a result of the above trends and of the growing demand for highly qualified workers in the EU, the incidence of third country nationals in the highly skilled occupations²⁸ is rapidly increasing in the EU Member States. In 2004, the share of non-EU nationals in total highly skilled employment was the 2.3% in EU-15; the same figure was only 1.8% in 1999. In some Member States the increase has been particularly notable: in Ireland (+1.7%), United Kingdom (+1.6%), Spain (+1.3%) and Austria (+0.9%).

Furthermore, third country HSW incidence on total employment is growing with a higher rate if compared to the trend of HSW who are EU nationals. Between 1999 and 2004, in EU 15²⁹ and in particular in these Member States (e.g. Austria, Greece, Portugal and the United Kingdom), the share of HSW (ISCO categories 1, 2 and 3³⁰) coming from third countries as compared to total number of employed increased at an average annual growth rate of 4.8%³¹. In the same period, the share of EU nationals employed in highly skilled occupations increased at an average annual growth rate of 0.8%³². This trend can be substantially

²⁵ M. Doudeijns and C. Dumont "Immigration and labour shortages: evaluation of needs and limits of selection policies in the recruitment of foreign labour" - The Economic and social aspects of migration, conference jointly organized by European Commission and OECD, January 2003.

²⁶ See Statistical Appendix, table 3. It is worth noting that such estimates were based on the assumption that the "professionals with work permits" can in most cases be equated to "highly skilled" professionals.

²⁷ The total number of work permits issued has been calculated with reference to Eurostat data 2005, collected on the basis of a pilot collection. In some cases, the data provided by Member States has been used (see Statistical appendix, Table 4).

²⁸ Categories 1, 2 and 3 of the ISCO 88 classification. See also Statistical Appendix, Figure 7.

²⁹ Ibidem

³⁰ As most of the statistical data available and used in this study groups together these three categories, it has been decided to include in the "HSW" also professionals belonging to group 3. However, these should more properly be considered as "skilled workers". Besides data constrains, there is another reason supporting this choice: ILO is presently updating its ISCO classification and some of the professions presently belonging to group 3 will be moved to group 2.

³¹ See Statistical Appendix, Table 8

³² See Statistical Appendix, Table 7.

explained by the growing demand for HSW in the EU labour market and, at the same time, the high employment rates of EU national HSW, close to full employment.

With regard to the socio-demographic characteristics of third-country HSW (employed in ISCO categories 1, 2 and 3) currently employed in the EU labour market, with reference to the 14 EU MS for which data is available³³, three remarks can be made:

- The majority of third-country HSW (47%) have high education attainments³⁴;
- The majority of third-country HSW is concentrated in the age segment of between 25 and 54 (86%), and there has been no significant change in the recent years.
- the gender composition of third-country HSW: the share of third-country HSW women slightly increased, from 40% in 1999 to 42% in 2004 (significant differences among Member States exist although).

With reference to the origin of the HSW present in the EU labour market, it appears that the most relevant quota of third-country HSW working in EU in 2005 comes from the aggregated geographic area “Other Africa”³⁵, which represents the 45.59% of the total number of HSW in EU in 2005³⁶. “South America” (25.89%), Southern and South Eastern Asia (15.59%) and Central America and Caribbean (8.54%) are the other main geographic areas of origin of migrant HSW to EU.

A further element to be considered as influencing the capacity of the EU to face its existing and arising skill shortages is the geographic mobility of HSW across the EU. Currently, also because of the freedom of movement enshrined in the EC Treaty for the EU citizens as opposed to barriers for non-EU nationals, the migration flows of the HSW involve mainly EU nationals³⁷ and are a rather limited phenomenon (less than 2% of the EU citizens). In 2005, 55% of all EU-15 active mobile were highly skilled³⁸.

However, the population trends as well as the employment trends within EU suggest that, in future, Member States can hardly rely exclusively on EU human resources. In other words and assuming that labour shortages also arise as a result of low mobility of the domestic labour force, intra-EU mobility, if limited to EU nationals, may not by itself offset the labour supply shortages, given that practically all European Member States face similar problems of an ageing population and highly skilled EU nationals have, on average, reached high employment rates in the majority of Member States³⁹. Further data and research confirm that the most intense labor and skills shortages that European Union will have to face in the next

³³ Data from Eurostat, LSF 2006; see Statistical Appendix, Figures 1-3.

³⁴ According to ISCED classification.

³⁵ Northern Africa is excluded.

³⁶ Data from LSF, 2006. For more details, see Annexe II and Statistical Appendix, Table 21.

³⁷ According to the data for 2006 of the Labor Force Survey (LFS), the EU nationals “skilled non-manual workers” who moved to a Member State different from the one of nationality represented 46.4% of the total of “skilled non-manual” immigrants in EU-15. Apart from EU workers, the main regions of origin are Africa and Asia (Table 20 in the Statistical Appendix).

³⁸ Table 19 of the Statistical Appendix.

³⁹ See Statistical Appendix, Tables 10 and 11

20 years are expected to be in skilled and highly skilled occupations⁴⁰, as well as estimates of future trends suggest there will be a high potential employment growth for HSW in the coming years⁴¹.

In this scenario, the possibility for mobilizing the unused employment potential of lawfully residing third country nationals should be the first measure to be taken, as these persons, including HSW, have much lower employment rates than EU nationals (in 2004, 65.4% for non-EU HSW against more than 80% for EU HSW; in 2005, 66.7% vs. 83.3%)⁴². This suggests a strong under-utilisation of important human capital. The disparity is particularly pronounced for high-skilled females (exceeding 20 percentage points). Moreover, over the last years, the unemployment rate of third country nationals has remained more than three times higher than the one for EU nationals, in the majority of the Member States⁴³. Furthermore, the occupational structure of third country workers in the 1995-2004 period on European labour market shows that non-EU nationals tended to be more concentrated (53.0%) in low-skilled occupations, whose incidence increased by almost 6.0 % during the relevant period⁴⁴. On this basis, it becomes more and more important to mobilize the existing resources (EU nationals and legal residents) and, particularly, to widen the tertiary-educated and highly qualified labour supply in order to promote a knowledge-based economy and the future productivity growth⁴⁵.

On the other hand, the mobilization of existing highly educated resources (EU and non-EU nationals) into the EU may not be sufficient for matching the future skills and labour demand. As mentioned in Section 2.1., the different measures foreseen by the revised Lisbon Strategy require investments and time to deliver. Additionally, it cannot be assured that gaps in specific sectors or professions will be filled in case of temporary shortages or mismatch between the existing/foreseen shortages and the educational and professional preferences of the (potential) EU workers. Furthermore, in several MS (United Kingdom, Austria, Portugal, Greece) the employment rates of highly educated third country nationals are significantly above average and comparable to the employment rates of the EU nationals. To be able to adjust labour demand and supply on relatively short notice, the possibility to find skills outside of the EU is therefore crucial.

Coming back to geographical mobility and assuming that labour shortages also arise as a result of low mobility of the domestic labour force and that shortages are expected to increase as the EU economy is expected to become a more knowledge based one, providing for facilitated conditions for intra-EU mobility could be an asset for both the immigrants and the EU. In fact, studies⁴⁶ show that immigrants – being more income-maximizing, more efficient in using employment opportunities and less tied to the country of residence – move quicker to areas with high wages and low unemployment, and thus act as complements to the much less

⁴⁰ Migration Research Group, "Forecasting Labour and Skills Shortages: How Can Projections Better Inform Labour Migration Policies?" Hamburg Institute of International Economics (HWWA), July 2004. See also: M. Doudeijns and C. Dumont, 2003.

⁴¹ See: C. Fotakis and G. Coomans, 2003

⁴² "First Annual Report on Migration and Integration" - COM(2004) 508. See also Statistical Appendix, Table 12.

⁴³ See Statistical Appendix, Tables 14 and 15.

⁴⁴ See Statistical Appendix, Figure 8. This is also partially due to the difficulties for (highly) qualified third-country nationals to have their qualifications assessed and recognised.

⁴⁵ See: European Commission - JRC and IPTS, 2005.

⁴⁶ See Venturini and Villosio, 2004.

mobile natives⁴⁷. This is even more evident in respect of highly qualified immigrants, in a situation where the employment rate of highly educated EU citizens is over 80% and shortages in the highly qualified sectors already exist. Additionally, highly skilled immigrants have been proven to contribute positively to the host economies, by supporting the development and competitiveness of the enterprises they work in, with scale effects on the host economies (creation of new jobs, etc). They also have not been found to negatively influence the transitions of natives out of or into unemployment.

The growing importance of a knowledge-based economy, the structural economic change and the growth of service sector, the delocalization of labour intensive production, the outflows of nationals (brain drain) all contribute to these conclusions. What clearly emerges is that the attraction of highly qualified immigrants will be more and more needed in the EU development perspective. On the whole, the attraction of HSW and a better utilization of highly qualified resources coming from third countries will remain crucial challenges for the EU development perspective. At the same time, the mobility of workers between occupations (job mobility) and across borders (geographical mobility) should be recognized as a primary mechanism for improving labour market efficiency, preventing skills shortages and offsetting regional imbalances⁴⁸.

The size of the problem: non-EU supply of HSW and the attractiveness of the EU

In respect of the situation in the countries of origin, it should be noted that highly qualified people may face high unemployment rates and low returns to skills in their countries of origin. This is certainly the case of MENA countries, which represent the closest potential pool for economic migration into the EU. For example, in Algeria and Morocco the unemployment rate is particularly high among highly educated persons, as this figure is around 20% for people with a high school degree⁴⁹. Another element relates to the return in terms of human capital, as it has been argued that images of success of highly skilled migrant workers could also enhance non-migrants' motivations for investing in education in the countries of origin, and thus foster human capital building in the sending countries. In this perspective, on the one hand, attracting highly qualified resources from less developed

⁴⁷ Report of the HWWI "What are the migrants' contributions to employment and growth?", November 2006.

⁴⁸ "From an economic perspective, the free movement of labour is seen as a way of promoting labour market efficiency by improving the matching of the available labour supply to the demand from employers. In this scenario, mobility is driven by both the desire of workers to improve their economic situation and the search of companies for workers to meet their requirement for labour. Greater labour force mobility, both between jobs (job mobility) and within and between countries (geographic mobility) can help the European economy and labour force to adapt to changing conditions more smoothly and efficiently, as well as respond to change in the competitive global economy. In a world of increasing globalisation and ever faster change, mobile employees can contribute significantly to the dissemination and updating of knowledge, help meet the needs of an increasingly global world through an adaptable, flexible and employable workforce and compensate for bottlenecks of skilled (and unskilled) labour that can act as a break on economic activity. The mobility of workers between EU Member States is also seen as a counterpart to European monetary union." Commission Report "Employment in Europe 2006", Chapter 5, p. 207.

⁴⁹ In Algeria, the 13% of unemployed persons between 18 and 35 years have a University degree, whereas more than the 25% of unemployed have a high school degree. Similarly, in Morocco, 23.5% of people with a diploma are unemployed. Source: Contribution of the Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM) to the debate around the Green Paper on an EU Approach to Managing Economic Migration.

countries could result in a better utilization of the potential human capital but also in a general increase in the skills endowments of the sending countries.

On the other hand, many less developed countries, especially in Africa and in the Caribbean, already face the problem of their relatively limited numbers of highly qualified workers emigrating to other regions of the world for employment reasons. One of the sectors that are particularly affected by the negative effects of scarce human resources combined with emigration is the health sector in certain countries, as analyzed in several studies, the most recent being from OECD⁵⁰. While brain drain only affects some countries and, within them, some occupations, it can sometimes have highly detrimental effects on affected countries' development prospects and any policy at EU level must take this challenge into account. Section 5.4 and Annex II describe a number of detailed policy measures with a view to mitigating the negative impacts of emigration of highly skilled workers on countries of origin.

Notwithstanding the increasing demand for highly qualified occupations in the EU labour market, the incidence of third-country HSW on the total of those employed is still quite low: in 2004, in EU-15, third-country HSW represented 0.9% of total employed (versus 38% recorded for HSW EU nationals)⁵¹. These data reveal a substantial difficulty for the EU in attracting – and in certain cases, valorizing – HSW from third countries with respect to the main worldwide benchmarks: the EU (with a value of 1.72%) definitely lags behind the performance of all the other main immigration countries, such as Australia (9.9%), Canada (7.3%), US (3.2%) and Switzerland (5.3%).

The issue of the specific factors influencing the difference between the EU and the other traditional countries of immigration in terms of capacity of attraction of HSW is a complex one⁵², as many elements could be taken into consideration⁵³. There are different elements that a highly qualified potential immigrant could take into consideration when analyzing his/her options. Factors such as language, salary levels, possibility of professional development, business culture, historical ties, links with the diaspora, etc are important for such choices. Other factors are as important, such as settlement schemes and the possibility of obtaining the nationality of the host country in few years. However, almost all these factors cannot be influenced by an immigration instrument or fall within the competences of the Member States (i.e. naturalization policies, etc). A crucial point relates to the legislative and policy initiatives enacted by governments to attract and retain foreign HSW. The capacity of countries to attract HSW relies to a significant extent on the conditions of entry and residence offered to migrants (e.g. residence schemes, possibility or not for job mobility, demand or supply-driven systems, etc.). While these elements will be investigated in more detail in the next section, EU governments frequently refer to the temporary and even seasonal nature of the immigration which they are willing to allow. On the one hand, these kind of immigration policies are largely aimed at facilitating only short-term labour-market adjustment, whereas the effective integration and contribution of migrants into the labour market may require some time. On the other hand, the traditional countries of immigration, which offer permanent residence from

⁵⁰ International Migration Outlook, OCDE, Sopemi 2007, Chapter III.

⁵¹ See Statistical Appendix, Tables 8 and 7.

⁵² An in-depth comparison between Europe and other relevant countries is carried out in the benchmarking analysis done for the external study (see Annexes).

⁵³ The vast differences between countries in terms of historical ties, the language preferences, the high past labour demand for low skilled workers in the European manufacturing sector, the institutions and expected income differences, the mechanisms and policy initiatives used by governments to attract and retain foreign HSW.

the outset or at least a path to permanent settlement, seem to clearly have an advantage in terms of attraction of HSW.

Another important aspect influencing – if not limiting – the attractiveness of EU with respect to HSW is represented by the barriers existing for HSW who would like to move to other Member States to work⁵⁴, still present for EU citizens to a certain extent⁵⁵ and more binding for third country nationals. The EC acquis allows forms of intra-EU mobility for third-country students and researchers⁵⁶: in particular for researchers, the directive underlines that it is important, to reach the objectives of the Lisbon Agenda, to foster "*the admission and mobility for research purposes of third-country nationals [...] in order to make the Community more attractive to researchers from around the world and to boost its position as an international centre for research*". Third-country workers enjoy intra-EU mobility only once they have acquired the EC long-term resident status⁵⁷: but this only occurs after 5 years of legal and continuous residence in a Member State and may still be subject to limitations by the second Member State. Barriers to mobility are therefore lowered, but may still limit the importance of this provision as a driver of both the demand (i.e. efficient allocation of the human resources and improvement of the European skills endowment) and the supply side (i.e. the possibility and willingness of moving throughout EU labour market and of competing for remuneration and career's improvements) of HSW. While there is yet no evidence of these barriers being a substantial element of non-attractiveness for the EU, it can be assumed that facilitating this mobility – as for researchers – could raise the interest of the "best and the brightest" for the EU. The high barriers to geographical mobility for third-country HSW therefore represent a specific weakness of the EU labour market and, more generally, of EU policy on economic immigration towards HSW.

2.2.3. *The specific problem: current legal framework in the Member States for the admission of highly skilled workers who are third-country nationals*

The approach of Member States in respect of legal immigration for employment purposes is not homogeneous. This is in general due to factors which pertain both to the historical ties and to the economic development of the country. In the EU we can broadly distinguish 3 groups of Member States: the traditional countries of immigration (i.e. UK, FR, BE, etc.), Member States that became countries of immigration in the last 10-15 years (i.e. ES, IT, etc) and the Member States that acceded in 2004 and 2007, that are at the same time countries of emigration, transit and more and more immigration. This very general premise serves the purposes of explaining the big differences in approach between the Member States, and in particular why only ten of them have put in place until now specific admission schemes for highly skilled immigrants.

Based on the replies to a Commission' questionnaire sent to Member States, the external study has analyzed in details the admission systems in the Member States, including for those where

⁵⁴ In 2002, the Commission's Action Plan for skills and mobility indicated the main barriers to the intra-mobility in the EU labour market: (i) Legal and administrative barriers to geographic mobility; (ii) Recognition of qualifications; (iii) Inadequate progress in language skills; (i) Need to foster information and transparency of job opportunities; (v) Lack of a common immigration policy; etc. COM(2002)72.

⁵⁵ First and foremost, the derogations to the free circulation of workers who are EU nationals of the "new Member States", contained in the Acts of Accession of 2003 and 2005,) that are however of a strictly temporary nature.

⁵⁶ Council Directives 2004/114/EC and 2005/71/EC.

⁵⁷ Council Directive 2003/109/EC.

no specific scheme as (yet) been put in place⁵⁸. It clearly emerged from the replies that all Member States have in fact special schemes in place that cover specific categories of third-country nationals admitted to exercise an economic activity for which high qualifications are currently required, but only ten⁵⁹ go further than scientists, artists, intra-corporate transferees, researchers, university professors, etc. Furthermore, all these Member States – but Belgium – also grant more favourable conditions in terms of rights attached. Looking at the admission systems of these Member States, the identification of who should be considered a HSW is not unanimous and/or difficult to define: the minimum salary level is the main criteria (with big differences), used by six out of ten Member States, even though usually associated with other criteria such as professional qualifications. Four Member States do not define the category at all (AT, BE, NL and PT), while two (DK and IRL) restrict it to specific sectors/occupations for which there are recognised gaps in the labour market. Finally, four Member States (DE, FR, GR and IRL) have more than one category of HSW, for which different entry (and/or residence) conditions exist. Twenty-six Member States have demand-driven systems, meaning that the existence of a job contract or a firm offer of work is the basic prerequisite for being admitted. The only exception is the UK that revised its immigration system in 2005 and introduced a point system for HSW⁶⁰, based on a supply-driven approach (i.e. successful applicants do not need to have a job to be admitted). One of the systems in place in France ("*carte competences et talents*") does not require a job contract, but admission is nevertheless conditioned on the presentation of a concrete project (of research, investment, etc). Other elements examined concern the length and the type of the permit, the conditions for acquiring permanent residence and for family reunification, the concrete rights granted, etc. Finally, eight Member States have declared being in the process of drafting new legislation or at least planning to do so.

In the light of the above, the most interesting remarks can be summarized as follow:

- The vast differences among Member States in terms of the definition of HSW and admission criteria clearly limit the internal mobility of HSW throughout the EU. Thus, a worker who is treated as highly skilled in one Member State may be not considered so in another. This affects an efficient re-allocation of human resources already legally resident.
- With the exception of the UK, no Member State seems to have put in place any scheme/facilitated procedure in order to promote circular and return migration of third-country HSW (for example, preference to workers having already worked in the country for a certain period, facilitated procedures for re-entry, etc). Such schemes would foster the mobility of HSW, but they could also help to maximize benefits for all interested parties, i.e. responding to labour needs in Member States, while contributing, through eventual return, to the development of their countries of origin.
- A strong competition for highly skilled workers takes place not only at a global level, but also among Member States. In this context, differences relating to welfare state systems, to labour market institutions as well as to the conditions of admission for third country nationals create imbalances across the European countries. Overall, the lack of a common European system seems to hamper the overcoming of regional imbalances in European

⁵⁸ The methodological approach and the complete analysis are included in Annexe III.

⁵⁹ AT, BE, DE, DK, FR, GR IRLIE, NL, PT, UK and UK, plus CZ. CZ has been included because of a pilot project on the admission of HSW set up in 2003 with the support of IOM.

⁶⁰ The Czech pilot project also makes use of a point system, but it is demand-driven.

labour markets and to give rise to additional costs for neutralizing the effects of policy competition by other EU Member States. Competition in itself is not negative, but economies of scale could be realized for the benefit of the EU economy as a whole.

- In order to attract HSW, the length and the complexity of admission procedures could play a fundamental role, as well as admission systems generally demand-based. The absence of job seekers permits could represent a significant obstacle to attracting HSW, since the need of a job offer/work contract as a prerequisite for admission clearly acts as a limiting factor (but at the same time it ensures that admission responds to concrete job needs).
- In order to retain HSW, almost one third of Member States grant them internal mobility in the labour market (even if with limitations in many cases) and/or foresee more favourable conditions of entry and residence for their family members (in terms of family reunification and/or access to the labour market for family members). Nevertheless, very few Member States recognise more favourable conditions for acquiring permanent residence than those foreseen under Council Directive 2003/109/EC. In other words, the full social and economic integration of HSW does not seem to be comprehensively pursued in these Member States.
- Finally, even though the issue of labour market/skills shortages assumes a particular relevance with respect to the current and estimated development patterns in the European context, not all the Member States provide for a specific assessment of labour shortages in order to foster the admission of HSW in those sector/occupations.

2.3. What are the underlying drivers of the problem?

The following underlying drivers have been identified:

- (1) the increasing demand for highly qualified workers, due to:
 - the structural change that is currently characterizing the EU economy, in which a substantial growth of the service sector increasingly demands highly qualified human resources;
 - the delocalization of firms, which suggests an increasing need to concentrate in the EU the business executive functions, and the associated high profile professional figures;
 - the growing importance of a knowledge-based economy in the global competitiveness scenario: the EU needs to increase its productivity and competitiveness with respect to the emerging work-intensive economies like India and China by basing its development on factors like innovation and human resources qualification, as well as to face the increasing perspective demand of qualified human resources in order to reach the Lisbon's objectives;
- (2) the growing difficulty in relying exclusively on the EU-national labour force to respond to the demand for highly skilled occupations, due to:
 - the high levels of employment already reached by highly skilled EU-nationals, which underlines scarce labour reserves;

- outflows of EU nationals, which have an important impact on skills composition, and depend on the structure of the EU labour market, whose features are on average constantly becoming less attractive for highly skilled workers if compared to business or research conditions in certain non-EU countries;

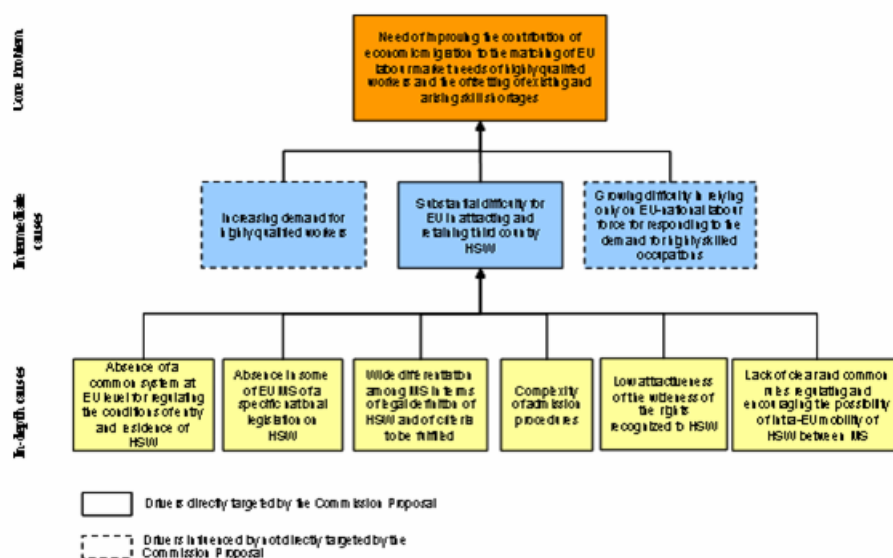
(3) the substantial difficulty for the EU in attracting and retaining third country HSW.

As concerns the last driver, the following causes can be considered:

- a variety and/or the absence of systems in the EU regulating the conditions of entry and residence of HSW, which suggests that competition for highly skilled workers takes place not only at a global level, but also among Member States. It also undermines competition for the "best and the brightest" at global level⁶¹;
- the wide differentiation among MS in terms of legal definition of HSW and of criteria to be fulfilled in order to be classified as HSW, which also hamper the efficient functioning of the EU labour market (i.e. if equal or similar job opportunities/offers exist, highly skilled migrants could base their choice of the Member State of destination on where they can be more easily admitted under special schemes);
- the requirements of admission conditions, as the systems in the EU are demand-driven (with the exception of the UK) contrary to other immigration countries;
- the low attractiveness of the residence and work conditions recognized to HSW from third countries in terms of residence and work conditions where a special scheme has not been put in place.
- the lack of clear and common rules regulating and encouraging the possibility of intra-EU mobility of third-country HSW between Member States, which is also hampered by the wide differentiation among MS in terms of legal definition and scheme of accession of HSW. At the same time, intra-EU mobility of EU citizens has contributed to offset skill shortages, through a more efficient allocation of human resources throughout the EU labour market.

⁶¹ It is not a problem in itself if Member States compete among each other for needed human resources. However, this competition at international level is expected to become increasingly harsh and, as demonstrated in other fields, the EU would gain in putting forward a clear message (instead of 27 different and somehow conflicting ones), therefore acting as a block, and then reallocating internally (and competing internally for) such scarce resources. Competition among Member States will continue to exist even in the presence of common approach, as it would not be possible, for reasons that will be explained later on in this Impact Assessment, not to leave a margin of manoeuvre for Member State to be more or less generous in respect of residence conditions, in respect of the numbers of labour immigrants coming from outside the EU they wish to admit (this latter being national competence), etc. Without mentioning other factors which are not within the scope of an immigration policy. But this competition is positive and natural within the perimeter of the internal market.

Figure 1: Problem Tree



The problem of skill shortages in EU market labour is wider than what has been tackled in this problem definition, and, as explained in the previous sections, certainly the attraction of HSW from third countries alone is not by itself a sustainable long-term solution, but only it shall be part of a comprehensive package of measures (other than immigration policies) that must and are implemented in parallel by Member States and the EC. In particular, it is clear that the contribution of HSW immigration to mitigate negative consequences of the demographic ageing will not be crucial, as the whole number of HSW entering EU labour market is supposed to remain limited (the migration of HSW is clearly “selective” kind of migration). To this purpose, the HSW inflows would only contribute to a more limited extent in comparison to other measures and policies, in particular those contained in the Commission Communication on "The demographic future of Europe – from challenge to opportunity" . The contribution of HSW immigration to offset skills shortages would in turn be more relevant as they would bring skills and professionalism that are becoming more and more in short supply into the EU labour market. This is especially clear in a demand-based approach, assuming that employers wouldn't gain particular advantages in recruiting third-country nationals (i.e. lower salary).

2.4. How would the problem evolve, all things being equal?

The problem as described above is expected to deteriorate if the current status will remain unchanged, due to the fact that the most intense labour shortages that the European Union will have to face in the next years are expected to be in skilled and highly skilled occupations.

In fact, in the medium to long term the expected growing demand for HSW will be increasingly difficult to be met only by means of the EU-national labour force because of:

- the EU demographic projections, which clearly indicate a considerable decline of EU working age population for the foreseeable future, combined with a continuous growth of

employment in high education sectors and the high levels of employment already reached by highly skilled EU nationals⁶²;

- the fact that other non immigration-related common policies – such as better educating the EU labour force – require investments and time to deliver and cannot guarantee that mismatches between the supply and the demand of labour will not continue to arise.
- the expected decreasing contribution of the intra-EU mobility of EU national HSW to offset labour supply shortages, given that all European Member States (including new Member States) will face similar problems in the highly qualified segment of the labour market and that the EU citizens are not particularly mobile.

Furthermore, future labour market needs will lead to increased international competition for highly skilled immigrants. Without an appropriate management of economic migration, EU competitiveness and growth would be at risk, compromising the achievement of the objectives established by the mid-term review of the Lisbon Strategy.

2.5. Does the EU have the right to act?

The legal basis for Community action in the area is established in Article 63 (3)(a) and (4) of the Treaty establishing the European Community. These provisions state that the Council is to adopt “measures on immigration policy within the following areas: (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, (...)” and “measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States”. The principle of subsidiarity applies since this is an area of shared competence. For this reason, any measure proposed will respect the competence of the Member States to determine the numbers of economic migrants seeking access to the EU, including by means of national quotas.

If Member States act alone, they may not be able to face international competition for highly skilled third-country workers. And this is even more true for the smaller Member States, as explicitly recognised during the discussions in the Committee on Immigration and Asylum. From the immigration policy's point of view, and considering that elements such citizenship are under the exclusive competence of the Member States, one of the main attractiveness of the EU compared to its competitors is the possibility to accede to 27 labour markets, so to grow professionally while responding to concrete needs of the EU companies by means of a more efficient allocation of human resources. Moreover, this could lead to a higher level of brain circulation that should produce spillover and beneficial effects for all the EU economy. From the immigrant point of view, granting the possibility of intra-EU mobility for third country nationals before EC long-term residence⁶³ could represent an incentive for HSW in their decision of entering the EU economy. But this possibility can only be granted through Community action and may also require a common understanding on the admission of these

⁶² It should be remembered that in 2005 the occupational structure of the employed population in EU 15 was broadly composed of approximately 40% of total employment in high-skilled non-manual occupations. Source: European Commission, Employment in Europe 2006. See also Statistical Appendix, Table 19.

⁶³ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

workers to EU. Presently, the attractiveness of EU appears to be dependent on the opportunities offered by the single national labor markets and immigration regimes.

3. OBJECTIVES

3.1. Global objectives

Based on the needs and problem analysis outlined above and on the EC legal framework in the field of legal immigration, the following objectives have been identified:

- (1) To improve EU ability to attract and retain third-country highly skilled workers as one of the conditions for increasing the contribution of economic immigration within the set of policies and measures aimed at enhancing the competitiveness of the EU economy, as well as at addressing the consequences of demographic ageing;
- (2) To effectively and promptly respond to existing and arising demands for highly qualified labour, and to offset skill shortages, by enhancing the inflows and circulation of third-countries highly skilled workers between jobs, regions and Member States and promoting their efficient allocation and re-allocation on the EU labour market.

3.2. Specific and operational objectives

The following specific objectives should be pursued:

- (1) To develop a coherent approach and common immigration policy concerning the third-countries highly skilled workers;
- (2) To increase the numbers of third-country HSW immigrating to the EU on a needs-based approach, i.e. where and when there are gaps in the highly qualified segment of the Member States' labour markets that cannot be filled in by EU citizens or legal residents.
- (3) To lower barriers to entry, simplifying and harmonizing admission procedures for third country highly skilled workers, without prejudice to EU nationals;
- (4) To promote highly skilled workers social and economic integration by granting them and their family with favorable conditions of residence, without prejudice to EU nationals;
- (5) To encourage intra-EU mobility, allowing a more efficient allocation of third country highly skilled workers through the EU, without prejudice to EU nationals

At this stage, it is possible to define a set of basic operational objectives, i.e. those objectives which should be considered valid irrespectively from the policy option actually adopted:

- (1) To establish a common definition and common rules concerning the condition of entry of third-country highly skilled workers, as pre-condition for developing a common EU immigration policy and for fostering intra-EU mobility;
- (2) To establish common rules concerning the condition of residence of third-country highly skilled workers;

- (3) To set up specific instruments aimed at encouraging the intra-EU mobility of third-country highly skilled workers;
- (4) To send a clear message to third-country HSW, highlighting the EU commitment to facilitate their admission and residence (including for family members).
- (5) Monitoring and evaluation on a regular basis.

The present analysis takes due account of the need to ensure consistency and mutual reinforcement among the different policies and objectives of the Union. In particular, it was necessary to develop the above objectives so to respond to the political mandate of the Hague Programme and complement the other measures developed by the EC and its Member States to achieve the objectives set in the Lisbon Strategy and in the Integrated Guidelines for Growth and Jobs (2005-2008), in particular those described in Section 2.1. Consistency with the objectives of the reviewed Sustainable Development Strategy has also been ensured. As concerns respect of fundamental rights, specific objective 3 addresses specifically the right to family life and the other rights that should be recognised to third-country nationals so to foster their successful integration in the EU. As concerns the existing immigration legislation, these objectives are in line and support the existing legislation and policies in this field. Finally, the specific and the operational objectives will have to be pursued respecting the principle of EC preference as laid down in the Council Resolution of 2004. As concerns the Community preference as contained in the Acts of Accession of 2003 and 2005, it was already recalled that, these being primary law, any option would have to be implemented in full respect by those Member States that will maintain the transitional measures affecting the freedom of circulation of workers from the new Member States, as long as they do.

The link between global objectives one and two requires an additional clarification (also as a premise to the analysis carried out in Section 5): the aim of an EU policy should be twofold. On the one side, to attract and retain those HSW that are needed in the EU: this also means that total number of HSW from third-countries admitted in the EU is likely to increase, depending on the situation in the labour markets. On the other side, the policy should contribute to compensate the negative effects of the existing segmentation of Member States' labour markets and of the relatively low mobility of EU citizens by simplifying job and geographical mobility (i.e. within the Member State of residence and within the EU). The correlation between the two objectives is clear: they both concur to better matching supply and demand of highly qualified labour – by complementing policies addressed to EU workers – and to creating a favorable environment for third-country highly qualified workers and their employers. For both objectives, regional differences in employment gaps and unemployment rates should not be overlooked. However, this is a matter falling within the competence of the Member States, as they will remain responsible of the final decisions on whether or not to admit an HSW (see section 2.5.).

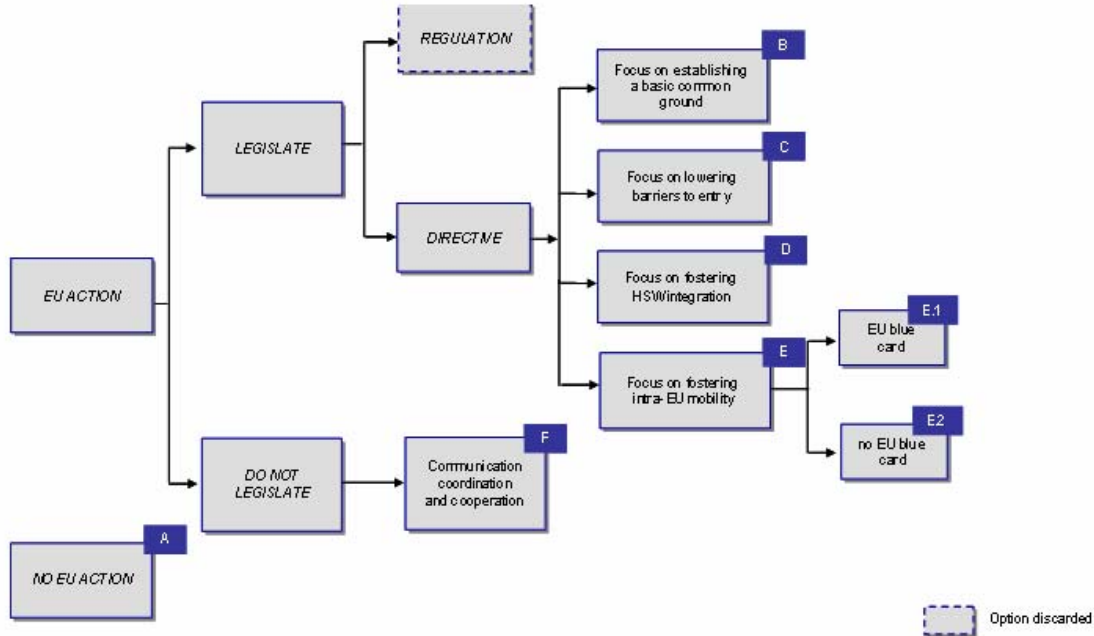
4. WHAT ARE THE MAIN POLICY OPTIONS AVAILABLE TO REACH THE OBJECTIVES?

A first list of policy options has been developed taking into account in particular the outcome of the consultation with the relevant stakeholders⁶⁴, the results of the benchmarking analysis on the Australian and US systems for the admission of HSW and the consistence with the

⁶⁴ See Section 1.2.

different policies and objectives of the Union, with particular attention to the existing provisions in the field of immigration and employment. An explication on the reasoning beyond the choice of the different specific elements considered in each policy option and a table listing them are included in Annex VII.

Figure 2: possible policy options



The use of a regulation has been discarded as it would not be consistent with proportionality principle and, more in particular, with the minimum legal constraint principle.

Policy option A: No EU Action

Current developments in Member States and at EC would continue within the existing legal frameworks.

Policy Option B: Directive focusing on establishing a basic common ground

This option would propose establishing a minimum common ground at EU level for attracting HSW. It would be an intervention aimed at establishing a minimum set of admission conditions on which to base a common policy (i.e. necessity of a job contract or firm offer of work, plus one common criterion as the salary threshold, while possible additional ones could be decided by each Member State), while leaving to national legislations a great extent of autonomy in specifically defining the peculiarities and distinctive elements of the legislation on HSW in terms of residence and work conditions.

Policy Option C: Directive focusing on lowering barriers to entry (by simplifying the admission system)

This option would be focused on lowering barriers to entry with specific reference to bureaucratic and administrative procedures and to a certain level of harmonisation of the entry conditions. This aim would be reached, inter alia, through the introduction of:

- an EU points system, whose minimum set of criteria (i.e. salary level, educational qualifications; past work experience; existence of job offer) and relative minimum weights could be defined at EU level.
- a fast-track procedure (single procedure/single permit), defining also a maximum period of time for processing the applications.
- a provision which will consider the economic needs test implicitly satisfied by fulfilling the admission criteria.
- a procedure allowing family reunification within the shortest delays or, in association with the points system, a procedure establishing an application for entry covering a family unit.
- as a complementary measure, of a skill-matching database in which significant information (education, experience, civil status, composition of the family and profession/qualification level of the spouse, etc.), related to the potential applicants for admission to the EU as HSW, would be recorded.

Policy option D: Directive focusing on fostering HSW integration

This option would be focused on fostering HSW social and economic integration: making the EU more attractive to HSW by a legislative system establishing more favourable conditions of residence for them and their families and providing for common admission conditions. This aim would be reached, inter alia, by means of:

- Admission conditions based on the definition of a common set of criteria an applicant must comply with (i.e. salary level, educational qualifications and/or past work experience; existence of a job offer) but without a point-system and with the inclusion of specific exceptions.
- Fast-track procedure for issuing work/residence permits.
- Introduction of relevant protection/rights related to access to the labour market for the HSW, including job mobility (the right to freely change job/employer within the same MS) from the beginning.
- Possibility for HSW to acquire EC long term resident status before the 5 years period provided for by Council Directive 2003/109/EC.
- Provisions ensuring family reunification within the shortest delays and immediate access to the labour market for the spouses of HSW.

As regards the condition of entry, it should be noted that the Policy option foresees the economic needs test as a general rule but with possible exceptions to be defined at MS level.

Policy option E1: Directive focusing on fostering intra-EU mobility (“EU Blue Card”)

This option would be focused on fostering intra-EU mobility: giving significant relevance to intra-EU mobility as a specific aspect of the EU policy for attracting HSW. This policy option would be characterised by the following elements:

- Common admission criteria (job offer, salary threshold, relevant education or professional experience).
- Provision of specific exceptions for specific sub-groups of HSW, who could benefit from even more favourable condition of entry (i.e. acceptance from in-country requests for gaining HSW status, professions in national priority lists, etc.).
- Economic needs test as a general rule.
- Coordination at the EU level in the definition of national priority lists. As an alternative to this, an EU priority list could be defined, in which the priority categories of HSW for EU are included, according to the shortages emerged at the level of all MS. Professions included in these priority lists would not be subject to the economic needs test.
- Definition of a maximum period of time (i.e. 4 weeks) for processing the applications and a minimum period of validity the initial permit (i.e. 2-3 years).
- Internal (job) mobility after 2 years.
- Creation of an EU Blue Card that would grant – among other things – to HSW the possibility of moving within the EU for reasons of employment. Intra-EU mobility would be allowed after a minimum “waiting period” in the first Member State (i.e. two years) and under certain conditions (first of all, job offer in second MS).
- Creation of a database of the EU Blue Card owners.

Possibility of cumulating periods of residence in different EU Member States in order to be eligible to the EC long-term residence status after 5 years of legal residence in the EU. This option would be focused on fostering intra-EU mobility: giving significant relevance to intra-EU mobility as a distinguishing aspect of the EU policy for attracting HSW. The option would be composed of the following elements:

- Common admission criteria (job offer, salary threshold, relevant education or professional experience).
- Provision of specific exceptions for specific sub-groups of HSW, who could benefit from even more favourable condition of entry (i.e. acceptance from in-country requests for gaining HSW status, professions in national priority lists, etc.).
- Economic needs test as a general rule.
- Coordination at the EU level in the definition of national priority lists. As an alternative to this, an EU priority list could be defined, in which the priority categories of HSW for EU

are included, according to the shortages emerged at the level of all MS. Professions included in these priority lists would not be subject to the economic needs test.

- Definition of a maximum period of time (i.e. 4 weeks) for processing the applications and a minimum period of validity the initial permit (i.e. 2-3 years).
- Internal (job) mobility after 2 years.
- Creation of an EU Blue Card that would grant to HSW – among other things – the possibility of moving within the EU for reasons of employment even before acquiring such right as EC long-term residents. Intra-EU mobility would be allowed after a minimum “waiting period” in the first Member State (i.e. two years) and under certain conditions (first of all, job offer in second MS).
- Creation of a database of the EU Blue Card owners.
- Possibility of cumulating periods of residence in different EU Member States in order to be eligible to the EC long-term residence status after 5 years of legal residence in the EU (in order not to penalise mobile workers).

Policy option E 2: Directive focusing on fostering intra-EU mobility (“no EU blue card”):

As compared to the Policy Option E 1, the main specific feature of this option would be that intra-EU mobility rights existing for EC long-term residents under Council Directive 2003/109/EC would be extended to HSW from the very beginning or after 2-3 years: this element would replace the EU Blue Card of option E1. This provision would be supported by:

- Setting up of a skill-matching database in which relevant information (education, experience, skills, occupations, previous earnings, civil status, composition of the family and profession/qualification level of the spouse, etc.), related to all third-country nationals admitted to the EU as HSW, would be recorded.
- Introduction of an EU points system as admission system (see Policy Option C): this would be the other relevant difference with the previous option.

For the rest, this option is has; *mutatis mutandis*, the same elements of the previous one.

Policy option F: Communication, coordination, and cooperation

Actions would be developed within the existing legal framework, without new legislative intervention but using a comprehensive programme of communication and cooperation with all parties and coordination of Member States’ legal and policy initiatives to achieve a greater approximation. The following measures could be implemented:

- Support the exchange of best practice on HSW legislative system (in terms of legal definition, conditions of entry, conditions of residence, etc.).
- Setting-up of networks of expertise on different national HSW legislative systems.

Information campaigns clarifying the differences/commonalities between the Member States legislation on admission of highly skilled workers, so to enhance information of the potential

immigrants and employers and to favour the autonomous approximation of the different national systems. Actions would be developed within the existing legal framework, without new legislative intervention but using a comprehensive programme of communication and cooperation with all parties and coordination of Member States' legal and policy initiatives to achieve a greater approximation. The following measures could be implemented:

- Support the exchange of best practice on HSW legislative system (in terms of legal definition, conditions of entry, conditions of residence, etc.).
- Setting-up of networks of expertise on different national HSW legislative systems.
- Information campaigns clarifying the differences/commonalities between the Member States legislation on admission of highly skilled workers, so to enhance information of the potential immigrants and employers and to favour the autonomous approximation of the different national systems

Elements common to different policy options discarded at an early stage.

- (1) Differentiated systems based on the level of skills (i.e. “Highly skilled workers”, “qualified workers”): this element concerns policy options C and E. This sub-option would imply different conditions of entry and residence according to each category of HSW, rendering its transposition and implementation more complex and burdensome for Member States. Therefore, the option would be not efficient for achieving the identified objectives of the proposal. Furthermore, in respect of option E1 and E2, it would not be sustainable to propose significantly lowering or even eliminating existing barriers to intra-EU mobility for qualified third-country workers, as this may have a very significant – and most likely negative – impact on Member States' labour markets and on qualified workers who are citizens or legal residents.
- (2) Salary level (as one of the criteria for admission) expressed in absolute terms: this has been discarded given the wide differentiation in salary levels between Member States. Therefore, only the possibility to express it in relative terms (i.e. sufficiently high in comparison to the average salaries in the Member State) has been considered.
- (3) Defining at EU level the employer's role: this sub-option has been discarded in respect of the principles of subsidiarity and proportionality (except, partially, in respect of Option D and of the fast-track procedure).
- (4) An "EU Blue Card" (option E1) that would be issued by the Member State of first entry but would be valid throughout the EU: this option of validity throughout the EU has been discarded as, under the existing EC legislation, the residence permit is only a substitute for a visa that can be used by a third-country national, together with a valid passport, to travel freely within the Schengen area. It therefore does not grant any right of residence in a Member State different from the one that issued it. Creating a residence card valid throughout the Union would not be consistent with the principles of subsidiarity and proportionality, and would entail high costs for implementation

5. ANALYSIS OF IMPACTS

5.1. Assessment criteria

A multi-criteria analysis has been used to assess and compare impacts. The assessment criteria are aggregated with respect to their relevance, feasibility and expected impacts. In view of the limits of the data available and of the fact that Member States will retain competence on the numbers of HSW admitted to the EU territory for employment purposes, no attempt has been made to quantify the impact of each option.

For each policy option, the expected impact has been assessed by using a synthesis grade. The assessment is carried out on a purely qualitative basis (apart from the financial and administrative costs) and the judgment of policy options is expressed on an 'intuitive scale' of positive impacts from one to five (where five is the best score). Negative impacts are pointed out by the sign "-" and neutral effects by the sign "0". It must be noted that when it comes to the difficulties for transposition and the costs, the number of "√" indicate instead how high the difficulties or the costs may be. Moreover, the motivation of the rating is explained as well as a brief analysis of each policy option with respect to the assessment criteria is provided. Furthermore, the elements of each option have been evaluated to ensure compliance with the provisions contained in the Acts of Accession of 16 April 2003 and 25 April 2005, limiting the freedom of movement of the workers who are nationals of these Member States (with the exception of the Maltese and Cypriot nationals). The main element to examine whether the proposed policy options comply with the preferential treatment clause of the transitional arrangements is whether they provide for an economic needs test or not. Such a test, by checking if no national, EU national or long-term resident third-country national already present on the labour market can fill the vacancy concerned, ensures compliance with the clause in the transitional arrangements.

Before analysing the impacts on each option, a causal model has been developed to identify the impacts and the cause-and-effect linkages between each of the policy options/instruments and their impacts. The figure in Annex VIII illustrates these interrelations.

5.2. Assessment of measurable impacts of each of the policy options⁶⁵

The tables below outline the main impacts. A summary assessment of the policy options is included in Annex IX (including a table listing the specific elements of the options).

5.2.1. Policy option A: No EU Action (status quo)

Policy Option A: Status Quo		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		

⁶⁵ When the table refers to Member States in terms of "group A, B, C", please refer to the analysis in Annex III.

Policy Option A: Status Quo		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	- / 0 or √	<p>In its current state, the EU substantially fails in attracting HSW in comparison with the traditional immigration countries (such as Canada, Australia). Even if several MS are planning to introduce new legislation (i.e. Group B) or to amend the existing rules on HSW (6 MS of Group C), other MS (Group A) have neither a specific scheme in this field nor are planning to review the current legislation for the time being.</p> <p>Moreover, the autonomous initiative left at MS level is likely to result in the development of national schemes different one from the other, with the risk of having a negative effect in terms of increased competition among MS and no effect on the attraction of the EU as a whole (even though some MS could have positive effects, especially the big MS).</p> <p>Thus, policy development at the MS level could only partially offset the negative effects expected at EU aggregated level if no action is taken.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	- / 0	<p>Labour shortages exist and are increasingly expected in numerous MS. In addition, the limited intra-EU mobility among EU nationals, the EU demographic trends and the high employment rate among national HSW strongly suggest that MS cannot rely exclusively on national labour force in order to offset the labour and skills shortages expected in the future. In this view, third-country HSW could give a relevant contribution (combined with a set of policies at the EU level aimed at increasing education and skills, promoting a better “utilization” of those human resources already present in the EU, contrasting the brain drain of EU national HSW).</p> <p>In this context, two policy choices of individual MS must be analysed:</p> <p>1) no specific national policies to attract HSW in a context of present or expected needs: these MS might not be able to fill in quickly and effectively existing and arising labour gaps. This objective may be partially be met through classic immigration schemes and through intra-EU mobility of EC long-term residents.</p> <p>2) MS already having or setting up attractive schemes will be able to fill in gaps, but labour markets will continue to be segmented along national frontiers for HSW who are third-country nationals. Inflows may be enhanced, but not circulation.</p> <p>Thus, the status quo could hardly deal with the current and expected issues, and even in the light of policy developments at MS level, the continuation of the status quo could only partially offset the foreseen evolution of the problems, if no action is taken.</p>
Develop an EU coherent approach and common immigration policy	N/A	At the moment, a wide differentiation exists in this field among MS. Several MS are discussing/are in process of amending/introducing a new legislation addressed to HSW (Groups B and C). Nevertheless, without an EU intervention, the EU MS could hardly reach a coherent approach on immigration policy of HSW.
Lower barriers to entry	0	In its current state, many MS are characterized by low barriers to entry for HSW. However, there remain numerous MS who have no special legislation in this field (Group A) or where high barriers to entry of HSW are present (some MS of Group C).
Promote highly skilled workers social and economic integration	0	Improvement in this field will depend on the policy initiatives at MS level. In particular, MS having no scheme for HSW (Group A) or not foreseeing specific conditions for the integration of HSW (some MS of Group C) are in process of amending the current legislation, but very few information is currently available about the provisions envisaged.
To foster intra-EU mobility	0	The geographic mobility (across MS) would remain extremely limited or impossible for third-country HSW, except once they have acquired EC long-term residence (but in this case, they should be already integrated in the country of residence and this entails the possibility that they end up following the same scenario existing for EU citizens, i.e. low mobility). Anyway, due the transnational nature of the problem, Member States cannot act alone in this field.
Feasibility		
Difficulty/risks for transposition	N/A	N/A

Policy Option A: Status Quo		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Financial and administrative costs	0	No additional cost
Expected Impacts		
Impact on EU competitiveness	-/0/√	<p>As previously noted, the EU substantially fails in attracting HSW with respect to the traditional immigration countries. The demographic trends in the EU will concern all MS, implying a growing difficulty in relying exclusively on national labour forces and their mobility within the EU. More importantly, the current and expected labour shortages in numerous MS, associated to a low mobility of EU citizens, could hamper in the long term the EU economic growth. Moreover, the SMEs (where also labour and skills shortages are recorded) may be particularly damaged in case of complex and the lengthily procedures for hiring foreign HSW, especially when they have to recruit them outside the EU.</p> <p>The policy developments at MS level (several MS are planning to introduce national legislations specifically addressed to HSW) could promote the attraction of HSW and improve the current macroeconomic framework. However, negative effects, in terms of increased competition on the international scene among MS, could arise if the status quo is maintained. The introduction of new specific national rules aimed at attracting third-country HSW in only a certain number of MS could damage the relative position/the attractiveness of other MS, by diverting the inflows of HSW from one MS to another. Thus, the development of new legislations at MS level could have no/little effect at aggregated EU level.</p> <p>On the other side, as the competition at international level is becoming increasingly harsh, the EU could better act as a block in attracting HSW and then compete internally for such resources. In this view, the maintenance of status quo would not allow the EU as a whole to improve its role as a global player, with low result in the global competition for HSW.</p> <p>As concerns the impacts on EU competitiveness of the lack of common rules to allow a facilitated circulation of HSW among the MS, it would most likely be negative: to fill labour needs, EU enterprises will not be able to fully benefit of HSW who are already in a MS, but who might have become redundant in the MS of residence. The negative impacts on the EU labour markets of the low mobility of EU citizens would only be partially compensated if the status quo is maintained.</p>
Impacts on third countries	-/0/√	In the absence of EU action in this field, policies in respect of brain drain and brain circulation would be left to Member States and to what is already done or planned at EC level. Member States' policies could take diverging directions.
Impact on EU national HSW	0	No effect is expected in this field.
Impact on third-country HSW	(-)/0/√	Impacts on third-country HSW would substantially continue to depend on national policies. The slightly more negative rating depends on the fact that an HSW would have to find his/her way among 27 different systems and that he/she would have to start from zero in case he/she wishes to move to a second Member State (until EC long-term residence is acquired under Directive 2003/109/EC): mobile HSW would therefore be penalized in respect of non-mobile ones in case they have expectations of obtaining EC long-term residence. This is of course not the case for all HSW admitted (or to be admitted) in the EU.
Fundamental rights:		
- Protection of personal data (art. 8)	0	No effect
- Respect for private and family life (art. 7)	0	No effect
- Freedom of movement and of residence (art. 45(2))	0	No effect
- Non-discrimination (art. 21)	0	No effect

Policy Option A: Status Quo		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Compliance with the Acts of Accession of 2003 and 2005	Compliant	
Accompanying measures	N/A	
Stakeholders and experts' view		<p>The social partners, international organisations and experts expressed consensus on the negative impacts that the "No EU Action" option would have on the economic competitiveness and, to a lesser degree, on the position of EU national and third-country HSW.</p> <p>On the whole, the "No EU Action" option appears to be the worst case scenario in respect of EU economic growth and productivity in the medium to long terms. According to the European Club for Human Resources (EChr), it also appears susceptible to perpetuate a situation conducive to irregular migration, human smuggling and trafficking.</p>

5.2.2. Policy Option B: Directive focusing on establishing a basic common ground

Policy Option B: Directive focusing on establishing a basic common ground		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√√	<p>This policy option, on the whole, would only have a limited effectiveness in attracting HSW, as no provision for setting up quick entry procedures is envisaged (in particular, the requirement of the economic needs test as a general rule would most likely slow down the admission procedures) and no advantage in terms of conditions of residence is foreseen for HSW with respect to the other categories of TCW (unless MS decide to grant more favourable conditions in their national legislations).</p> <p>However, as compared to the status quo, the development of a minimum standards common approach in terms of entry conditions, based on certain common criteria (job offer plus salary threshold) plus other to be defined by MS, could represent a minimum step forward enhancing the EU attractiveness (especially if MS do not add too many additional criteria).</p> <p>It would however send a rather weak message to HSW who could consider Europe as a place of potential residence and work.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√	<p>Only a marginal effect, as no specific mechanism aimed at matching labour supply and labour demand or at promoting HSW circulation is foreseen. The considerations done for Option A would apply – in terms of development of national schemes different one from the other – to this option as well, even though the minimum harmonisation foreseen could nevertheless lead to a slightly positive effect.</p>
Develop an EU coherent approach and common immigration policy	√√	<p>The establishment of at least a single common criterion (i.e. the salary level, besides the job offer) and a common entry condition (economic needs test as a general rule, with possible exceptions at MS level) would pursue a certain level of harmonization among MS. This would contribute to the development of an EU coherent approach. Moreover, the establishment of a common system, although limited in the scope of action, would be relevant as compared to the current lack of specific rules and schemes.</p>

Policy Option B: Directive focusing on establishing a basic common ground		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Lower barriers to entry	0/√	The admission system based on only one common obligatory criterion (i.e. salary level, in a demand-based system) could lead Member States not to introduce additional ones (or at least not too many additional ones) or to simplify existing ones (the majority of MS already foresee admission system based on a set of criteria, whereas other MS do not foresee any scheme for HSW), therefore leading to a positive effect. This is however not sure: on the contrary, it is likely that many MS would introduce/maintain several criteria. The impact of the requirement of a job contract would be in line with the current practice in all Member State (except UK and partially FR), but would be negative in respect of this specific criterion.
Promote highly skilled workers social and economic integration	0	No specific advantage is foreseen in this field: MS legislations and present acquis would apply.
Foster intra-EU mobility	0	No specific measure provides for the circulation and the efficient allocation and re-allocation of HSW in the EU labour market (except for application of the present acquis, i.e. Council Directive 2004/109/EC, Chapter III (residence in other MS) on long term residents: in this case, considerations done for option A would likewise apply).
Feasibility		
Difficulty/risks for transposition	√√	Wide autonomy left to MS in defining the peculiarities and distinctive elements of the national legislations on HSW. Moreover, the majority of MS already have national legislations specifically addressing HSW. Thus, such a proposal is likely to require little efforts to be ratified and transposed by MS. The problem of political acceptability (and the related risks for transposition) would be limited to the MS having no specific legislation addressed to HSW and no plan to introduce it. The MS of Group B should not represent an obstacle to the acceptance of such a policy option.
Financial and administrative costs	√	Limited additional costs due to the limited scope of the new legislation. These would be mostly limited to the introduction of a specific scheme for MS not yet having one or for those who would have to slightly modify existing ones (most likely, information for companies, training of immigration officials on the new rules, and similar).
Expected Impacts		
Impact on EU competitiveness	√(√)	This policy option seems weak with respect to both the objective of attracting needed third-country HSW into the EU (as no favourable provision in terms of conditions of entry and residence is envisaged) and the production of a long-term change in the composition of immigration inflows into the EU. In terms of efficiency of the EU labour market, no specific measure is directly addressed to more efficiently manage matching of labour demand and supply. However, those MS that presently show relevant labour shortages in several sectors but do not have any scheme specifically addressed to HSW, could benefit from the establishment of such a scheme. As concerns the impacts on EU competitiveness of the lack of common rules to allow a facilitated circulation of HSW among the MS, it would most likely be negative: to fill labour needs, EU enterprises will not be able to fully benefit of HSW who are already in a MS, but who might have become redundant in the MS of residence. The negative impacts on the EU labour markets of the low mobility of EU citizens would only be partially compensated by this option. As a consequence, the whole net impact on the EU macroeconomic environment is likely to be quite limited.

Policy Option B: Directive focusing on establishing a basic common ground		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Impacts on third-countries	- and √	No or small effects on sending countries, due to the marginal effectiveness of the policy option in terms of attracting and retaining third country HSW (especially in a long term perspective). Thus, at the EU aggregated level, no negative effect in terms of brain drain is envisaged but, at the same time, no advantage in terms of remittances is expected for third-country HSW (or, if such effects take place, they are not likely to be very significant) in comparison with the status quo.
Impact on EU national HSW	0	Due to the small effect expected in terms of HSW attraction, no significant effect is expected in terms of job displacement, job opportunities and working conditions of EU national HSW.
Impact on third-country HSW	0 or √	No favourable condition in comparison with the other categories of immigrant workers is foreseen. Thus, no significant effect is expected with reference to job quality and working conditions of third-country HSW. Similarly, the position of third-country HSW (in terms of social inclusion and economic integration) would be hardly influenced. However, the presence of a minimum salary level as one of the admission criteria would protect the third-country HSW from being hired at (significantly) lower salary levels than the EU nationals (therefore protecting also the EU HSW from unfair competition).
Fundamental rights		
- Protection of personal data (art. 8)	0	No effect
- Respect for private and family life (art. 7)	0	No effect
- Freedom of movement and of residence (art. 45(2))	0	No effect
- Non-discrimination (art. 21)	0	No effect
Compliance with the Acts of Accession of 2003 and 2005		The economic needs test would be the general rule for first time access of high-skilled third country nationals to the labour market of EU Member States that apply transitional arrangements vis-à-vis other EU Member States. Moreover the option does not foresee provisions on intra-EU mobility. Therefore there should not be problems of compliance.
Accompanying measures		Information campaigns targeted at employers and HSW.
Stakeholders and experts' view		<p>As a general remark, consensus was expressed on the opportunity for proposing an open definition, given different employment needs in each MS. At the same time, the stakeholders agree on a basic set of admission criteria to be fulfilled, such as the job offer, educational attainments and work experience.</p> <p>With reference to the economic needs test, some stakeholders agree with the option of putting in place a fully-fledged economic needs test in order to effectively guarantee respect of the Community preference principle. However, the employers' organization interviewed suggested that a case by case analysis would actually be a too complicated tool.</p> <p>On the whole, notable differences concerned the general opinion on the relevance, feasibility and sustainability of the policy option. Similarly, the possible effects of this policy option on the considered fields of impact are differently assessed by the social partners and international organizations (the general impact of the policy option could be from neutral or quite limited to high).</p>

5.2.3. Policy Option C: Directive focusing on lowering barriers to entry (by simplifying the admission system)

Policy Option C: Directive focusing lowering barriers to entry (by simplifying the admission system)		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√√√	<p>This policy option could have a high effectiveness in attracting HSW, due to several provisions such as: the introduction of fast track schemes, the economic needs test implicitly satisfied by admission criteria, the definition of a maximum period of time for processing applications, the acceptance of in-country requests. A strong message would be sent to potential highly skilled immigrants. These provisions would have a positive impact especially on temporary migration (i.e. 2 or 3 years, as the validity of the initial permit). If a supply-based system is introduced (the job offer would therefore constitute a plus in terms of additional points, not a pre-requisite), this option would rank high in terms of attraction of highly skilled workers to the EU.</p> <p>The establishment of favourable conditions of residence is also pursued, in terms of right to internal mobility after a waiting period, family reunification within the shortest delay (or application covering the family unit), possibility for longer period of absence from the EU without interrupting the period for obtaining the EC long-term resident status. The latter provisions could have an impact in terms of type of immigration, as the immigrant could go back to his/her country of origin (or elsewhere, maybe in another MS) for a certain period of time without heavily compromising his/her possibilities of obtaining the EC permanent residence (with positive impacts on retaining HSW where necessary).</p> <p>On the whole, this policy option could increase the EU attractiveness in respect of both temporary and permanent migration: its different elements could motivate third-country HSW in their choice of the country of destination and therefore contribute to EU competitiveness by increasing (and where necessary, retaining) highly qualified labour supply.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√√	<p>The requirement of the job offer (that would be one of the criteria of the point-system) would ensure that the HSW fill the vacancies existing in the internal labour market, if the weight assigned is high enough (therefore having a positive impact in respect of this assessment criterion). If, on the other hand, the weight is low enough to allow the creation of a supply-based system (the job offer would therefore constitute a plus, not a pre-requisite), this may have a high positive impact in MS where gaps in the highly qualified segment of the labour market are widespread, but could create tensions on the labour markets of those MS where such gaps are not (yet) so important or where there is highly skilled unemployment. The idea of a supply-system is of course to attract "the best and the brightest" under the assumption that these professionals will not have problems in finding a job corresponding to their qualifications and capacities. On the whole, however, in the present EU situation the net impact of a supply-driven system would not be so clear-cut, as it could not correspond to actual national needs.</p> <p>At the same time, specific instruments for improving the match between labour supply and demand are envisaged in this option: the Skill Matching Database (integrated with other instruments, such as EURES, etc.) could collect data of potential applicants for HSW schemes, partially available to potential employees. Moreover, besides supporting the match between labour supply and labour demand, this instrument could also support the creation of an entry-exit system within the EU be used for immigration management purposes.</p> <p>Moreover, harmonized and faster entry procedures would indirectly favour the ability of the EU economy to promptly respond to the existing and arising demand of highly qualified labour.</p> <p>Finally, it should be remembered the possible positive effect of the right to job mobility (although after a "waiting period") in terms of more efficient re-allocation of HSW in the internal labour markets of EU MS. For all these reasons, the rating is quite positive, notwithstanding the net impact of a supply-driven system (see above).</p>
Develop an EU coherent approach and common immigration policy	√√√	<p>The policy option would imply the establishment of common criteria and procedures at the EU level (introduction of an open definition, set of the minimum criteria and associate weights of the points system, introduction of fast-track scheme, etc.) and therefore it would clearly foster the establishment of a common EU policy in this field.</p>

Policy Option C: Directive focusing lowering barriers to entry (by simplifying the admission system)		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Lower barriers to entry	√√√	<p>The policy option intends to also lower procedural entry barriers for third-country HSW to the EU labour market.</p> <p>To this purpose, several elements are particularly relevant:</p> <ul style="list-style-type: none"> • Considering the economic needs test implicitly satisfied by the admission criteria; • Introduction of fast-track scheme (single procedure/single permit); • Definition of a maximum period of time for processing the applications. <p>These provisions would reduce bureaucratic burdens and cut down waiting periods for third-country HSW applying to be admitted to a MS and for their employers.</p> <p>Moreover, and under the assumption that a demand-driven system is chosen at the beginning, on a medium-long term perspective the point system could allow a easier shift to a supply-based approach (and to the introduction of job-seekers permits), further lowering barriers to entry for HSW (no need for a job offer or only additional points attached to it).</p>
Promote highly skilled workers social and economic integration	√√	<p>With reference to this objective, granting job mobility after a “waiting period” as well as allowing family reunification within the shortest delays (or allowing application covering family unit in the case of a points system) would clearly promote the economic and social integration of HSW in the MS.</p>
Foster intra-EU mobility	√(√)	<p>No specific measure provides for the circulation and the efficient allocation and re-allocation of HSW in the EU labour market. However, the setting up of harmonised entry conditions and procedures could indirectly simplify intra-EU mobility of HSW.</p>
Feasibility		
Difficulty/risks for transposition	√√√(√)	<p>More limited scope for national decision for both alternative sub-options as concern entry conditions, as the minimum set of criteria and the minimum relative weights for the point-system (as well as the maximum period for processing applications) would have to be defined at EU level for the system to be coherent and have an EU added value.</p> <p>Moreover, the introduction of a point-system could actually represent a notable shift in the current immigration policy, even if initially it could be demand-driven (more points to be allocated to the existence of a job contract). The definition and effective implementation of a point-system could be quite difficult, also at an operational level (for example, the scoring of each criterion should be defined so that a shift from a demand to a supply-based system would require no new EU intervention, but this may be difficult to achieve). It is likely that the criteria will have to be more strict in a supply-driven system, as the idea of such a system is to attract the "best and the brightest", who are not expected to have difficulties in finding a suitable occupation once admitted.</p> <p>Thus, important difficulties in political acceptance by MS are very likely to arise, especially in respect of a supply-driven system. Although many MS have actually introduced fast track-schemes or have set up lower barriers to entry (certain MS of Group C), only two MS have adopted a supply-based approach for HSW. The implementation of such a policy option could in particular represent a major problem for the 4 MS of Group C where high barriers to entry are currently in place.</p>
Financial and administrative costs	√√(√)	<p>Significant additional costs mainly due to the definition and implementation of the points system.</p> <p>Additional fixed costs associated to setting up, running and updating the skill-matching database.</p> <p>However, a reduction of overall costs is likely to occur in the medium term (and on short term for employers).</p>
Expected Impacts		

Policy Option C: Directive focusing lowering barriers to entry (by simplifying the admission system)		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Impact on EU competitiveness	√√√	<p>The simplification of the entry conditions (in particular, considering the economic needs test implicitly satisfied by admission criteria, but also the acceptance of in-country requests and the automatic renewal of the permit if the conditions are still met) and the introduction of fast-track schemes could strongly promote and facilitate the migration of third-country HSW into the EU (especially for MS of Group A and some of Group C), on a temporary but also on a permanent basis. Moreover, the creation of an EU points system, compatible with a supply-based approach, could promote a structural change in the EU immigration policy in a long term perspective, by pursuing the establishment of a more flexible system with respect to the future and changing needs of the EU economy (i.e. a supply-driven system) in the highly qualified segment of the labour market, especially in those MS where needs in these sectors are/will become increasingly important.</p> <p>The growing HSW inflows should contribute to matching labour demand and labour supply and to offset possible labour and skills shortages in the shortest delays (especially the SMEs could have relevant advantages in terms of ability to quickly fill the job vacancies). Moreover, an initial permit valid for 2 or 3 years would improve the position of both third-country HSW and EU employers and would represent a further simplification as compared to the current status in some of EU MS (where the initial validity of the permit is, on average, equal to 1 year). In fact, there would be no need to renew the permit if the job contract last up to 2-3 years.</p> <p>Job mobility could also foster the efficient re-allocation of HSW in national labour markets of the MS and could lead to further benefits for EU firms (and in particular SMEs) that would rely on HSW already present in their MS. Moreover, the waiting period for internal job mobility would protect the SMEs from the risk of losing suddenly the third-country HSW (on behalf of big companies which could offer more attractive conditions both in terms of salary and other benefits) after having gone through all the procedures to hire him/her.</p> <p>On the whole, the impact on EU macroeconomic environment and GDP growth is likely to be positive, thanks to the possible effects that a wider pool of qualified human resources could have on innovation capabilities and level of R&D activities, creation of further employment opportunities and increase in labour productivity.</p>
Impacts on third-countries	- and √√	<p>Possible negative effects in terms of brain drain⁶⁶ from developing countries could arise if no complementary measure is taken, in particular in case of a supply-driven system. In particular, lowering barriers to entry (i.e. see the main aspects mentioned above) could play an important role as a factor for attracting HSW from third countries.</p> <p>However, due to international differences of income, these negative effects, could be balanced by the remittances sent in the countries of origin. Furthermore, it is worth noting that in many cases HSW currently face high unemployment and low returns to skills in their countries of origin (e.g. this is the case of MENA countries).</p>

⁶⁶ Currently a significant number of HSW from developing countries choose to move towards developed countries, mainly to Canada or the U.S. Therefore, an increase of the HSW inflows in EU doesn't automatically imply an equal increase of HSW leaving their country of origin: whenever a professional has already decided to migrate in order to improve his/her conditions, the better attractiveness of EU would only affect the decision about where to migrate (i.e. EU instead of US). In other words, in these cases a better EU attractiveness would affect the patterns of skilled migration and not the size of the outflows, with a net-effect almost equal to zero in terms of brain drain. It could be assumed that major effects in terms of brain-drain could occur in the MED-MENA countries (because of their geographical proximity), where the unemployment among HSW is actually a major issue. However, it must be recognised that diversion of flows and attraction of HSW from countries suffering from an excess of supply is the best case scenario and that this option may instead contribute to aggravating the situation of certain developing countries that are suffering from a shortage of HSW and from brain drain: to limit negative impacts to the extent possible, complementary measures will need to be devised not to contribute to further hampering the development prospects of such countries.

Policy Option C: Directive focusing lowering barriers to entry (by simplifying the admission system)		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
		<p>Moreover, the right to internal mobility would also allow a better “utilization” of the highly qualified resources already present in the MS, and thus it could indirectly contribute to promptly respond to the arising needs of third-country highly qualified resources without need to attract further HSW from outside the EU.</p> <p>Finally, the conditions of entry and residence (notably the possibility for longer absences without interrupting the period for the acquisition of EC long-term resident status) could favour circular migration and therefore attenuate the negative impacts on the countries of origin. Other complementary measures, such as the requirement not to actively recruit in developing countries suffering from recognised shortages of HSW (in general or in specific sectors) should be foreseen.</p>
Impact on EU national HSW	√√	<p>Growing inflows of HSW from third-countries and shifts in the conditions of entry (in particular, no economic needs test, fast-track procedures, a possible supply-driven system) and residence (in particular, internal mobility after a waiting period and facilitated family reunification) are likely to affect the competitive position of the HSW who are EU nationals (or permanent residents).</p> <p>As a consequence, the EU national HSW could be encouraged to move in other EU MS, as they clearly have an advantage as compared to third-country HSW in terms of intra-EU mobility. This could have positive effects in terms of mobility of HSW across MS, and HSW who are EC long-term residents could follow a similar pattern. The other option for EU national HSW could be moving outside the EU (this would clearly be a negative effect in terms of brain drain from the EU).</p> <p>However, effects in this sense are likely to be only marginal, as:</p> <ul style="list-style-type: none"> - The third-country HSW are likely to have skills that are in short supply in the EU labour market (in particular if a demand-driven point-system is proposed); - The current and expected patterns of EU economic development suggest a growing demand for HSW in the future (as argued in the problem definition analysis); - The number of third-country HSW is supposed to grow, but still remain limited in absolute terms (it is a selective kind of migration). <p>Moreover, the unfair competition for EU nationals and long-term residents on the basis of salary level would be highly unlikely (it also should be noted that the salary level would be included in the criteria of a demand-driven EU points system). As for a supply-driven system, impact on salaries would not be so clear-cut, but studies suggest that highly skilled immigrants do not depress wages of local HSW, because they were found to be, in most cases, complementary to local workforce.</p>
Impact on third-country HSW	√√(√)	<p>The effects on the economic and social integration of third-country HSW would certainly be positive, but still limited. In particular, the right to internal mobility could improve the economic integration of third-country HSW and foster their opportunities for professional development and career. However, if the system was a supply-driven one, those HSW who would fulfil the strict criteria for admission (stricter than in a demand-driven one) would be free to enter a MS and look there for a job matching their qualifications: if there are gaps on the labour market and if the economy is dynamic, the impact of such a system on the admitted HSW would be important.</p> <p>Finally, the rights granted in terms of easier and quicker family reunification would promote the integration of third-country HSW in the host MS.</p>
Fundamental rights		
Protection of personal data (art. 8)	-	Negative effects if personal data collected in the skill matching database are not properly handled.
Respect for private and family life (art. 7)	√√	Positive effect due to family reunification within the shortest delays
Freedom of movement and of residence (art. 45 (2))	0 or √	Minor positive effect (for those HSW making use of the circular migration provisions) due to the limited facilitations provided in order to obtain EC long-term residence status, with the equal treatment provisions and intra-EU mobility rights attached to it.

Policy Option C: Directive focusing lowering barriers to entry (by simplifying the admission system)		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Non-discrimination (art. 21)	0 or √	Minor positive effect due to the limited facilitations provided in order to obtain EC long-term residence status, with the equal treatment provisions and intra-EU mobility rights attached to it.
Compliance with the Acts of Accession of 2003 and 2005		The option does not foreseen a fully fledged economic needs test for first time access to the labour market, but it assumes that the set of criteria to be fulfilled to be admitted as a high-skilled worker is sufficient to prove that no EU citizen or legal resident with the high qualifications required is available to fill a given job vacancy. This could possibly be problematic as regards the preferential treatment clause in the transitional arrangements: MS still applying the transitional measures at the time of transposition of the directive are obliged to comply with the provisions of the Accession Treaties. As concerns access to the labour market, these Member States are therefore obliged to give preference to these EU nationals over high-skilled third-country nationals, and more generally, cannot treat such EU nationals more restrictively than third-country nationals. Even more problematic could be the possibility of opting for a supply-based system. As a consequence, the impact of the option will be limited for those Member States that restrict access of EU citizens to their labour markets as long as they do.
Accompanying measures		<ul style="list-style-type: none"> • Creating a Skill Matching Database (in which significant information of all potential applicants is recorded, i.e. education, experience, civil status, composition of the family and profession/qualification level of the spouse, etc.) as a supporting data processing instrument for the implementation of the EU points system; • Measures safeguarding protection of personal data (Art. 8, Charter of the Fundamental Rights of the EU and relevant EC acquis) inserted in the Skill Matching Database; • Identifying competent authorities to collect and process data; • Information campaigns targeted to employers and employee. • Specific provisions in the instrument and in other policies to be developed and implemented in parallel (in addition to existing ones) in order to mitigate the negative effects on third countries (in particular, brain drain) and promote the circular migration.
Stakeholders and experts' view		<p>The social partners, international organisations and experts substantially agree on the effectiveness of such policy option in attracting HSW from third-country and producing greater economic benefits to both the EU and HSW. Nevertheless, the possibility for negative impacts on third countries in terms of brain drain and the possible risks/difficulty for transposition have also been pointed out.</p> <p>With reference to a demand-driven system and in particular to the economic needs test, different opinions arise. While some organizations pointed out the relevance of the economic needs to test in order to ensure the respect of the Community Preference, one of the experts consulted agreed with the fact that a set of criteria (and in particular the existence of a job offer) would be sufficient.</p> <p>Also, several options are suggested to respect the Community preference principle (the advertisement of individual jobs for a defined period of time; statistics on the capacities of employers to fill their needs; establishment of official lists occupation where shortages exist, etc).</p>

5.2.4. Policy Option D: Directive focusing on fostering HSW integration

Policy Option D: Directive focusing on fostering HSW integration		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√√√	<p>This policy option could reach a high effectiveness in attracting and in retaining HSW, by establishing a legislative system that grants favourable conditions of residence, but also facilitates the entry procedures.</p> <p>In particular, the favourable residence conditions (i.e. internal job mobility from the beginning, acquisition of EC long-term resident status before the 5 years period, family reunification within the shortest delays and access to labour market for spouses, period for seeking a new job in the case of unemployment, unlimited national settlement permit from the beginning) could positively affect the ability of the EU to retain and permanently integrate HSW in the EU labour market. Thus the impact of this policy option would be particularly strong for those HSW who intend to permanently settle in the EU.</p> <p>As to entry conditions, the setting up of a common set of criteria (salary threshold, work contract and relevant/necessary professional qualifications), limited to those criteria which are really necessary to ensure that the person is needed and is really highly qualified, would send a clear message that the EU as a whole has adopted an attractive policy for HSW from third-countries. The exceptions could focus on creating a derogation to the main scheme for "young professionals" having higher education attainments, for example by lowering the salary criterion: this derogation would allow the admission of young brilliant professionals (for example, under 30 years-old) who, due to their relatively limited professional experience and their position on the labour market, may not be able to fulfil the salary requirements of the main scheme. The message would be less strong than a supply based point system, but it should still be sufficient to reach the objectives.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√√√	<p>On the one side, some elements of the policy option would ensure that the third-country HSW actually contributes to fill vacancies and labour shortages in the EU (the demand-driven approach, the set of admission criteria, the economic needs test as a general rule). However, the economic needs test as a general rule (although MS could provide for exceptions) would most likely slow down the admission procedure.</p> <p>On the other side, the internal mobility from the beginning could strongly contribute to a more efficient re-allocation of resident HSW in the labour market of the MS of residence.</p> <p>Both elements would contribute to responding to existing and arising demands for highly qualified labour. Finally, if the spouse of the HSW is also highly qualified, the provision allowing immediate and full access to the labour market would also contribute to the achievement of this objective.</p> <p>However, the possibility for abuses from third-country HSW due to their national settlement permit should also be considered (e.g. HSW accepting jobs that do not correspond to their levels of qualifications or remaining unemployed for long periods).</p>
Develop an EU coherent approach and common immigration policy	√√√√	The development of an EU coherent approach and common immigration policy would be clearly achieved (in terms of admission criteria, entry procedures, conditions of residence).
Lower barriers to entry	√√√	The introduction of fast-track procedures for issuing work/residence permits may have a relevant role in lowering the entry barriers for HSW (through specific arrangements between the actors involved, as for example national lists of "trusted" employers). However, the economic needs test as a general rule (although MS could provide for exceptions) would most likely slow down the admission procedure.

Policy Option D: Directive focusing on fostering HSW integration		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Promote highly skilled workers social and economic integration	√√√	<p>The policy option is primarily aimed at promoting HSW social and economic integration.</p> <p>In particular, the recognition of internal job mobility from the beginning and equal treatment with nationals in a number of areas (both usually classical features of settlements permits) would enhance the economic integration of third country HSW as well as their possibilities for career and development. At the same time, the right to family reunification within the shortest delays and the immediate access to the labour market for the spouses of HSW would strongly support the economic and social integration of third-country HSW.</p>
Foster intra-EU mobility	√√(√)	<p>The acquisition of long-term resident status before the 5 year minimum residence period would imply the acquisition of the right to intra-EU mobility (although this mobility rights may be restricted by MS under the current <i>acquis</i>). The positive effect of this element would depend on the length of such minimum residence period.</p>
Feasibility		
Difficulty/risks for transposition	√√	<p>More limited scope for national decision due to the fact that the option proposes a common entry and residence system.</p> <p>Difficulty/risks for political acceptance could especially arise with reference to internal mobility from the beginning. Almost all the MS that grant third-country HSW with internal mobility provide for several limitations to this right. Thus the introduction of some limitations, such as the provision of a “waiting period” before granting this right, would mitigate the risk and difficulty for transposition, but would be inconsistent with a national settlement permit from the beginning.</p> <p>Similarly, the unlimited settlement permit from the beginning would be difficult to accept, as on average, the EU MS currently provide for HSW permits with initial validity equal to 1-3 years (the only exception is DE).</p> <p>Nevertheless, apart from internal mobility, it should be noted that the vast majority of MS grant specific conditions for social and/or economic integration of third-country HSW. Thus, the important difficulties for transposition are likely to be limited to two MS of Group C.</p> <p>As concerns admission conditions, the definition at EU level of a balanced set of criteria for admission could create problems to those MS having fewer criteria and to those having additional ones, but could represent a feasible and efficient compromise between the existing legal provisions. Furthermore, many MS actually have introduced fast track-schemes or have set up lower barriers to entry, or are considering doing it.</p>
Financial and administrative costs	√√	<p>Additional costs would be linked to the modifications required to put the system in place. These would mostly be limited to the introduction of a specific scheme for MS not having yet one or for those who would have to modify existing ones (most likely, information for companies, training of immigration and other State officials on the new rules, and similar).</p>
Expected Impacts		

Policy Option D: Directive focusing on fostering HSW integration		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Impact on EU competitiveness	√√√	<p>Granting favourable conditions of residence would clearly improve the EU ability to attract and retain needed third-country HSW in the short as well as in the medium-long term. The attractiveness of the EU would increase especially for those third-country HSW who are interested in remaining permanently in the MS of residence: notably, the provision of an unlimited settlement permit from the beginning is a classic permanent migration tool.</p> <p>The common attractive entry conditions and the introduction of fast-track procedures could strongly promote and facilitate the migration of third-country HSW into the EU, therefore providing EU enterprises with the necessary workforce. The demand driven approach and the economic needs test as a general rule would grant the effective matching of labour demand and supply. There would not however be the flexibility of changing the system from a demand-driven to a supply-driven one: it could show its limits in the long-term, depending from the economic and labour market situation of the EU.</p> <p>The possibility for changing job/employer would strongly promote a more efficient re-allocation of the HSW in the national labour market and could help firms (in particular SMEs) in relieving the labour and skill shortages.</p> <p>Nevertheless, the risk that SMEs loose the third-country HSW (on behalf of big companies which may offer more attractive conditions both in terms of salary and other benefits) after having gone through all the procedures to hire him/her should be carefully considered. Other negative effects could be on public finances, in terms of additional costs for unemployment and social security systems, as well as for education and health care systems. However, these additional costs would remain limited, as the number of HSW entering the EU labour market is supposed to remain limited in absolute value (selection at the entry stage). Moreover, the additional costs should be balanced by the taxes and other contributions that will be paid by the workers (it is to be reminded that the salary criteria would be maintained in this option).</p> <p>On the whole, promoting integration and permanent migration of third-country HSW could positively affect the EU macroeconomic environment, especially in a long-term perspective (as result of the effects of the growing highly qualified labour supply on GDP growth, employment creation and productivity, innovation, etc.). A similar reasoning could be applied to access to work for the spouses, in case they are also HSW. If not, this could create some problems on the labour markets of the MS, but these are expected to be limited (as HSW will be anyway limited in absolute numbers).</p> <p>However, the possibility for abuses from third-country HSW due to their settlement permit should also be considered (e.g. HSW accepting jobs that do not correspond to their levels of qualifications or remaining unemployed for long periods). Another negative point would be the impossibility of using this scheme to admit professionals needed to fill in temporary gaps.</p>
Impacts on third-countries	- and √	<p>Negative effect in terms of brain drain could be a major issue of this policy option (see option C). In fact, the permanent settlement of third-country HSW in the host country as well as the more favourable conditions for family reunification could reduce the remittances sent abroad. Thus, the negative impacts of brain drain could be partially partly balanced. More importantly, HSW having received a permanent settlement permit may be less interested in going back to their countries of origin. On the other hand, if the national settlement schemes will allow remaining absent from the MS for a certain period without loosing the acquired rights (existence of a "safety net"), HSW may decide to invest time and money in their country of origin. Studies conducted in Canada show that this happens when the citizenship of the host country has been acquired, but this is not so clear-cut in respect of permanent residents.</p> <p>Finally, the equal access to the labour market granted from the beginning would allow a better utilization of third-country HSW already present in the MS, possibly reducing the need to attract others.</p> <p>In any case, also for this option, complementary measures would be necessary.</p>

Policy Option D: Directive focusing on fostering HSW integration		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Impact on EU national HSW	√√	<p>Possible negative effect in terms of job displacement and adverse consequences on job quality of EU nationals could arise, as a result of the increased inflow of HSW from third-country, of the settlement scheme and of the access to labour market of the spouses (if they are also HSW).</p> <p>As a consequence, the EU national HSW could be encouraged to move in other EU MS, as they clearly have an advantage as compared to third-country HSW in terms of intra-EU mobility. This could have positive effects, by fostering the mobility of HSW across MS. Negative effects could instead arise if EU national HSW move outside the EU.</p> <p>Nevertheless, these negative effects are generally more likely to occur if migrant workers are low-skilled and are likely to be marginal, as:</p> <p>third-country HSW are likely to remain a small share of the EU population;</p> <p>the EU labour force would be protected from the possible consequences of cheap and exploited foreign labour (salary criteria).</p> <p>Finally, EU national HSW could indirectly benefit from the greater inflows of HSW, that is likely to produce positive opportunities in terms of job creation, entrepreneurship creation and development etc.</p>
Impact on third-country HSW	√√√√	<p>The position of third-country HSW in terms of rights granted would significantly improve as they would be permanent residents: besides from the right granted in terms of residence conditions by this option and national legislation, the extension to HSW of equal treatment as EU nationals along the lines of Directive 2005/71/EC and the acquisition of EC long-term resident status before the 5 year minimum residence period would also contribute to this effect (especially the right to intra-EU mobility).</p> <p>In particular, not only HSW would benefit from positive effects on their professional development prospects, but also the access to services and benefits would be improved (national settlement permit and EC long-term resident status).</p>
Fundamental rights		
Protection of personal data (art. 8)	0	No effect
Respect for private and family life (art. 7)	√√√	Positive effect due to family reunification within the shortest delays and immediate access to work for the spouses
Freedom of movement and of residence (art. 45(2))	√	Positive effect due to the acquisition of EC long-term resident status (and the intra-EU mobility rights attached to it) before the 5 year minimum residence period
Non-discrimination (art. 21)	√√√	<p>Positive effect due to:</p> <p>national settlement permit</p> <p>equal treatment with EU nationals as stated in Article 12 of Directive 2005/71/EC;</p> <p>Acquisition of EC long-term resident status before the 5 year minimum residence period</p>

Policy Option D: Directive focusing on fostering HSW integration		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Compliance with the Acts of Accession of 2003 and 2005		The economic needs test would be the general rule for first time access of high-skilled third country nationals to the labour market of EU Member States that apply transitional arrangements vis-à-vis other EU Member States. Moreover the option does not foresee provisions on intra-EU mobility. Therefore there should not be problems of compliance. However, it could be problematic in so far as it foresees full and immediate access to the labour market for family members. According to the transitional arrangements, the right of family members of EU citizens to access Member States' labour markets could be subject to a waiting period. But at the latest as of January 2010, family members of Bulgarian and Romanian workers will have access to the labour market of those Member States that restrict the access of Bulgarian and Romanian workers. Therefore, this would only be problematic if a possible directive along this lines would have to be transposed before that time.
Accompanying measures		Information campaigns targeted to employers and employee; Specific provisions in order to mitigate the negative effects on third countries and promote the circular migration (of the permanent residents).
Stakeholders and experts' view		As the attention was mainly focused on residence conditions, significant differences seem to arise in the general evaluation of the present policy option. Some international organizations give it a low rating in terms of relevance, as the issue of integration of HSW is not considered a concern in most EU Member States. On the contrary, other experts and social partner consulted highlighted the need to support the economic and social integration of HSW and, in particular, to consider the opportunity for the family relatives to benefit of similar advantages in terms of residence permit and access to labour market, education, training and social security coverage. Finally, UAPME confirmed that the SMEs could be damaged by the possibility for granting HSW with the right to internal mobility from the beginning (once in the EU, the HSW may leave the SME which hired her/him in order to move in a big company).

5.2.5. Policy Option E 1: Directive focusing on fostering intra-EU mobility (“EU Blue Card”)

Policy Option E 1: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√√√√	<p>Common admission conditions (in particular, set of common criteria as in Option D), the facilitation of entry procedures (i.e. definition of a maximum period for processing of the applications, the acceptance of in-country requests) and, above all, the possibility for internal and intra-EU mobility could significantly increase the EU attractiveness for third-country HSW. In particular, the EU Blue Card could offer the perspective of an integrated EU labour market, comparable to those of other major economies (i.e. US and Canada); it must however be noted that the magnitude of such effect will depend – other things being equal – to the kind of liberalisation/restrictions that would be put in place. The more the HSW would enjoy a freedom of movement similar to that granted to EU citizens, the more this option would be effective in attracting and retaining them and the more added value it will have. The more controls and barriers to intra-EU (geographical) mobility would be kept, the less this option will be effective in this regard. Any improvement in this regard, anyway, will be positive in comparison to the status quo. This option tries to strike a balance, proposing intra-EU mobility after 2-3 years of legal residence in the EU, with certain conditions to be fulfilled.</p> <p>Granting some attracting conditions of residence (facilitated family reunification plus a series of rights) would constitute another attractive element of the scheme (along the lines of option D, but in a less extensive manner).</p> <p>Some of the above measures address especially HSW who intend to permanently stay in the EU or at least those migrants who intend to stay for a “minimum period” (i.e. the “waiting period” necessary to gain benefits in terms of internal and intra-EU mobility).</p> <p>Finally, the “advertisement” added value of the EU Blue Card would be even more important for professions included in the priority lists, that would have obviously to be made public.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√√√√	<p>The policy option could significantly contribute to the achievement of the objective since:</p> <ul style="list-style-type: none"> - the measures (demand-driven approach, set of admission criteria, reference to national priority lists) aim at guaranteeing the contribution of the admitted HSW to offset existing skill shortages; - it allows to fill in both temporary and more permanent skill shortages (there is a path to permanent migration, but it is not granted from the outset); - the measures (internal mobility, EU Blue Card, automatic withdrawal of the permit in case of unemployment only after a minimum number of days) aim at improving the re-allocation of the HSW in the national or EU labour market and relieving the labour shortages in certain areas/sectors. As explained in the problem definition, third-country nationals are more mobile than EU citizens and would act as a complement to non-mobile EU workers. Here also the mid-way solution proposed should be able to meet these objectives without causing disturbances on the labour markets. <p>A possible rigidity of this system would come from the priority lists: if MS do not timely update their lists according to labour market needs, the result may be that professionals who would be necessary to quickly fill in concrete gaps would have to go through the economic needs test, therefore slowing down the recruitment process (and the contrary).</p>
Develop an EU coherent approach and common immigration policy	√√√√	<p>The policy option clearly implies the establishment of common criteria and rules that would create a common immigration policy covering the admission, residence and mobility of HSW in the EU (in terms of definition, conditions of entry and residence, mobility). It would therefore clearly achieve this objective.</p>

Policy Option E 1: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Lower barriers to entry	√√√	As explained for option C, the introduction of a fast-track scheme, the reduction of time for processing applications, the acceptance of in-country requests, etc. all contribute to lower barriers to entry. Barriers to entry would be particularly lowered for professions included in the priority lists (economic needs test considered implicitly fulfilled).
Promote highly skilled workers social and economic integration	√√√	Several aspects of the present policy option contribute to the social and economic integration of HSW (i.e. the possibility for internal mobility after a waiting period and for cumulating periods of residence in different EU MS in order to obtain the EC long-term resident status, the right to family reunification within the shortest delays, equal treatment with nationals in a series of areas), even though it does not provide for permanent residence (and the rights attached to it) from the outset.
Foster intra-EU mobility	√√√√	The promotion of intra-EU mobility is clearly one of the core elements of the policy option: the creation of an EU Blue Card would specifically allow the movement of third-country HSW – although conditioned – across the EU MS before EU long-term status is acquired.
Feasibility		
Difficulty/risks for transposition	√√√√	<p>Scope for national decision would be quite limited: several common elements, as pre-requisite for intra-EU mobility, should be set at the EU level.</p> <p>In particular, the setting of an EU priority list may be a too strong an option, difficult to be accepted by MS. Some MS may also find the setting up of national priority lists too rigid and bureaucratic, even though other MS may appreciate it as it would constitute another proof that the worker is really needed on the national labour market. The drawback is the need for the MS to keep continuously updated such lists, which may be difficult for some, especially if such lists must be adopted by means of a legislative process.</p> <p>Similarly, intra-EU mobility from the beginning would be hardly accepted from MS and this option should be discarded. The definition of a “waiting period” (2-3 years) before allowing intra-EU mobility, and the fact of having it demand-driven, would better meet the principle of proportionality.</p>
Financial and administrative costs	√√√	<p>Additional costs mainly due to the definition, implementation and enforcement of the EU Blue Card: however, the EU Blue Card could be built on existing provisions for residence permits (Council Regulation 1030/2002), therefore limiting the costs of introducing a new permit.</p> <p>Additional fixed costs associated to setting up and updating the database of the EU Blue Card owners.</p> <p>A reduction of overall costs is likely to occur in the medium term as the database could contribute to a more efficient management of the admission and circulation of HSW (and the initial costs would be amortized).</p>
Expected Impacts		
Impact on EU competitiveness	√√√√	<p>As mentioned above, several measures (simplification of entry procedures, internal and intra-EU mobility) could contribute to enhance the inflows and circulation (between jobs, regions and MS) of third-countries highly skilled workers. The increased pool of highly qualified human resources and their better allocation and re-allocation would improve labour market efficiency and enhance brain circulation, innovation and R&D capabilities.</p> <p>Fostering job and intra-EU mobility could have a strong and clearly positive role in relieving the labour shortages in certain areas/sectors and increasing the general labour mobility. Thus, the labour market efficiency would be strongly enhanced and the EU enterprises (in particular the SMEs) would substantially benefit from the simplification and harmonization of admission procedures and from further tools</p>

Policy Option E 1: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
		<p>helping matching labour supply and labour demand (i.e. the EU Blue Card database). In particular, it would most likely be easier for SMEs⁶⁷ to recruit HSW already present in the MS or in the EU than having to look for them in their countries of origin.</p> <p>On the whole, the EU macroeconomic environment would be strengthened.</p> <p>Two negative effects should be signalled:</p> <p>1) The competition among MS could increase because of the possibility of moving across MS (and the MS with lower wages would be damaged);</p> <p>2) Enterprises, and SMEs in particular, could lose the third-country HSW after having gone through all the procedure for hiring them from abroad (see options C and D).</p> <p>However, with reference to the first point, it should be considered that the wage is not the only driver for mobility, but other factors (such as the quality of life, the career opportunities) could be relevant drivers for mobility across EU MS.</p> <p>With reference to the second point, the definition of limitations to internal mobility and the definition of a waiting period before intra-EU mobility is allowed would substantially protect the SMEs. On the other hand, if the conditions for exercising intra-EU mobility were too complicated – or were implemented too rigidly – HSW may decide to not to seize job opportunities available in other Member States, therefore limiting de facto the impact of the option in various regards.</p>
Impacts on third-countries	- and √	<p>The negative effects in terms of risks of brain drain (see option C) for less developed countries could be a relevant issue. At the same time, the presence of high unemployment rates in some neighbouring third-countries of origin could partly reduce the scale of the problem, especially if side measures are taken to prevent active recruitment in countries where there are recognised problems of brain drain. Moreover, the risks of brain drain could be partially reduced thanks to the measures fostering HSW mobility (more efficient allocation of HSW in the EU by promoting their availability instead of recruiting them from third-countries).</p> <p>Moreover, as previously mentioned, the negative effects in terms of brain from third-countries could be partly balanced by the remittances sent in the country of origin. On the one hand, the enhanced job and career opportunities (thanks to internal and intra-EU mobility) could also increase the level of HSW remittances. On the other hand, the incentive for permanent settlement of third-country HSW in the EU (cumulating periods of residence in different EU MS in order to obtain long-term residence status) as well as the facilitations for family reunification could partly reduce the remittances sent abroad and be an incentive not to move back to the country of origin (see also considerations done for option D, although these could be minor in magnitude as this option creates a path to settlement, but does not foresee permanent residence from the outset: the acquisition of permanent residence will actually depend from the labour performance of the HSW, i.e. if he/she is able to keep a highly qualified job in the EU).</p> <p>Therefore, complementary measures should be considered, and in particular the promotion of circular migration, before and after EC long-term residence has been acquired.</p>

⁶⁷ In comparison with bigger companies, SMEs do not have the same possibilities to make use of international "head hunters", neither have big HR departments that could take care of all the immigration requirements (visas, permits, recognition of professional qualifications, etc).

Policy Option E 1: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Impact on EU national HSW	√√√	<p>The job displacement and adverse impact on working conditions of local workers are quite unlikely, as these effects are more likely to occur if migrant workers are low-skilled. Moreover, unfair competition wouldn't be likely to occur (salary level as admission criterion). On the contrary, a greater inflows of HSW is likely to stimulate economy in terms of job creation, entrepreneurship creation and development etc. Moreover, the job displacement effect depends on the concentration of immigrants in sectors and regions where competition with local workers could exist. The possibility for moving within job and within EU would strongly reduce this risk, by promoting a more efficient allocation of HSW in the labour market.</p> <p>Nevertheless, granting intra-EU mobility to third-country HSW could also negatively affect the EU national HSW. The EU national would no longer avoid the competition of third-country HSW on the national markets by moving in other MS, as they would lose this comparative advantage. However, the definition of a "waiting period" and the necessity to fulfil certain conditions to enjoy mobility (i.e. job offer) would protect EU national HSW from this adverse consequence.</p>
Impact on third-country HSW	√√√√	<p>The third-country HSW could benefit from the possibility of moving in the EU labour market and their job and career opportunities could particularly benefit from this possibility. The possibility for intra-EU mobility attached to the EU Blue Card could have positive effects also on the quality of life of migrant HSW, as they could move where a better standard of living could be obtained. However, it is worth noting that possible negative effects could arise if the family members would not be allowed to follow the mobile HSW.</p> <p>Positive effects can be expected also due to the favourable conditions for acquiring the EC LTR status for mobile HSW (cumulating periods of residence in different EU MS) and the equal treatment with EU nationals attached to it. Other impacts are described in option D, even though their magnitude would be inferior, due to the fact that this option does not foresee a settlement permit from the beginning.</p>
Fundamental rights		
Protection of personal data (art. 8)	-	Negative effects if personal data collected in EU blue card database are not properly handled.
Respect for private and family life (art. 7)	√√	Positive effect due to family reunification within the shortest delays
Freedom of movement and of residence (art. 45(2))	√√√	Positive effect due to enhanced intra-EU mobility attached to the EU blue card
Non-discrimination (art. 21)	√√	<p>Positive effect due to:</p> <ul style="list-style-type: none"> - the equal treatment with EU nationals as stated in Article 12 of Directive 2005/71/EC; - cumulating of periods of residence in different EU MS in order to obtain EC long-term residence status and the equal treatment with EU nationals attached to it
Compliance with the Acts of Accession of 2003 and 2005		<p>This policy option contains provisions on intra-EU mobility for high-skilled workers. This could be problematic as it could lead to the situation that third-country high-skilled workers are granted a more favourable and enhanced form of intra-EU mobility as compared to the workers of the EU Member States who are subject to restrictions on access to the labour market under the transitional arrangements.</p> <p>Therefore, in a situation of intra-EU mobility, a Member State still applying transitional arrangements vis-à-vis the citizens of other EU Member States at the time of transposition of the Directive shall not treat such EU nationals more restrictively than third-country nationals, i.e. by giving free access to their labour markets to a HSW where such free access is not given to a national from a new Member State. Moreover, if the situation is that both the national of a new Member State and HSW are subject to national measures, such as a work permit, the</p>

Policy Option E 1: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
		<p>Community preference would then operate in favour of the national of the new Member State. As a consequence, the impact of the intra-EU mobility proposed by this option will be limited for those Member States that restrict access of EU citizens to their labour markets as long as they do.</p> <p>As concerns the first entry conditions, considerations done for option D (economic needs test) and option C (economic needs test implicitly fulfilled for professions in the priority lists) apply, mutatis mutandis.</p>
Accompanying measures		<ul style="list-style-type: none"> - Creating a database of EU blue cards' owners; - Measures safeguarding protection of personal data (Art. 8, Charter of the Fundamental Rights of the EU and relevant EC acquis) inserted in the database of EU blue cards' owners; - Information campaigns targeted to employers and employees, in the EU and in some targeted countries of origin (except for those countries where serious problems of brain drain exist). - Specific provisions in order to mitigate the negative effects on third countries and promote circular migration.
Stakeholders and experts' view		<p>The evaluation of this policy option is positive for all the stakeholders involved. The possible effect in terms of labour market efficiency is generally recognized. Moreover, an international organization as well as an expert strongly recommend to introduce the EU Blue Card, which could be allocated on the basis of skills through a European-wide points system (not foreseen by this option, see option E2).</p> <p>However, some risks are also pointed out:</p> <ol style="list-style-type: none"> 1) possibility for overriding stringent barriers to entry put in place by some EU Member States; 2) for Member States, where less attractive conditions are in place, it would be difficult to retain HSW and/or to plan the numbers of HSW needed; <p>Furthermore, UAPME confirmed that the SMEs could be particularly damaged by a right to job and intra-EU mobility granted to HSW from the beginning, as the SMEs could bear high cost for bringing the HSW into the EU and then lose him/her once admitted in the EU territory due to more attractive job offers from bigger companies. The waiting period was supported for both kind of mobility.</p> <p>Moreover, the EU Blue Card should be considered not only as a tool for intra-EU mobility: lowering barriers to entry and granting rights should be other conditions/provisions attached to it.</p>

5.2.6. Policy Option E 2: Directive focus on fostering intra-EU mobility (“no EU blue card”)

Policy Option E2: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√√√(√)	<p>For a general assessment, see policy option E 1.</p> <p>On the whole, it should be noted that the right to intra-EU mobility granted under the LTR status could be more limited as compared to what is foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective.</p> <p>With reference to other specificity of the Policy Option E 2, i.e. the creation of a points system, see policy option C.</p>
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√√√(√)	<p>See policy options E 1 and C.</p> <p>It should be noted that the right to intra-EU mobility granted under the LTR status could be more limited as compared to what is foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective.</p>
Develop an EU coherent approach and common immigration policy	√√√√	See policy option E 1 and C.
Lower barriers to entry	√√√	See policy option E 1.
Promote highly skilled workers social and economic integration	√√√	<p>See policy option E 1.</p> <p>On the whole, it should be noted that the right to intra-EU mobility granted under the LTR status could be more limited as compared to what is foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective.</p>
Foster intra-EU mobility	√√√	<p>See policy option E 1, with the exception of the EU Blue Card. The intra-EU mobility would be supported by extending to HSW the intra-EU mobility rights granted to EC LTR.</p> <p>However, as previously mentioned, it should be noted that the right to intra-EU mobility granted under the LTR status could be more limited as compared to what is foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective.</p>
Feasibility		

Policy Option E2: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Difficulty/risks for transposition	√√√	Limited national scope with reference to the setting of common elements, in particular: basic criteria and associated minimum weights of the points system, common elements of the skill matching database (as complementary measures). Furthermore, as above, the setting of an EU priority list may be particularly difficult to be accepted by MS. The same considerations could be applied to extending the provisions applying to intra-EU mobility of EC long-term residents from the beginning, or even after a couple of years ⁶⁸ . Furthermore, difficulties in the practical implementation could arise from the fact that only one element (intra-EU mobility) of Council Directive 2003/109/EC would have to be applied from first entry: this could lead to confusion. Other considerations are to be found in the analysis of options C and E1. Furthermore, a number of Member States showed a high degree of reluctance vis-à-vis dropping control on labour market access in respect of Blue Card holders admitted by other Member States.
Financial and administrative costs	√√	See policy option E1. Additional costs for defining and implementing EU Points system. Additional fixed costs associated to the creation and implementation of the skill matching database. Reduction of the overall costs is expected in the medium period.
Expected Impacts		
Impact on EU competitiveness	√√(√)	For a general assessment, see Policy Option E 1 and C. The EU firms, and especially the SMEs, would benefit from the skill matching database, as a further tool for filling job vacancies and offsetting labour shortages. On the whole, as above mentioned, the right to intra-EU mobility granted under the LTR status could be more limited as compared to what is foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective.
Impacts on third-countries	- and √√	See Policy Option E 1 and C.
Impact on EU national HSW	√√	See Policy Option E 1 and C. Moreover, depending on which limitations to intra-EU mobility foreseen under the EC LTR status are applied by Member States, this option could have more or less adverse consequence in terms of job displacement and impacts on working conditions for EU national HSW (as compared to Policy Option E 1).
Impact on third-country HSW	√√(√)	See Policy Option E 1 and C. As the right to intra EU mobility granted under the EC long-term resident status may be subject to some limitations, it is difficult to evaluate which impact this could have on HSW. Furthermore, there could be some confusion due to the fact that only one element of Directive 2003/109/EC would be applicable to them during the course of the first five years of legal residence and work.
Fundamental rights		

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Just to make an example, it should be recalled that Directive 2003/109/EC foresees that the EC long-term resident shall present the application for the residence permit in the second Member State at the latest within three months: the political acceptability of such a provision is likely to be quite low in respect of third-country nationals who have not lived long enough in the EU, even if their skills and qualifications are in demand.

Policy Option E2: Directive focused on fostering intra-EU mobility		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Protection of personal data (art. 8)	-	Negative effects if personal data collected in the skill matching database are not properly handled.
Respect for private and family life (art. 7)	√√	Positive effect due to family reunification within the shortest delays
Freedom of movement and of residence (art. 45(2))	√√	Positive effect due to favourable conditions for acquiring intra-EU mobility rights granted to EC long-term residents
Non-discrimination (art. 21)	√	Positive effect due to the equal treatment with EU nationals as stated in Article 12 of Directive 2005/71/EC.
Compliance with the Acts of Accession of 2003 and 2005		<p>This policy option proposes to grant the rights of intra-EU mobility recognised to EC long-term residents from the outset or after a waiting period of 2-3 years. This could be problematic as it could lead to the situation that third-country high-skilled workers are granted with a more favourable and enhanced form of intra-EU mobility as compared to the workers of the EU Member States who are subject to restrictions on access to the labour market under the transitional arrangements.</p> <p>Therefore, in a situation of intra-EU mobility, a Member State still applying transitional arrangements vis-à-vis the citizens of other EU Member States at the time of transposition of the Directive shall not treat such EU nationals more restrictively than third-country nationals, i.e. by giving free access to their labour markets to a HSW where such free access is not given to a national from a new Member State. Moreover, if the situation is that both the national of a new Member State and HSW are subject to national measures, such as a work permit, the Community preference would then operate in favour of the national of the new Member State. As a consequence, the impact of the intra-EU mobility proposed by this option will be limited for those Member States that restrict access of EU citizens to their labour markets as long as they do.</p> <p>As concerns first entry conditions and procedures, the same considerations of option C apply mutatis mutandis.</p>
Accompanying measures		Creating a Skill Matching Database (see Policy Option C) plus the other measures foreseen for option E1 (except the EU Blue Card owners database). This Skill Matching database would be an important element to support job and intra-EU mobility, in particular in cases where Member States would maintain strong controls on access to the labour market.
Stakeholders and experts' view		The stakeholders' evaluation appears to be quite negative with reference to this policy option. On the whole, the policy option E 1, including the EU Blue Card, seems to be more effective with reference to the achievement of the objectives. As a consequence, the present policy option is generally negatively perceived.

5.2.7. Policy Option F: Communication, coordination, and cooperation⁶⁹

Policy Option F: Communication, coordination and cooperation		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	√	The exchange of best practices, the creation of expertise network on this matter and the information campaigns could promote the establishment of more efficient systems in order to attract and retain HSW. However, it is unlikely that strong shifts in current national systems (for example the introduction of fast track schemes, of a points-system, etc.) will occur in the short to medium term (especially in respect of those MS having no specific legislation concerning HSW). Other aspects, as intra-EU mobility, cannot be achieved without EC intervention. Thus, this policy option would be too weak in order to actually improve the EU attractiveness.
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	√	As above, the envisaged interventions could promote the establishment of common basic ground facilitating a more efficient allocation of highly qualified human resources throughout the EU labour market. However, a widespread agreement among MS would be needed. To this purpose, the cooperation and coordination among MS could be a too weak option.
Develop an EU coherent approach and common immigration policy	√	No common rules would be developed. However, communication, coordination and cooperation among MS could be a basis for the establishment of a common approach for an EU policy on HSW immigration.
Lower barriers to entry	√	This policy option would contribute to spread the practices already implemented in those EU Member States which present better results in terms of the attraction of HSW. Such practices could be transposed (and improved) with the support of the Networks of expertise.
Promote highly skilled workers social and economic integration	√	The same consideration about the possibility for spreading and transpose the best practices, already existing at MS level, can be mentioned.
Foster intra-EU mobility	0	The promotion of intra-EU mobility would require a strong EU intervention given the transnational nature of the problem. Therefore, this option could be too weak to support this objective. MS could develop agreements in the field of intra-EU mobility, but their scope is likely to remain limited if common rules at the EU level are not developed.
Feasibility		
Political acceptability, (difficulty/risks for transposition)	N/A	No new legislative intervention is foreseen (and the open method of coordination has proved not to be a viable proposal in the immigration field).
Financial and administrative costs	√	Limited additional costs mainly related to the annual budget for organizing communication and coordination activities

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It should be noted that the sub-option of introducing an Open Method of Coordination in this field has been discarded from the beginning (and therefore not included in this assessment), as this has already been unsuccessfully proposed by the Commission in July 2001. With its Communication on "Communication from the Commission to the Council and the European Parliament on an open method of coordination for the community immigration policy" (COM(2001) 387), the Commission proposed the adoption of an open method of coordination for the Community immigration policy, to encourage the exchange of information between the Member States on the implementation of the common policy. The procedure comprised reaching agreement on a number of European objectives or guidelines which Member States would then incorporate into national action plans which would be reviewed on a regular basis. This proposal was not supported by the MS.

Policy Option F: Communication, coordination and cooperation		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Expected Impacts		
Impact on EU competitiveness	√	<p>This option could promote the coordination and co-operation among MS as well as the exchange of best practices in this field.</p> <p>On the whole, these activities could have positive effects on the development of national immigration policies more effective in attracting third-country HSW.</p> <p>In particular, MS currently having no scheme addressed to HSW (Group A) or being in process to introduce new rules (Group B) would benefit from the exchange of best practices.</p> <p>However, the effects on the inflows of HSW and on the composition of migration in the long period are likely to be very limited, as these measures would be not binding for MS.</p>
Impacts on third-countries	√	The coordination and the exchange of best practices could have positive effects in this field, but the impact will be limited as this option has not a binding value.
Impact on EU national HSW	√	See above
Impact on third-country HSW	√	See above
Fundamental rights	0	No likely effect
Protection of personal data (art. 8)	0	No likely effect
Respect for private and family life (art. 7)	0	No likely effect
Freedom of movement and of residence (art. 45(2))	0	No likely effect
Compliance with the Acts of Accession of 2003 and 2005	Compliant	
Accompanying measures	None	
Stakeholders and experts' view	As the stakeholders' opinions pointed out, it would be easier to achieve a consensus among EU Member States. However, all the stakeholders agreed on the small effectiveness in achieving the objectives identified and in producing significant positive economic and social impacts.	

5.3. Comparison of the policy options

The table below compares the ratings of the seven policy options.

		Policy Option A: Status Quo	Policy Option B	Policy Option C	Policy Option D	Policy Option E 1	Policy Option E 2	Policy Option F
Relevance	Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing	- / 0 or √	√√	√√√√	√√√	√√√√	√√√(√)	√
	Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-country highly skilled workers	- / 0	√	√√√	√√√	√√√√	√√√(√)	√
	Develop an EU coherent approach and common immigration policy	-	√√	√√√√	√√√√	√√√√	√√√√	√
	Lower barriers to entry	0	0/√	√√√√	√√√	√√√	√√√	√
	Promote highly skilled workers social and economic integration	0	0	√√√	√√√√	√√√	√√√	√
	Foster intra-EU mobility	0	0	√(√)	√√(√)	√√√√	√√√	0
Feasibility	Difficulty/risks for transposition	N/A	√√	√√√(√)	√√√	√√√√	√√√√	N/A
	Financial and administrative costs	0	√	√√(√)	√√	√√√	√√√	√
Impacts	Impact on EU competitiveness	- / 0/ √	√(√)	√√√√	√√√	√√√√	√√√(√)	√
	Impacts on third-countries		- and √	- √√√ and √√√	- and √	- and √√	- and √√	√
	Impact on EU national HSW	0	0	√√	√√	√√√	√√√	√
	Impact on third-country HSW	- / 0/ √	0 or √	√√(√)	√√√√	√√√√	√√(√)	√
Fundamental Rights	Protection of personal data (art. 8)	0	0	-	0	-	-	0
	Respect for private and family life (art. 7)	0	0	√√	√√√	√√	√√	0
	Freedom of movement and of residence (art. 45(2))	0	0	0 or √	√	√√√	√√	0
	Non-discrimination (art. 21)	0	0	0 or √	√√√	√√	√	0

5.4. Assessment of the preferred option

On the basis of the assessment of the seven policy options presented in Section 5.2, it is clear that none of the individual policy options completely addresses the problems or fully achieves the policy objectives. However, by combining different aspects of the policy options, a higher degree of effectiveness could be achieved.

In particular, different elements of policy options C, D and E 1 have been considered in designing the preferred option.

The table below summarizes the aspects of the assessed policy options which are included in the preferred option. In reality, option E1 covers most of the elements that compose the preferred option, but for the sake of precision, if an element has been included and assessed also in other options, this has been indicated.

Issue	Key Feature of the preferred policy option	Policy options considered
Definition of HSW and conditions of admission	Admission system based on a set of common criteria (job contract, salary threshold, professional qualifications).	Policy Option D and E1 (with the exclusion of the priority lists' element included in E1)
	Open definition (i.e. based on fulfilling the criteria)	
	Derogations from the main system for young professionals	
Admission procedures	Introduction of fast-track scheme for the admission (single procedure/single permit called "EU Blue Card")	Policy Option E1 (and C for all elements except the blue card)
	Definition of a maximum period of time for processing the applications (30 or 60 days)	
	Initial validity of permit: more than one year (i.e. 2 or 3 years), renewable, in case of work contracts of unlimited duration.	
	Acceptance of in-country requests for categories established at EU level (plus other categories established at MS level)	
Condition of residence	Internal mobility on the labour market of the Member State of residence after a "waiting period" (i.e. existence of limitations for two years)	Policy Option E1 (and partially C + D for family reunification)
	Automatic withdrawal of the permit in case of unemployment only after a minimum period of time (i.e. 3 months)	
	Cumulating periods of residence in different EU MS in order to obtain EC long-term residence status after 5 years of legal residence in the EU	
	Allowing family reunification within the shortest delays	
	Extending equal treatment with EU nationals to HSW along the lines of Article 12 of Directive 2005/71/EC on the admission of researchers	
	Immediate access to the labour market for the spouses	Policy Option D

Issue	Key Feature of the preferred policy option	Policy options considered
Intra-EU mobility and complementary measures	<p>EU Blue Card allowing intra-EU mobility after a minimum “waiting period” in the first MS (i.e. two years) under certain conditions, first of all a job offer in the second MS. The family would be allowed to follow the mobile HSW. A preference right over potential new immigrants in respect of intra-EU mobility once the EC long-term residence has been granted would be foreseen.</p> <p>EU Blue Card database</p> <p>Provisions to allow circular migration before and after the acquisition of EC long-term residence</p>	<p>Policy Option E 1</p>

Since the preferred option is a composition of different ones, it will be reassessed.

Preferred policy option		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Relevance		
<p>Attract and retain third-country HSW, enhancing the competitiveness of the EU economy, and addressing the consequences of demographic ageing</p>	<p>√√√</p>	<p>Common admission conditions (i.e. a set of common criteria), the facilitation of entry procedures (i.e. definition of a maximum period for processing of the applications, the acceptance of in-country requests, a job-seeking period in the event of loss of job) together with the possibility for internal and intra-EU mobility before the acquisition of the EC long-term resident status could significantly increase the EU attractiveness for third-country HSW. In particular, the EU Blue Card could offer the perspective of an integrated EU labour market, even though the possibility first and the right after of intra-EU mobility would still not be comparable to what is presently granted to EU citizens.</p> <p>As to entry conditions, the setting up of a common set of criteria (salary threshold, work contract and corresponding professional qualifications), limited to those criteria which are really necessary to ensure that the person is needed and is really highly qualified, would send a clear message that the EU as a whole has adopted an attractive policy for HSW from third-countries. The exceptions could focus on creating a derogation to the main scheme for "young professionals" having higher education attainments, for example by lowering the salary criterion: this derogation would allow the admission of young brilliant professionals (for example, under 30 years-old) who, due to their relatively limited professional experience and their position on the labour market, may not be able to fulfil the salary requirements of the main scheme. The message would be less strong than a supply based point system, but it should still be sufficient to reach the objectives.</p> <p>As concerns the conditions of residence, granting several attracting elements (family reunification within the shortest delays, immediate access to work for the spouses, plus a series of other rights) would constitute another attractive element of the scheme (along the lines of option D, but in a less extensive manner as this option creates a path to permanent residence, but does not grant it from the beginning, this element being the main difference between option D and the preferred option in respect of residence conditions).</p> <p>Some of the above measures address especially HSW who intend to permanently stay in the EU or at least those migrants who intended to stay for a “minimum period” (i.e. the “waiting period” necessary to gain benefits in terms of internal and intra-EU mobility). However, it also favours temporary immigrant HSW, thanks to the common admission system, the residence rights granted from the first entry (including in respect of family members) and to the elements aimed at lowering barriers to entry and to the provisions allowing circular migration.</p> <p>Finally, the "advertisement" added value of the EU Blue Card is expected to be important. On the whole, this option could reach a high effectiveness in attracting and retaining HSW from third-countries.</p>

Preferred policy option		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Respond to existing and arising demands for highly qualified labour, offset skill shortages, enhancing the inflows and circulation of third-countries highly skilled workers	√√√√	<p>The policy option could significantly contribute to the achievement of the objective thanks to:</p> <p>1) the measures proposed (demand-driven approach, set of admission criteria) aim at guaranteeing the contribution of the admitted HSW to offset existing skill shortages;</p> <p>2) allows to fill in both temporary and more permanent skill shortages (there is a path to permanent migration, but it is not granted from the outset);</p> <p>3) the measures (internal mobility, EU Blue Card, automatic withdrawal of the permit in case of unemployment only after a minimum number of days) aim at encouraging and, where possible, improving the re-allocation of the HSW in the national or EU labour market and relieving the labour shortages in certain areas/sectors. As explained in the problem definition, third-country nationals are more mobile than EU citizens and would act as a complement to non-mobile EU workers;</p> <p>4) the provision for a preference right over newly coming third-country nationals for exercising intra-EU mobility once EC long-term residence status is acquired is not particularly ambitious (give the reservations of a certain number of Member States in respect of intra-EU mobility), but should suffice to facilitate the re-allocation of the HSW in the national or EU labour market and help relieve the labour shortages in certain areas/sectors, as well as provide them still with favourable conditions for moving more easily to other Member States to exercise an economic activity (and limit the possible negative effects described in option E2).</p> <p>5) if the HSW's spouse is also highly qualified, the provision allowing immediate access to the labour market would also contribute to the achievement of this objective.</p>
Develop an EU coherent approach and common immigration policy	√√√√	The policy option clearly implies the establishment of common criteria and rules that would create a common immigration policy covering the admission, residence and mobility of HSW in the EU (in terms of definition, conditions of entry and residence, encouraging mobility).
Lower barriers to entry	√√√	Several elements, such as the introduction of a fast-track scheme (EU Blue Card), the reduction of time for processing applications, the acceptance of in-country requests, etc all contribute to lower barriers to entry.
Promote highly skilled workers social and economic integration	√√√	Several aspect of the present policy option contribute to the social and economic integration of HSW (i.e. the possibility for internal mobility after a waiting period and for cumulating periods of residence in different EU MS in order to obtain the EC long-term resident status, the right to family reunification within the shortest delays and access to work for spouses, equal treatment with nationals in a series of areas), even though it does not provide for permanent residence (and the rights attached to it) from the outset, nor for unrestricted access to the labour market in a situation of intra-EU mobility.
Foster intra-EU mobility	√√√(√)	The promotion of geographical mobility is clearly one of the core elements of the policy option: the creation of an EU Blue Card would specifically encourage the movement of third-country HSW before EC long-term residence across the EU MS, although this mobility would be conditioned. The preference right is the minimum needed to facilitate it also after EC long-term status has been acquired, even in respect of those Member States keeping controls on access to their labour market by EC long-term residents exercising their right to intra-EU mobility. The more generous this element is being developed, the greater will be its impact on effectively attract and re-allocate HSW on the EU labour market.
Feasibility		

Preferred policy option		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Difficulty/risks for transposition	√√√	<p>Scope for national decision would be quite limited as several common elements would be set at the EU level.</p> <p>In respect of residence conditions, it should be noted that the vast majority of MS grant specific conditions for social and/or economic integration of third-country HSW. Thus, the important difficulties for transposition are likely to be limited to two MS of Group C. Some problems may arise also in respect of the short period of "job-seeking" allowed in case of job loss (fear of abuses or of fall into illegality: however, considering the target population, these risks seem minor) and in respect of the possibility of cumulating period of residence in different MS.</p> <p>As concerns admission conditions, the definition at EU level of a balanced set of criteria for admission could create problems to those MS having fewer criteria and to those having additional ones, but could represent a feasible and efficient compromise between the existing legal provisions. Furthermore, many MS actually have introduced fast track-schemes or have set up lower barriers to entry, or are considering doing it.</p> <p>Intra-EU mobility from the beginning would be hardly accepted from MS and this option should be discarded. The definition of a "waiting period" (2-3 years) before allowing intra-EU mobility, and the fact of having it demand-driven, would be more acceptable. The introduction of a preference right for intra-EU mobility after EC long-term resident status has been acquired could create some problems of practical implementation, but Member States that apply EC preference⁷⁰ or that already do not impose restrictions on access to their labour market for EC long-term residents exercising their right to intra-EU mobility should encounter only limited additional problems (or none, if no restrictions exist). More problems would arise in respect of those Member States that do not check EC preference for this category of workers, but still maintain restrictions on labour market access for EC long-term residents coming from other Member States.</p>
Financial and administrative costs	√√	<p>Additional costs mainly due to the definition, implementation and enforcement of the EU Blue Card: however, the EU Blue Card could be built on existing provisions for residence permits (Council Regulation 1030/2002), therefore limiting the costs of introducing a new permit. Other costs would concern the introduction of a specific scheme for MS not having yet one or for those who would have to modify existing ones (most likely, information for companies, training of immigration and other State officials on the new rules, and similar).</p> <p>Additional fixed costs associated to setting up and updating the database of the EU Blue Card owners. A reduction of overall costs is likely to occur in the medium term as the database could contribute to a more efficient management of the admission and circulation of HSW (and the initial costs would be amortized).</p> <p>It does not seem that there would be important costs for the enterprises or the HSW in addition to existing recruitment and admission costs. A slight reduction could come from the fact that the initial permit for an unlimited duration work contract (or for a contract of more than the initial duration of the permit) should be granted for 2-3 years: since in several MS initial permits are granted for one year, this should cut down bureaucratic costs.</p>
Expected Impacts		
Impact on EU competitiveness	√√√	<p>As mentioned above, several measures (common attractive entry conditions, simplification of entry procedures, internal and intra-EU mobility) could contribute to enhance the inflows and circulation (between jobs, regions and MS) of third-countries highly skilled workers. The increased pool of highly qualified human resources and their better allocation and re-allocation would improve labour market efficiency and enhance brain circulation, innovation and R&D capabilities. The demand driven approach would grant the effective matching of labour demand and</p>

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Reference is made here exclusively to the general principle of EC preference as expressed in Council Resolution of 1994. As explained in other parts of this document, Acts of Accession are primary law (see the section on "compliance with the Acts of Accession" of this table).

Preferred policy option		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
		<p>supply. There would not however be the flexibility of changing the system from a demand-driven to a supply-driven one: it could show its limits in the long-term, depending from the economic and labour market situation of the EU.</p> <p>Fostering job and intra-EU mobility could have a strong and clearly positive role in relieving the labour shortages in certain areas/sectors and increasing the general labour mobility between different regions and MS. Thus, the labour market efficiency would be strongly enhanced and the EU enterprises (in particular the SMEs) would substantially benefit from the simplification and harmonization of admission procedures and from further tools helping matching labour supply and labour demand (i.e. the EU Blue Card database). In particular, it would most likely be easier for SMEs⁷¹ to recruit HSW already present in the MS or in the EU than having to look for them in their countries of origin.</p> <p>On the whole, promoting integration and creating a path to permanent migration of third-country HSW could positively affect the EU macroeconomic environment, especially in a long-term perspective (as result of the effects of the growing highly qualified labour supply on GDP growth, employment creation and productivity, innovation, etc.). A similar reasoning could be applied to access to work for the spouses, in case they are also HSW. If not, this could create some problems on the labour markets of the MS, but these are expected to be limited (as HSW will be anyway limited in absolute numbers). Finally, this scheme would also serve the purpose of admitting professionals needed to fill in temporary gaps, as it does not foresee to grant EC long-term residence before 5 years of legal residence in the EU.</p> <p>Two negative effects should be signalled:</p> <ul style="list-style-type: none"> - The competition among MS could increase as effect of the possibility for moving across MS (and the MS with lower wages would be damaged); - Enterprises, and SMEs in particular, could loose the third-country HSW after having gone through all the procedure for hiring them from abroad (see options C and D) and after having invested in their training and integration on the workplace.. <p>However, with reference to the first point, it should be considered that the wage is not the only driver for mobility, but other factors (such as the quality of life, the career opportunities) could be relevant drivers for mobility across EU MS.</p> <p>With reference to the second point, the definition of limitations to internal mobility and the definition of a waiting period for intra-EU mobility attached to the EU Blue Card would substantially protect the SMEs. On the other hand, if the conditions for exercising intra-EU mobility (before and after EC long-term residence) were too complicated – or were implemented too rigidly – HSW may decide to not to seize job opportunities available in other Member States (especially after EC long-term residence is acquired, as it grants equal access to paid and self-employed activities in the Member State of residence) or to leave the EU for the "classic" countries of immigration, therefore limiting de facto the impact of the option in various regards.</p> <p>Other negative effects could be on public finances, in terms of additional costs for unemployment and social security systems, as well as for education and health care systems. However, these additional costs would remain limited, as the number of HSW entering the EU labour market is supposed to remain limited in absolute value (selection at the entry stage). Moreover, the additional costs should be balanced by the taxes and other contributions that will be paid by the workers (it is to be reminded that the salary criteria would be maintained in this option and that studies found that HSW are in most cases net contributors).</p> <p>Even in presence of certain possible negative effects, the EU macroeconomic environment would be strengthened.</p>

⁷¹ In comparison with bigger companies, SMEs do not have the same possibilities to make use of international "head hunters", neither have big HR departments that could take care of all the requirements (visas, permits, recognition of professional qualifications, etc).

Preferred policy option		
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Impacts on third-countries	- and √√	<p>The negative effects in terms of risks of brain drain (see option C) from less developed countries could be a relevant issue. At the same time, the presence of high unemployment rates in some neighbouring third-countries of origin (for example, MED-MENA countries) could partly reduce the scale of the problem, especially if side measures are taken to prevent active recruitment in countries where there are recognised problems of brain drain. Moreover, the risks of brain drain could be partially reduced thanks to the measures fostering HSW mobility (more efficient allocation of HSW in the EU by promoting their availability instead of recruiting them from third-countries).</p> <p>Furthermore, as previously mentioned, the negative effects in terms of brain from third-countries could be partly balanced by the remittances sent in the country of origin. On one hand, the enhanced job and career opportunities (thanks to internal and intra-EU mobility) could also increase the level of HSW remittances. On the other hand, the incentive for permanent settlement of third-country HSW in the EU (cumulating periods of residence in different EU MS in order to obtain long-term residence status) as well as the incentive to family reunification could partly reduce the remittances sent abroad and be an incentive not to move back to the country of origin (see also considerations done for option D, although these could be minor in magnitude as this option creates a path to settlement, but does not foresee permanent residence from the outset: the acquisition of the EC long-term resident status will actually depend from the professional performance of the HSW, i.e. if he/she is able to keep/find an highly qualified job in the EU until he/she eligible for the status).</p> <p>Therefore, complementary measures should be considered (see text below). The preferred option includes in particular the promotion of circular migration, before and after EC long-term residence has been acquired.</p>
Impact on EU national HSW	√√√	<p>The job displacement and adverse impact on working conditions of local workers are quite unlikely, as these effects are more likely to occur if migrant workers are low-skilled. Moreover, unfair competition wouldn't be likely to occur (salary level as admission criterion). On the contrary, a greater inflows of HSW is likely to stimulate economy in terms of job creation, entrepreneurship creation and development etc. Moreover, the job displacement effect depends on the concentration of immigrants in sectors and regions where competition with local workers could exist. The possibility for moving within job and within EU would strongly reduce this risk, by promoting a more efficient allocation of HSW in the labour market.</p> <p>Nevertheless, encouraging intra-EU mobility for third-country HSW could also negatively affect the EU national HSW. The EU national would no longer avoid the competition of third-country HSW on the national markets by moving in other MS, as they would partially loose this comparative advantage. However, the definition of a "waiting period" and the setting of certain conditions to allow mobility (i.e. job offer) would protect EU national HSW from this adverse consequence. At the same time, the preference right would not negatively affect EU workers. Anyway, intra-EU mobility would still not be comparable to what is presently granted to EU citizens, therefore these possible negative effects should be minimised.</p>
Impact on third-country HSW	√√√√	<p>The third-country HSW could benefit from the possibility for moving in the EU labour market and their job and career opportunities could particularly benefit from this possibility. Intra-EU mobility attached to the EU Blue Card could have positive effects also on the quality of life of migrant HSW, as they could move where a better standard of living could be obtained. However, it is worth noting that the preferred option will have to foresee the right for family members to follow the mobile HSW. The impact of this option on third-country HSW would be of course much more important without the limitations to job and geographical mobility foreseen in this option.</p> <p>Positive effects can be expected also due to the favourable conditions for acquiring the EC LTR status for mobile HSW (cumulating periods of residence in different EU MS) and the equal treatment with EU nationals attached to it. Other impacts are described in option D, even though their magnitude would be inferior, due to the fact that this option does not foresee a settlement permit from the beginning.</p>

Preferred policy option		
Assessment Criteria	Rating	Motivation of the rating and aspects of the policy option necessary to achieve the impact
Fundamental rights		
Protection of personal data (art. 8)	-	Negative effects if personal data collected in EU blue card database are not properly handled.
Respect for private and family life (art. 7)	√√√	Positive effect due to family reunification within the shortest delay and immediate access to work for spouses.
Freedom of movement and of residence (art. 45(2))	√√√	Positive effect due to the intra-EU mobility attached to the EU blue card and to the preference right after EC long-term status has been acquired.
Non-discrimination (art. 21)	√√	Positive effect due to: - the equal treatment with EU nationals along the lines of Article 12 of Directive 2005/71/EC; - progressive access to the labour market. - cumulating of periods of residence in different EU MS in order to obtain EC long-term residence status and the equal treatment with EU nationals attached to it
Compliance with the Acts of Accession of 2003 and 2005		<p>This policy option contains provisions to facilitate intra-EU mobility for highly skilled third-country workers. This could be problematic as it could lead to the situation that third-country high-skilled workers are granted a more favourable and enhanced form of intra-EU mobility as compared to the workers of the EU Member States who are still subject to restrictions on access to the labour market under the transitional arrangements.</p> <p>Therefore, in a situation of intra-EU mobility, a Member State still applying transitional arrangements vis-à-vis the citizens of other EU Member States at the time of transposition of the Directive shall not treat such EU nationals more restrictively than third-country nationals, i.e. by giving free access to their labour markets to a HSW where such free access is not given to a national from a new Member State. Moreover, if the situation is that both the national of a new Member State and HSW are subject to national measures, such as a work permit, the Community preference would then operate in favour of the national of the new Member State. As a consequence, the impact of the intra-EU mobility proposed by this option will be limited for those Member States that restrict access of EU citizens to their labour markets as long as they do.</p> <p>As concerns the first entry conditions and access to work for spouses, considerations done for option D apply, mutatis mutandis.</p>
Accompanying measures		<ul style="list-style-type: none"> - Creating a database of EU blue cards' owners; - Measures safeguarding protection of personal data (Art. 8, Charter of the Fundamental Rights of the EU and relevant EC acquis) inserted in the database of EU blue cards' owners; - Information campaigns targeted to employers and employees, in the EU and in some targeted countries of origin (paying attention to avoid those countries where serious problems of brain drain exist). - Specific provisions in order to mitigate the negative effects on third countries to be developed in parallel with the legislative instrument - Specific provisions included in the legislative instrument to promote circular migration before and after EC long-term residence (by derogating to Council Directive 2003/109/EC where necessary).

The main advantages of the preferred option

The preferred policy option provides for common admission conditions aimed at facilitating the admission of HSW and is based on the definition of a set of criteria an applicant must comply with (i.e. salary level, professional qualifications; existence of job offer) but without a point-system. The criteria must be sufficient to prove that the person is really an HSW, but not too cumbersome as to unnecessarily lengthen the examination of the application and the admission procedures, so to be fully compatible with a fast-track procedure. The inclusion of a derogation from the main scheme for young professionals (mainly by lowering the salary criteria) would add an useful element of flexibility to the scheme.

The reasons for preferring this more traditional system to the point-system of Policy Option C are based on a series of considerations (besides those already highlighted when assessing option C in terms of positive and negative impacts, and that will not be repeated here): even though skill gaps are already present and will most likely increase in the medium-long term, the EU has a tradition of immigration systems that are demand-driven, not supply-driven. Even if the point system considered in this report is in principle compatible with both philosophies of admission and it is likely that most Member States would assign the majority of the points to the existence of a job contract, at least in the short-medium term, it cannot be excluded that other Member States would introduce a supply-driven system (i.e. no need for a job contract to be admitted). This would have several negative repercussions as applicants would have to face quite different conditions for admission, depending on the Member State: requirement or not for a job contract; variation in the weight assigned, etc. This would mean that the objective of having a consistent approach to HSW immigration could be only partially met. Furthermore, this reasoning can be applied also to the moment the HSW would want to move to a second Member State, with the additional problem that Member States may not agree to intra-EU mobility if the conditions of first entry are not sufficiently harmonized. On the other hand, if there was to be a minimum harmonization of the weight of the criteria, the point-system would be designed as to be demand-driven and a switch to a supply-driven system could not be automatic. Taking this element in to account, passing to a supply-driven system would most likely require an amendment to the directive in both cases. The value of the point-system is therefore reduced. And an EU point-system would most likely be too rigid and not adapted to different needs in different MS. Finally, the 2005 consultation on the Green Paper showed very diverging views on the point-system question, and limited support (especially from MS).

The preferred option provides for the salary specified in the work contract to be at least equal to a certain threshold set at national level. Member States should be left free to set this threshold at a level compatible with their economic and labour markets' situation. However, it has been considered necessary to set a relative minimum threshold - linked *in primis* to the minimum wage set out in national laws - to ensure that Member States do not empty this criteria by setting a level which would be too low for a national or EU highly qualified worker to accept the vacancy, although corresponding to his/her qualifications. Furthermore, this proposal provides for the accumulation of periods of residence for mobile workers and for a preference right once an highly qualified third-country worker has acquired EC long-term residence and wishes to exercise his/her right to intra-EU mobility: the relative common minimum level seeks to ensure that the admission decisions of a Member State do not negatively affect the others in the medium term. It should also ensure that the applicant has the means to maintain him/herself - and cover return costs if necessary - without having recourse to the social assistance system of the Member State concerned

The difficulty was to find a common parameter for this criterion. As twenty out of twenty-seven Member States have a minimum wage set by law, this appeared to be the more suitable

parameter. After having analysed the situation in the Member States having this criterion in their national immigration systems for HSW as well as a statutory minimum wage, it appeared that the national threshold ranged from a little bit more than twice to three times the national statutory minimum wage. The preferred option would set the minimum relative threshold to at least three times the national statutory minimum wage, with no upper limit: if, on the one hand, this could limit the number of professionals that would fall under this special common scheme, on the other it would help avoiding possible negative spill-over on other Member States in the medium term. However, in consideration of the target population this option would aim to attract and retain, this relative threshold does not appear to be excessively high. As for those seven Member States not having a statutory minimum wage, the parameter to be proposed could be the level under which a national is entitled to receive social assistance: this (as well as the minimum wage) is a parameter which has been already used in the immigration acquis to evaluate the resources of third-country nationals, notably within the set of criteria to be met in order to acquire EC long-term residence⁷².

Lowering the barriers to entry by simplifying the admission procedures (by introducing fast-track schemes and more stringent time limits for processing the application) would be the first step for effectively and concretely enhance the attraction of HSW into the EU labour market. Actually, those Member States who currently provide for low barriers to entry are at the same time the Member States which are more successful in attracting HSW from abroad. The possibility for legally resident third-country nationals to present an application in the Member State of residence would be an asset in respect of retaining highly qualified persons in the EU, as for example, students having completed their university studies. The successful applicant would be issued a resident permit called "EU Blue Card" which would entitle him to a series of rights in terms of access to the labour market and residence conditions, including intra-EU mobility after a "waiting period" in the Member State of first accession.

In a wider perspective, these combined elements of the preferred option are likely to produce remarkable economic benefits to both the HSW (in terms of elimination of complex and time consuming procedures) and the EU. Indeed, the ability to quickly respond to the needs of the EU labour market would be clearly strengthened, by allowing EU firms (in particular SMEs) to hire highly qualified human resources and fill labour and skills shortages within the shortest delays. The positive impacts on the whole EU competitiveness, in the short and the medium-term period, would be important.

Concerning residence conditions, the combination of several elements would allow to maximize the impact on the social and economic integration of third-country HSW (in terms of the possibility of job mobility, recognition of the equal treatment as EU nationals, favorable conditions for family reunification, etc.) and, at the same time, to mitigate or minimize the possible prejudice to EU nationals and long term residents (thanks to the definition of a waiting period for both job and intra-EU mobility). Provisions aimed at fostering circular migration have been foreseen.

Intra-EU mobility before the acquisition of the EC long-term resident status under Council Directive 2003/109/EC would be still demand-driven and conditioned to the fulfilment of

⁷² Article 5(1)(a) of Council Directive 2003/109/EC: "stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status".

certain criteria, so to prevent movements of HSW who are not needed in other Member States' labour markets. Once the HSW has acquired the EC long-term resident status, the EU Blue Card would grant an additional advantage over other EC long-term residents in respect of mobility across Member States, as he/she would enjoy a preference right in terms of admission to the second Member State over potential newly coming HSW (and also over Blue Card holders who are not yet EC long-term residents). Although this is not the most ambitious approach possible, it is based on a realistic assessment of the reluctance of Member States (or at least of a certain number of them) to open the access to their labour markets for the time being to third-country workers, even when it comes to this specific category and to small numbers of professionals. Having regard to what can be achieved by means of an immigration policy, an important element of attractiveness of the EU compared to its competitors is in fact the possibility to accede to 27 labour markets, so to grow professionally while responding to concrete needs of the EU companies (third-country HSW would in fact act as substitutes for non-mobile EU workers). The preferred option would – by means of the elements just described – encourage the re-allocation of necessary HSW according to changing needs on the labour markets, with the possibility of retaining highly qualified workforce already integrated in the EU that could otherwise decide or be obliged (as no more needed on the labour market of the Member State of residence) to leave the EU for more attractive destinations in terms of professional and residence opportunities, or to take up a job which does not match the worker's qualifications (after EC long-term residence has been acquired), therefore leading to a situation of brain waste.

A complementary measure to strengthen intra-EU mobility could be the setting up of an "EU Blue Card database", in which significant information related to all the EU Blue Card owners would be recorded. This would be a supporting data processing instrument for the implementation of EU Blue Card mobility. Moreover, it could be an effective tool for helping to match labour supply and labour demand across the EU MS and supporting intra-EU mobility, if adequately connected with existing EU databases (i.e. EURES) and/or a possible EU skill matching database.

The elements included in the preferred policy option would therefore be a strong incentive for third-country HSW to enter the EU and, above all, would support a more efficient allocation and re-allocation of highly qualified human resources. On the whole, the mobility of human capital would benefit the EU firms (and in particular the SMEs), by improving their ability to offset labour shortages and bottlenecks and, in a wider perspective, the whole EU economic system, as a consequence of the expected increase in skills endowment and brain circulation.

Finally, the preferred policy option seems to be the most effective option in order to produce long term effects, as the EU ability to integrate and retain the third-country HSW would be particularly fostered. In this view, the preferred policy option appears to be the best way to ensure an effective contribution of migrants to EU growth and competitiveness, as this will largely depend on the HSW integration and permanent migration.

The main disadvantages of the preferred option

Granting such relevant rights and favourable conditions of residence to third-country HSW could affect the competitive position of EU national HSW. Despite the definition of a waiting period for internal and intra-EU mobility, the EU national HSW would, all the same, deal with the risk of a growing competition in the national as well as on the EU labour markets (and in particular, the advantage of EU nationals in terms of possibility for moving across MS could be at least partially overcome). However, it must be recalled that intra-UE mobility

before EC long-term residence would be subject to certain conditions and would not be automatic: this should counterbalance the risk of growing competition on the EU labour market, even though this element of "safeguard" would diminish the positive effects in respect of intra-EU mobility. Similar considerations could be done for intra-EU mobility after EC long-term resident status has been acquired. The introduction of a preference right for intra-EU mobility after EC long-term resident status has been acquired (over potential newly coming HSW) would not affect the position of HSW EU and would at the same time limit the possibility that the right to intra-EU mobility granted under the EC long-term resident status might be more limited as compared to what foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents, without any special provision for this category of workers. Such preference right could however create some problems of practical implementation, but Member States that apply EC preference⁷³ or that already do not impose restrictions on access to their labour market for EC long-term residents exercising their right to intra-EU mobility should encounter only limited additional problems (or none, if no restrictions exist). More problems would arise in respect of those Member States that do not check EC preference for this category of workers, but still maintain restrictions on labour market access for EC long-term residents coming from other Member States. In order to facilitate the individuation by potential employers and immigration authorities of the EC long-term residents to whom such preference should be granted, Member States should include information on their status in the residence permit they issue to such EC long-term residents.

It is important to recall that presently HSW who are EU nationals already experience high employment rates, so the issue of a possible competition or of job displacement may be even less relevant in the medium-long term (depending on the economic performance of the EU, on whether educational and professional choices of EU nationals and residents will match future needs on the labour market, etc.). This may lead in the medium-long term to a situation where Member States may use the margin of manoeuvre the preferred option would leave them in terms of intra-EU mobility to ease the procedures as much as possible so to attract the HSW their labour markets would need. Finally, it should be considered that the efficient and effective implementation of the preferred policy option would be undermined if the extension of intra-EU mobility rights is not extended to family members: provisions must therefore be foreseen.

Finally, the preferred policy option could have significant negative effects on third countries in terms of brain drain from less developed countries. In fact, also the positive elements that generally balance the brain drain, could be substantially undermined if third-country HSW settle permanently in the EU (e.g. studies indicate that this reduces remittances). Thus, the possible trade-off between the effective and long term integration of third country HSW in the EU on the one side, and the loss of human capital by less developed countries on the other, should be carefully considered. The Commission, in the context of the on-going debate on circular migration, intends to invite Member States to consider what incentive measures could be introduced to make it easier for migrants, in particular the highly skilled, to return to their countries of origin after a migration experience in the EU. Furthermore, a "brain drain clause" – obliging Member States to pursue ethical recruitment policies by not actively recruiting in countries suffering from recognised situations of brain drain – could be included. An even

⁷³ Reference is made here exclusively to the general principle of EC preference as expressed in Council Resolution of 1994.

more effective instrument to avoid negative effects on countries already suffering from lack of highly qualified human resources could be the conclusion of agreements between such countries and the EC (and its Member States) listing the professions that should not fall under a possible future EC instrument on highly qualified immigration ("tailored solutions", see next section).

Compliance with the Acts of Accession of 2003 and 2005

Conditions for first access to the labour market of a Member States and intra-EU mobility contained in the preferred option must also be analysed in respect of compliance with the transitional arrangements contained in the Acts of Accession of 16 April 2003 and 25 April 2005 (see Section 2.1.1.). In this regard, it is important to note that the preferential treatment clause in the transitional arrangements is primary EC law and, as such, it prevails over secondary EC legislation. This means that it obliges a Member State to implement a possible instrument of secondary EC legislation on economic migration in such a way that it complies with the clauses of the Accession Treaty. As concerns access to the labour market, Member States still applying the transitional measures at the time of transposition of the directive are therefore obliged to give preference to these EU nationals over high-skilled third-country nationals, and more generally, cannot treat such EU nationals more restrictively than third-country nationals. As a consequence, the impact of the option will be limited for those Member States that restrict access of EU citizens to their labour markets as long as they do. This may entail that the option of considering the economic needs test implicitly satisfied by the admission criteria (i.e. not to foresee the economic need test as the general rule) could not be applicable to these Member States.

In a situation of intra-EU mobility, a Member State still applying transitional arrangements vis-à-vis the citizens of other EU Member States at the time of transposition of the Directive shall not treat such EU nationals more restrictively than third-country nationals, i.e. by giving free access to their labour markets to a HSW where such free access is not given to a national from a new Member State. Moreover, if the situation is that both the national of a new Member State and HSW are subject to national measures, such as a work permit, the Community preference would then operate in favour of the national of the new Member State. As a consequence, the evaluation of the impacts of the intra-EU for mobility proposed by this option will be limited in respect of those Member States that restrict access of EU citizens to their labour markets as long as they do.

It should, however, be stressed that the respective clauses in the 2003 and 2005 Accession Treaties are of temporary importance as they will irrevocably come to an end in April 2011 and December 2013 at the very latest. In addition, Member States may decide to lift restrictions and apply full free movement to the EU nationals concerned earlier. In order to evaluate the impacts of the preferred option in this specific respect, a "best case scenario" for the adoption and transposition of the preferred option was elaborated, based on the experience of Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research. This directive has a similar philosophy, as it contains a fast-track procedure for a specific category of HSW and provides for attractive residence conditions and intra-EU mobility. Moreover, it was adopted in a relatively limited span of time (approximately 19 months⁷⁴). As this strategic initiative is planned for adoption by the Commission on 23 October 2007, the best case scenario would lead to adoption in May – June 2009 and deadline for transposition two years later. Based on past experience in the immigration area, it is unlikely that adoption would be quicker. As the transitional arrangements foreseen in the Acts of Accession of 2005 for Bulgaria and Romania may still be applied at the time of transposition (according to the above scenario), the impacts assessed in respect of the above elements of the preferred options (including immediate access for the

⁷⁴ Adopted by the Commission on 16.3.2004 and by the Council on 12.10.2005. Deadline for transposition: 12.10.2007.

spouses) will be limited in respect of those Member States that restrict access of EU citizens to their labour markets as long as they do.

Supporting measures

In order to maximise the possible benefits and to mitigate the possible negative effects, the preferred policy option could be accompanied by the following supporting measures:

- (1) Creating a database of EU blue cards' owners, as a further tool for collecting the data of applicants and for helping match labour supply and labour demand, as well as derive estimates of the percentage of highly skilled immigrants settling permanently in the EU;
- (2) Information campaigns targeted to employers and HSW, emphasising in particular the impacts of brain drain and the importance of ethical recruitment, as well as the mechanisms available to foster the temporary or permanent return of skilled migrants to their country of origin;
- (3) Prevent brain waste, through specific measures for the recognition of diplomas and skills (such as international or bilateral agreements);
- (4) Specific provisions in order to avoid negative effects on third countries, such as:
 - Encouraging circular migration by increasing flexibility of entry and readmission requirements (e.g. for the purpose of calculation of legal and continuous residence, the absence from the EU territory for a certain period would not be taken into account) and by supporting voluntary return of migrants (e.g. by offering professional and/or financial incentives);
 - Implementing policies aimed at maximising the positive impact of remittances sent in the country of origin (e.g. by improving access to financial institutions for migrants; encouraging financial institutions to lower the costs of sending remittances; supporting the channelling of remittances to development projects);
 - Concluding agreements on the management of migratory flows between countries of origin and destination to target admission mechanisms on those sectors not suffering from brain drain in the respective countries of origin;
 - Helping developing countries create sufficiently attractive professional opportunities for highly skilled workers locally, notably in the context of financial support to twinnings or partnerships between research, healthcare and educational institutions in these countries and in EU Member States.

5.5. Assessment and consideration of proportionality and EU added value

Proportionality

The instrument chosen is a directive, which gives Member States a high degree of flexibility in terms of implementation. The preferred option would be designed as to allow Member States to quickly and flexibly react to existing and arising demands for highly qualified labour on their labour markets. It would not affect their decisions on whether or not to admit a HSW who meets the conditions or their competence in determining the volumes of admission, as it

does not foresee any right of residence, apart from those already foreseen in EC legislation. Intra-EU mobility would be subject to conditions which allow Member States to maintain the control on the access to their labour markets.

The preferred option should be seen as a contribution to achieving the Lisbon objectives and to counter-balancing the negative effects of demographic ageing on a highly qualified sector of the labour market, as well as to reply to the objective of efficiently responding to existing and arising demands for highly qualified labour and of offset skill shortages, also in a long-term perspective.

European added value

The preferred option would have the following European added value:

- It would send a clear message to third-country highly qualified workers that the EU needs their input to sustain economic growth and competitiveness, and that it's ready to set up quick admission procedures and attractive conditions for residence for them and their families.
- The common system would be easily understood by potential employers and HSW; these ones, in particular, would not have any more to potentially deal with 27 quite different systems. Transparency in the admission and residence conditions would be therefore ensured.
- One of the main elements of attractiveness of the EU compared to its competitors is the possibility to accede to 27 labour markets, so to grow professionally while responding to concrete needs of the EU companies. But this possibility can only be granted through Community action (which is also needed to derogate to EC acquis so to allow for facilitated conditions to acquire EC long-term resident status for mobile HSW) and can be enacted only if there is a common system to admit these workers. The preferred option would in fact encourage the re-allocation of necessary HSW according to changing needs on the labour markets, with the possibility of retaining highly qualified workforce already integrated in the EU that could otherwise decide or be obliged (as no more needed on the labour market of the Member State of residence) to leave the EU for more attractive destinations in terms of professional and residence opportunities, or to take up a job which does not match the worker's qualifications (after EC long-term residence has been acquired), therefore leading to a situation of brain waste. These HSW would in fact act as substitutes for non-mobile EU workers.

6. MONITORING AND EVALUATION

The following table includes some suggestions for indicators that could be developed to assess the progress and effectiveness of the preferred option in achieving the main policy objectives.

Main Objectives	Potential Indicators	Sources of Information
<p>I) To improve EU ability to attract and retain third-countries highly skilled workers as one of the conditions for increasing the contribution of economic migration within the set of policies and measures aimed at enhancing the competitiveness of the EU economy, as well as at addressing the consequences of demographic ageing</p>	<p>(Growth in the) number of HSW admitted to EU</p> <p>Size and composition (in terms of country of origin, level of education, etc.) of third-country HSW migration inflows in EU compared to benchmark countries (i.e. USA, Canada, Australia)</p> <p>Incidence of highly skilled occupations on total occupations⁷⁵</p> <p>Incidence of third country nationals in the highly skilled occupations</p> <p>Incidence of HSW migrants on total immigration</p> <p>Quota of immigrant HSW having chosen EU as their definitive place of work</p>	<p>EUROSTAT (based on data obtained through the application of the Regulation on Community statistics on migration and international protection)</p> <p>Member States authorities involved in the administration of the migration policy at national level</p> <p>National statistics Bureau</p> <p>LFS</p> <p>Surveys at EU and national level (i.e. European Migration Network)</p>
<p>II) To effectively and promptly respond to existing and arising demands for highly qualified labour, and to offset skill shortages, by enhancing the inflows and circulation of third-countries highly skilled workers and promoting their efficient allocation and re-allocation on the EU labour market</p>	<p>Estimated extent of the skill shortages at EU level (job vacancies rate in highly skilled occupations according to employers' requests)</p> <p>Employment and unemployment rate of highly educated non EU nationals</p> <p>Employment and unemployment rate of highly educated EU nationals⁷⁶</p> <p>Average permanence in EU of non EU national HSW</p> <p>Mobility rate of non EU national HSW</p>	<p>Surveys at EU and national level (i.e. European Migration Network)</p> <p>LFS</p> <p>EUROSTAT (based on data obtained through the application of the Regulation on Community statistics on migration and international protection)</p> <p>Member States authorities involved in the administration of the immigration policy at national level</p>
<p>III) To develop a EU coherent approach and common immigration policy concerning the third-countries highly skilled workers</p>	<p>Transposition at level of all MS of a common EU legislative act on HSW</p> <p>Degree of harmonization between MS</p> <p>Resources dedicated to the implementation of the common EU policy</p>	<p>EU level monitoring</p> <p>MS Monitoring reports</p>
<p>IV) To lower barriers to entry to the EU labour market, simplifying and harmonizing admission procedures for highly skilled workers, without prejudice to EU nationals</p>	<p>Average time necessary for the admission to the EU for a HSW (average time for processing the applications)</p>	<p>Member States authorities involved in the administration of the immigration policy at national level</p>

⁷⁵ The indicator would aim at monitoring and assessing the contribution of the policy to competitiveness of the EU economy.

⁷⁶ The indicator would aim at monitoring the absence of job displacement of EU national HSW.

Main Objectives	Potential Indicators	Sources of Information
<p>V) To promote highly skilled workers social and economic integration by granting them and their family with favourable conditions of residence, without prejudice to EU nationals</p>	<p>Quota of migrant HSW having chosen the EU as their definitive place of residence (number of HSW having requested the long term resident status/number of total HSW entitled to ask for EC long-term resident status)</p> <p>Quota of spouses and working age children of HSW with a regular job in EU (possibly quota of those having a highly qualified job)</p> <p>Perception of EU citizens toward highly skilled migrants</p>	<p>Member States authorities involved in the administration of the migration policy at national level</p> <p>EURES</p> <p>Member States Employment Services/Offices</p> <p>National statistics Bureau</p> <p>LFS</p> <p>Eurobarometer</p>
<p>VI) To foster intra-EU mobility, removing unnecessary barriers and allowing a more efficient allocation of third country highly skilled workers through the EU, without prejudice to EU nationals</p>	<p>Number of HSW from third countries having moved within the EU (from a Member State to another) for highly qualified work</p>	<p>EU Blue card Database</p>

As far as monitoring and evaluation arrangements are concerned they could take on the one hand the form of a Commission report three years after the transposition deadline of the Directive and Member States reporting system on the other. The Commission report could be based on the national implementation of the Directive and on the follow up of the above presented indicators using the specified source of information. As far as the Member States reporting system is concerned, Member States can be obliged through the Directive to communicate correlation tables to demonstrate implementation of the provisions of the Directive in their national legislation. Following that Commission report, the Commission should decide whether proposals for amendment should be put forward in order to best respond the defined objectives.

In order to dispose of reliable information and to monitor brain drain effects caused by this instrument, it could be foreseen that Member States should communicate annually to the Commission and the other Member States (through the network established by Council Decision 2006/688/EC) statistics on the volumes of holders of the EU Blue Card, and of their family members, who have been admitted under this Directive during the previous calendar year, indicating their nationality and their occupation. For HSW having been admitted in a context of intra-EU mobility, the information provided should in addition specify the Member State of previous residence.

ANNEX I: STATISTICAL APPENDIX

Data availability: limits and remarks highlighted in the external study

The analysis here presented has been partly constrained by limitations in data availability and significant lack of comparability in migration statistics at EU and international level. In particular, with regard to the socio economic perspective of the problem, several gaps in data collection should be highlighted.

Firstly, estimating the annual migration inflows in the EU of Third Country Nationals and, in particular, of Highly Skilled Workers is not a simple task. In fact, at EU level, Eurostat does not provide data on the migration flows into the Member States including the reason for immigration. It is worth noting that a process of harmonization of immigration statistics at EU level is currently underway. In particular, residence permit data is included under the new EU legislation on migration statistics which will come into force later in 2007.

Other useful statistics are based on residence permit data. However, Eurostat has only recently begun to collect this data and a significant number of EU Member States do not appear to be in a position to supply such data. Moreover, even where data is available, the statistics are not readily comparable due to significant differences in the definitions between Member States and in the time coverage of the data supplied, including in replies to questionnaires. Therefore, in order to estimate the current inflows of Third Country HSW in EU, different proxies and estimates have been used. Nevertheless, at this stage, the data constraints do not allow the elaboration of reliable predictions on future flows of HSW to the EU, given the very limited availability of consistent and comparable previous quantitative data.

A second issue relates to the current and future estimates of labour and skills shortages in EU labour market. Although most EU governments have sponsored or carried out employer or employee surveys, objectives and methodologies vary widely across countries. Moreover, forecasting labour and skills' shortages is generally a highly complex issue, since data requirements (e.g. in terms of economic growth, occupational and qualifications composition of labour forces) are particularly demanding.

Finally, with regard to the data on employment position of Third Country nationals on EU labour market, the analysis has been focused on the highly qualified workers as well as it sought to compare the number of highly-skilled third country workers to the national. The European Labour Force Survey (LFS) distinguishes between foreign-born and native-born residents of the EU. Given the change of classification of EU-12 citizens from non EU nationals to EU nationals after 2004, it has not been possible to set up a complete time series (1995-2005) for EU 27 according to "nationality" criterion. Due to this change, the selected approach of this analysis implies the following limitations:

- only data for EU 15 and for the period 1995-2004 has been considered;
- no data for EU 12 nationals is provided (as they are classified as third country nationals in the considered period);
- the change in trends of migration after the EU enlargement cannot be taken into account.

Tables and graphics

Table 1: Crude rate of net migration⁷⁷ for EU 15, 1990-2002, per 1000 population

Years	Crude rate of net migration
1990	2.6
1991	3
1992	3.5
1993	2.7
1994	2
1995	2
1996	1.9
1997	1.3
1998	1.7
1999	2.5
2000	3
2001	3.1
2002	3.3

Source: Eurostat - Demographic Statistics

⁷⁷

The calculation of this rate is based on the difference between population change and natural increase, including corrections due to population censuses, register counts, etc. which cannot be classified as births, deaths or migrations.

Table 2 Projections for EU's population trend 2005-2050 (in thousands)

	2005-2050	2005-2010	2010-2030	2030-2050
Total population	-8659	5563	5312	-19534
Percentage change	-1.90%	1.20%	1.10%	4.20%
Children (0-14)	-13811	-2304	-6080	-5427
Percentage change	-18.60%	-3.10%	-8.50%	-8.20%
Young people (15-24)	-14035	-2383	-6663	-4990
Percentage change	-24.30%	-4.10%	-12.00%	-10.20%
Young adults (25-39)	-24867	-3896	-14883	-6088
Percentage change	-25.00%	-3.90%	-15.60%	-7.50%
Adults (40-54)	-18666	4116	-10029	-12754
Percentage change	-19.00%	4.10%	-9.80%	-13.80%
Older workers (55-64)	4721	4973	8717	-8969
Percentage change	9.10%	9.50%	15.30%	-13.60%
Elderly people (65-79)	25688	1947	22281	1460
Percentage change	44.50%	3.40%	37.30%	1.80%
Frail elderly (80+)	32311	3109	11969	17233
Percentage change	171.60%	16.50%	54.00%	50.80%

Source: Commission Communication, The demographic future of Europe – from challenge to opportunity, elaboration on EUROSTAT data 2004.

Table 3 Estimates of Annual Inflows of Work Permit Holders in 16 EU Countries

MS	All work permits holders	Professional with work permits	Total employment 2002	Comments
DK	1600	500	2741000	2003. Professionals relate to occupations requiring special skills which are in demand
DE	165000	3300	36275000	2003. Figures relate to non-EU persons arriving in Germany. The total includes multiple entries, the vast majority of whom are unskilled. Professional category relates only to "Green Card" scheme for IT specialists
ES	65000	-	16241000	Approximate net estimate for 2002/2003 for the rise in the numbers in the SI system (excluding EU nationals)
FR	31200	12400	23885000	Professionals covers the inflows of those with Autorisations Provisoire de Travail (APTs) and qualified "travailleurs permanents" in 2003.
IE	16100	2000	1750000	2003 data. Professionals include WP holders with occupations defined as in ISCO88 and the highly skilled on Working Visas. New member States (EU10) are excluded.
IT	78800	500	21757000	Visas issued to non-EU nationals in 2003 for self employment and contract work. Professional figure is reserved quota for highly skilled.
LV	2800	-	987000	2002
LT	500	160	1421000	2003
HU	40300	3800	3868000	No. of non-EU workers holding valid WPs on 31/12/03. Professionals have "college" or "university " education.
NL	38000	10900	8176000	2003
PL	5600	1700	13820000	Estimated new permits (i.e. excl renewals) for non-EU persons in 2002. Professionals are those classed as "experts and consultants"
SK	1000	-	2111000	Total non-EU inflow for 2002
FI	13100	1700	2406000	2003. Covers non-EU WP holders.
SE	6700	4300	4348000	2002. Covers non-EU WP holders.

UK	89200	15800	28338000	2003 data. Persons who entered the UK from abroad on WPs in 2003. Excludes renewals and "first permissions" for those already resident in the UK. Professions defined as in ISCO 88. Includes small number of EU10 citizens.
Total	-554900	-57060	168124000	2003
EU25	633200	74300	191841000	

Source: Policy Plan on Legal Immigration (from a study prepared by Prof. J.J. Sexton for the European Commission (DG TRADE), April 2005

Table 4 Estimates of Annual Inflows of Work Permit Holders in 14 EU Countries

MS	Permis sions valid for 12 month s and more ⁷⁸	Permis sions valid for less than 12 month s ⁷⁹	Tota l per mits	Wo rk per mits issu ed to HS W	Sm all Sca le Stu dy	MIGRA POL 120	Comments
AT				663		X	In 2005: the figure represents the number of self-employed and employed defined as "schlüsselkräfte" (key personnel).
BE				588 5	X	X	The figure represents the number of work permit issued for HSW (on the basis of salary level) in 2004. The average number of work permit issued for HSW between 2002 and 2004 is 5687 (5.245 in 2002; 5.489 in 2003).
CZ				50		X	The work permits for highly skilled workers are not monitored as a separate category, but it is reported that by the end of February (2005), there were 50 foreigners covered by the Art. 97 a), i.e. "a foreigner carrying out systematic educational activity as a pedagogical or academic employee of a university or a scientific research or development employee of a research institution".
DK				609		X	The figure represents the number of residence permits to workers issued under the job card scheme in 2005. The total number during 2002-2005 has been 1640 (185 in 2002; 399 in 2003; 447 in 2004).
EE	252	18	270	161		X	The figure represents temporary residence permits issued for aliens who do not need the consent of the Labour Market Board a in 2005 (-clergymen and -sportsmen are included).
FR				500		X	This figure is recorded as the rough annual number of permits issued for categories of HSW.
DE				279	X		This figure represents the number of settlement permits granted in accordance with Section 19 of Residence Act to persons from third countries in the first 7 months of 2006.
IE				120 0		X	Approximately 100 work visa / work authorisations are issued per month.
LV			1761	39		X	Temporary residence permits issued to experts (consultants) and specialists in 2005.

⁷⁸ Eurostat data 2005, collected on the basis of a pilot data collection.

⁷⁹ Ibidem.

MS	Permis sions valid for 12 month s and more ⁷⁸	Permis sions valid for less than 12 month s ⁷⁹	Tota l per mits	Wo rk per mits issu ed to HS W	Sm all Sca le Stu dy	MIGRA POL 120	Comments
NL ⁸⁰	5639	6216	1185 5	212 4			Grants of permission to stay issued to non-EU citizens for reasons related to employment.
PL			8.74 1	472 3		X	The figures relate to the number of permit issued to TCN in 2005. In particular, HSW are defined as "managers, counselors and experts"
SK	2536	1161	3697	524		X	Total amount of the third-country nationals belonging to the category of highly skilled workers pursuant to KZAM (classification of the jobs), who worked in the territory of the Slovak Republic on the basis of work permit by December 2005.
ES ⁸¹	905176	10688	9158 64	994 7			Grants of permission to stay issued to non-EU citizens for reasons related to employment.
UK				751 5		X	People who were granted an HSMP letter in 2004.
Tot al	913603	18083	9439 39	342 19			

⁸⁰ For NL the data reported are exclusively based on the Eurostat data 2005, collected on the basis of a pilot data collection.

⁸¹ As for NL, Eurostat data 2005.

Table 5 Occupational structure in EU by main occupational grouping (as % share of total employment)

Main occupational grouping	2000	2005	Change 2000-2005
High-skilled non-manual	35.8	38.7	2.9
Low-skilled non-manual	25.9	24.9	-1.0
Skilled manual	29.3	26.8	-2.6
Elementary occupations	9.0	9.7	0.7

Source: Eurostat, LFS spring result

Table 6 Highly Skilled Workers⁸² as percentage of total employed, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	39%	39%	39%	40%	42%	40%	41%	41%	41%	42%	0.1%
DK	36%	37%	37%	37%	39%	41%	41%	42%	43%	43%	1.3%
DE	36%	37%	38%	38%	38%	39%	39%	40%	41%	41%	1.2%
IE	28%	31%	30%	38%	38%	37%	37%	39%	39%	41%	1.2%
EL	27%	28%	28%	30%	29%	29%	28%	30%	29%	32%	1.9%
ES	26%	28%	29%	29%	29%	29%	30%	30%	30%	31%	1.1%
FR	35%	35%	35%	35%	36%	35%	36%	36%	38%	38%	1.1%
LU	34%	36%	38%	39%	41%	40%	37%	38%	40%	46%	2.1%
NL	43%	45%	45%	46%	47%	46%	46%	45%	48%	48%	0.4%
AT	29%	31%	31%	32%	31%	32%	33%	33%	33%	40%	4.0%
PT	27%	26%	25%	22%	22%	22%	22%	23%	24%	27%	3.4%
FI	0%	0%	41%	42%	44%	44%	45%	41%	41%	42%	-0.5%
SE	0%	0%	40%	40%	41%	42%	42%	42%	43%	44%	1.2%
UK	38%	38%	39%	39%	40%	40%	38%	39%	40%	40%	0.3%
Total	33%	34%	36%	37%	37%	37%	37%	37%	38%	39%	0.9%

Source: Eurostat, LSF 2006

Table 7 Highly Skilled Workers nationals and EU nationals as percentage of total employed, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	38%	38%	39%	40%	41%	40%	41%	40%	40%	42%	0.1%
DK	35%	37%	36%	37%	39%	40%	41%	41%	42%	42%	1.3%
DE	35%	37%	37%	38%	37%	38%	38%	39%	40%	40%	1.2%
IE	0%	0%	0%	37%	37%	37%	37%	38%	38%	40%	1.0%

⁸²

Employed in ISCO 88 1, 2 and 3 occupations. As most of the statistical data available and used in this study groups together these three categories, it has been decided to include in the "HSW" also professionals belonging to group 3. However, these should more properly be considered as "skilled workers". Besides data constrains, there is another reason supporting this choice: ILO is presently updating its ISCO classification and some of the professions presently belonging to group 3 will be moved to group 2.

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth (1999-2004) Rate
EL	27%	28%	28%	30%	29%	28%	28%	29%	29%	32%	1.8%
ES	26%	28%	29%	29%	28%	29%	29%	29%	29%	30%	0.9%
FR	34%	34%	35%	35%	35%	35%	35%	36%	37%	37%	1.1%
LU	33%	35%	37%	38%	40%	39%	36%	37%	38%	45%	2.1%
NL	0%	0%	0%	0%	46%	45%	46%	45%	48%	47%	0.3%
AT	28%	30%	30%	31%	31%	31%	32%	32%	32%	38%	3.7%
PT	0%	0%	0%	0%	22%	22%	22%	22%	23%	27%	3.3%
FI	0%	0%	41%	41%	44%	44%	45%	40%	41%	42%	-0.5%
SE	0%	0%	40%	40%	40%	41%	41%	42%	42%	43%	1.2%
UK	37%	37%	38%	38%	39%	39%	37%	38%	38%	39%	0.1%
Total	29%	30%	32%	33%	36%	36%	36%	36%	37%	38%	0.8%

Source: Eurostat, LSF 2006

Table 8 Highly Skilled Workers non-EU nationals as percentage of total employed, 1995-2004 (LSF 2006)

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth (1999-2004) Rate
BE	0.4%	0.5%	0.4%	0.5%	0.4%	0.5%	0.5%	0.5%	0.4%	0.5%	3.8%
DK	0.3%	0.3%	0.4%	0.5%	0.4%	0.5%	0.4%	0.5%	0.5%	0.6%	4.5%
DE	0.9%	0.9%	0.8%	0.9%	1.0%	1.1%	1.1%	1.1%	1.1%	1.1%	1.7%
IE	0.0%	0.0%	0.0%	0.2%	0.2%	0.4%	0.5%	0.7%	0.9%	0.9%	27.8%
EL	0.2%	0.2%	0.2%	0.2%	0.2%	0.3%	0.2%	0.3%	0.3%	0.3%	10.7%
ES	0.1%	0.1%	0.1%	0.2%	0.3%	0.2%	0.4%	0.5%	0.5%	0.7%	17.5%
FR	0.5%	0.5%	0.6%	0.6%	0.6%	0.5%	0.6%	0.6%	0.5%	0.5%	-3.2%
LU	0.7%	1.0%	0.9%	1.3%	1.1%	1.2%	1.3%	1.1%	1.4%	1.3%	3.1%
NL	0.0%	0.0%	0.0%	0.0%	0.4%	0.4%	0.4%	0.5%	0.5%	0.5%	4.1%
AT	0.9%	1.0%	0.8%	1.0%	0.7%	0.8%	1.1%	0.8%	1.0%	1.3%	9.8%
PT	0.0%	0.0%	0.0%	0.0%	0.2%	0.3%	0.3%	0.3%	0.2%	0.3%	9.8%
FI	0.0%	0.0%	0.2%	0.2%	0.3%	0.3%	0.3%	0.4%	0.3%	0.3%	-0.9%
SE	0.0%	0.0%	0.5%	0.5%	0.4%	0.5%	0.7%	0.7%	0.7%	0.6%	3.8%
UK	0.7%	0.8%	0.9%	1.0%	0.9%	1.1%	1.1%	1.3%	1.4%	1.6%	9.0%

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth (1999-2004) Rate
Total	0.5%	0.6%	0.6%	0.6%	0.7%	0.7%	0.8%	0.8%	0.9%	0.9%	4.8%

Table 9 Highly Skilled Workers non-EU nationals as percentage of total HSW, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth (1999-2004) Rate
BE	0.9%	1.2%	1.0%	1.2%	1.0%	1.3%	1.1%	1.2%	1.0%	1.2%	4.4%
DK	0.9%	0.9%	1.1%	1.5%	1.1%	1.2%	1.1%	1.3%	1.2%	1.3%	3.8%
DE	2.3%	2.4%	2.2%	2.4%	2.7%	2.7%	2.7%	2.8%	2.8%	2.8%	0.6%
IE	0.0%	0.0%	0.0%	0.6%	0.5%	1.0%	1.4%	1.8%	2.3%	2.2%	32.3%
EL	0.7%	0.6%	0.6%	0.7%	0.6%	0.9%	0.7%	1.0%	1.0%	1.0%	10.4%
ES	0.5%	0.4%	0.4%	0.6%	0.9%	0.8%	1.4%	1.6%	1.7%	2.2%	19.7%
FR	1.5%	1.6%	1.7%	1.7%	1.7%	1.5%	1.6%	1.7%	1.4%	1.3%	-5.0%
LU	2.0%	2.9%	2.4%	3.4%	2.8%	2.9%	3.4%	2.8%	3.5%	2.9%	1.2%
NL	0.0%	0.0%	0.0%	0.0%	0.8%	0.8%	0.9%	1.2%	1.0%	1.0%	4.4%
AT	3.1%	3.1%	2.7%	3.0%	2.3%	2.6%	3.2%	2.5%	3.2%	3.2%	6.7%
PT	0.0%	0.0%	0.0%	0.0%	0.7%	1.2%	1.3%	1.5%	0.9%	1.1%	7.5%
FI	-	-	0.6%	0.4%	0.6%	0.7%	0.7%	0.9%	0.9%	0.6%	-0.4%
SE	-	-	1.3%	1.2%	1.1%	1.2%	1.6%	1.6%	1.5%	1.3%	3.0%
UK	2.0%	2.1%	2.3%	2.5%	2.3%	2.7%	3.0%	3.3%	3.6%	3.9%	10.5%
Total	1.6%	1.7%	1.6%	1.8%	1.8%	1.9%	2.1%	2.2%	2.2%	2.3%	4.6%

Source: Eurostat, LSF 2006

Table 10 Employment rates of population with high education⁸³, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth (1999-2004) Rate
BE	82.0%	81.8%	82.4%	82.9%	84.2%	85.4%	83.6%	82.8%	82.3%	83.1%	-0.3%
DK	86.3%	86.8%	87.4%	87.2%	87.6%	88.2%	86.9%	86.6%	84.8%	86.3%	-0.3%
DE	83.0%	82.5%	81.7%	-	82.6%	83.0%	83.2%	83.0%	82.9%	82.6%	0.0%
IE	81.2%	80.5%	82.5%	-	85.6%	86.5%	85.8%	84.9%	85.0%	84.9%	-0.2%

⁸³ According to the ISCED classification.

EL	78.8%	78.7%	79.0%	79.4%	80.0%	80.6%	79.5%	80.6%	81.1%	81.2%	0.3%
ES	68.5%	69.2%	70.0%	71.4%	73.4%	75.1%	76.8%	77.3%	78.2%	79.1%	1.5%
FR	76.9%	79.1%	78.7%	76.8%	77.2%	78.7%	79.5%	79.2%	78.0%	77.3%	0.0%
LU	78.7%	81.9%	81.6%	-	79.3%	80.3%	83.7%	83.6%	80.0%	81.9%	0.6%
NL	-	81.6%	83.2%	86.8%	87.4%	86.2%	86.8%	86.8%	85.8%	85.4%	-0.5%
AT	88.4%	86.3%	86.9%	88.7%	85.0%	85.8%	86.2%	84.9%	84.4%	81.4%	-0.9%
PT	87.8%	86.6%	86.6%	88.3%	89.4%	89.8%	89.9%	88.7%	87.0%	87.2%	-0.5%
FI	81.5%	81.0%	83.2%	81.9%	84.4%	84.0%	85.5%	85.5%	84.9%	84.4%	0.0%
SE	87.6%	84.6%	82.5%	81.4%	83.2%	82.7%	86.3%	86.2%	85.9%	85.3%	0.5%
UK	85.4%	85.6%	86.9%	-	87.1%	87.4%	87.7%	87.2%	87.4%	87.3%	0.1%
Total	80.9%	81.0%	81.2%	78.5%	81.9%	82.5%	83.0%	82.8%	82.6%	82.5%	0.2%

Source: Eurostat, LSF 2006

Table 11 Employment rates of nationals and EU nationals population with high education, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	83.0%	82.6%	83.1%	83.5%	85.0%	85.9%	84.4%	83.6%	83.1%	83.8%	-0.3%
DK	86.6%	87.3%	88.1%	87.7%	88.0%	88.6%	87.9%	87.5%	85.8%	87.0%	-0.2%
DE	84.0%	83.4%	82.6%	-	83.4%	84.0%	84.0%	83.9%	83.8%	83.7%	0.1%
IE	-	-	-	-	86.0%	87.0%	86.4%	85.8%	86.1%	85.9%	0.0%
EL	79.1%	78.9%	79.2%	79.8%	80.5%	80.8%	79.9%	81.1%	81.6%	81.6%	0.3%
ES	68.6%	69.2%	70.1%	71.5%	73.4%	75.2%	76.9%	77.6%	78.5%	79.6%	1.6%
FR	77.6%	79.7%	79.4%	77.5%	78.1%	79.4%	80.1%	79.9%	78.6%	77.8%	-0.1%
LU	79.6%	82.2%	82.5%	-	80.5%	81.0%	84.5%	84.9%	81.0%	82.9%	0.6%
NL	-	-	-	-	88.1%	86.8%	87.2%	87.3%	86.5%	86.0%	-0.5%
AT	88.8%	87.2%	87.7%	89.7%	85.8%	86.3%	86.6%	85.2%	84.8%	81.6%	-1.0%
PT	-	-	-	-	89.4%	90.0%	89.8%	89.0%	87.1%	87.4%	-0.5%
FI	81.5%	81.3%	83.8%	82.5%	84.7%	84.3%	85.7%	85.7%	85.3%	84.7%	0.0%
SE	-	-	83.4%	82.3%	83.9%	83.7%	87.0%	87.0%	86.7%	86.2%	0.5%
UK	85.7%	86.0%	87.2%	-	87.4%	87.7%	88.1%	87.5%	87.8%	87.7%	0.1%
Total	81.0%	81.3%	81.5%	77.7%	82.4%	83.1%	83.5%	83.4%	83.2%	83.2%	0.2%

Source: Eurostat, LSF 2006

Table 12 Employment rates of non-EU nationals population with high education, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	40.0%	46.7%	43.0%	54.2%	43.4%	62.6%	49.4%	50.3%	49.5%	57.5%	5.8%
DK	64.1%	58.4%	59.9%	65.5%	64.3%	56.1%	49.2%	53.7%	53.6%	62.3%	-0.6%
DE	59.5%	58.7%	57.4%	-	61.9%	60.7%	64.5%	62.3%	61.4%	58.1%	-1.3%
IE	-	-	-	-	70.6%	68.6%	71.0%	70.6%	65.3%	65.6%	-1.5%
EL	64.7%	66.5%	65.9%	65.0%	65.5%	74.9%	68.7%	70.5%	69.1%	72.9%	2.2%
ES	57.1%	63.4%	54.5%	67.6%	76.8%	69.5%	75.4%	70.6%	71.0%	70.2%	-1.8%
FR	52.3%	57.3%	56.9%	54.8%	50.7%	54.6%	57.2%	56.5%	55.1%	54.2%	1.3%
LU	50.1%	77.1%	62.0%	-	57.9%	68.0%	71.0%	61.7%	64.5%	64.2%	2.1%
NL	-	-	-	-	48.9%	58.1%	68.2%	65.0%	51.5%	56.2%	2.8%
AT	84.6%	74.8%	75.6%	74.9%	71.0%	76.9%	79.9%	79.5%	76.6%	80.6%	2.6%
PT	-	-	-	-	87.4%	78.3%	95.2%	77.9%	84.1%	80.0%	-1.8%
FI	100.0%	53.9%	33.3%	32.5%	55.5%	55.4%	58.9%	65.9%	45.1%	55.3%	-0.1%
SE	-	-	51.5%	53.7%	58.3%	55.0%	67.3%	65.1%	63.1%	61.2%	1.0%
UK	70.1%	69.6%	76.0%	-	73.3%	76.7%	75.0%	80.9%	75.4%	76.1%	0.7%
Total	59.9%	60.9%	60.6%	58.1%	61.9%	64.3%	67.0%	67.0%	65.1%	65.4%	1.1%

Source: Eurostat, LSF 2006

Table 13 Unemployment rates of population with high education, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	4.0%	4.3%	3.8%	3.9%	3.7%	2.7%	3.1%	3.5%	3.8%	3.7%	4.0%
DK	5.1%	3.9%	3.4%	3.4%	3.0%	2.6%	3.5%	3.7%	4.8%	4.1%	5.1%
DE	5.0%	5.3%	5.8%	-	5.1%	4.3%	4.2%	4.3%	5.0%	5.5%	5.0%
IE	5.0%	4.8%	4.2%	-	2.2%	1.8%	1.7%	2.3%	2.7%	2.3%	5.0%
EL	6.7%	6.9%	6.7%	7.4%	8.8%	8.1%	7.7%	7.2%	6.8%	7.9%	6.7%
ES	17.9%	17.2%	16.3%	15.4%	12.8%	10.9%	7.9%	8.8%	8.3%	8.3%	17.9%
FR	7.4%	7.4%	7.5%	7.3%	6.9%	5.6%	4.9%	5.5%	6.1%	6.8%	7.4%
LU	1.3%	1.0%	1.2%	-	1.1%	1.2%	1.4%	1.7%	4.3%	3.9%	1.3%
NL	-	4.3%	3.7%	2.1%	1.7%	1.7%	1.6%	1.7%	2.4%	2.9%	-
AT	2.3%	2.9%	2.8%	2.3%	2.2%	2.3%	1.9%	1.8%	2.4%	3.0%	2.3%

PT	4.1%	4.4%	3.0%	2.8%	3.4%	2.8%	2.6%	4.0%	5.4%	4.5%	4.1%
FI	7.4%	6.8%	6.0%	6.4%	4.9%	5.2%	4.3%	4.1%	4.2%	4.9%	7.4%
SE	4.0%	4.5%	4.5%	4.5%	3.9%	3.0%	2.3%	2.7%	3.5%	4.0%	4.0%
UK	4.4%	4.2%	3.4%	-	3.0%	2.5%	2.2%	2.6%	2.5%	2.4%	4.4%
Total	6.7%	6.7%	6.5%	7.9%	5.6%	4.8%	4.1%	4.6%	4.9%	5.1%	6.7%

Source: Eurostat, LSF 2006

Table 14 Unemployment rates of nationals and EU nationals population with high education, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	3.7%	4.0%	3.7%	3.7%	3.5%	2.4%	2.8%	3.1%	3.4%	3.4%	-0.7%
DK	5.0%	3.8%	3.3%	3.4%	3.0%	2.5%	3.4%	3.6%	4.4%	3.9%	5.1%
DE	4.5%	4.9%	5.3%	-	4.7%	4.0%	3.9%	4.0%	4.6%	5.0%	1.0%
IE	-	-	-	-	2.2%	1.7%	1.6%	2.2%	2.6%	2.2%	0.3%
EL	6.5%	6.8%	6.5%	7.1%	8.5%	8.2%	7.6%	7.0%	6.7%	7.8%	-1.8%
ES	17.8%	17.2%	16.2%	15.4%	12.8%	10.8%	7.7%	8.6%	8.0%	8.0%	-9.1%
FR	7.1%	7.0%	7.1%	7.0%	6.5%	5.3%	4.5%	5.2%	5.8%	6.3%	-0.4%
LU	1.2%	1.1%	1.0%	-	0.8%	1.1%	1.1%	1.2%	3.9%	3.7%	35.4%
NL	-	-	-	-	1.6%	1.6%	1.5%	1.7%	2.2%	2.7%	10.8%
AT	2.2%	2.6%	2.5%	2.1%	2.0%	2.1%	1.7%	1.6%	2.2%	2.8%	7.3%
PT	-	-	-	-	3.3%	2.6%	2.6%	3.9%	5.3%	4.4%	5.8%
FI	7.4%	6.6%	5.8%	5.9%	4.6%	5.1%	4.2%	3.9%	4.1%	4.7%	0.1%
SE	-	-	4.0%	3.9%	3.4%	2.6%	2.0%	2.5%	3.1%	3.6%	1.1%
UK	4.3%	4.1%	3.3%	-	2.8%	2.5%	2.1%	2.6%	2.5%	2.3%	-4.4%
Total	6.6%	6.7%	6.4%	8.5%	5.4%	4.6%	3.9%	4.4%	4.6%	4.8%	-2.3%

Source: Eurostat, LSF 2006

Table 15 Unemployment rates of non-EU nationals population with high education, as percentage of relative population, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average annual Growth Rate (1999-2004)
BE	25.7%	20.0%	16.7%	17.1%	22.7%	14.9%	22.8%	23.3%	26.8%	18.8%	-3.7%
DK	16.6%	13.5%	11.6%	4.9%	4.4%	14.3%	9.1%	12.2%	21.6%	11.6%	21.4%
DE	19.6%	20.2%	21.6%	-	15.8%	14.6%	13.0%	13.5%	17.1%	19.3%	4.1%
IE	-	-	-	-	5.4%	3.1%	2.9%	2.4%	5.4%	5.7%	1.2%
EL	19.3%	14.2%	16.7%	17.9%	18.2%	7.2%	10.5%	11.7%	12.5%	9.7%	-11.8%
ES	32.7%	20.5%	34.7%	15.1%	14.4%	16.2%	12.9%	13.8%	14.4%	14.9%	0.7%
FR	23.3%	22.3%	22.4%	18.5%	23.3%	18.7%	19.4%	18.7%	20.1%	28.2%	3.9%
LU	3.6%	0.0%	5.2%	-	8.9%	4.0%	7.3%	12.1%	11.3%	9.4%	1.2%
NL	-	-	-	-	10.2%	12.6%	6.0%	4.9%	17.8%	10.7%	0.9%
AT	2.5%	6.8%	6.1%	6.7%	6.4%	6.0%	4.8%	5.5%	6.8%	5.8%	-2.0%
PT	-	-	-	-	12.6%	13.2%	0.0%	8.2%	9.5%	9.8%	-4.8%
FI	0.0%	32.5%	33.2%	56.6%	28.9%	26.2%	21.1%	22.3%	23.4%	32.6%	2.4%
SE	-	-	26.1%	25.3%	23.7%	17.7%	10.0%	9.7%	16.1%	16.3%	-7.2%
UK	13.0%	10.0%	7.7%	-	8.6%	2.9%	8.7%	3.6%	3.3%	5.5%	-8.4%
Total	19.2%	18.0%	18.9%	18.3%	15.8%	12.4%	12.5%	11.6%	13.8%	15.0%	-1.0%

Source: Eurostat, LSF 2006

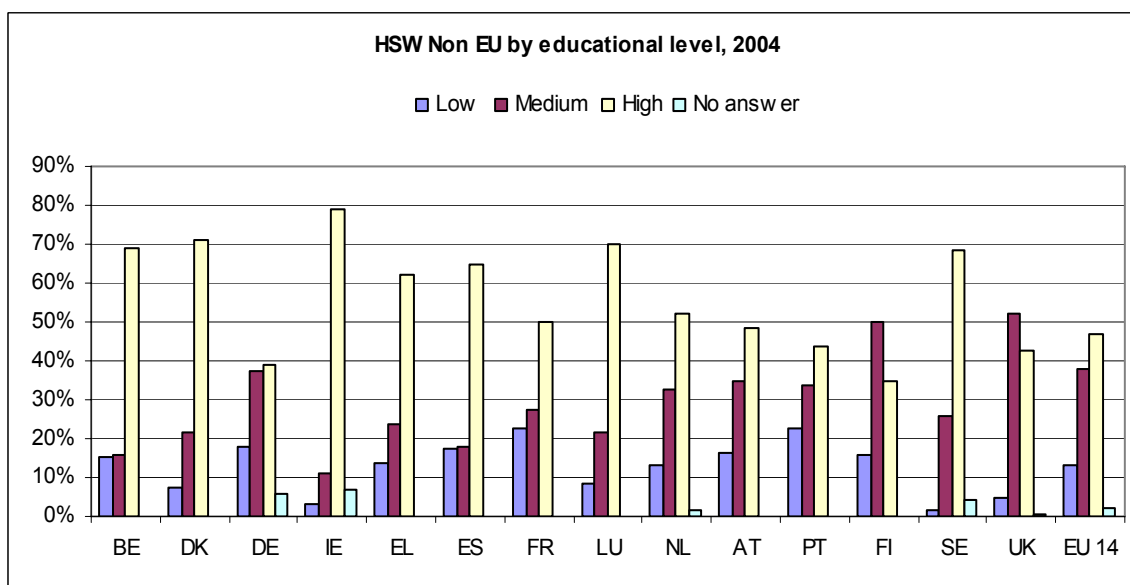
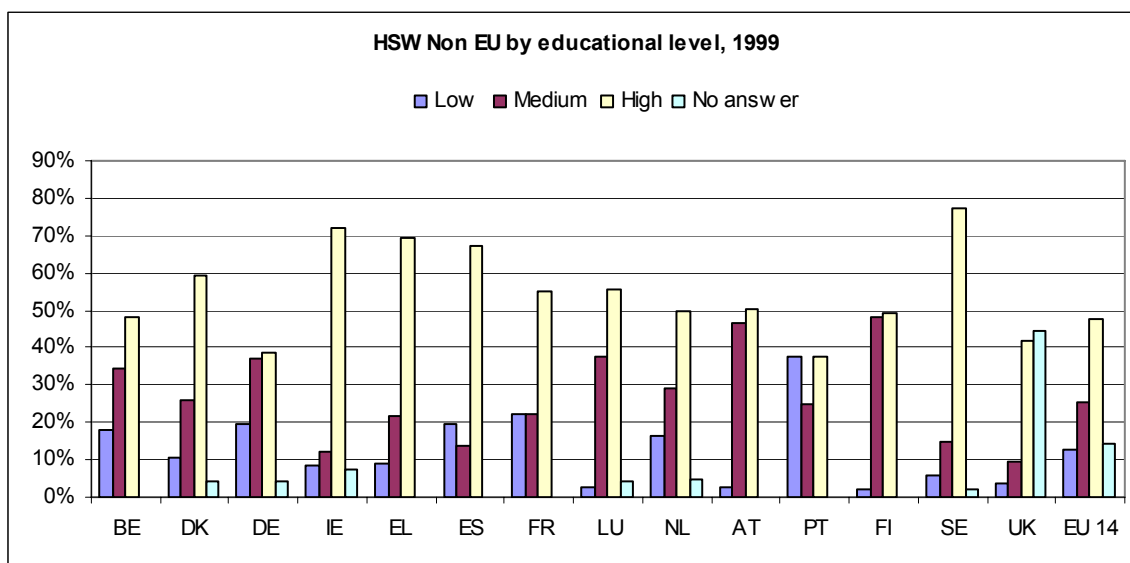
Table 16 Highly Skilled Workers non-EU nationals as percentage of total employed non-EU nationals, 1995-2004

MS	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
BE	21.9%	28.5%	25.3%	28.3%	22.7%	28.5%	24.8%	30.7%	23.3%	30.0%
DK	39.5%	28.5%	29.7%	32.6%	29.9%	29.3%	29.0%	29.8%	28.0%	29.2%
DE	16.1%	16.1%	16.1%	17.9%	19.0%	19.4%	19.1%	19.7%	20.5%	20.7%
IE	-	-	-	55.6%	55.4%	55.5%	40.3%	35.8%	33.4%	31.8%
EL	12.9%	11.6%	8.3%	5.7%	5.1%	7.3%	5.1%	5.6%	5.3%	5.3%
ES	27.0%	15.0%	16.2%	19.2%	18.2%	12.1%	13.5%	10.2%	8.2%	8.7%
FR	17.6%	18.6%	20.4%	19.3%	19.4%	18.1%	18.6%	19.7%	20.8%	18.5%
LU	25.5%	29.4%	26.6%	35.9%	28.6%	28.3%	29.3%	22.3%	36.2%	34.1%
NL	-	-	-	-	25.8%	19.3%	21.7%	27.4%	26.5%	24.9%
AT	10.9%	12.0%	10.0%	11.9%	9.3%	10.7%	13.0%	11.1%	13.3%	21.0%

PT	-	-	-	-	18.3%	15.0%	17.0%	15.6%	9.7%	12.2%
FI	0.0%	0.0%	38.3%	30.2%	35.5%	38.7%	37.1%	38.2%	33.2%	29.1%
SE	-	-	30.6%	25.6%	24.8%	23.6%	28.5%	31.2%	29.9%	28.9%
UK	42.5%	47.9%	44.4%	44.2%	45.1%	44.5%	45.0%	45.2%	46.6%	45.0%
Total	19.7%	20.2%	21.0%	22.0%	21.8%	21.8%	21.8%	21.8%	21.4%	21.3%

Source: Eurostat, LSF 2006

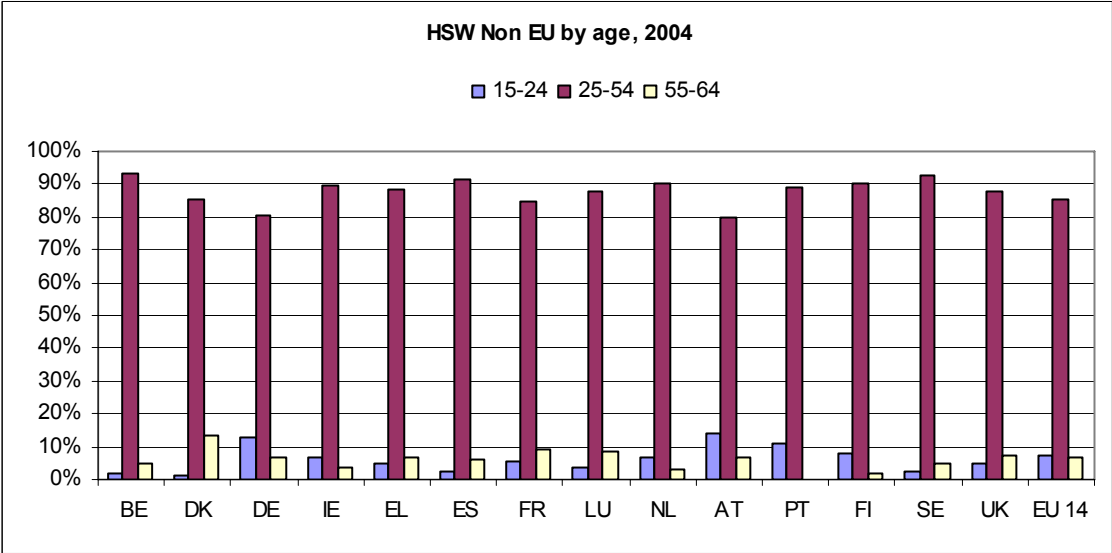
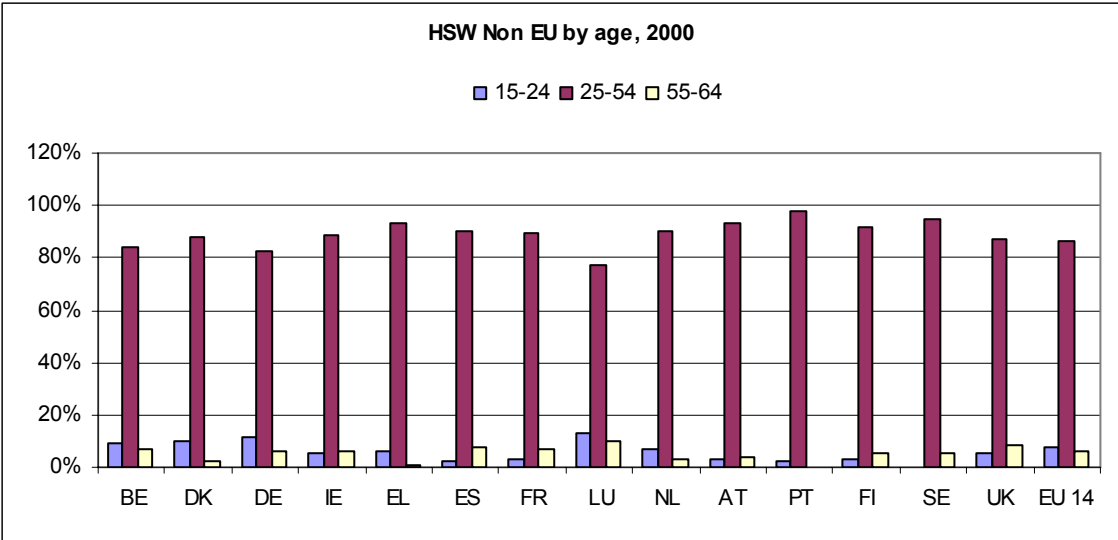
Figure 1 Composition of Highly Skilled Workers non-EU nationals by educational level⁸⁴, 1999-2004



Source: Eurostat, LSF 2006

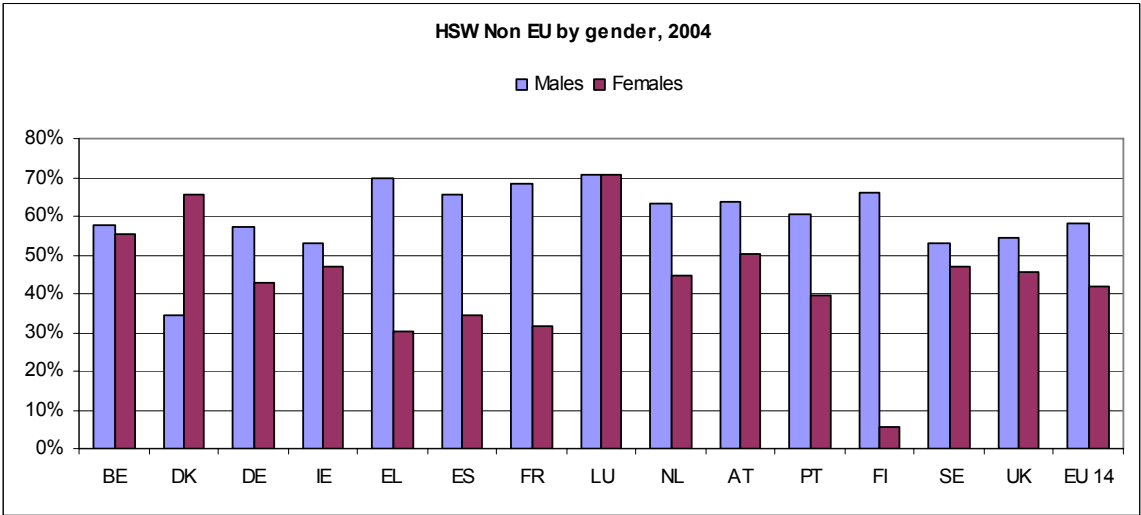
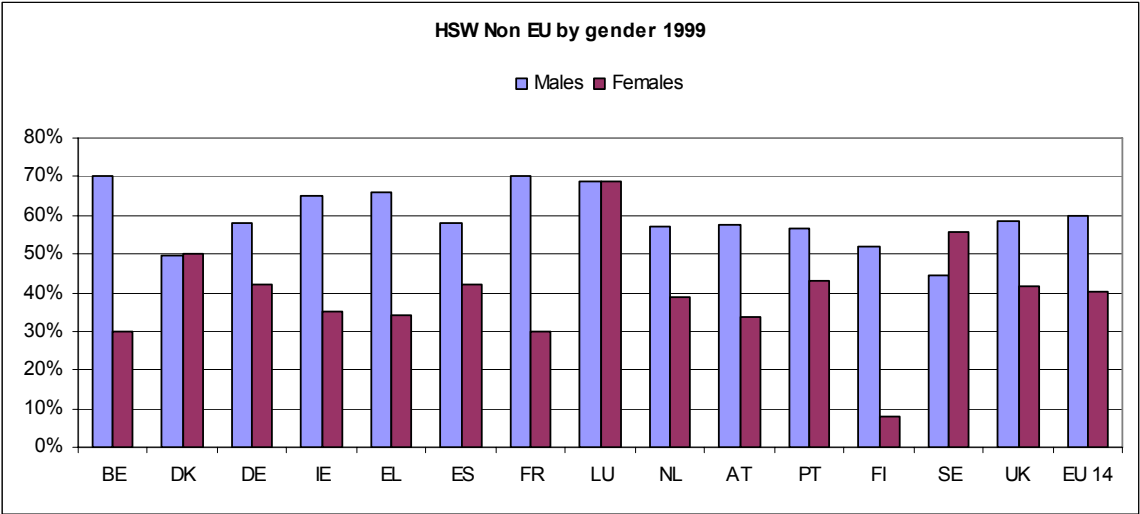
⁸⁴ According to ISCED classification.

Figure 2 Composition of Highly Skilled Workers non-EU nationals by age, 2000-2004



Source: Eurostat, LSF 2006

Figure 3 Composition of Highly Skilled Workers non-EU nationals by gender, 1999-2004.



Source: Eurostat, LSF 2006

Table 17 Distribution of foreign and national population aged 25 to 64 years, by level of education, 2002-2003

Countries	Less than upper secondary		Upper secondary		Tertiary level	
	Foreigners	Nationals	Foreigners	Nationals	Foreigners	Nationals
BE	52.3	37.8	25.7	33.5	22	28.7
DK	30.7	27.6	41.7	46.7	27.5	25.7
DE	47.1	13.6	38.2	62.4	14.7	24
EL	42.1	46.8	40.9	35.3	17	17.9
ES	43.3	58.3	28.5	17.2	28.2	24.6
FR	63.9	33.5	20.6	42.5	15.5	23.9
IE	21.3	40.1	28.6	35.4	50.1	24.5
LU	43.8	27.5	38	56.7	18.2	15.8
NL	43.7	31.9	31.5	43.3	24.8	24.9
AT	42.9	19.3	43.4	63.7	13.7	17
PT	55.4	79.1	28.1	11.1	16.6	9.8
FI	29.1	24.8	46	42.4	24.9	32.8
SE	23.7	18	45.4	55.5	30.9	26.5
UK	30.9	17.4	25.5	53.1	43.6	26.2
CZ	25.9	11.7	52.5	76.6	21.5	11.7
HU	20.2	27.4	52.6	58	27.2	14.5
SK	13.2	13.8	67.8	75	19	11.2
Average	37.0	31.1	38.5	47.6	24.4	21.2

Source: OECD/Sopemi, 2005

Table 18 Share of working age (15-67 years-old) foreign nationals in the country of residence relative to total working age population, 2005

%	Nationality		
	EU-15	EU-10	Non-EU-25
EU-10	0,1	0,1	0,6
EU-15	2,1	0,4	3,9
EU-25	1,7	0,3	3,3

Country of residence	In percentage	
	EU-25	Non-EU25
BE	6,2	2,3
BG		
CZ	0,2	0,3
DK	1,1	2,3
DE	3,6	3,8
EE		(18,0)
IE	4,7	2,4
EL	0,7	4,8
ES	1,4	7,1
FR	2,0	3,2
IT		
CY	5,9	6,3
LV		
LT		
LU	38,8	2,9
HU		(0,2)
MT		(1,2)
NL	1,4	2,0
AT	3,2	4,7
PL		
PT	0,5	2,5
RO		
SI		
SK		
FI	0,4	0,9
SE	2,4	3,0
UK	2,2	3,9
EU-10	0,2	0,6
EU-15	2,5	3,9
EU-25	2,0	3,3

Source, Eurostat, Labour Force Survey 2006

Note: data in brackets lack reliability due to small sample size

Table 19 Occupational structure of the employed working age population in the EU-15 Member States (in percent of all occupations)

Occupational Level*	2000			2005			
	Total employed ¹	EU-15 "Mobile" ²	Non-EU-15 "Mobile" ³	Total employed ¹	EU-15 "Mobile" ²	EU-10 "Mobile" ⁴	non-EU-15 "Mobile" ⁵
High-skilled non-manual	37	51	26	40	55	16	20
Low-skilled non-manual	27	26	24	26	24	28	25
Skilled manual	27	14	22	25	12	27	21
Elementary occupations	9	9	28	10	9	30	35

Source: Employment in Europe 2006, Data from Eurostat, LFS, spring results.

* Occupational level: The distributions of active persons by occupation are based on the classification ISCO 88-COM (groups 1 to 3 for high-skilled non-manual, 4 to 5 for low-skilled non-manual, 6 to 8 for skilled manual and 9 for elementary occupations).

1) Total employed aged 15 to 64

2) Employed EU-15 citizens aged 15 to 64 resident less than 5 years in another EU-15 country (except Italy)

3) Employed non-EU-15 citizens (incl. EU10 countries) aged 15 to 64 resident less than 5 years in an EU-15 country (except Italy)

4) Employed EU-10 citizens aged 15 to 64 resident less than 5 years in an EU-15 country (except Italy)

5) Employed non-EU-25 citizens aged 15 to 64 resident less than 5 years in an EU-15 country (except Italy)

Table 20: International Standard Classification of Occupations (ISCO) of the Immigrant Population with Country of Birth Known residing in the EU15 in 2006

EU 15 (thousands)	EU15-Immigrants	EU10-Immigrants	EU2-Immigrants	CandCountries	Africa	USA, Canada, Australia	Latin America-Carriben	Asia	Total
Skilled non-manual	1263.1	150.8	78.6	76.7	638.1	298.7	184.2	524.4	3214.5
Low skilled non-manual	621.2	148.7	150.9	80.2	464.6	81.9	181.2	400.5	2129.4
Skilled manual	594.5	148.8	317.6	178.5	566.0	44.6	124.1	237.4	2211.4
Elementary occupations	330.2	164.8	283.6	98.8	481.5	17.5	87.9	244.7	1709.0
Armed forces	11.6	(0.8)	(0.3)	(0.2)	3.6	8.6	(0.8)	3.3	29.0
Total	2820.6	614.0	831.0	434.4	2153.7	451.3	578.2	1410.2	9293.4

%	EU15-Immigrants	EU10-Immigrants	EU2-Immigrants	CandCountries	Africa	USA, Canada, Australia	Latin America-Carriben	Asia	Total
Skilled non-manual	44.8	24.6	9.5	17.7	29.6	66.2	31.9	37.2	34.6
Low skilled non-manual	22.0	24.2	18.2	18.5	21.6	18.2	31.3	28.4	22.9
Skilled manual	21.1	24.2	38.2	41.1	26.3	9.9	21.5	16.8	23.8
Elementary occupations	11.7	26.8	34.1	22.8	22.4	3.9	15.2	17.4	18.4
Armed forces	0.4	(0.1)	(0.0)	(0.0)	0.2	1.9	(0.1)	0.2	0.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

	EU15-Immigrants	EU10-Immigrants	EU2-Immigrants	CandCountries	Africa	USA, Canada, Australia	Latin America-Carriben	Asia	Total
Absolute value									
Skilled non-manual	1263.1	150.8	78.6	76.7	638.1	298.7	184.2	524.4	3214.5
% on total Skilled non-manual									
Skilled non-manual	39.3	4.7	2.4	2.4	19.8	9.3	5.7	16.3	100.0

Source: LSF 2006

Data in brackets lack reliability due to small sample size.

N.B.: this table refers to the origin of the non-national workers legally residing in one Member State of the EU-15 (EU mobile workers and third-country workers).

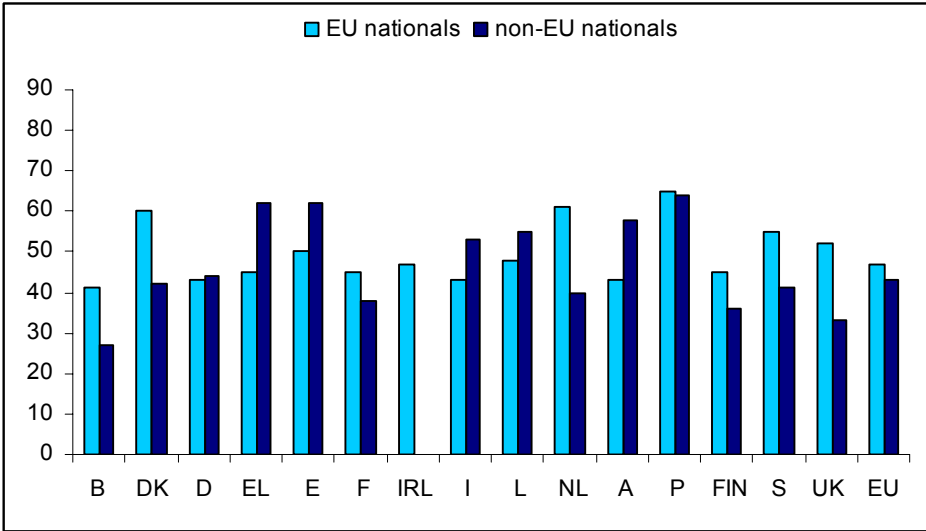
Table 21: Foreign workers by professional skills and nationality of origin in EU 25 in 2005

Nationality of Origin Known	Skilled foreign workers (ISCO categories 1, 2 and 3) (%)	Medium/Low skilled foreign workers (ISCO categories 4, 5, 6, 7, 8 and 9) (%)	Total foreign workers
Central and Eastern Europe	0.39%	0.98%	0.90%
Other Europe	0.48%	0.25%	0.28%
Northern Africa	0.48%	0.21%	0.25%
Other Africa	43.39%	25.69%	27.92%
Northern America	0.11%	0.00%	0.02%
Central America and Caribbean	8.54%	6.54%	6.80%
South America	25.89%	59.17%	54.97%
Eastern Asia	1.30%	0.28%	0.41%
Western Asia	2.90%	0.78%	1.05%
Southern and South Eastern Asia	15.59%	5.84%	7.07%
Australia, Oceania and other territories	0.76%	0.13%	0.21%
Other and stateless	0.16%	0.12%	0.13%
Total	100.00%	100.00%	100.00%

Source: LSF 2006

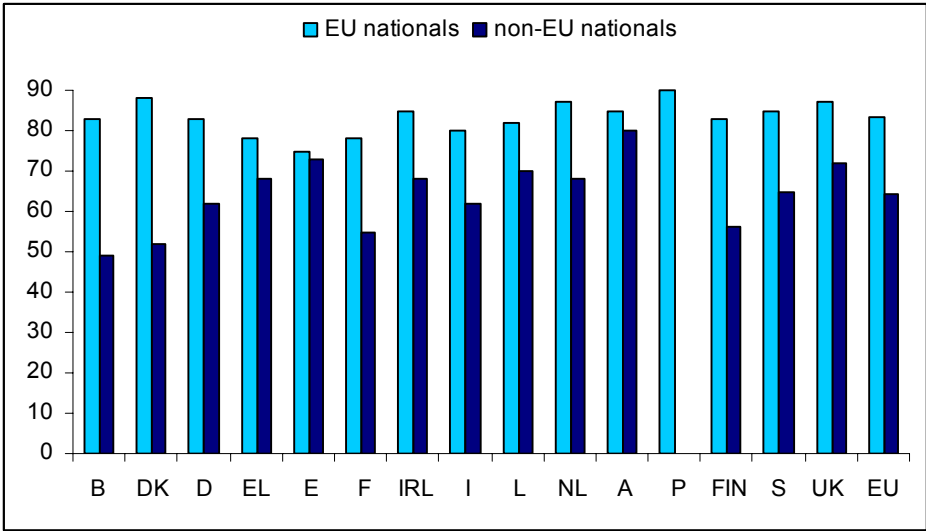
The nationalities of origin are aggregated into broad groups of citizenship according to the codification of countries to be found in the “EU LFS database user guide” (http://circa.europa.eu/irc/dsis/employment/info/data/lfsuserguide/eulfs_database_userguide_2006.pdf).

Figure 4: Employment rate of high skilled EU and non-EU nationals in 2001 (% of their working age population, 15-64 years)



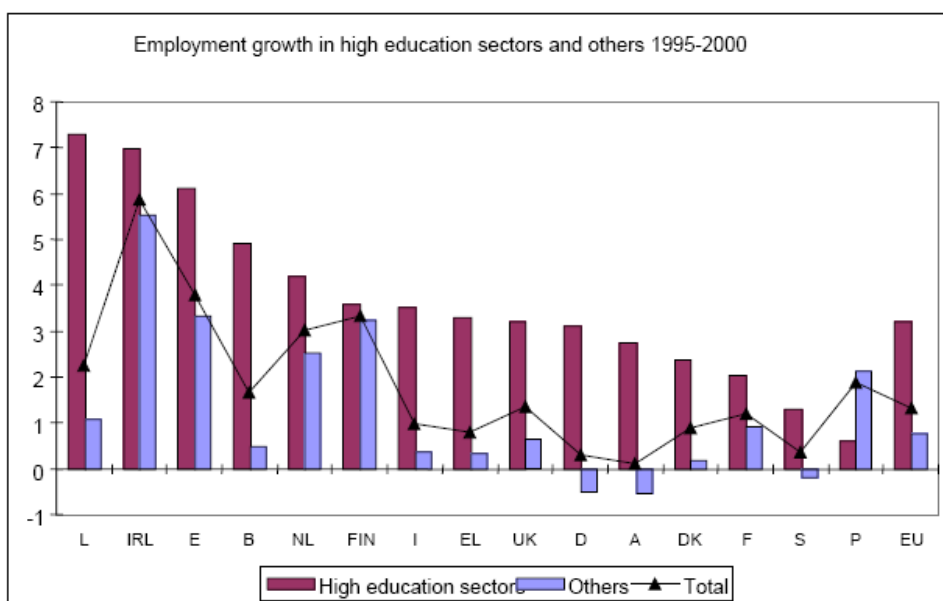
Source: LSF, Eurostat

Figure 5 Employment rate of low skilled EU and non-EU nationals in 2001 (% of their working age population, 15-64 years)



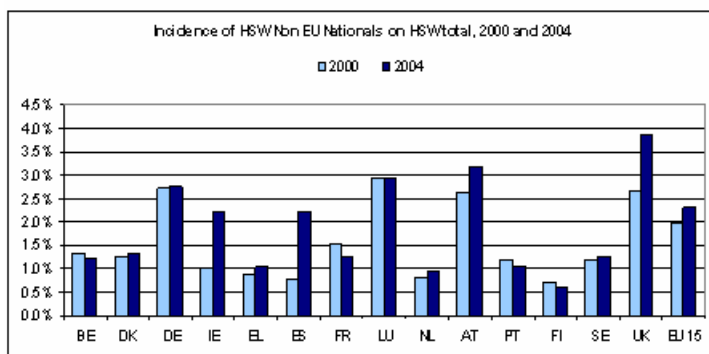
Source: LSF, Eurostat

Figure 6: Employment growth in high education sectors and others, 1995-2000



Source: Eurostat, LSF

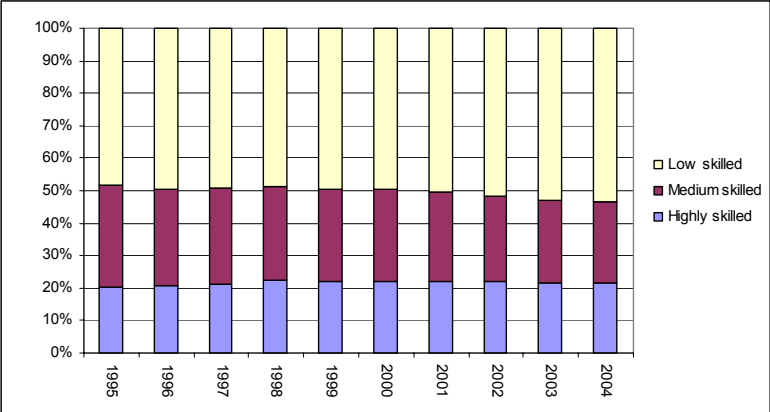
Figure 7: Incidence of HSW non-EU Nationals on total HSW in EU 15⁸⁵ (ISCO categories 1, 2 and 3), comparison 2000 and 2004



Source: Eurostat, LSF 2006

⁸⁵ Italy is excluded due to the lack of labour forces data broken-down on the basis of nationality.

Figure 8: Occupational employment structure of non-EU nationals in the EU 15⁸⁶; between 1995 and 2004 (% of total employment 15-64)⁸⁷



⁸⁶ Italy excluded.

⁸⁷ High skilled: ISCO 1,2 and 3; Medium skilled: ISCO 4, 6 and 7; Low skilled: ISCO 5, 8 and 9.

ANNEX II: PROBLEM ASSESSMENT ON SOCIO-ECONOMIC PERSPECTIVE

Prepared by the external study

EU economic immigration and inflow of highly skilled migrants: scale of the issue

In the context of the global economy the issue of migration already has, and continues to increase, its relevance on the global policy agenda. Countries and international organizations increasingly perceive migration as a phenomenon which can have substantial positive impacts in development terms, provided that appropriate policies are in place. The migration and development nexus is indeed one of the central issues being examined by the Global Commission on International Migration (GCIM), and the ‘High Level Dialogue on Migration and Development’ of 2006 in the framework of the General Assembly of the United Nations was further evidence of the importance of this debate.

Concerning EU, the Commission⁸⁸ strongly recognized that the «zero» immigration policies of the past 30 years are no longer appropriate since large numbers of third country nationals have entered the Union in recent years. During the 1990s, positive net migration became a large component of population change in most Member States and net migration rate increased from the 2.6 per mil of European population in 1990 to 3.3 per mil in 2002⁸⁹. Moreover, these migratory pressures are continuing with an accompanying increase in illegal immigration, smuggling and trafficking.

Also, as a result of growing shortages of labour at both skilled and unskilled levels, a number of Member States have already begun to actively recruit third country nationals from outside the Union, with a significant consequence also with respect to the typology of migrants entering EU⁹⁰. It is interesting to note that the immigration for the purpose of paid employment seems currently the main component of EU immigration. The last available data (2003) for 11 European countries shows that more than 44% of permits (919,974) have been issued for the purpose of employment, whereas the second reason of immigration is represented by the “family reunification” (the last is an immigration component strongly dependent by the one of paid employment). Thus, immigration in EU for the purpose of paid employment is clearly a relevant issue.

⁸⁸ Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy - COM(2000) 757.

⁸⁹ See Statistical Appendix, Table 1.

⁹⁰ High level Task Force on skills and mobility, Final Report, December 2001.

Figure 1 Number of residence permits issued and reasons for issuance⁹¹, 2003



Source: Annual Report on Asylum and Migration (2003), elaboration on Eurostat data.

Within the general framework of economic migration, specific attention has to be paid to Highly Skilled Workers (HSW) from third countries. With this view, it must be specified that estimating the number of immigrants entering EU who should be considered as HSW is not straightforward, due to the limitations in data availability, the different approaches used and the lack of a common definition of HSW among EU Member States (MS). In particular, reference is made to three main information sources: (i) the EU Policy Plan on Legal Migration; (ii) the main available surveys carried out at MS level⁹² (iii) Eurostat data on residence and work permits issued in 2005, collected on a pilot basis.

According to the estimates reported by the EU Policy Plan on Legal Migration, the 2003 EU25 inflow of third countries HSW was 74,300 (11.7% of total work permit issued in EU25)⁹³. It is worth noting that such estimates were based on the assumption that the “professionals with work permits” can in most cases be equated to “highly skilled” professionals.

On the basis of the existing surveys at MS level, it is possible to obtain more up-to-date and detailed data⁹⁴: in the 14 MS concerned, a total of 34,219 work permits were issued for HSW in 2005. Moreover, with reference to the 6 MS for which information on the total number of

⁹¹ Seasonal workers are excluded.

⁹² We refer to two distinct sources: (i) the results of a questionnaire on the admission of third-country HSW in the Member States (MIGRAPOL 120) which was circulated by DG JLS in 2006; (ii) the Small Scale Study III on "Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU" which were carried out by ten National Contact Points (Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden and The Netherlands) of the European Migration Network (EMN).

⁹³ See Statistical Appendix, Table 3.

⁹⁴ See Statistical Appendix, Table 4.

work permits issued in 2005 is available⁹⁵, the share of work permits for HSW appears to be 3.6% of total work permits.

Overall, this data stresses the relevance of economic immigration at EU level and the immigration of HSW assumes a particular significance in the EU context. It is worth noting that in March 2000, the EU launched the so called Lisbon Strategy, setting itself a goal: “to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion”. Following the revision of the Lisbon Strategy endorsed by the European Council in 2005, the European Commission introduced a Lisbon Action Plan that outlines the actions to be taken at EU and at national level according to one set of Integrated Guidelines for growth and jobs (2005-2008). Among the integrated guidelines, Guideline 19 is of particular relevance for economic immigration: “Improve matching of labour market needs through (...) appropriate management of economic migration”.

In view of the above, it is clear that the Lisbon Agenda explicitly recognises that an appropriate management of economic immigration is an essential element of the EU strategy for competitiveness. With this view, attracting highly skilled human resources is one of the main challenges for the EU labour market for the next years/decades, given their potential contribution to EU economic growth, productivity and innovation development.

Box: The demographic ageing and the challenge of economic immigration

The role of economic immigration assumes even more significance in the context of demographic ageing which European countries are already experiencing and are expected to face in the next decades. Indeed, as a consequence of interactive demographic trends, it is expected that the total population of EU-25 will fall slightly, but will become much older in 2050. In economic terms, the main change will involve the size of the working-age population (15-64 years), which will decrease by 48 million between now and 2050. As a consequence, the dependency ratio (the number of people aged 65 years and above relative to those aged from 15 to 64) is set to double and reach 51% by 2050, which means that the EU will change from having four to only two people of working age for each citizen aged 65 and above⁹⁶.

This ageing of the EU population could have relevant implications on socio economic development: apart from the direct effect on pension systems (an increasing difficulty to finance pensions through employment growth should be expected), the stagnation and decline of working age population will substantially affect the potential of economic growth as a whole as it may become a limiting factor for GDP growth. Indeed, unless the fall in the volume of employment is compensated through higher net immigration inflows, in a context of shrinking the EU working age population, higher productivity growth will be necessary in order to maintain the same level of GDP growth in the long period⁹⁷.

On the whole, this evidence, as well as further elements confirmed by the literature on this issue, suggest some preliminary remarks. The demographic ageing could call for the attraction of more economic immigrants in the future in order to compensate trend of EU population; at the same time, a skilled and adaptable labour force could be increasingly crucial in order to achieve higher level of productivity.

⁹⁵ The total number of work permits issued has been calculated with reference to the Eurostat data 2005, collected on the basis of a pilot collection. In some cases, the data from MIGRAPOL 120 has been used.

⁹⁶ COM(2006) 571. See also Statistical Appendix, Table 2.

⁹⁷ C. Fotakis and G. Coomans, “Demographic ageing, migration and the challenge for growth and labour market sustainability” - The Economic and social aspects of migration, conference jointly organized by European Commission and OECD, January 2003.

The relevance of Highly Skilled Workers in EU labour market

The recent and current patterns of employment within the EU suggest the growing needs for HSW in the European labour market. In fact, both the current differentials in employment rates according to educational/skill levels and the recent developments in employment confirm that highly qualified workers are definitely more in demand.

Several elements seem relevant to highlight this trend:

- Between 1996 and 2003 employment increased by 1.4 %, but performance increased together with educational attainments: employment of people with a high level of educational attainments increased by 2.9% (double of the total average), while it was simply negative for people with lower education (- 3.3%) .
- Between 1995 and 2000, employment growth in high-education sectors (i.e. sectors with at least 40 % of their workforce having attained higher education level) as, for example, manufacture of office machinery and equipment, computer and related activities, education, health and social work, or activities of membership organizations, was 3% per year as compared to 1% in other sectors.
- Between 2000 and 2005 the occupational structure of the employed population in EU has changed significantly, on behalf of high-skilled non-manual workers (i.e. “legislators, senior officials and managers”, “professionals” and “technicians and associate professionals”, according to the ISCO 88 classification of occupations). In particular, in 2005 the occupational structure of the employed population in EU 25 was broadly composed of approximately 38.7% of total employment in high-skilled non-manual occupations. Moreover, compared to 2000, there has been approximately a 3 percentage point increase in the share of employment in high-skilled non-manual occupations, i.e. the most significant increase compared to the other occupational groups. The increase has been particularly significant in some MS, such as Austria, Portugal, Greece and Luxembourg.

Another key element, which substantially calls for an increase in the supply of HSW, relates to the current and estimated labour and skills shortages within EU. Presently, in several EU MS, employers have already started to experience difficulties in filling vacant positions and, overall, concerns about the availability of labour on domestic markets are growing.

The recent trends in employment and unemployment rates in EU can partly explain the current shortages in the labour market as well as the estimated developments in employment patterns may increase the labour and skills shortages in the near future.

With regard to this issue, in the EU, people with high educational attainments have actually reached high employment rates. This is particularly evident in EU 15, where the employment rate of highly educated people was 82.5% in 2004. Moreover, in several MS, the high employment rates recorded for people with high education are associated with low unemployment rates for the same categories. This is particularly the case of United Kingdom, Nederland, Ireland. In all these MS, in 2004, employment rates at high education level were quite above the EU average; at the same time, the unemployment rates for people with high education were below 3% . This evidence may suggest a further tightness of the internal labour markets and rising labour and skills shortages in the future.

However, it is worth noting that labour shortages and high unemployment rates can co-exist in the labour market. In fact, other MS are currently experiencing high unemployment rates, also among people with a high education level (this is the case for both Greece and Germany, which recorded unemployment rates among highly educated people greater than 5% in 2004, or Sweden, where unemployment rate was recorded equal to 4.7%) . Nevertheless, many of these MS are currently reporting relevant labour and skills shortages in highly qualified occupations.

More specifically, the table below summarizes the findings of the investigations at the MS level (see the Box below) and, for the selected MS, highlights the sectors where the HSW are more in demand. Overall, it appears that the most widespread are the shortages of highly qualified workers in IT, employees in the health sector, as well as engineers and teachers.

Table 1 Summary of shortages in the higher skill segment in selected MS

<i>MS</i>	<i>Most widespread shortages in the higher skill segment</i>
Austria	Job vacancies generally underreported, but shortages are especially recorded in the small and medium sized private enterprises (SME)
Belgium	Commercial and managerial/executive positions, Information Technology specialists.
Estonia	Pharmaceuticals industry, production sector (metal products), machinery and equipment, transport, storage and communication sector, health and social sector, construction sectors.
Germany	Pharmaceutical industry, companies specialising in mechanical engineering and vehicle construction.
Ireland	Engineering, Information Technology, Pharmaceuticals, Healthcare.
Netherlands	Technicians and associate professionals (ISCO Major Group 3), professionals (ISCO Major Group 2)
Sweden	Healthcare and education sectors
United Kingdom	Skilled Trades and at the Professional and Managerial levels.
EU	Engineering, Information Technology, Pharmaceuticals, Healthcare, other Production sector.

In the following Section, a short focus on each MS is presented

Current and estimated shortages of HSW in selected EU MS

The following is an investigation of the national perspectives with reference to current and estimated skills shortages of high qualified personnel in several MS, as estimated in national surveys carried out at the MS level⁹⁸.

⁹⁸ The present analysis, however, is based on the “Small Scale Studies”, mentioned above.

Austria

According to the results of a pilot employer survey of job openings, in 2004, **unemployment rates of wage and salary earners were around 7% on average compared to a job vacancy rate of 1.6%**. With regard to the **higher skilled segments (postsecondary education), both unemployment and vacancy rates are quite below average**. On the contrary, unemployment and vacancy rates were about double the average rate for unskilled workers and workers with trade skills. Although this evidence may be surprising, two elements should be considered:

-In the higher skill segment, employers tend not to inform the Labour Market Service about their job openings, thus, job openings registered with the LMS are not a good indicator of labour scarcities in the higher skill segment.

- For highly skilled personnel, **lower employment turnover** generally takes place, since they tend to have either firm specific skills or are integrated in an internal labour market with hardly any entry/exit ports.

However, the majority of vacancies in Austria were recorded in the small and medium sized private enterprises (SME).

Belgium

The Belgian public employment services generally use data on job vacancies to understand the possible mismatch/changes in supply and demand for labour. According to the most recent estimates⁹⁹, some highly skilled professions are mentioned in each of the three Belgian regions as “**bottleneck professions**”, for qualitative and quantitative reasons: **engineers, qualified technicians, IT specialists and commercial and managerial/executive positions**. This data is confirmed by evidence characterizing the immigration trends in the last years. For example, Indian IT specialists are continuously on the rise and in 2005 they already represented more than a quarter of the total number of highly skilled workers from outside the EU.

At the same time, the outflows of highly skilled nationals seem to cause concerns. No official figures appear to be available, but an indication is the share of highly-qualified people in the group of Belgian nationals living and working in the USA (around 26%).

Germany

Several studies suggest a growing need for highly qualified resources in the coming years¹⁰⁰, whereas analyses of current labour market trends provide information on the current demand as well as on future trends.

⁹⁹ Each of the three Belgian regions publishes, on an annual, basis a report on identified labour market bottlenecks. The information from those reports can be used to tailor individual counselling and training for jobseekers, but it should be noted that none of the initiatives are specifically oriented to high skilled professions.

¹⁰⁰ Estimations about the long-term labour demand in Germany are conducted on the basis of the IAB/Prognos model or IAB/INFORGE labour marked projections. Moreover, the Federal And State Government Commission on educational planning and research promotion (BLK) has provided projections of the labour marked supply and demand since 1978. These analyses are also based on the IAB/Prognos projections and are carried out every five years. In its latest projection, published in 2002,

According to the data of Federal Labour Agency, in 2005, a total of **44,102 vacancies** were recorded for occupation in **ISCO categories 1, 2 and 3**. On the whole, some categories of HSW seem to be in particular demand: entrepreneurs and certified accountants (ISCO 1), which account for 11% of the total vacancies in HS occupations; engineers, teachers, medical doctors and pharmacists (ISCO 2), the 33% of vacancies; other health associated professionals and technicians (ISCO 3), constitute 33% of vacancies.

Moreover, according to a survey carried out by the Association of German Chambers of Industry and Commerce (DIHK) in 2005, 16 % of the companies surveyed reported that they were unable to fill all job vacancies. Concerning the economic sectors, the **pharmaceutical industry** is facing the greatest difficulties in filling vacancies, with 30 % of the companies surveyed complaining about a shortage of highly qualified personnel. Similar shortages – of around 25 % - have been reported by **companies specialising in mechanical engineering and vehicle construction** (DIHK 2005).

Estonia

With regard to the Estonian position, widespread vacancies of highly qualified workers are reported and further need for HSW can be envisaged.

First, **comparing the vacancies in 2004 and 2005**, there is an important growth in almost all the professional groups. However an **exceptionally large growth has happened among some professional groups of highly-skilled (i.e. among ISCO 1, 2 and 3 Major Groups)**: legislators and senior officers (466%), very high also in the group of managers of small enterprises (89%), life science and health professionals (94%) and physical and engineering science associate professionals (80%).

Furthermore, recent research of the Estonian Ministry of Economics and Communication “Labour demand prognosis until 2012” details the estimated numbers of the labour demand in economic sectors until 2012. Some remarks are extracted below:

- Many companies are in need of implementing **new innovations** that would increase the productivity, so that **more specialists and skilled workers are needed and less unskilled labour**.

- Among all the sectors, **foreign specialists and skilled workers could be needed** especially in **production sector**, such as in **the manufacture of basic metals and fabricated metal products**, of **machinery and equipment**, of **transport equipment**. Foreign labour may also be needed in the **transport, storage and communication sector, health and social work, and in the construction sectors**.

Ireland

Following the economic boom of the last two decades, a dramatic increase in employment has taken place, and several studies have found that continued non-EU immigration will be required to meet some high skill needs¹⁰¹.

the BLK has reached the conclusion that demand for good and highly qualified labour will increase significantly (BLK 2002: 88ff.).

¹⁰¹ Expert Group on Future Skills Needs, “Skills Needs in the Irish Economy: the Role of Migration (2005)”.

Detailed information on skills shortages is provided in the National Skills Bulletin produced by the Skills and Labour Market Research Unit (SLMRU). In summary, in 2005, the SLMRU identified skill shortages of qualified personnel in the following sectors:

- **Construction:** occupations in which skills are in short supply include architects, civil engineers, planners, and quantity surveyors, as well as project managers and experienced site managers;
- **Financial:** a current shortage exists of accountants and tax experts, actuaries and financial analysts;
- **Engineering:** the current output of design and production engineers from the Irish education system is insufficient to meet the demand;
- **Information technology:** computer analysts/programmers;
- **Pharmaceuticals:** there is a significant shortage of chemical engineers;
- **Healthcare:** there are clear shortages in a number of healthcare occupations including medical practitioners and nurses;

Finally, the SLMRU identified also a shortage of integrated supply chain managers, despite a recently introduced new degree programme.

Netherlands

The risk of further relevant labour shortages seems to be a main issues for the Netherlands economic perspectives. According to the “Employment market forecast 2005-2010” (Centre for Work and Income), the number of jobs available will grow more quickly in the years to come than the size of the workforce. As a consequence, the predicted shortage of highly skilled workers will impede the development towards a knowledge economy.

To date, the number of outstanding vacancies by ISCO-88 Major Groups 1 - 3 at the end of the third quarter of 2004 amounted to 40,500. ***The higher percentage of shortages was in the groups of technicians and associate professionals (ISCO Major Group 3), accounting for 46% of total vacancies, and in the group of professionals (ISCO Major Group 2), representing 39% of total vacancies.***

Sweden

According to existing forecasts, there will be no general shortage of labour in the near future. However, currently there are shortages in certain occupations and sectors. Among highly skilled labour, the greatest imbalance can be seen in the ***healthcare and education sectors***. Also, in the manufacturing sector, there is a shortage of various types of technical skills.

Further statistical data show that in 2004 the unfilled vacancies were higher for ISCO 1, 2 and 3 Major Groups. In particular, the number of unfilled vacancies in Major Groups 1, 2 and 3 represented on average 0.26% of the total number of highly skilled workers employed; the same figure for the ISCO Major Groups 4, 5 and 6 was on average 0.13%.

United Kingdom

According to the latest employer surveys (NESS 2006, Future Skills Wales 2005, Skills in Scotland 2004, Northern Ireland Skills Monitoring Survey 2002), 4% of establishments (in England and Wales) reported having skills shortage vacancies. The surveys highlighted the fact that the more highly skilled occupations, in particular in the *Skilled Trades and at the Professional and Managerial levels*, were experiencing recruitment difficulties.

Moreover, forecasts of employment growth and decline suggested that *Managers and Senior Officials, Professional Occupations, Associate Professional and Technical Occupations* were likely to experience further recruitment difficulties in the future (Wilson et al 2004).

Overall, when combining the findings from the employer skills surveys and the forecast evidence, there are specific highly skilled occupations for which supply is finding it difficult to meet current demand and, unless there is a change, it is argued that it will be also difficult to meet future demand too. In this context, migrant labour has been highlighted as having a positive effect on the UK's productivity by filling shortages in specific occupations (Leitch, 2006).

Therefore, several countries are currently filling job vacancies on the internal labour market by looking to third countries immigrants. For example, particularly in UK and BE the immigrants have given a strong contribution to meet the labour market demand for qualified labour as well as to compensate the outflows of highly skilled nationals.

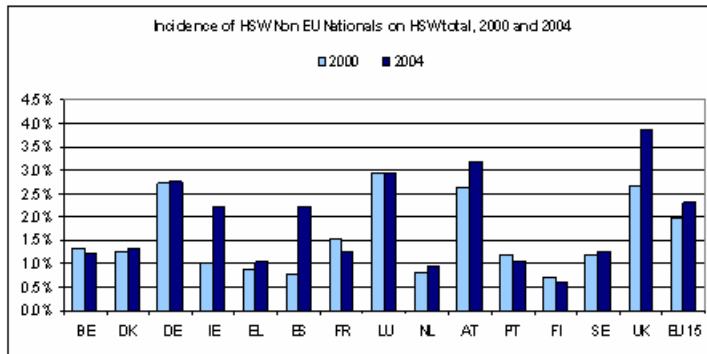
Further and indirect evidence of shortages related to highly qualified occupations is given by the present trend of geographic mobility in the EU labour market. As further detailed in the next section the mobility rates are definitively higher for the highly qualified resources, and the movement of HSW across borders is actually helping to prevent large mismatching between labour supply and labour demand at regional level.

In this scenario, the growing demand for highly qualified workers has increased the EU need for highly qualified workers from third countries, as shown by the incidence of third country nationals in the highly skilled occupations¹⁰², which is rapidly increasing in EU MS. In 2004, the share of non-EU nationals in total highly skilled employment was the 2.3% in EU 15; the same figure was only 1.8% in 1999. In some MS the increase has been particularly notable: in Ireland (+1.7%), United Kingdom (+1.6%), Spain (+1.3%) and Austria (+0.9%) - See the figure below.

Figure 2 Incidence of HSW non-EU Nationals on total HSW in EU 15¹⁰³ (ISCO categories 1, 2 and 3), comparison 2000 and 2004 (Source Eurostat, LFS 2006)

¹⁰² According to ISCO 88 classifications, we refer to the categories 1, 2 and 3.

¹⁰³ Italy is excluded due to the lack of labour forces data broken-down on the basis of nationality.



Furthermore, third country HSW incidence on total employment is growing with a higher rate if compared to the trend of HSW EU nationals. In particular, between 1999 and 2004, in EU 15, the share of HSW (ISCO categories 1, 2 and 3) coming from third countries as compared to total number of employed increased at an average annual growth rate of 4.8%. In the same period, the share of EU nationals employed in highly skilled occupations increased at an average annual growth rate of 0.8%. Moreover, in several MS the performance of HSW non-EU nationals has been particularly impressive. For example, in Austria, Greece, Portugal and the United Kingdom, in the period 1999-2004, the share of HSW non-EU nationals increased at an average annual growth rate of over 9%, whereas the growth rate for EU national HSW was significantly lower (from 3.7% in Austria to 0.1% in the United Kingdom).

This trend can be substantially explained by two elements which will be further investigated in the next sections, i.e. the growing demand for HSW in the EU labour market and, at the same time, the high employment rates of EU national HSW, close to full employment.

With regard to the socio-demographic characteristics of third-country HSW (employed in ISCO categories 1, 2 and 3) currently employed in the EU labour market, with reference to the 14 EU MS for which data is available, three remarks can be made:

- As it is expected, the majority of HSW non-EU nationals (47%) have high education attainments; in 2004, the educational level of non-EU national HSW was particularly high in such MS, as Ireland (79% have high education), Denmark (71%), Luxembourg (70%) and Belgium (69%).
- The majority of non-EU national HSW is concentrated in the age segment of between 25 and 54 (86%), and there has been no significant change in the recent years.
- An interesting trend deals with the gender composition of HSW non-EU nationals. In the 1999-2004 period, the share of HSW women non-EU nationals slightly increased, from 40% in 1999 to 42% in 2004. However, in several MS the annual growth rate of HSW women in the internal labour market has been particularly impressive. In Belgium, for example, the share of HSW women experienced an average annual growth rate of 85% between 1999 and 2004; notable performances were also recorded in Austria (with an average annual growth rate of 48%), Ireland (33.6%), Denmark (30.6%). Moreover, in Luxembourg the share of women who are non-EU nationals and are employed in highly skilled occupations is equivalent to their male counterparts, whereas in Denmark the women (71%) are substantially in the majority.

With reference to the origin of the HSW present in the EU labour market, by observing the data on the distribution of the professional categories of workers – Highly skilled workers, Medium/low skilled workers – per nationality of origin (see Table 21 in the statistical annex), the main aspects to be considered are the following ones:

- the more relevant quota of foreigners HSW working in EU in 2005 is from the aggregated geographic area “Other Africa”, which represents the 43,39% of the total number of HSW in EU in 2005. This data is more relevant if considering that “Other Africa” counts for the 25.69% of the total number of Medium/low skilled workers and for the 27.92% of the total foreign workers in EU: these values indicate that there is a preferential path of migration to EU for HSW from the mentioned geographic region;
- the other main geographic area of origin of migrant HSW to EU is “South America”, which weighs 25.89% upon the total of HSW in EU in 2005. But, in this case the situation is opposite to the one of “Other Africa”, since from South America originates the main quotas both of the Medium/low skilled foreign workers (59.17%) and of the total foreign workers (54.97%) in EU in 2005;
- the other main geographic areas of origin of foreigner HSW to EU are Southern and South Eastern Asia (15.59%) and Central America and Caribbean (8.54%). More specifically, between these two it seems significant to signal the performance of Southern and South Eastern Asia, which counts for the 15.59% of migrant HSW in EU with respect to the 5.84% and 7.07% respectively counted for Medium/low skilled foreign workers and Total foreign workers.

On the whole, the attraction of even more highly qualified immigrants will be needed in the EU development perspective. Further data and research confirm the significance of this challenge for the EU, by showing that the most intense labor and skills shortages that European Union will have to face in the next 20 years are expected to be in skilled and highly skilled occupations.

Estimates of future evolution predict that, along with Lisbon objectives, the number of jobs for people with tertiary level education is growing and suggest there will be higher potential employment growth for HSW in the coming years . Several factors suggest this trend:

- the growing importance of a knowledge - based economy;
- the structural change in the EU economy: growth of service sector and relative decrease in the employment share of the manufacturing and agricultural sectors;
- the delocalization of labour intensive production from the EU to countries with cheaper labour;
- the outflows of nationals (brain drain), which can have an important impact on skills composition where highly skilled workers leave because of more attractive business opportunity or research conditions in third countries.

Overall, what clearly emerges is that present and expected differentials in employment growth according to educational level, changes in occupational structure as well as structural changes of global economy are all factors that highlight the need for labor forces more and more qualified, as well as to offset the existing and arising skill shortages in the EU labour market.

On this basis, the importance of the mobilization of existing reserves and, particularly, the widening of a tertiary-educated and highly qualified labour supply in order to promote a knowledge-based economy and the future productivity growth appears to be continuously growing.

The role of intra-EU mobility and the contribution of immigration

A main element to be considered as influencing the capacity of the EU to face its existing and arising skill shortages is the fact that, at EU MS level, the migration flows of the HSW involve mainly EU nationals (i.e. the majority of migrant HSW entering the EU MS are native of other EU countries). In fact, according to the data for 2006 of the Labor Force Survey (LFS), the EU nationals “skilled non-manual workers” who moved to a Member State different from the one of nationality represented 46.4% of the total of “skilled non-manual” immigrants in EU-15. Apart from EU workers, the main regions of origin are Africa and Asia. (see Table 20 in the statistical annex).

This quite high mobility (in relative terms) between MS concerning HSW assumes a major significance if considering that on the whole the geographic mobility remains a relatively limited phenomenon in the EU, with geographic mobility taking place primarily among highly qualified workers. This statement is confirmed by two main pieces of evidence:

- annually only around 0.1% of the active working age population of the EU-15 have changed country of residence from one Member State to another every year since 2000 .
- in 2000, 51% of all EU-15 active mobile were highly skilled (i.e. according to ISCO categories classification). Furthermore, by 2005, the overall skill level of the EU-15 mobile had increased substantially as the share of highly skilled movers rose up to 55%.

This tendency is partially explained by the high educational level of the EU working age population: in the last decades the European population with secondary and tertiary educational level has increased and, in prospective terms, it is estimated that the number of people with low educational attainment will continue to decrease steadily, while the number of those with secondary or tertiary education will continue to increase for a while . This element, associated with the specific features of the EU economy (i.e. free movement of citizens and labour, the European monetary Union, etc.), succeeded in generating an overall tendency of the EU MS labor markets in attracting HSW mainly from other EU countries.

However, in the described context of the growing demand for highly qualified resources, the population trends as well as the employment trends within EU suggest that, in the future, EU MS can hardly rely exclusively on “internal” human resources. In other words, the intra-EU mobility, if limited to EU nationals, may not by itself offset the labour supply shortages, given that all European MS face similar problems of an ageing population .

It should be considered that presently highly skilled EU nationals have, on average, reached high employment rates, nearly close to full employment: with reference to EU 15, the overall employment rate of people with high educational attainments was the 82.7% in 2004. In particular, the employment rate was 83.2% for highly educated EU nationals, and this figure was particularly high for such MS as the United Kingdom (87.7%), Portugal (87.4%), Denmark (86.9%), Sweden (86.2%), the Netherlands (85.6%) .

In this scenario, two main aspects must be considered at EU level:

- the unused employment potential among third country nationals;
- the shortage of the mobilization of existing highly educated resources (EU and non-EU nationals) for matching the future skills and labour demand.

Concerning the first aspect, it must be specified that third country nationals, including those highly skilled, have much lower employment rates than EU nationals (and the gap is wider for women than for men); the employment rate of non-EU nationals with high educational attainments was only 65.4% in 2004. At the same time, over the last years, their unemployment rate has remained more than three times higher than the one for EU nationals, in the majority of the MS. With reference to EU 15, in 2004, the unemployment rate of highly educated non-EU nationals was 14.8%, versus 4.6% recorded for the same category of EU nationals.

With regard to the second aspect, it must be stressed instead that, due to the remarkable differences among MS, the mobilization of existing highly educated resources (EU and non-EU nationals) may not be sufficient for matching the future skills and labour demand, unless a further increase of highly qualified labour supply is pursued.

In fact, in several MS the employment rates of highly educated third country nationals are significantly above average and comparable to the employment rates of the EU nationals. This is the case of the United Kingdom (where the employment rate of Non-EU nationals was the 76% in 2004), Austria (80.6%), Portugal (79.9%), Greece (72.8%) . It is worth noting that in the above mentioned MS, unemployment rates of highly qualified EU nationals are quite low and above the EU 15 average.

Hence, the mobility of workers between occupation and across borders plays an important role in the pattern of EU development and growth, especially with regard to the allocation of HSW on the EU territory, from both point of view of the EU intra mobility and that of the attraction and accession of third country nationals.

With this view, on the whole, some remarks can be outlined:

- geographic mobility plays a primary role for improving labour market efficiency, preventing skills shortages and offsetting regional imbalances. In fact, a certain level of mobility on the part of the workers is an important mechanism for matching labour supply and labour demand;
- a greater labour force mobility, both within jobs (occupational mobility) and between countries (geographical mobility), can strongly contribute to the goal launched by the Lisbon European Council in 2000 ;
- it is clear that a better utilization of highly qualified resources coming from third countries should be enhanced;
- EU countries will therefore almost certainly find themselves obliged to look at third countries as a source of foreign labour, and to find ways of encouraging the mobility of workers with those sought after skills from outside Europe and attracting qualified migrants will be a crucial challenge;

- higher immigration inflows and, above all, the attraction of HSW play an increasingly important role in the EU development perspectives.

EU attractiveness for third country Highly Skilled Workers

Notwithstanding the increasing demand for highly qualified occupations in the EU labour market, the incidence of HSW non-EU nationals on the total of those employed is still quite low: in 2004, in EU 15, HSW non-EU nationals represented 0.9% of total employed (versus 38% recorded for HSW EU nationals)¹⁰⁴.

An important issue emerges from the previously mentioned observation of the data on immigration movements in EU as compared to other geographical regions: that is, the substantial difficulty for the EU in attracting HSW from third countries with respect to the main worldwide benchmarks. The available statistics show indeed that Australia, Canada and United States, if compared with the EU, appear to be particularly successful in attracting migrants, with a strong bias towards highly-skilled immigration.

In details, as shown by Table 3, in 2004 the percentage of those foreign born present in the EU¹⁰⁵ (8.41%) was far behind the ones for Canada (19.3%) and Australia (23%), while it was much closer to percentage of the US (12.3%)¹⁰⁶. Moreover, the EU lags behind also in comparison with Switzerland, which with a percentage of 22.4 performs worse only with respect to Australia in terms of the capacity to attract foreign born population.

But the EU situation appears to be much more difficult if the attention is focused on the percentage of highly skilled foreign born on the overall population. With respect to this indicator, the EU shows a very low performance with respect to the benchmarks analyzed, with a value of 1.72% that is almost six times inferior to that of the Australian case (9.9%). It is also lagging far behind the performance of all the other main immigration countries. Another aspect that can be highlighted is the differences in both the extent and the skill composition of migration among European countries, which are quite striking¹⁰⁷. Finally, only two of the EU countries presented in the Table below, namely Sweden and UK, show performances, even if lower, that are almost comparable to that of the US.

¹⁰⁴ See Statistical Appendix, Tables 8 and 7.

¹⁰⁵ EU is considered as formed by the countries presented in Table 1 in the text, the ones for which there were available data.

¹⁰⁶ Notice that, contrary to popular perception, the US share of high skilled foreign born is relatively low, as result of a large influx of low-skilled immigrants from Mexico.

¹⁰⁷ Germany, for example, in the period from 2002 to 2003, has attracted disproportionate numbers of low-skilled immigrants, consistent with its historically large guest worker programme, whereas English-speaking countries may have a distinct advantage in attracting high-skilled migrants, not least through their universities.

Table 2. International comparisons of the extent and skill composition of migration – 2004

Country	% Foreign born	% with tertiary education among:		High skilled Foreign born (% on total pop.)
		Nationals	Foreign born	
Poland	2.1	10.4	11.9	0.2
Spain	5.3	19.4	21.8	1.2
Portugal	6.3	7.7	19.3	1.2
Denmark	6.8	18.8	19.5	1.3
UK	8.3	20.1	34.8	2.9
France	10	16.9	18.1	1.8
Netherlands	10.1	19.5	17.6	1.8
Belgium	10.7	22.9	21.6	2.3
Sweden	12	22.8	24.2	2.9
Germany	12.5	19.5	15.5	1.9
<i>EU average</i>	<i>8.41</i>	<i>17.8</i>	<i>20.43</i>	<i>1.72</i>
US	12.3	26.9	25.9	3.2
Canada	19.3	31.5	38	7.3
Switzerland	22.4	18.1	23.7	5.3
Australia	23	38.6	42.9	9.9

Source: Bruegel Policy Brief 2006; Data from Dumont and Lemaître (2004)

Moreover, the difficulty in attracting highly skilled migrants is indirectly reflected also in the employment patterns which characterize the occupational structure of third country workers on European labour market. Specifically, as can be seen by the figure 8 of the Statistical Appendix, non-EU nationals in the 1995-2004 period tended to be more concentrated (53.0%) in low-skilled occupations (such as private household, hotels and restaurants), whose incidence increased by almost 6.0 % during the relevant period.

The issue of the specific factors influencing the difference between the EU and the other traditional countries of immigration in terms of capacity of attraction of HSW is a complex one, and it would require further investigation. However, some considerations can be pointed out.

First of all, a major aspect as previously mentioned is: the relevance of EU intra mobility as a driver of both the demand (i.e. efficient allocation of the human resources and improvement of the European skills endowment) and the supply side (i.e. the possibility and willingness of moving throughout EU labour market and competing for the acquisition of ever improving remuneration and working conditions) of HSW, and thus of their migration flows to EU.

According to this, an important aspect influencing the attractiveness of EU with respect to HSW is represented by the barriers to EU intra-mobility which are still present for EU citizens to a some extent and they become more binding for HSW from third countries. Definitely, for this category, the obstacles to intra-EU mobility are more pressing than for EU citizens. This represents a specific weakness of the EU labour market and, more generally, of EU policy on economic immigration towards HSW. A weakness that is more urgent if considering that the aspiration and aptitude to mobility are particularly spread between these specific categories of workers, making so the intra mobility one of the main driver on which constituting an effective EU policy for the attraction for HSW.

Then, apart from the EU intra mobility phenomenon, in order to investigate the difficulty of the EU in attracting HSW, several main factors can be considered as influencing international migration:

- the vast differences between countries in terms of historical ties, levels of economic dependency on immigration, philosophies and experiences of managing migration;
- the language preferences (English-speaking countries may have a distinct advantage in attracting high-skilled migrants, not least through their universities);
- the high past labour demand for low skilled workers in the European manufacturing sector that still influences the immigration patterns;
- the good institutions and expected income differences between host and source countries, which are considered an important incentive to migrate ;
- the mechanisms and policy initiatives used by governments to attract and retain foreign HSW, which also affect their social and economic integration within the host country.
- The latter point is particularly relevant. The capacity of countries to attract HSW relies to a significant extent on the conditions of entry and residence offered to migrants. These elements will be further investigated in the next section “Problem assessment on a legal perspective”.

The external dimension of the problem: the perspective of sending countries

The potential impact of an active migration policy on the third-country should also be considered. On this issue, within the last two decades an increasing amount of attention has been focused on the relation between migration and brain drain, and the latter it often cited as the most important adverse consequence of the recruitment of HSW from less developed countries. Indeed, the extent of this “flight of human capital” is quite impressive. According to the UN Economic Commission for Africa and the International Organization for Migration, since 1990, at least 20,000 qualified people have left Africa every year. Brain drain disproportionately affects small countries, as evidenced by the fact that nine of the ten countries with the highest rates of emigration of skilled professionals are island states in the Caribbean.

However, the negative effects of brain drain have been recently called into question by various arguments focused on the fact that while source countries may lose human capital, migration on the other hand may also have beneficial consequences in the form of knowledge gained and transferred and significant remittances from abroad.

Moreover, the high rates of unemployment among highly educated people in developing countries, as well as the frequent lack of sufficiently attractive employment opportunities for the highly skilled in these countries, should always be borne in mind when the issue of brain drain is discussed.

With reference to unemployment in the sending countries, significant evidence arise from the MENA countries, one of the closest pool for economic migration to Europe and currently the first most important region of origin of immigrants in Europe.

Many young adults in the MENA are confronted with high unemployment and low returns to skills. For example in Algeria, the unemployment of young between 20 and 29 years ranges, respectively, from the 30.3% to 21.3%. Moreover, 13% of unemployed persons between 18 and 35 years have a University degree, whereas more than 25% of unemployed have a high school degree. Similar patterns are recorded in other MENA countries, such as Morocco, where unemployment is particularly high among highly skilled persons (23.5% of people with a diploma are unemployed, against 9.1% of those with no diploma). Nevertheless, with reference to Morocco, the most critical situation is among the young highly qualified women, with 75.3% of unemployed women having a university degree. In this view, immigration of HSW could represent an outlet for unemployment among young people with higher education in the countries of origin.

Another argument that substantially challenges the thesis of brain drain relates to the investment in education in the developing countries. In fact, in a developing economy with a limited growth potential, the return to human capital are likely to be low. This in turn leads to a limited incentive to acquire education. It has been argued that images of success that highly skilled migrant workers convey to their community of origin are susceptible to enhance non-migrants' motivations for investing in education, and thus foster human capital building in the environment left behind. The result would be a general increase in the skills endowments of the sending countries. However, this "virtuous circle" is disputed. In any case, the key element in this respect would be to ensure – also by means of financial support from donors – that the number of people trained well exceeds the needs of the country.

Finally, emigration can improve the welfare in the country of origin through remittances. Indeed most of the gains of migration accrue to immigrants themselves (their wage bill) and, through remittances, to their families in the source country. In this way, remittances raise the income of recipients and contribute to the country's growth through investment or consumption as well as they can constitute an important part of foreign exchange earnings of poor countries. For this purpose, it worth mentioning that remittances are the second largest source of external finance for developing countries, after FDI and often two to three times as large as the official development assistance flows (World Bank, 2004 and European Commission, 2005). Likewise, skilled migrants, if they return to their country of origin, either permanently or temporarily, can transfer useful skills acquired in the country of destination. However, there is evidence that return migration, especially of the highly skilled, only occurs on a significant scale when the living and working conditions have improved. This is evidenced by the experience of successful Asian countries such as the Republic of Korea or, more recently, India. In many developing countries, and especially those suffering acutely from brain drain, conditions are not yet sufficiently attractive to foster large-scale return migration of highly skilled migrants.

The key question is: what is the real extent of the brain drain the developing world suffers from, and do the costs associated with brain drain exceed such benefits of migration as remittances and skill transfers?

In this view, a number of policy measures should be taken to avoid or mitigate brain drain from developing countries. In this context, in 2005 the European Commission adopted a Communication that sets the framework for integrating migration issues into the EU's external relations and development policies and suggests a number of key initiatives aimed at improving the impact of migration on development. These initiatives are focused on several areas of policy action, such as the promotion of circular migration and brain circulation, the facilitation of remittances' transfer, the strengthening of diasporas and the development of an EU code of conduct with a view to disciplining recruitment in cases where it would have significantly negative repercussions for developing countries.

The most promising avenue for action would be to improve the working and living conditions for the highly skilled in their countries of origin. However, waiting for the situation to improve across the board in poor, fragile countries would not be a credible response to the challenge. A good way of fostering the emergence of acceptable working conditions for the highly skilled in their countries of origin would be for the EC and/or Member States to support twinnings or partnerships between educational, research or medical institutions in EU Member States and in developing countries exposed to brain drain. This would allow the creation of better working conditions for highly skilled professionals (doctors, professors, engineers, researchers...) in developing countries while exposing them to constant contacts and interaction with colleagues in state of the art institutions. As far as Africa is concerned, this is already being promoted as far as Universities are concerned (Nyerere, Erasmus Mundus...). However, the Commission intends to conduct a reflection on how this type of partnerships could be encouraged between hospitals, research centres or other types of educational institutions.

In addition, the recent Commission Communication 'on circular migration and on mobility partnerships between the EU and third countries' mentions a number of avenues that could be pursued with a view to mitigating the negative impacts of emigration of the highly skilled on countries of origin. Further consultations and work are currently underway, in particular on the various incentives (to be developed in parallel to a possible legislative immigration instrument) that could make it easier for highly skilled migrants to return to their country of origin after an experience abroad, thus helping their country of origin benefit from the skills and other resources acquired in the process.

ANNEX III: IMMIGRATION SYSTEMS IN THE MEMBER STATES

(Prepared by the external study)

Context and objectives of the analysis

Within the consultation process related to EC proposal for a directive on the conditions of admission of highly skilled workers (HSW), a questionnaire on the admission of third-country HSW in the Member States (MS) of the European Union (MIGRAPOL 120) was circulated by DG JLS in view of the 19th Immigration and Asylum Committee of 13 March 2006.

Subsequently, a first draft report – summarizing the content of the answers received by MS (MIGRAPOL 126) – was discussed with MS during the 20th Immigration and Asylum Committee of 20 June 2006. The result was a revised version of the first draft report (MIGRAPOL 126 revised), summarizing the content of the responses received by MS and including also the corrections/additions provided by MS to the first version of the report produced by DG JLS.

Within the framework of the Impact Assessment of the EC proposal quoted above, purpose of the present in depth analysis of the responses to the questionnaire is of making a step forward with respect to MIGRAPOL 126 revised, by investigating with more widening:

- the features of the different national schemes regulating entry conditions for HSW in the MS;
- the main differences and common elements recognizable at the level of different national legislation (i.e. definitions of HSW, schemes of accession, etc);
- the main developed and diffuse functioning options regulating entry and residence conditions for HSW in the MS;
- the main rights and the intensity of support to entry and residence recognized to HSW by the different national legislations;
- the main options adopted by the MS national legislations concerning the conditions of admission and residence of HSW.

Moreover, a desk analysis has been carried out in order to gather information on the six MS which did not answer to MIGRAPOL 120 and complete the investigation on the MS legislative framework. The results of this analysis are properly presented in a box whereas the main features of the MS concerned, when appropriate, are integrated throughout the general analysis.

However, for a better understanding, the present document should be read in conjunction with the above mentioned report MIGRAPOL 126 revised, since this analysis represents the elaboration and the further investigation of the results and evidences reported by MIGRAPOL 126 revised.

Methodological approach

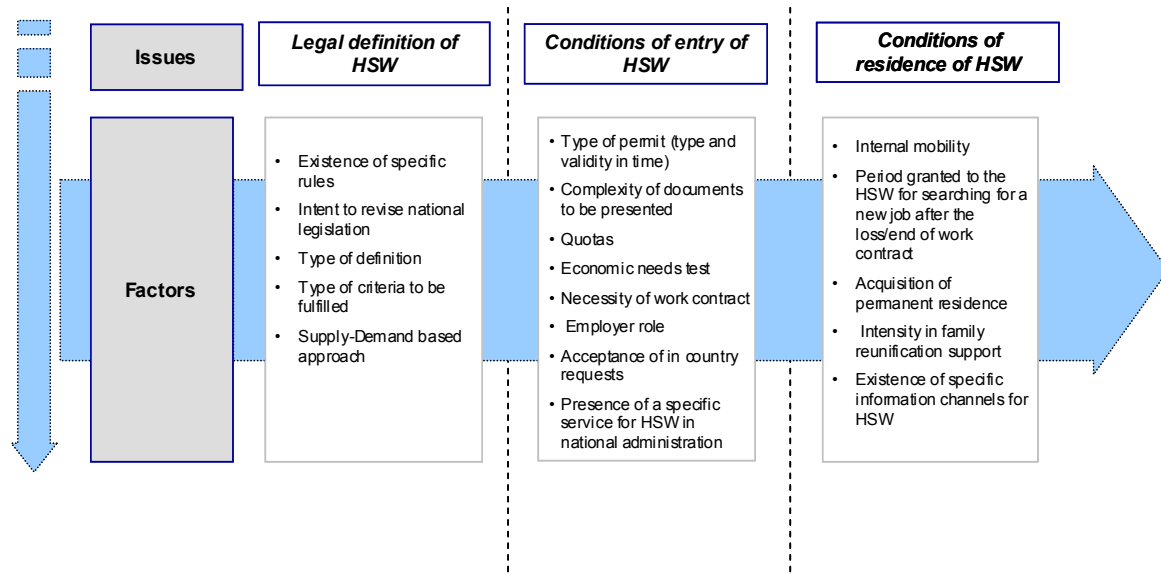
The in depth analysis of the responses to the questionnaire by the MS on the admission of third-country HSW in the MS of the European Union has been carried out on cluster-based approach articulated on the following tasks:

- desk analysis both of the report MIGRAPOL 126 revised provided by DG JLS and of the answers to MIGRAPOL 120 of MS,
- individuating the main issues to be analyzed;
- individuating the main factors related to each single issue;
- defining a judgment scale related to each single factor;
- selecting the factors to cross-analyze by the way of a two-axes positioning matrix, with an optional third variable (represented through different shapes);
- positioning the MS in each matrix, according to a qualitative judgment on their answers with respect to the judgment scale chosen;
- individuating clusters, grouping the MS according to their positioning with respect to the variables chosen.

In particular, the entire investigation has been structured around the three main issues that should be considered as crucial in structuring a Directive on the conditions of entry and residence of HSW in EU MS:

- Legal definition of HSW;
- Conditions of entry of HSW;
- Conditions of residence of HSW.

According to this main starting point, the analysis was undertaken by observing the positioning of MS with respect to the main specific factors illustrated in the graph below.



A main element to be highlighted is that the investigation has been focused on different kinds of comparison analysis:

- “vertical comparisons” – concerning factors under the same main issues;
- “cross-issues comparisons” – concerning factors under different issues.

The purpose of each comparison analysis is to investigate:

- the common elements – related to the single aspects studied– recognizable at the level of different national legislation;
- the main developed and diffuse functioning options related to the aspects analyzed between MS;
- the presence of a comparison in the positioning of the MS with respect to the variables investigated.

Limits and remarks

As described above, the analysis is based on Migrapol 126 and MS response to Migrapol 120.

The review of the data collected has pointed out some limits in terms of:

- data availability, since some MS did not answer to all questions of Migrapol 120 either;
- data comparability, since some MS provided different quality of information (in terms of completeness, pertinence and exhaustiveness) in order to answer to Migrapol 120.

Furthermore, it is worth noting that the comparability among MS is also due to the structure of the questionnaire circulated. Indeed, in the case of absence of a special schemes regulating the conditions of entry and residence of HSW, no specific and comparable information were asked. Therefore we had to differentiate the analysis, adopting different comparison techniques according to the different level of data availability and comparability. Finally, as

previously mentioned, the features of several MS which provided no response to MIGRAPOL 120 are separately presented.

Hereinafter the analysis is presented according to the three main issues described above, with a further section related to cross-issues comparisons.

Analysis: Legal definition of HSW

As a first step, attention was focused on the analysis of MS national legislation having answered to DG JLS questionnaire , in order to assess the existence of specific rules and the characteristics of national legislation concerning the admission and residence conditions of third country HSW.

In particular, the analysis gives a general outline of the national schemes currently put in place to regulate and/or facilitate the admission of third country HSW and points out the existence of plans or intentions of changing those schemes.

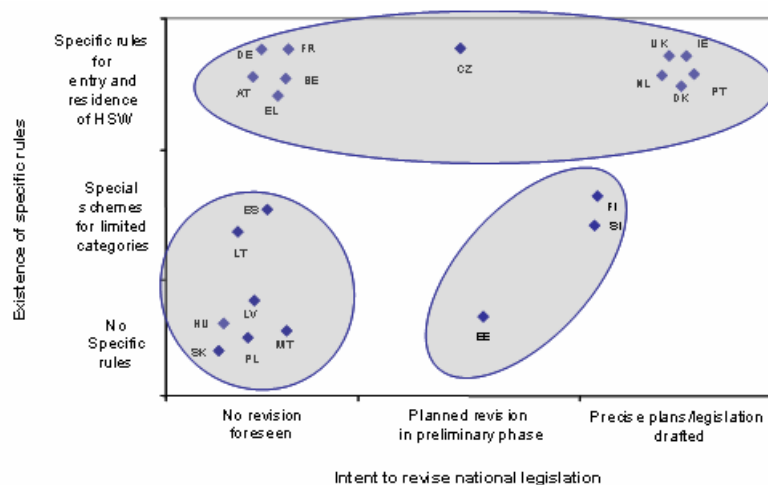
This comparison analysis is aimed at:

- investigating the common elements between MS– both in terms of existence of specific rules for HSW and intent to modify it or introduce a new legislation;
- individuating those MS which demonstrate a particular attention with respect to the issue of attracting HSW, putting in place special procedures and favourable conditions of entry and residence.

In particular, the following criteria for the positioning of the MS with respect to those two variables have been identified:

- existence of specific rules: the MS were positioned according to the existence of specific rules in their national legislation to regulate/facilitate the admission of HSW. Three possibilities were identified: (I) no specific rule currently in place; (ii) special rules in place that cover limited categories of third country nationals (ICT professionals, scientists, sport-persons, artists, etc.) entering the country for employment; (iii) existence of specific rules for entry and residence of third country HSW.
- intent to revise national legislation: the MS were positioned according to the intent of changing the current legislation, distinguishing three possibilities: (i) no revision foreseen; (ii) plans of revision but in a very preliminary phase; (iii) existence of precise plans drafted and/or new legislation being discussed in Parliament.

Graph 1. Comparison between the existence of specific rules and intent to revise national legislation



As a result of the positioning of each MS with respect to the two variables, the following clusters have been identified.

- “Basic interest in regulating HSW phenomenon” cluster (Group A): seven MS (ES, LT, LV, HU, SK, PL, MT) have no legislation specifically dedicated to regulate and facilitate entry and residence of HSW (apart some limited categories), and no plan to introduce specific rules is envisaged. However, it should be noted that, in all the MS composing this cluster, special schemes to cover specific categories of third country workers (such as scientists, artists, researchers, sportsmen, etc.) are in force. Nevertheless a distinction can be made. In particular, two MS (ES and LT) have specific legislative acts addressed to HSW and provide for special procedures in order to facilitate their admission to the internal labour market. The other MS generally recognized some procedural preferences for particular categories of foreign workers (mentioned above), such as exemption from labour market test. However, no MS included in the cluster seems to have set up a comprehensive and structured system which covers entry and also residence conditions to be granted to HSW.
- “Growing interest in regulating HSW phenomenon” cluster (Group B): this cluster is composed of those MS (EE, FI and SI) that plan to revise in the short term the national legislation in order to introduce special procedures for the admission of HSW. Indeed, even if no specific legislation for HSW is present at the moment, it should be noted the particular attention paid to this issue.
- “High interest in regulating HSW phenomenon” cluster (Group C): the last cluster identified includes eleven MS (AT, BE, CZ¹⁰⁸, DE, DK, EL, FR, IE, NL, PT and UK)

¹⁰⁸ Hereafter, for CZ we refer to the *pilot project* launched by the Ministry of Labour and Social Affairs (MLSA) on July 2003. The pilot project has introduced a points system of selection which is combined with annual quotas and is annually modified according to current needs. At the moment, the project is limited to several target countries involved in the project (Belorussia, Canada, Croatia, Kazakhstan, Moldova, Serbia and Monte Negro, Ukraine, Bosnia and Herzegovina, Macedonia and Russia). The other categories involved are: foreign graduates of Czech secondary schools regardless of their countries of origin who finished their studies in 2000 and later; foreign graduates of Czech universities

where a specific national legislation for HSW is in force. First of all, in these MS, the categories identified as HSW cover a more extensive scope than the professionals generally admitted to more favourable conditions of entry in MS of the previous clusters. In fact, MS composing this cluster do not limit the category of HSW to scientists, artists, and other specific categories, but carry out a more sophisticated assessment of the categories of third country workers whose admission should be facilitated. Secondly, national legislations of the ten MS concerned provides not only for special schemes of admission, but also grant more favourable conditions of residence and specific rights to be recognized¹⁰⁹. Moreover, it should be noted that 6 of the MS belonging to this cluster (DK, IE, CZ, NL, PT, UK) are in process of amending the current provisions for HSW. Except that for CZ, where plans to revise the national legislation are in a very preliminary phase, the other MS are currently debating legislative proposals on HSW. Moreover, it should be noted that also FR have just adopted a new legislation in this field¹¹⁰.

With reference to the six MS that did not answer to MIGRAPOL 120 (BG, CY, IT, LU, RO and SE). It is worth noting that all these MS do not provide for any specific national legislation concerning HSW as well as no specific scheme appears to be in force. In all the cases, the general legislation on immigration is applied for HSW.

However, IT and SE provide for exemptions or specific rules addressed to some categories of third country workers (professional athletes, artists, other professionals).

Moreover, it should be stressed that in IT a reform is currently under discussion in the Parliament. The proposals include provisions explicitly aimed at attracting third-country “talents”, by facilitating the admission conditions of highly educated migrants, managers and highly qualified workers.

The section below illustrates the main findings of the desk analysis carried out with reference to, IT, SE and LU.

Italy¹¹¹

The Italian system does not have a specific and consolidate legislative framework on highly skilled migration. The current regulations concerning entry and residence conditions of third-country HSW provides for two different procedures:

- (1) ***Immigration for work on the basis of annual quotas***: the Government, on the basis of the immigration situation in the country, defines the number of non-EU workers authorised to enter Italy for employed, self-employed and seasonal work (these represent the three kinds of work/residence permits foreseen). The requests made by employers and also for these figures, although indicated in the annual quotas, the economic needs test is needed. In particular, within these quotas the decrees define

irrespective of their country of origin, (except for government scholarship holders), having the limit for their graduation determined as 1995 and later.

¹⁰⁹ Concerning the granting of more favourable conditions of residence, BE is the only exception, since its scheme is formally aimed only to the entry of HSW.

¹¹⁰ In particular, two new schemes were introduced with the new law of 24/7/2006. One of them does not require the job offer, showing an interest in shifting the current approach toward a supply-based approach.

¹¹¹ The analysis is based on the Small Scale Study on Conditions of entry and residence in the EU of highly-skilled workers from third countries, European Migration Network, 2006.

also the number of highly qualified people, such as researchers, entrepreneurs who are carrying out activities affecting the national economy, free professionals, partners and administrators, artists.

- (2) ***Immigration for work in particular cases***: the admission of these workers is not subject to the limits of the annual quotas nor the prior establishment of the priority of the local workforce. This provision takes into consideration also figures that do not feature on the list of highly qualified workers (such as returning domestic workers already employed by Italians resident abroad and sailors) but is generally addressed to particular categories of professional and HSW, such as:
- managers or highly specialised personnel of companies based or with branches in Italy;
 - university lecturers, researchers and professors;
 - workers called upon to carry out specific but temporary functions;
 - workers employed by companies operating abroad coming to Italy to provide particular;
 - services subject to sub-contracts;
 - artistic and technical personnel;
 - sportsmen activity;
 - journalists and correspondents accredited in Italy and regularly paid from abroad.

The Italian regulations do not envisage particular benefits from increasing the intake of highly qualified workers. However, ***a reform proposed in March 2007 is currently under discussion***. It includes provisions specifically addressed to attract third-country “talents”, by facilitating the admission conditions of highly educated migrants, managers and highly qualified workers.

Sweden¹¹²

Sweden has no specific programme for recruiting highly-skilled labour from third countries, as the Aliens Act and the Ordinance on Aliens regulate all immigration, including labour force immigration. Therefore, individual employers who need to employ a highly-skilled person when their need cannot be met by an EU citizen must follow the general legislation.

Time-limited work permits are issued on the basis of a written job offer and in order to cover temporary shortages. they should be limited in time, as well as to a specific occupation and employer. These work permits can be granted for a total of 18 months. If the shortage remains after this time, the permit can be extended usually for six months.

¹¹² The information here presented are based on the Small Scale Study on Conditions of entry and residence in the EU of highly-skilled workers from third countries, European Migration Network, 2006.

A residence permit is also required if the third-country national will be staying in Sweden for longer than three months.

However, some exceptions to these general rules and specific provisions exist for particular categories¹¹³.

First of all, *some categories, such as professional artists, staff working on tourist coaches, lecturing researchers and professional athletes are exempt from the work permit requirement.*

Secondly, *the issue of permanent work permits should be limited to areas such as qualified research, product development, transfer of technology, etc.* It should relate to highly-skilled labour or other highly-skilled professionally experienced person of specific significance to the business community or cultural life in the region.

Recently, a parliamentary committee was appointed to examine the regulatory framework regarding labour force immigration, with the aim of producing a regulation permitting extended labour force immigration from countries outside the EU/EEA. The final Committee Report was submitted to the Government on 18 October 2006. The committee substantially stressed the need to continue regulating labour migration as well as the need to maintain labour market consideration as fundamental element of the system. Other considerations relate to the possibility for extending the period of validity for temporary residence and work permits and for granting the permanent residence permit after 48 months with a work permit or earlier.

Luxembourg¹¹⁴

Immigration of highly qualified people is not specifically regulated, thus the general rules are in force.

Admission of migrants is based on the 1972 Law on the entry and residence of foreigners. Three types of work permits currently exist:

- Type A is valid for one year and for one employer;
- Type B is valid for four years and for one sector of activity; and
- Type C is valid for five years and for all sectors of activity.

Residence permits are valid for five years. Before employing an immigrant, an employer must prove that they were unable to find anyone in the EU to fill the position. The requirements for obtaining a work permit includes: the proof of qualification (all relevant professional diplomas) as well as the employment contract.

¹¹³ Self-employed workers are also exempt from the requirement of a work permit.

¹¹⁴ The analysis is based on the country report prepared by the Migration Policy Group (Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, Luxembourg, 2005).

It is also important to note that candidates cannot apply for new or renewed permits themselves. This responsibility falls to the employer alone, regardless of the type of permit being sought.

Another specificity of the LU system is the lack of any legislation on family reunification in Luxembourg; at the moment a bank guarantee per family member is a sufficient criterion.

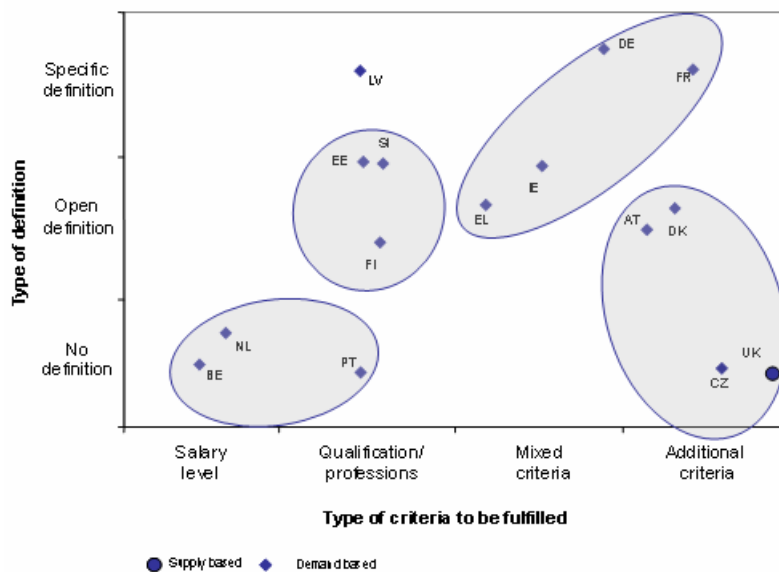
On the whole, LU appears to adopt a *pragmatic approach* toward the issue of migration. The law on the entry and residence of foreign nationals was approved in 1972 and there have only been few, minor changes since. Only in recent years, the immigration debate has focused on demographic trends and how the population ageing might affect the welfare system, in particular the pension system. In the last few years there has also been a change in the public attitude towards ‘foreigners’, but no new and specific legislation seems to be foreseen in the nearest future.

Within the legal definition of HSW, attention has also to be paid to the following factors:

- type of definition: the MS were positioned according to the level of specificity of the definition of HSW given by their legislation, from a minimum level represented by no definition, to a maximum level of specificity represented by definition based on employment sector/profession of HSW, with an intermediate situation represented by the cases when an open definition is given.;
- type of criteria to be fulfilled: the MS were positioned according to set of the criteria to be respected for being defined as HSW, from a minimum level represented by the presence of a single criteria (salary level or qualification/professions), to an intermediate level represented by a mixed system (where both salary level and qualification/professions are considered), to a maximum level represented by a system based on several very specific criteria (including point system);
- supply-demand based approach, distinguishing between MS applying a “supply based” approach (when there is no need of presenting the job offer/work contract to enter the territory of the country) and those applying a “demand-based” approach (when the job offer/work contract is required to have accession to the country).

This comparison, as well as all the following comparison analyses, takes into account all the MS for which comparable information are available, irrespective of the existence of specific schemes regulating entry and residence conditions of HSW (i.e. also EE, ES, FI, LV, SI are included).

Graph 2. Comparison between the type of definition and the type of criteria to be fulfilled



According to the analysis of the positioning of each MS with respect to the two variables the following clusters have been identified:

- “Absence of specific definition, based on one single criterion” cluster: this cluster is made up of those three MS (BE, NL, PT) that do not establish any specific definition for HSW. Moreover, their legislation system on HSW accession are based on a single criterion between the ones identified for the analysis, with NL and BE basing the accession on the salary level, and PT requiring the presentation of an official document attesting the fact that the third country national is employed for a highly qualified work. However, it should be noted that the salary level can be highly variable among MS and, in some cases, this criterion would represent a relevant accession barrier for HSW. Indeed, in the case of BE the salary level required is slightly above 33,000 €, whereas in NL the minimum gross salary level is near to 47,000 € .
- “Absence of specific definition, based on a set of criteria” cluster: this cluster identifies those MS (and namely AT, CZ, DK and UK) whose HSW definition is mainly based on the complexity and specificity of the criteria to be respected. Indeed, on one side the legislations of CZ and UK do not establish any kind of specific definition for identifying HSW, but they are based on the more complex systems of criteria for HSW accession. In particular, in this cluster a very specific case is represented by the UK, which presents a very complex point system (the more detailed between the ones analyzed) based on a two stage procedure of application, so selective that UK is the only MS in which the “job offer” is not required to have the permit of accession as HSW. Then, the CZ system is a pilot project of a point system similar to the UK one. On the other side AT presents a less complex scheme of accession, but defines generically HSW as "Schlüsselkräfte" (key personnel) with specific different criteria to be respected . Finally, the DK legislation establishes only a very generic definition based on “shortages of particularly qualified manpower”, as it refers to a subsequent act (the positive list) in order to periodically define the specific categories to be admitted as HSW . Moreover, the DK system requires the fulfilment of a set of criteria (the economic needs test, conditions of remuneration and employment corresponding to DK standards, inclusion in the positive list).

- “Open definition, based on a single criterion” cluster: this cluster includes three MS (EE, FI and SI) that do not link HSW definition only to specific categories and/or sectors. More in details, these MS foresee not only specific categories (i.e. scientists, teachers, IT and nuclear energy specialists, etc.) but also a more open definition (for example, the category of “expert”, and “special experts” in FI, seems to cover a broader scope than the above mentioned categories of professionals). Moreover, all these MS require the fulfilment of a single criterion in order to be defined as HSW (i.e. the proof of qualifications/professional experience).
- “Presence of differentiated definitions based on differentiated criteria” cluster: this cluster is limited to three MS (DE, EL, IE and FR) presenting different HSW definitions, each one of them related to a different national scheme. In particular, both DE and FR foresee three different definitions, establishing a biunique relationship between definition and accession criteria: for each of the 3 definitions of HSW accepted, correlated specific criteria are identified. To be more specific, it can be stressed that DE definition can be considered as more stringent than the FR one since it limits the possibility of being accepted as HSW only to top executives in economy and science . In the case of IE, two different types of definition are foreseen. On one hand, the special scheme in force from 2003 applies to HSW of three specific sectors, strictly identified (information and computing, construction and medical professionals). On other hand, the Green card provides for a more “open definition” of HSW, based on the criteria of skills shortages on internal labour market and salary level of HSW entering in IE. Finally, EL foresees two different schemes for the admission of HSW and specific criteria for each scheme are in place . However, it should be noted that the first scheme (“public interest workers”) refers to a very generic category and no specific criterion for admission is foreseen.

As regard to the other MS having answered to the questionnaire, the set of available information does not allow their positioning with respect to the two variables identified. The following table illustrates the available information related to these MS excluded from the comparison analysis. It also should be noted that no comparable information is available with respect to the criteria of accession system.

Factors	Possibilities	MS
Type of definition of HSW	No definition Open definition Specific definition	ES, HU, LT, MT ¹¹⁵ , PL ¹¹⁶ , SK.

Analysis: Conditions of entry

The second element of the analysis relates to the conditions of entry granted to HSW in MS, with a focus on two comparison analyses:

¹¹⁵ MT defines HSW by taking categories 1 to 3 in the ISCO-88 classification, but such definition seems to be used only for gathering of statistical data.

¹¹⁶ PL assumes as HSW the managers and the workers carrying out work on positions requiring obtaining specific qualifications and skills. This classification is used only for statistical purposes.

- the relationship between the kind of residence/work permit(s) issued for HSW and the complexity of admission conditions (with particular focus on the documentations requested);
- the relationship between the role which the employer plays in the admission procedure and the possibility of in-country requests.

With reference to the first comparison analysis (i.e. Type of permit and complexity of documents to be presented), the purpose of this focus is to investigate the presence of a correlation in the positioning of the MS with respect to these two variables, in order to understand if the complexity of admission conditions is directly related to the recognition of favourable conditions (in terms of kind and validity in time) of permit(s).

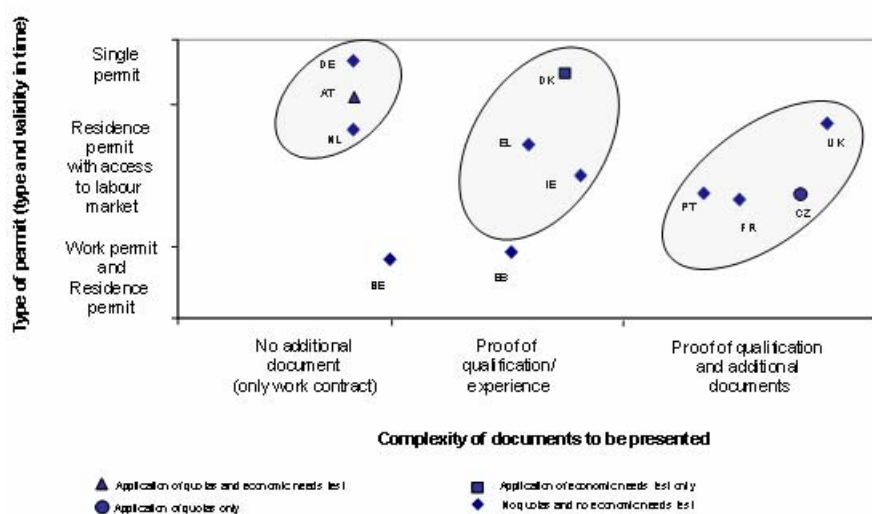
In particular, the following criteria for the positioning of the MS with respect to these two variables have been identified:

- type of permit: the MS were positioned according to the level of simplification which characterizes the permit. The range starts from a minimum level of simplification represented by the necessity of two distinct permits for work and residence, to a maximum level represented by the presence of a single work/residence permit. There is no substantial difference, in terms of simplification, between a single permit and a residence permit allowing access to labour market; thus, the distinction made in this analysis has a merely descriptive value. Moreover, it must be specified that also the temporal validity of the permit was considered in positioning the MS with respect to this variable (i.e. a longer validity in time was considered as a better situation)¹¹⁷.
- complexity of documents to be presented: the MS were positioned according to the extent and the complexity of the documentation required, from a minimum level represented by the request of no additional documents (but only the work contract/job offer), to a maximum level of complexity represented by the request of proof of qualifications and additional documents/requirements¹¹⁸.
- application of quotas and the principle of Community preference (economic needs test), distinguishing between four different cases: (i) application of quotas and the principles of Community preference (economic needs test); (ii) application of quotas; (iii) application of economic needs test; (iv) no quotas and no economic needs test.

¹¹⁷ As regards this issues, it should be stressed that all the MS concerned provides for renewable work permits, except that BE and FR, which have strictly temporary permits.

¹¹⁸ As regards the documents to be presented, in this analysis the salary level criteria are not considered.

Graph 3. Comparison between the type of permit and the complexity of the documents to be presented for the accession as HSW



According to the analysis of the positioning of each MS with respect to the two variables the following clusters have been identified:

- “Low barriers to access” cluster: this cluster identifies 3 MS (AT, DE, NL) that do not request further documentation in addition to the work contract and provide a single title enabling HSW to reside and work on their territory. In particular, DE and AT grant a single permit for work and residence, whereas Netherlands provides a residence permit which allows access to labour market. Then, concerning the validity in time of the permits, it should be noted that DE represents the maximum level of simplification, since the permit recognized to HSW has unlimited validity from the beginning¹¹⁹. Instead, the permit issued for HSW by NL is valid for a maximum of 5 years, while AT grants an initial validity of 18 months.
- “Medium barriers to access” cluster: this cluster is made up of those MS (DK, EL and IE) that occupy an intermediate positioning, especially with respect to the complexity of documents required. Particularly, in order to be admitted to the 3 MS concerned, third country HSW have to produce a proof of their professional qualifications and/or past experiences, in addition to the job offer/work contract. Concerning the kind of permit issued for HSW, only DK provides a single permit (valid for a maximum of 3 years), whereas EL and IE requires a residence permit allowing access to labour market validity (EL) or a work authorization followed by registration with the police forces (IE). Moreover, the permits issued by EL and IE are valid for a shorter period (i.e. 2 years for IE and only 1 year for EL).
- “Major barriers to access” cluster: this cluster is formed by those MS presenting the more complex systems for HSW accession, both in terms of complexity of documentation to be

¹¹⁹ It is worth remembering that, despite the high level of simplification, DE has a very restrictive scheme (in particular, the scheme for “specialists and executive personnel with special professional experience”, which request an high minimum salary level).

presented and type/validity in time of permits issued. The cluster includes both the UK and CZ, where a point based system is in force, and there are many requirements. At the same time, in PT and FR additional documents and separate procedures¹²⁰ are necessary, as well as work contracts and proof of qualifications.

The table below illustrates the information regarding the other MS having answered to the questionnaire. Provided that only incomplete data are available for these MS, their positioning with respect to the two variables of comparison analysis has not been possible.

Factors	Possibilities	MS
Type of permit (type and validity)	Work permit and residence permit	HU ¹²¹ , LV, MT, PL, SI ¹²²
	Residence permit with access to labour market	EE ¹²³ , FI, LT ¹²⁴ , SK ¹²⁵
	Single permit	
Complexity of documents to be presented	No additional document (only work contract)	EE ¹²⁶ , FI ¹²⁷
	Proof of qualification/professional experience	
	Proof of qualifications and additional documents	

Concerning the relationship between the role of the employer in the accession systems of those countries with a specific law on HSW and the possibility of having accepted an in-country request (introduced into the host country on the condition of being there legally) the purpose is to investigate the presence of a correlation in the positioning of the MS with respect to these two variables, in order to understand if the necessity of having the application from the employer can imply a more flexible system in terms of acceptance of in-country requests (i.e. the employer can be considered as a guarantee in this perspective).

In particular, the following criteria for the positioning of the MS with respect to these two variables have been identified:

- acceptance of in-country request: the MS were positioned according to the flexibility of their internal system, from a minimum level represented by absolute refusal of the

¹²⁰ PT foresees a work visa and subsequently a residence permit allowing access to labour market.

¹²¹ The work permit is not required for “directors of a branch office or representative office of a foreign-registered business association, as defined by international convention”.

¹²² For such categories the work permit is not required.

¹²³ In EE, there are some categories of short-term workers who are allowed to work in Estonia without work permit (for a maximum of 6 months) and who qualify as highly skilled workers (e.g teachers, researches, experts, councillors, consultants etc). After 6 months, a residence permit for employment must be obtained. For such categories, the Economic Needs Test is not required.

¹²⁴ For such categories of TCN (assumed as HSW) the work permit is not required (only residence permit).

¹²⁵ It should be noted that the conditions to get the work permit are not the same for all the aliens. SK applies also the combined work/residence permit or the permits enabling the access to the labour market.

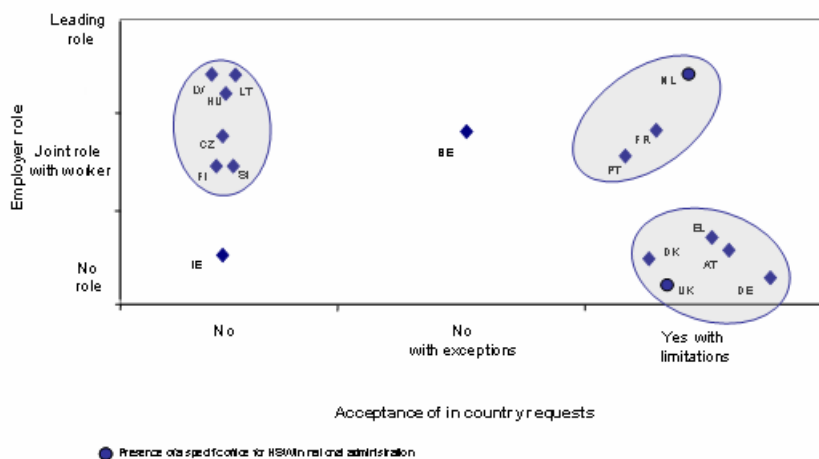
¹²⁶ The basic criteria are that a person has to have required qualification.

¹²⁷ Such classification is referred to the definition of “*special expert*”, recommended by Government guidelines (Aliens’ Act, section 79.4), which outline: “it shall be documented that the alien has the expertise required by the task”. No reference to further documents to be presented is pointed out.

possibility of being accepted in the host country to a maximum level represented by the certain possibility of receiving the acceptance of in-country request if HSW;

- employer role: the MS were positioned according to the role recognized to the employer in the accession system for the HSW, from a minimum level represented by the no role situation to an intermediate level represented by a system with a joint role employer-worker (worker and employer can be both involved in presenting the application), to a maximum level represented by those systems in which the application must be compulsorily presented by the employer;
- presence of a specific service for HSW in the national administration for administering HSW accession system.

Graph 4. Comparison between the role of the employer in the accession systems and the possibility of having accepted an in-country request



According to the analysis of the positioning of each MS with respect to the two variables the following clusters could be identified:

- “Acceptance of in-country request without the involvement of the employer” cluster: this cluster is made up of those 5 MS (UK, EL, DK, AT, DE) that currently do not recognize a specific role to the employer in the process of admission of HSW, assigning the submission of the application in charge of the worker. In association with this aspect they establish the possibility for HSW to present the application for the permits by already being in their territory, even if each of them make explicit referral to specific limitations applied to this opportunity. UK (the only MS among these five having a specific authority for administering HSW accession system), for instance, recognizes this possibility only to certain legal immigrants (students graduated in a UK university, work permit holders, etc).
- “Acceptance of in-country request with the involvement of the employer's cluster: this cluster identifies those MS that recognize, as for the previous cluster, the possibility for HSW to present the application for the permits by already being in their territory (even if with specific limitations also in this case). Moreover, at the same time, they assign a specific role to the employer in the admission system for HSW. Particularly, these 3 MS (FR, NL, PT) present different levels of intensity recognized to the employer role. Indeed NL specifically attributes to the employer the responsibility of submitting the application

to the competent authority, even if only after having been admitted to the HSW procedure established by the internal legislation. PT and FR have instead mixed systems in which the employer role is dependent on the kind of permit and by the specific case.

- “Involvement of employer and no acceptance of in country request” cluster: this cluster is formed by the 6 MS (LV, LT, HU, CZ, FI, SI) in which the denial of the acceptance of an in country request is associated with the assignment of a specific role to the employer in the admission system for HSW. Specifically, three of them recognize to the employer a leading role in the process: LV establishes that the employer must send an explicit invitation related to the worker to the State Employment Agency, LT assigns to the employer the specific responsibility of submitting a concrete request for the accession of the HSW into the national territory, and HU establishes that the employer must report his vacancies to the competent labour office accompanied by a request for labour force. In the other four cases, instead, there are mixed systems in which the employer and the worker play a joint role in the accession procedure.

Overall, no specific correlation between the two variables seems to emerge from the present comparison. Many of the MS concerned foresee the limited possibility of acceptance of in-country requests, independently from the employer role.

As regard to the other MS having answered to the questionnaire, the information supplied does not allow their positioning with respect to the two variables identified. The following table illustrates the available information related to these MS excluded from the comparison analysis.

Factors	Possibilities	MS
Employer role	No role	
	Joint role with worker	SK
	Leading role	PL, ES
Acceptance of in-country requests	No	EE
	No with exceptions	
	Yes with limitations	

Conditions of residence

The third element of the analysis relates to the conditions of residence granted to HSW admitted in MS under a specific legislation, by the investigation of two possibilities of comparison:

- the relationship between the period (if granted) for searching for a new job in the case of loss of the job and/or end of the work contract on one hand and the limitation to HSW’s internal mobility (i.e. the possibility of changing occupation, sector, etc.) on other hand;
- the relationship between the right to family reunification and the existence of favourable arrangements on the one hand, and the procedures foreseen for acquiring the permanent residence on the other hand.

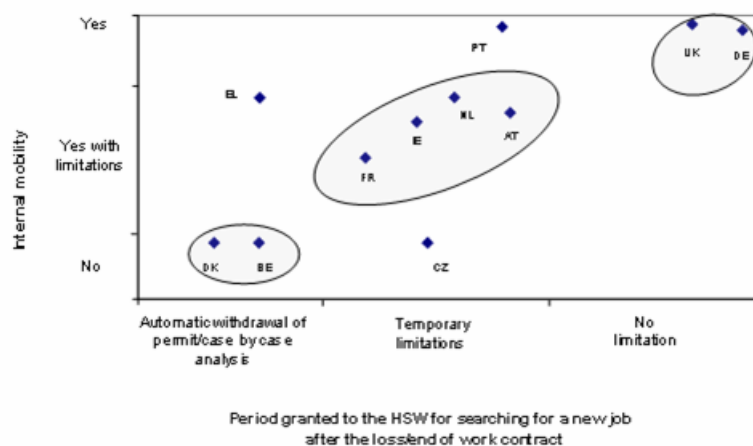
The first comparison could be related to the economic integration of HSW in terms of :

- the level of mobility in the labour market and the possibility for the HSW to change occupation, sectors, skills category once admitted in the MS;
- level of rights and favourable conditions recognized to HSW in the event of unemployment;
- the possibility of HSW to full access the labour market independent of the initial job offer/work contract.

In particular, the following criteria for the positioning of the MS with respect to these two variables have been identified:

- internal mobility: the MS were positioned with respect to the wideness of rights recognized to HSW: (i) no rights to change job/employer - i.e. necessity of a new work permit for any change; (ii) right to internal mobility with some limitations – i.e. only for definite categories of HSW, only mobility within the same skills category, etc; (iii) right to internal mobility with no limitation.
- period granted to HSW for searching for a new job after the loss/end of work contract: the MS were positioned with respect to three possibilities: (i) automatic withdrawal of the permit(s) or case by case analysis in the event of unemployment; (ii) possibility for the HSW to seek a new job/employer within definite temporary limits; (iii) possibility for the HSW to seek a new job/employer without any limitations.

Graph 5. Comparison between internal mobility and period granted to the HSW for searching for a new job after the loss/end of work contract



According to the analysis of the positioning of each MS with respect to the two variables the following clusters could be identified:

- “Conditions of residence not fostering mobility and reallocation of HSW” cluster: this cluster is formed by 2 MS (DK and BE) that requires a new permit for any change of job or employer, this means that no mobility on the internal labour market is allowed. Moreover, the legislation of the two MS are particularly restrictive in the event of loss/end of the work

contract. In particular, DK provides for the automatic withdrawal of the permit in the case of unemployment, whereas BE provides for a case by case analysis.

- “Conditions of residence fostering mobility and reallocation of HSW, but with limitations” cluster: the majority of MS falls into this cluster, provided that 4 of them (FR, IE, NL, AT) permit internal mobility of HSW with a different level of limitations. In particular, it should be noted that FR differentiates the conditions of mobility on the internal labour market according to the different schemes of HSW recognized. IE and NL permits internal mobility, respectively, only within the same skills category and only within the group of registered employer. Finally, AT legislation provides for the necessity of a specific authorization in the case of de-qualification. With respect to the other elements, all these MS grant HSW a period to seek a new job after loss/end of work, from a minimum of 1 month (FR) to a maximum of 4 months (AT).
- “Conditions of residence fostering mobility and reallocation of HSW” cluster: the third cluster is made up of DE and UK, two MS that grant more favourable conditions to HSW in terms of internal mobility and possibility of seeking a new job in the event of loss of job or termination of work contract. In fact, no limitation is in force, but HSW seem to be fully integrated on the internal labour market, as well as the termination of the job and the conditions of unemployment have no consequences on the validity of the permit.

As regard to the other MS having answered to the questionnaire, the set of available information does not allow their positioning with respect to the two variables identified. The following table illustrates the available information related to these MS excluded from the above comparison analysis. It also should be noted that several MS do not give comparable information with respect to the issues analyzed.

Factors	Possibilities	MS
Internal mobility	No internal mobility Yes with limitations Yes	
Period granted to the HSW for searching for a new job after the loss/end of work contract	Automatic withdrawal of permit/case by case analysis	HU ¹²⁸ , LT
Period granted to the HSW for searching for a new job after the loss/end of work contract	Temporary limitations No limitation	SI ¹²⁹

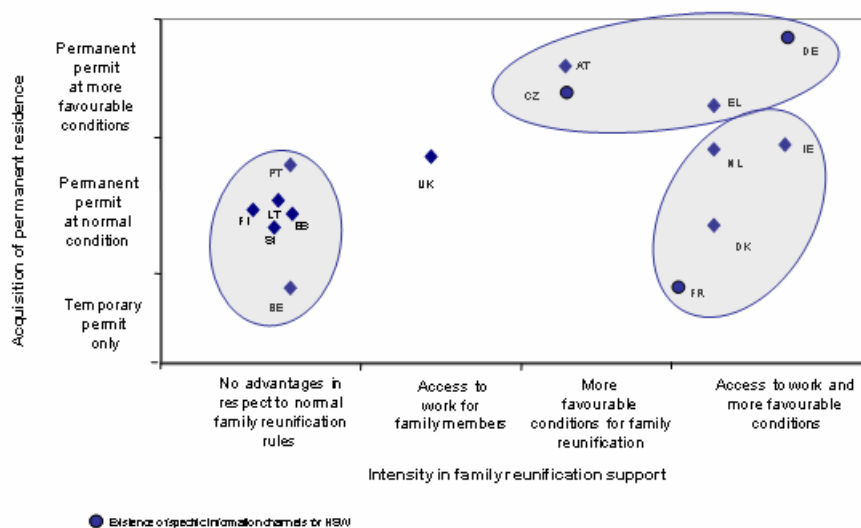
Another possible comparison deals more with the **social integration** of the HSW, which could be analyzed according to the following items:

¹²⁸ As reported in the questionnaire, “The work permit relates to a particular employer and an occupation. The termination of this or a change shall be reported to the immigration authority”.

¹²⁹ It is granted the same period of validity of unemployment benefit (for a duration specified in the national legislation).

- acquisition of permanent residence: the MS were positioned according to the relationship between the initial visa or residence/work of HSW and the permanent permit. In more details, the renewal possibilities (and the relative duration) were verified, as well as the existence of more favourable conditions in order to acquire the long-term resident status (in comparison with those foreseen under Council Directive 2003/109/EC).
- intensity in family reunification support: the MS were positioned according to the extent of the advantages recognized to the family members of the HSW, in terms of more favourable conditions for family reunification in respect to normal rules and/or supplemental rights (i.e. immediate access to the labour market)
- existence of specific information channels for HSW, dedicated to inform HSW about their status and rights within the MS.

Graph 6. Comparison between the acquisition of permanent residence and the intensity in family reunification support



According to the analysis of the positioning of each MS with respect to the two variables the following clusters could be identified:

- “Conditions of residence more favourable to social integration of both HSW and their family members” cluster: This cluster includes 4 MS (AT, CZ, DE, EL) that grant the permanent permit to HSW before the five years of legal residence foreseen under Council Directive 2003/109/EC: i.e. DE grants an unlimited settlement permit from the outset; AT provides for the permanent permit to be given after only 18 months and the CZ pilot project after 2½ years. At the same time, these MS provide also more favourable conditions for family reunification (i.e. in DE same conditions of entry and residence of HSW) and, in the case of DE and EL, immediate labour market access to HSW family members is allowed¹³⁰.

¹³⁰ EL allows immediate labour market access to family members in all cases.

- Conditions of residence more favourable to social integration of HSW family members” cluster: This cluster includes 4 MS (NL, IE, DK, FR) that grant access to the labour market for HSW family members at more favourable conditions than those applied to family members of non-HSW (i.e. in DK exemption from certain requirements)¹³¹. At the same time, these MS do not recognize specific facilitations to HSW in order to acquire the permanent permit, which is granted according to the terms of Directive 2003/109/EC (not applicable to DK and IE)¹³².
- “Conditions of residence not more favourable to social integration of HSW and their family members” cluster: This cluster includes 6 MS (BE, FI, LT, SI, SP, PT) that do not recognize specific advantages to HSW neither for the acquisition of long-term resident status nor for family reunification, and thus treated no differently from non-HSW. In particular, between them actually BE, besides not granting any specific advantages in terms of family reunification, has a strictly temporary scheme not leading to permanent residence¹³³.

Since the other MS¹³⁴ having answered to the questionnaire have not supplied specific and clear information on the acquisition of permanent residence and family reunification, their positioning with respect to these two variables has not been analyzed.

Cross-issues comparisons

A specific focus of the analysis was aimed at assessing the relationship between the conditions of entry, on the one hand, and conditions of residence, on other hand. With this view, the first aspect analyzed deals with the procedures/permits foreseen for entry and residence of HSW, compared to the following criteria (already described above):

- acquisition of permanent residence;
- type of permit¹³⁵;
- economic need test, as a prerequisite for admitting HSW.

¹³¹ FR questionnaire provided information only with regard for one of the 3 HSW national schemes (“cadres de haut niveau”). For family members of HSW under this scheme, access to work is facilitated only if gross monthly salary is more than 2000€, but not all the usual social benefits are granted.

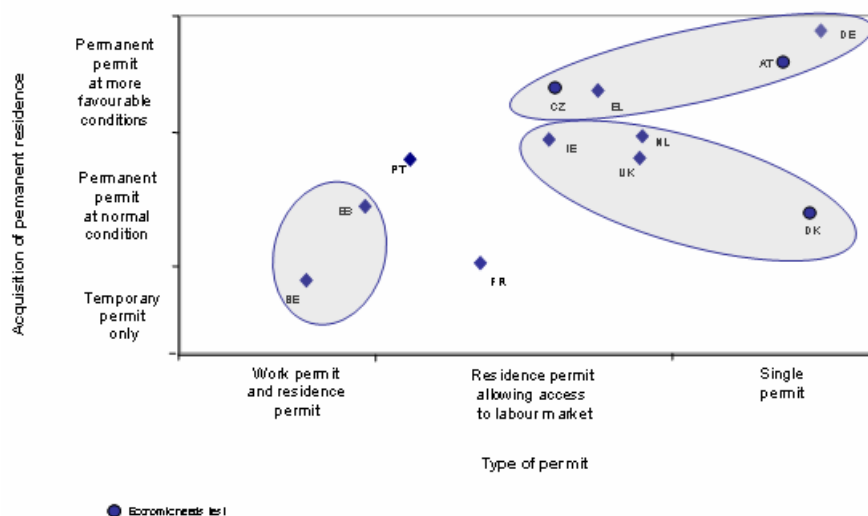
¹³² Two of the 3 HSW French schemes (“Carte competences et talents” and intra-company mobility) have strictly temporary permit not leading to permanent residence.

¹³³ It must be noted that BE scheme is formally aimed only to the entry of HSW.

¹³⁴ EE, FI, LV, MT, PL, SK.

¹³⁵ As noted above, the distinction between a single permit and a residence permit allowing access to labour market do not have relevance in terms of simplification of accession system; the distinction, thereby, has made exclusively for descriptive purposes.

Graph 7. Comparison between the acquisition of the permanent residence and the type of permit



According to the analysis of the positioning of each MS with respect to the two variables the following clusters could be identified:

- “Fast-track schemes for both access and permanence in labour market” cluster: This cluster includes those MS (AT, CZ, DE and EL) that foresee a single permit or a residence permit which allows HSW to work inside the MS¹³⁶, also granting them more favourable conditions for acquiring the long-term resident status in comparison with those foreseen for no-HSW. Moreover, DE and EL does not apply the economic needs test condition for admitting HSW.
- “Fast-track schemes only for access in labour market” cluster: This cluster includes 6 MS (DK, EL, IE, NL, UK) that foresee for HSW a single procedure/permit for both residing and working: i.e. DK provides for a single permit, while DK and NL issue a residence permit which also allows access to labour market. However, these MS grant permanent residence to HSW under the same conditions foreseen for no-HSW.
- “No fast-track schemes for access and permanence in labour market” cluster: This cluster includes 2 MS (BE and ES) that request for HSW both residence and work permits, without granting them more favourable conditions in order to acquiring the permanent residence.

Therefore all the analysed MS (with the only exception of BE and ES and partially PT¹³⁷ and FR¹³⁸) request HSW a single procedure for accessing to the labour market, denoting a wide interest from MS to facilitate the entry of third country HSW.

¹³⁶ One of the two Greek schemes for HSW (and namely board members, managers and special staff in companies) foresees two permits but unified in one single act.

¹³⁷ PT foresees a work visa and subsequently a residence permit allowing access to labour market.

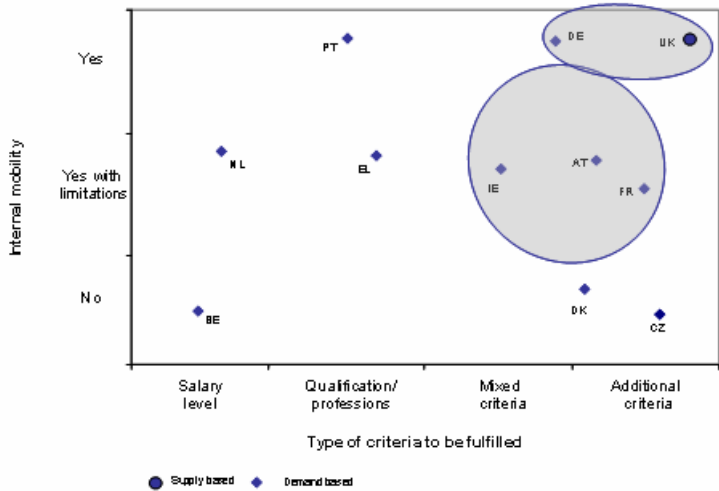
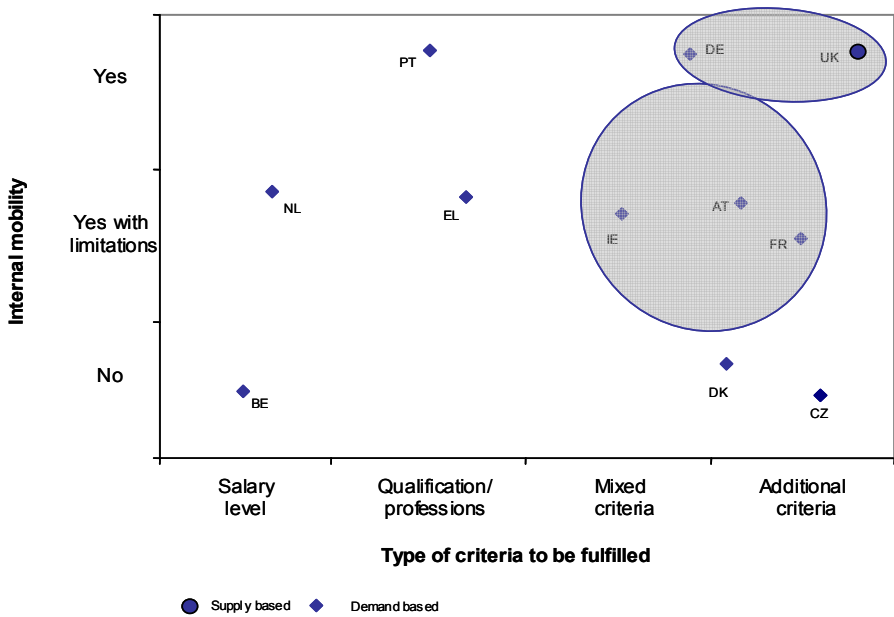
¹³⁸ FR foresees only a residence permit "worker" for fixed contract and a residence permit "temporary worker" plus a temporary work autorisation for temporary contract.

The second comparison analysis investigates the relationship between the criteria of accession system which regulates the admission of HSW in each MS and the right to mobility on the internal labour market granted to them once admitted.

The positioning of the MS has been analyzed with respect to these two variables (already described above):

- internal mobility;
- type of criteria to be fulfilled;
- supply-Demand based approach.

Graph 8. Comparison between internal mobility of HSW and type of criteria to be fulfilled



According to the analysis of the positioning of each MS with respect to the two variables the following clusters could be identified:

- “Multicriteria selection system with limited internal mobility” cluster: this cluster is made up of those MS (FR, IE and AT) characterized by a more articulated accession system, provided that the criteria for admission includes different requirements to be fulfilled: from minimum salary level and proof of qualifications to additional criteria, such as the importance of the professional figure for the internal labour market, or other criteria specifically defined. On the other hand, the internal mobility is granted within some limitations, more or less strictly identified. For example, FR differentiates the level of mobility according to the different schemes in force, whereas IE provides for mobility only within the same skills categories, and NL permits changes of job/employer only with another registered employer .
- “Multicriteria selection system with unlimited internal mobility” cluster: the last cluster is composed DE and UK; the national systems of these two MS are very different, but both are characterized by articulated accession procedures. In particular, the point system that is in force in UK is based on several criteria, such as past earnings, achievements in the specific field of application, achievements of spouses, etc. On the other hand, however, once admitted, the third country HSW can benefit from unlimited mobility on the internal labour market: no limitation to the possibility of changing job or employer is present in the MS concerned. DE system, though very different from UK, is quite articulated, since three different schemes for HSW are foreseen and specific criteria are associated to each of them.

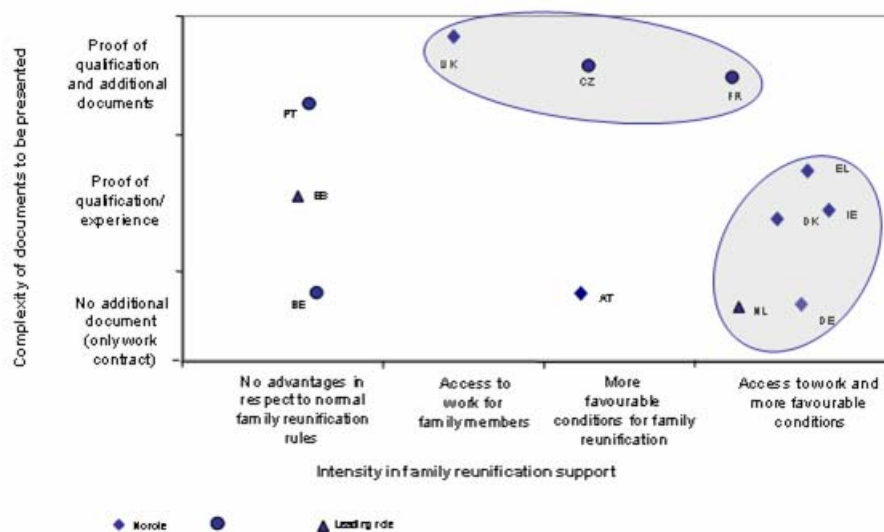
It is worth noting the case of BE, where the minimum the salary level is the only criteria that the third country worker has to fulfill in order to benefit from the specific rules for HSW. Nevertheless, the high simplification of the accession system corresponds to the full limitation of mobility on the internal labour market for third country HSW. In fact, in BE as well as in DK, the HSW has to request a new permit for any change of job and/or employer.

The third aspect analyzed in terms of cross issues comparisons relates to the relationship between the intensity in family reunification support and the complexity of documents to be presented.

In particular, the following criteria for the positioning of the MS with respect to these two variables have been identified (already described above):

- intensity in family reunification support;
- complexity of documents to be presented;
- employer role.

Graph 9. Comparison between the intensity in family reunification support and the complexity of documents to be presented



According to the analysis of the positioning of each MS with respect to the two variables the following clusters have been identified:

- “Intermediate intensity in family reunification support– high complexity of admission conditions” cluster: this cluster is made up of those three MS (CZ, FR, UK) that are presenting at the moment, together with PT, the more complex and wider request of documentation to be provided for the application -, by answering at the same time at least one of the criteria identified to assess the intensity of the support to family reunification. In particular, UK grants the immediate access to work for family members of HSW, also justified by the fact that UK, in the first stage of its point system, asks for documents attesting achievements of the spouse or unmarried partner of HSW. CZ instead recognizes more favourable conditions for family reunification to HSW. Finally, FR surely recognizes more favourable conditions for reunification while, concerning direct access to work, imposes a limitation on the basis of salary level.
- “High intensity in family reunification support– medium complexity of admission conditions” cluster: this cluster identifies those MS (DE, DK, EL, IE, NL) whose legislation, mainly characterized by a medium level of complexity related to the documentation to be provided for the application as HSW, provides a high intensity in terms of support granted to family reunification. It must be stressed that the most significant effort is of EL, which grants immediate access to work for family members, meanwhile in IE the access to work is granted on the basis of more favourable conditions, and for DK the access to work is not immediate. Finally, concerning DE and NL some specificities must be highlighted. Firstly, concerning the right to work to family members, both of them recognize it on the basis of the same scheme adopted for HSW. Then, regarding documentation required, they present a simplified scheme if compared with DK, IE and EL, since they only ask for the work contract. Independently from this aspect, they have been both inserted in this cluster for different reasons:

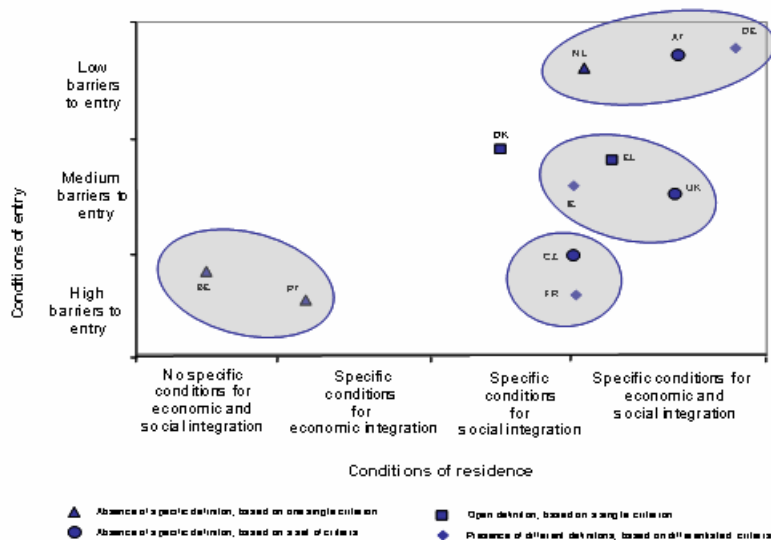
- DE: because its system of accession (definition and criteria) is so specific to represent by itself a substantial grant on HSW qualification and a very selective procedure;
- NL: because it is the only MS in which the employer plays a significant role also in terms of assuming the function of guarantor of HSW and also of attesting HSW competences and skills. This attributes to the employer a significant responsibility in the NL system and implies the simplification of the documents to be produced for HSW accession.

Conclusions

The main evidences of the comparison analyses in so far carried out could be summarised investigating the MS positioning with regard to the following issues:

- Legal definition of HSW, according to:
 - Type of definition;
 - Type of criteria to fulfil .
- Conditions of entry of HSW, assessing the level of “entry barrier” to market labour on the basis of:
 - Type of permit(s);
 - Complexity of documents to be presented .
- Conditions of residence of HSW, assessing the existence of specific conditions fostering:
 - the economic integration of HSW, on the basis of internal mobility and period granted to HSW for searching a new job after the loss/end of the work contract ;
 - the social integration of HSW, on the basis of acquisition of permanent residence and intensity in family reunification support .

In the graph below the MS are positioned according to the described criteria, on the basis of the analysis carried out in the previous sections.



According to the analysis of the positioning of each MS with respect to the variables the following clusters could be identified:

- “Most favourable conditions of entry and residence” cluster: this cluster includes 3 MS (AT, DE and NL) that foresee fast-track schemes and no additional documents (but only the work contract/job offer) for the admission of HSW. Moreover these MS grant more favourable conditions, in respect of what is normally granted to TCW, for fostering the economic and social integration of HSW and their family members.
- “Conditions of entry more than balanced by favourable conditions of residence” cluster: this cluster includes 3 MS (IE, EL, UK) that foresee fast-track schemes for the admission of HSW, but also require them additional documents/fulfilments. In particular, even if UK foresees a two-stage application procedure (“approval letter” and then application to enter) and applies a high complex point system, it do not require the existence of job offer/work contract as a basic prerequisite for admission, removing one of the main entry barrier to the labour market. However, all the MS of the cluster grant conditions more favourable than those normally granted to TCW, in terms of internal mobility, family reunification or acquisition of permanent residence, which more than balance the fulfilments required for being admitted as HSW.
- “Conditions of entry balanced by favourable conditions of residence” cluster: this cluster includes 2 MS (CZ and FR) that foresee either a complex point system (CZ) or both work and residence permits (FR for one scheme) for the admission of HSW. These entry procedures are balanced by the rights granted to HSW (in terms of mobility and reallocation in the labour market or acquisition of permanent residence) and to their family members (in terms of family reunification or access to labour market).
- “Conditions of entry not adequately balanced by favourable conditions of residence” cluster: this cluster includes 2 MS (BE and PT) that do not foresee conditions of residence fostering both economic and social integration of HSW, requesting at the same time either a wide range of documentation (PT) or both work and residence permits (BE) for the admission.

It has to be noted the specific case of DK, that foresees conditions of residence fostering only the social integration of HSW family members, which are more than balanced by the fast-track scheme (based on a single permit) foreseen for HSW admission.

On the whole, the present analysis as well as the conclusions drawn by MIGRAPOL 126 revised allow to point out some remarks:

- All the 21 interviewed Member States have special schemes in place that cover specific categories of third-country nationals who enter the Country to exercise an economic activity for which high qualifications are currently required. This evidence can denote a wide interest from MS to facilitate the entry of third country HSW, which is also confirmed by the fact that several MS (EE, FI, SI, CZ , DK, IE, NL, PT and UK) are planning or are in the process of revising their immigration laws concerning the conditions of entry and residence of HSW;
- The legal definition of HSW are not unanimous between MS, ranging from the absence of a real definition to a specific definition related to specific categories/professions, with an intermediate situation represented by the cases when an open definition is given. Same evidences arise with regard to the criteria to be fulfilled in order to be classified as HSW, ranging from definition based to a single criterion (salary or qualification/experience) to definition based on a set of criteria.
- At EU level the admission system is supply-based, with only exception represented by UK that do not require the existence of a job offer/work contract as a prerequisite for admission;
- In order to attract HSW, many MS foresee special fast-track schemes mostly based on a single permit/procedure, even if additional documentation (besides work contract/job offer) is requested in approximately the half of MS;
- In order to retain HSW, almost one third of MS grants them internal mobility in the labour market (even if with limitations in some cases) and/or foresees more favourable conditions of entry and residence for their family members (in terms of family reunification and/or access to the labour market). At the same time, very few MS recognise more favourable conditions for acquiring the permanent residence than those foreseen under Council Directive 2003/109/EC.

Finally, the table below summarizes, for each single issue/factor investigated, the main options currently adopted by the different EU MS. Summary table on main options adopted by the MS national legislations concerning the conditions of admission and residence of HSW.

Summary table on main options adopted by the MS national legislations concerning the conditions of admission and residence of HSW

Issues	Factors	Possible options	MS																					
			AT	BE	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	LT	LV	MT	NL	PL	PT	SI	SK	SE	UK
Legal definitions	Type of definition	No definition		X	X												X		X			X	X	
		Open definition	X				X	X	X	X	X		X	X	X		X		X		X	X		
		Specific definition				X		X	X			X		X		X					X			
	Type of criteria to be fulfilled	Salary level		X		X	X					X		X				X						
		Qualifications/professions				X		X	X		X	X		X		X			X		X		X	
		Additional criteria	X		X							X											X	X
	Supply/demand based approach	Supply based																						X
		Demand based	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Conditions of entry of HSW	Type of permit	Two different procedures/permits (i.e. work permit and residence permit)		X	X					X		X	X			X	X		X			X	

Issues	Factors	Possible options	MS																							
			AT	BE	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	LT	LV	MT	NL	PL	PT	SI	SK	SE	UK		
		One single procedure (i.e. residence permit with access to labour market)			X			X	X		X	X		X	X			X		X		X		X		
		Single permit	X			X	X																			
	Complexity of documents to be presented	No additional documents	X	X		X												X								
		Proof of qualifications/experience			X		X	X	X	X	X		X								X				X	
		Proof of qualification and additional documents			X								X								X			X	X	
	Employer role	No role	X			X	X		X					X											X	
		Joint role with worker		X	X							X	X	X							X	X	X	X		
		Leading role							X						X	X		X	X							
	Acceptance of in-country requests	No			X			X			X		X	X	X	X						X		X		
		No with exceptions		X																						
		Yes with limitations	X			X	X		X			X						X		X					X	
	Conditions of residence	Internal mobility	No		X	X		X				X														
Yes with limitations			X							X		X		X				X								

Issues	Factors	Possible options	MS																						
			AT	BE	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	LT	LV	MT	NL	PL	PT	SI	SK	SE	UK	
		Yes				X			X											X				X	
	Period granted for searching new job after loss/end of work contract	Automatic withdrawal of permit/case by case analysis		X			X			X			X	X		X								X	
		Temporary limitations	X		X							X		X				X		X					
		No limitation				X																			X
	Acquisition of permanent residence	Temporary permit only		X								X													
		Permanent permit under normal conditions					X			X	X	X		X	X			X		X	X				X
		Permanent permit under more favourable conditions	X		X	X				X															
	Intensity in family reunification support	No advantages in respect to normal family reunification rules		X							X	X	X			X					X	X			X
		Access to work for family members																							X
		More favourable conditions for family reunification	X		X	X	X			X			X		X					X					
		Access to work and more favourable conditions				X	X			X			X		X					X					

ANNEX IV: IDENTIFICATION OF THE OBJECTIVES

Consistency and intensity of the connections between global, specific and operational objectives and the problems identified

Problems identified	Core Problems	Intermediate causes	In-depth causes					
	Global, specific and operational objectives	Need of improving the contribution of economic migration to the matching of EU labour market needs of highly qualified workers and the offsetting of existing and arising skill shortages	Substantial difficulty for EU in attracting and retaining third country HSW	1) Absence of a common system at EU level for regulating the conditions of entry and residence of HSW	2) Absence in some of EU MS of a specific national legislation on HSW	3) Wide differentiation among MS in terms of legal definition of HSW and of criteria to be fulfilled	4) Complexity of admission procedures	5) Low attractiveness of the wideness of the rights recognized to HSW
Global Objectives								
D) To improve EU ability to attract and retain third-countries highly skilled workers as one of the conditions for increasing the contribution of economic migration within the set of policies and measures aimed at enhancing the competitiveness of the EU economy , as well as at addressing the consequences of demographic ageing	◆	◆						

<p>II) To effectively and promptly respond to existing and arising demands for highly qualified labour, and to offset skill shortages, by enhancing the inflows and circulation of third-countries highly skilled workers and promoting their efficient allocation and re-allocation on the EU labour market</p>	◆	□						
Specific Objectives								
<p>1) To develop a EU coherent approach and common immigration policy concerning third-countries highly skilled workers</p>			◆	□	◆			◆
<p>2) To lower barriers to entry, simplifying and harmonizing admission procedures for highly skilled workers, without prejudice to EU nationals</p>		□	□	□	□	◆		
<p>3) To promote highly skilled workers social and economic integration by granting them and their family with favourable conditions of residence, without prejudice to EU nationals</p>		□					◆	
<p>4) To foster intra-EU mobility allowing a more efficient allocation of third country highly skilled workers through the EU, without prejudice to EU nationals</p>			□		□			◆

Operational Objectives								
1) To establish a common definition of highly skilled workers among EU MS, as condition for the development of a common EU immigration policy as well as for the fostering of intra-EU mobility								◆
2) To establish common rules concerning the condition of entry of highly skilled workers			◆	□	□			
3) To establish common rules concerning the condition of residence of highly skilled workers			□				◆	
4) To setting up specific instruments aimed at fostering the intra-EU mobility of third-country highly skilled workers								◆

ANNEX V: INTERNATIONAL BENCHMARK: UNITED STATES

(Prepared by the external study)

The United States is a nation of immigrants. Foreigners enter the United States through three major doors: immigrant (someone who is not a U.S. citizen but has been authorized to permanently live and work in the United States), non-immigrant (citizens of other countries coming to the United States temporarily), or unauthorized (citizens of other countries living or working in the United States without a legal authorization). But the system is very flexible since foreigners admitted via one door do not strictly stay in the channel associated with their entry.

The main incidence on the total of the US immigration is represented by non-immigrants: during the 1990s, about 250 million non-immigrants (excluding Mexicans and Canadians crossing for short visits) were admitted in the US, against 9 million legal immigrants and 15 million unauthorized foreigners apprehended. Each of these flows has continued at the average levels of the 1990s despite the terrorist attacks of September 11, 2001, so that in fiscal year 2003, there were 28 million non-immigrants, 706,000 legal immigrants, and over one million apprehensions.¹³⁹

According to the mentioned trends, specifically considering immigrants, the average annual number for US was more than 900,000 units per year between 1991 and 2003¹⁴⁰.

This high flow of immigrants is caused by four major purposes: family unification, employment (to fill vacant jobs), refugees and diversity. The number of migrants admitted each year through these four major reasons is only partially fixed by quotas, implying that the global ceiling of 480,000 to 675,000 immigrants a year is exceeded because of these types of immigrants exempt from the ceiling¹⁴¹.

In details, family unification is the main driver of immigration flows to the US, especially as more immigrants becoming naturalized US citizens sponsor their immediate family members for admission. Secondly, about a seventh of US immigrants (including their family members) are admitted because they have extraordinary ability or because US employers sponsored them for immigrant visas. The third group is represented instead by refugees and asylum seekers (about an eighth of the flow), while the fourth includes diversity¹⁴² and other immigrants¹⁴³.

According to the scope of this benchmarking, the main focus is on economic immigrants, that are employment-related migrants, whose ceiling, according to the socio-economic objectives of US, more than doubled in 1990, from 54,000 to 140,000 (including family members).

¹³⁹ Competing for Global talent – International Labour Office – 2006.

¹⁴⁰ Ibidem.

¹⁴¹ Ibidem.

¹⁴² Diversity immigrants are persons who applied for a US immigrant visa in a lottery open to those from countries that sent fewer than 50,000 immigrants to the US in the previous five years.

¹⁴³ Competing for Global talent – International Labour Office – 2006.

Table 6. Employment-based US immigration, 1998-2002

Employment-related immigrant visas	1998	2000	2002	Average	Per Dist
Principals getting visas	33,771	50,135	79,802	54,569	
<i>1st preference</i>	8,709	11,452	13,807	11,323	100%
- Aliens with extraordinary ability	1,691	2,002	2,881	2,191	21%
- Outstanding professors/researchers	1,835	2,667	2,737	2,413	4%
- Multinational executives/managers	5,183	6,783	8,189	6,718	4%
<i>2nd preference</i> Professionals with advanced degrees	6,933	9,815	21,334	12,694	12%
<i>3rd preference</i>	15,143	24,373	41,238	26,918	23%
- Skilled workers	8,515	13,651	17,788	13,318	49%
- College graduates	3,927	8,771	21,679	11,459	24%
- Other workers (unskilled workers)	2,701	1,951	1,771	2,141	21%
<i>4th preference</i> , religious	2,695	4,403	3,366	3,488	4%
<i>5th preference</i> , investors	259	79	52	130	6%
Principals-Per of US immigration	5%	6%	8%	6%	0%
Dependents of Principals	43,746	56,889	95,166	65,267	
Total US Immigration	654,451	849,807	1,063,732	855,997	

Source: ILO 2006. Data from: Yearbook of Immigration Statistics, US Government.

On average, in years 1998, 2000 and 2002, about 55,000 migrants obtained the employment related immigrant visas, and between them more than 27,000 units can be considered as highly qualified workers (the migrants belonging to the 1st preference, 2nd preference and to part of the 3rd preference category (skilled workers) indicated in Table 1).

Within this last category, three main sub groups of individuals can be recognized:

- the immigrants qualified as global talents, which are relatively few (an average of about 11,000 a year), for whom there is no need to test the US labour market to determine if US workers are available in the same fields/occupations. These are those immigrants classified as first preference.
- the second-preference immigrants, an average 13,000 a year, who are professionals with advanced degrees, for whom a labour certification is needed, meaning that their US employers must prove to the satisfaction of the US Department of Labour that no US workers are available to fill the job for which the employer is seeking an immigrant visa;
- the foreigners with at least a BA degree allowing them to fill US “speciality occupations”, the skilled workers for whom the employers must sponsor them by proving, to the

satisfaction of the US Department of Labour, that US workers are not available to fill the job for which the foreigner is being requested.

However, it must be stressed that these numbers on economic legal immigration represent only a portion of the overall number of foreign HSW attracted to US each year, due to the existence of specific non immigrants programs directly addressed to the attraction and permanence of highly qualified foreign workers in US.

Due to this fact, and due also to the mentioned main relevance of the non immigrants on the overall numbers of migration to US, it is necessary to focus attention on the non immigration programs related to the accession of HSW.

In accordance with this aim, it must be specified that US legislation on non immigrants is organized in different schemes, each one associated with the qualifications and the specific features of the different categories of employment-related foreigners entering the US each year. However, according to the scope of this benchmarking analysis, our attention will be focused only on two schemes related to these categories of employed-related non migrants that can be considered as highly skilled workers:

- O-1 visa, which mostly relates to those kind of professionals admitted like immigrants through the scheme of accession of the 1st preference and 2nd preference categories of migrants;
- H-1 B visa, which mostly relates to those kind of professionals admitted like immigrants through the scheme of accession of the skilled workers belonging to the 3rd preference category of migrants, which represent the main portion of employment related migrants entering US.

However, here it must be stressed that there are several other US non-immigrant programs that could be used to admit global talent¹⁴⁴, besides other special schemes facilitating the accession of specific categories (NAFTA professionals, foreign students), or based on the activities of intermediaries who recruit workers for US jobs. Yet these schemes are not considered since they are partially out of the scope of this benchmarking analysis cause not addressed to HSW.

A special mention instead is necessary for L-1 visas, which are recognized for up to seven years to migrants that are managers or have specialized knowledge of the company's products or processes, were employed at least one year abroad, and are transferred by multinationals from a foreign to a US branch. This scheme has not been considered since the Policy Plan on Legal Migration established the proposal of a specific Directive on this issue.

Finally, it is worth noting that in the U.S. the reform of legislation on immigration is now under discussion in Congress. The reform is handling the establishment of a new merit-based system to select future immigrants on the basis of the skills they will bring to the U.S. economy. Under the new merit-based system, points will be assigned for attributes that promote the national interest with a particular attention paid to employment in a specialty occupations (such as medical, health, scientific, education, biotechnology, and business

¹⁴⁴ E1, E2, H2 J1.

disciplines) in the so called STEM occupations (science, technology, engineering, or math) or high-demand field.

Moreover, the new Bill includes a large and immediate increase in the H-1b visa cap for skilled foreign workers. The H-1B visa cap will rise from 65,000 now to 115,000 for the first year. Going forward, the cap will be adjusted on the basis of economic needs.

On the whole, the reform is handling the establishment of further channels for legal migration, whereas the attraction of HSW as well as of workers in specialty and high-demand occupations will be a core objective of the new immigration policy.

Furthermore, the new Bill would substantially shift the US system toward a points based system, currently adopted by the traditional countries of immigration such as Canada and Australia.

Immigration and settlement policies

Hereinafter the analysis of O-1 visa and H-1 B visa is presented, in order to facilitate the objectives and functionalities of benchmarking analysis, according to the three main issues around which was structured the analysis on the national legislations on conditions of admission and residence of HSW at EU level:

- legal definition;
- conditions of entry;
- conditions of residence.

Main aspects of US system

In this section the main peculiar aspects related to US legislation system on the conditions of admission and residence of HSW have been analyzed, in order to analyze the main positive elements that could be replicated at EU level. In detail, the analysis is referred to:

US Green Card, on which attention has been focused because of the relevance of the possibility, recognized by the legislation to HSW, to acquire immediately permanent US residency;

NAFTA professional visa, on which attention has been focused because of the fact that this kind of agreement established for the North American Free Trade Area could be replicated at EU level in order to facilitate the EU intra-mobility to foreign HSW at least in some defined sectors/professions.

The Green Card

A foreigner may acquire the right to live and work in the United States by acquiring permanent residence in the US. This would usually be as a result of employment or family ties. This is known as **US Green Card Status**.

USA immigration laws establish **two categories of aliens who may immigrate permanently to the United States, preference and non-preference types of visas**. Those who benefit from either one of these types of visas qualify to live and/or work in the USA.

Concerning **Preference System for permanent visas**, the applications for these visas are subject to an annual numerical quota of 675,000, between which there are **four preferences of family sponsored immigrants** (535,000 for which a minimum of 226,000 must be issued in any given year).

However, regarding **employment based immigrants**, the world wide limit on employment based USA visas is 140,000 plus unused family sponsored preference visas from the previous year, and there are five different categories of employment based USA visas that are synonymous with USA permanent residence (**acquisition of a Green Card**). These are referred to as the EB preference system. These visas allow their beneficiaries to live and work in the USA on a permanent basis and there is descending order of petitions allowed for each category. Thus, the EB-1 has priority with regard to how many petitions are allowed for this for EB visas, then the second preference and so on and so forth.

In detail, concerning the scope of this benchmarking analysis, only the first three EB visas are presented in-depth, since they are recognized to these categories of workers considered as HSW:

- **EB-1:** available to persons of extraordinary ability, outstanding professors and researchers and certain executives and managers of multinational organizations, for which the ceiling for the fiscal year 2004 was of 58, 465 plus unused EB-4 and EB-5 visas¹⁴⁵. For those kind of migrants there is no need to test the US labour market to determine if US workers are available in the same fields/occupations;
- **EB-2:** available to foreign nationals with advanced degrees and those with exceptional ability whose employment in the USA would be in the national interest of the country, for which the ceiling for the fiscal year 2004 was of 58, 465¹⁴⁶ plus any unused visas from the first preference employment category. For this category a labour certification is needed, meaning that their US employers must prove to the satisfaction of the US Department of Labour that no US workers are available to fill the job for which the employer is seeking an immigrant visa;
- **EB-3:** available to skilled workers, professionals and other workers, for which the ceiling for the fiscal year 2004 was of 58, 465¹⁴⁷ plus any unused visas from the first preference employment category. For this category the employers must sponsor them by proving, to the satisfaction of the US Department of Labour, that US workers are not available to fill the job for which the foreigner is being requested

However, specifically referring to the last category it must be stressed that there are **adequate visa numbers projected in the foreseeable future for skilled workers and professionals**, but there are only 10,000 visas allowed world wide each year for foreign nationals who are categorized as other workers. This is further being reduced to 5,000 applications worldwide. Also, if considering **EB-4** (Special immigrants and religious workers) and **EB-5** (Employment creation (investors)) categories, their ceilings were both of **14,514** in 2004.

Thus, the following are the **main advantages** recognized by the US legislation on employment-related migration to **HSW**, that are those kinds of workers related to the EB-1, EB-2 and EB- 3 visas:

- **higher ceilings** in terms of the number of migrants belonging to these categories admitted to enter US each year;
- **priority** following a **descending** order from EB-1 in terms of assignment of permanent residence;
- **inverse relation** between the **relevance of the professional figures** and the **complexity of the attestations** to be presented by the employer in order to obtain admission (**i.e. labour certification is needed**, meaning that their US employers must prove to the satisfaction of the US Department of Labour that no US workers are available to fill the job for which the employer is seeking an immigrant visa).

¹⁴⁵ Migration Policy Institute – US employment based Admission: Permanent and Temporary – January 2006.

¹⁴⁶ Ibidem.

¹⁴⁷ Ibidem.

Moreover, the **main attention** of US system to HSW conditions is testified by the recognition, for the two **non immigrants programs dedicated to HSW (O-1 and H-1 B)**, of the **dual intent** mechanism, which allows applicants to **simultaneously pursue a temporary and permanent visa**, and encourages and facilitates the adjustment of these workers to lawful permanent resident status.

Mexican and Canadian NAFTA Professional Worker

The non-immigrant **NAFTA Professional (TN) visa** allows citizens of Canada and Mexico, as NAFTA professionals to work in the United States.

This visa covers a number of occupations included in the **NAFTA Professional Job Series List**, i.e. a list of requested professionals with minimum education requirements and alternative credentials . Moreover, an **invitation from a U.S. employer as well as a prearranged job is needed**, since self employment is not permitted under this scheme. As to the application requirements, these are different for Canadians and Mexicans citizens. However, some requirements and documentation are common.

Beyond the “Employment Letter”, provided by the US employer, applicants must demonstrate that they are properly classifiable as NAFTA Professional for TN visa by:

- **Education Requirement** - The applicant's employer must submit proof that the applicant meets the minimum education requirements or has the alternative credentials;
- **Work Experience Requirement** - Documents proving to the applicant's experience, in the form of letters from former employers.

This visa is valid for a maximum period of one year, with the possibility of renewal for a further year. There is no limit on the number of years a TN visa holder can stay in the US. However, the TN visa status is not for permanent residence.

Spouses and children (unmarried children under the age of 21) who are accompanying or following to join NAFTA Professionals (TN visa holders) may receive a derivative TD visa, but they are not allowed to work while in the U.S.

However, other preferential conditions can be envisaged:

- employers in the three NAFTA countries can offer an **unlimited number of jobs** requiring college degrees to NAFTA nationals with college degrees;
- unlike the H-1B program, there is **no requirement** that a NAFTA employer pay at least the **prevailing wage**.

On the whole, as a first remark, these arrangements make possible the establishment of a **common approach in the recognition of educational attainments and qualifications** within the NAFTA Area. The presence of a list of the specific qualifications admitted to the scheme clearly implies the definition of a common and shared system that strongly eases the mobility of HSW among the three countries concerned.

Moreover, this scheme substantially fosters the **circulation of highly qualified professionals within NAFTA** making temporary employment in the U.S. easier for certain Canadian and Mexican workers. On the whole, this scheme seems conducive to, on one side, improving the possibility of U.S. employer to overcome temporary labour shortages, on the other side increasing the general skills endowments of the U.S. labour market, relying on labour migration from near countries.

(Source: ILO 2006. Data from: Yearbook of Immigration Statistics, US Government.)

H-1 B Speciality (Professional) Workers

Issues	Factors	Description
Legal definitions	Type definition of	<p>H-1 B gives an open definition of HSW, by allowing US employers to admit:</p> <p>highly skilled foreigner workers that have at least a BA degree allowing them to fill US “speciality occupations”;</p> <p>fashion models of distinguished merit and ability.</p> <p>Shortages are not officially defined. The entry standard is not limited by occupation; it is therefore flexible enough to admit any profession for which there is demand.</p>
	Type of criteria to be fulfilled	<p>In order to qualify for an H1B visa, the alien must demonstrate that s/he is able to work in the ‘specialty occupation’ for which s/he is being hired by the sponsoring employer. This can be demonstrated by:</p> <p>Possession of a relevant US college degree;</p> <p>Possession of a non-US college degree (and, generally, 3 years’ relevant high-level work experience) independently evaluated as being equivalent to a relevant US college degree;</p> <p>Possession of at least 12 years’ high-level work experience, independently evaluated as being equivalent to a US college degree; or</p> <p>Possession of any relevant State or Federal license that may be required in order to practice in a particular profession (doctors, lawyers, accountants and similar professionals must generally have passed the relevant state licensing examination and be in all other respects qualified to practice in the State of intended employment).</p> <p>Certain H-1B employees are also exempt from inclusion in the calculation of their employers H-1B dependency status. These include:</p> <p>Those receiving wages of at least \$60,000 per year; and</p> <p>Those with a masters or higher degree in a speciality related to the intended area of employment.</p>

Issues	Factors	Description
Legal definitions	Supply/demand based approach	Basically, the US one is a demand based approach in administering the skilled migration issue since individuals cannot apply for an H-1B visa to allow them to work in the US, but the employer must require the petition for the entry of the employee.
Issues	Factors	H-1 B Speciality (Professional) Workers
Conditions of entry of HSW	Quota	<p>The Immigration and Nationality Act (INA), as amended, establishes an annual ceiling (exclusive of spouses and children) on the number of foreign workers who may be issued H-1B visas:</p> <p>195,000 in fiscal year 2001;</p> <p>195,000 in fiscal year 2002;</p> <p>195,000 in fiscal year 2003;</p> <p>65,000 in each succeeding fiscal year.</p> <p>However, in November 2005, the United States Senate voted to increase numbers of skilled migrants from 65 000 to 95 000 per year.</p> <p>The quota does not apply to certain groups of employers and foreign employees, including:</p> <p>Colleges, universities and related non-profit entities;</p> <p>Non-profit research organisations and government research organizations;</p> <p>Recent graduates for whom a petition is filed up to 90 days before or 180 days after they are awarded their masters or higher degree.</p>

Issues	Factors	Description
	Type of permit	Labour condition applications may be approved for periods of up to 3 years, renewable for a total of 6 years , the maximum allowable period of stay in the U.S. under H-1B status.

Issues	Factors	Description
<p>Conditions of entry of HSW</p>	<p>Employer role and Complexity of documents to be presented</p>	<p>Each employer seeking an H-1B non-immigrant in a specialty occupation or as a has several responsibilities:</p> <p>The employer shall submit a completed labour condition application (LCA) on Form ETA 9035;</p> <p>The employer shall make the LCA and necessary supporting documentation available for public examination at the employer's principal place of business in the U.S. or at the place of employment within one working day after the date on which the LCA is filed with ETA;</p> <p>The employer then may submit a copy of the certified LCA to INS with a completed petition (INS Form I-129) requesting H-1B classification.</p> <p>Employer attestations include:</p> <ul style="list-style-type: none"> that the employer is offering the H-1B worker the prevailing wage; that the working condition offered to the H-1B worker do not adversely affect US employees' working conditions; the employer asserts that there is no strike or lockout for the position being filled by the H-1B; to maintain records of the LCA and the H1B alien's employment for inspection by the US Department of Labor (DOL); that the employers is/ is not H-1B dependent¹⁴⁸). <p>A separate Labour Condition Application must be made for each site at which the employee will be working (though there is a limited exception for short-term assignments at different sites within the same Metropolitan Statistical Area).</p> <p>The DOL, involved in the admission procedure, is not the guarantor of the accuracy, truthfulness or adequacy of a certified labour condition application. The burden of proof is on the employer to establish the truthfulness of the information contained on the labour condition application.</p>

¹⁴⁸ S employers whose workforce is composed of 15 per cent or more of H-1B workers must firstly document their efforts to recruit US workers and secondly certify that US workers were not laid off to make room for H-1B's in the previous 90 days. Similarly, these employers (that number approx. 100-200 employers) must certify that US workers will not be laid off for 90 days after the arrival of the H-1B workers. Other employers are free to hire and fire US and H-1B workers without these restrictions.

Issues	Factors	Description
Conditions of entry of HSW	Institutions involved in issuing the H-1B visas and processing timescale	<p>Institutions involved</p> <p>The Department of State, through U.S. Embassies and Consulates, is responsible for issuing H-1B visas.</p> <p>The Department of Justice, through the Immigration and Naturalization Service (INS), accepts the employer's petition (INS Form I-129) with the DOL-certified LCA attached.</p> <p>INS is responsible for approving the nonimmigrant's H-1B visa classification. In doing so, the INS determines whether:</p> <p>the petition is supported by an LCA which corresponds with the petition;</p> <p>the occupation named in the labour condition application is a specialty occupation or whether the individual is a fashion model of distinguished merit and ability;</p> <p>whether the qualifications of the non-immigrant meet the statutory requirements for H-1B visa classification.</p> <p>If the petition is approved, INS will notify the U.S. Consulate where the non-immigrant intends to apply for the visa unless the non-immigrant is in the U.S. and eligible to adjust status without leaving.</p> <p>Processing timescale</p> <p>On average 2-3 months in total, depending on the INS Regional Service Center processing the application.</p>
	Acceptance of in-country requests	<p>Applications may be made from those studying as students already in the United States and so applications are made both before and after entry.</p>

Issues	Factors	Description
Conditions of residence	Internal mobility	H-1B workers may change US employers, and may begin their new job as soon as their new employer submits an H-1B petition.
	Period granted for searching new job after loss/end of work contract	<p>A laid-off H-1B worker must return to their country of origin, although there is now discussion of a ten-day ‘grace period’ in which alternative employment may be sought before return is required.</p> <p>Once a company has brought an employee to the US on an H1B visa, should the company dismiss that employee before the expiry of the visa, the company is liable for any reasonable costs that the employee incurs in moving him/herself, his/her effects, and (where appropriate) his/her dependants, back to his/her last foreign residence. This provision covers only dismissal, it is not relevant when an employee chooses to resign.</p>
	Acquisition of permanent residence	Those wishing to remain in the US for more than six years may, while still in the US on an H1B visa, apply for permanent residence (the "green card") . If such employees do not gain permanent residence during the allocated six year period, they must leave the US for at least one year before an application is made for them to re-enter on an H or L visa. However, H-1B workers whose labour certification or permanent immigration applications have been pending for more than one year when their visa expires, may receive extensions in one year increments until a final decision on their green card is made.
	Intensity of family reunification support	<p>Family reunification is allowed.</p> <p>The spouses of temporary foreign workers are generally not permitted to work in the US.</p> <p>Spouses and children of an H-1B visa holder are granted H-4 visas, which permit them to attend school in the United States but not to work.</p>
	Civil Rights	Although not entitled to social benefits, H-1B workers enjoy the same civil rights and labour market protections as US residents.

O-1

Issues	Factors	Description
Legal definitions	Type definition of	<p>O-1 gives an open definition of HSW, by allowing the admission of:</p> <ul style="list-style-type: none"> aliens with extraordinary ability in the arts, sciences, education, business or athletics; outstanding professors and multinational executives; professionals with advanced degree.
	Type of criteria to be fulfilled	<p>In order to qualify for an O1B visa, the alien must demonstrate that the beneficiary has won a significant award like the Nobel Prize or something else that gained recognition all over the world. Otherwise, the beneficiary must satisfy at least 3 of the following criteria:</p> <ul style="list-style-type: none"> Be a recipient of nationally or internationally acclaimed awards. Be a member of such associations that comprise the most highly placed individuals of that particular field. Have had featured in publications or other forms of media of national / international repute. Have made noteworthy innovations or contributions in / or to the area of expertise.

Have his / her articles featured in well-known journals and other popular forms of media.

Be able to test the abilities of others in the specific area of expertise.

Be an employee with a pivotal responsibility in an organization of national / international fame.

Earn a high remuneration for the services offered with duly supporting evidences.

Issues	Factors	Description
		<p>beneficiary must satisfy at least 3 of the following criteria:</p> <p>Prove that he / she has, and will perform as a lead participant in an event / organization / establishment. The event should have been critically acclaimed. Advertisements and publicity releases, publications, endorsements or contracts can provide further evidence of this;</p> <p>Be professionally associated with people / productions of international acclaim;</p> <p>Have had achieved national / international fame through various popular media;</p> <p>Have had performed in a key role in organizations / events that claim of international / national repute;</p> <p>Have had accomplished significant professional and critical success and recognition Be earning one of the highest remunerations in the field.</p>
	Supply/demand based approach	Basically, the US one is a demand based approach , since an individual seeking an O-1 Visa (beneficiary) must have a sponsor (petitioner). This means that the visa is employer specific and a job offer is needed.
Issues	Factors	O-1
Conditions of entry of HSW	Quota	The ceiling for the fiscal year 2004 was of 58, 465 plus unused EB-4 and EB-5 visas ¹⁴⁹ .
	Type of permit	<p>The O-1 Visa is a non-immigrant visa that allows certain individuals to work temporarily in the United States.</p> <p>An O-1 visa holder is initially admitted to the United States for the duration of the event, production or activity, not to exceed 3 years. An O-1 visa can be extended till the time the individual accomplishes the set task.</p>

¹⁴⁹

Migration Policy Institute – US employment based Admission: Permanent and Temporary – January 2006.

Issues	Factors	Description
	<p>Employer role and Complexity of documents to be presented</p>	<p>Each employer seeking an O-1 non-immigrant should file a petition on Form-I-129 with the BCIS (INS), at the Service Center that has jurisdiction over the state in which the employment is sought, at least six months prior to the commencement of the impending work / performance.</p> <p>Only one beneficiary may be included on an O-1 petition. A United States employer, a United States agent, or a foreign employer through a United States agent may only file an O-1 petition.</p> <p>The petitioner must file a set of necessary documents that include:</p> <p>The beneficiary's curriculum vitae and academic background;</p> <p>Essential documents of proof that the beneficiary fulfils the eligibility criteria for the O-1 visa;</p> <p>Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement;</p> <p>Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability;</p> <p>Valid information about the employer (petitioner), including the financial information;</p> <p>A letter from the petitioner that contains: (i) an employment offer to the beneficiary; (ii) a brief account of the offer; (iii) the job requirements and responsibilities; (iv) the actual date of the employment; (v) the remuneration offered; (vi) an attested note of the beneficiary's qualifications for the position;</p> <p>A 'No Objection Letter' from the peer group, an expert of the same field, or from an organization;</p> <p>The visa application Form OF-156, completed and signed;</p> <p>Form I-94: The arrival-departure record, used at the U.S. Port of Entry;</p> <p>The passport, with a validity date exceeding the intended period of stay by at least 6 months;</p> <p>One photograph 1 & 1/2 sq. inches (37mm x 37mm) of each applicant, showing full face, without head covering, and against a light background .</p> <p>A petition that requires the applicant to work in more than one location (e.g., a tour) must include an itinerary with the dates and locations of the performances and must be filed with the service center, which has jurisdiction over the area where the petitioner is located.</p>

Issues	Factors	Description
		If the beneficiary or beneficiaries will work for more than one employer within the same time period , each employer must file a separate petition with the Service Center that has jurisdiction over the area where the services will be performed.
Conditions of entry of HSW	Institutions involved in issuing the O-1 visas	The BCIS (INS) has authority to deny admission. It is the BCIS (INS) and not the consular officer who determines the period of stay. At the port of entry, an BCIS (INS) official validates Form I-94, recording the arrival, which clarifies the length of stay permitted.
	Acceptance of in-country requests	n.a.
Conditions of residence	Internal mobility	If the O-1 visa beneficiary desires to work for another employer , the new employer needs to file another O-1 petition and is not allowed to hire the services of the beneficiary until the BCIS (INS) has approved the O-1 petition.
	Period granted for searching new job after loss/end of work contract	n.a.
	Acquisition of permanent residence	Those wishing to remain in the US as permanent residents, while still in the US on an O-1 visa, apply for permanent residence (the "green card").

Issues	Factors	Description
	Intensity in family reunification support	The spouse and children of an O-1 visa holder are allowed entry under the O-3 status. The employer (petitioner) has to file a petition on their behalf.
	Civil Rights	n.a.

ANNEXVI: INTERNATIONAL BENCHMARK: AUSTRALIA

(Prepared by the external study)

Australia is one of the world's most significant immigration nations and of all OECD nations none has a contemporary population and workforce so influenced by migration¹⁵⁰.

The main Australia immigration program is made up of:

- A skill immigration stream, which has a number of categories for people who have particular occupational skills, outstanding talents or business skills;
- A family immigration stream, where people can be sponsored by a relative who is an Australian citizen or permanent resident;
- Special eligibility migrants, who are former citizens or residents wanting to return to Australia, or certain New Zealanders.

However, it is particularly relevant for the scope of this analysis the presence of an articulated program for skilled migration as well as a longstanding practice of accessing a highly skilled labour force through immigration. Whereas many other nations have only introduced skill migration programmes in the last decade, in Australia large scale, explicitly skill selective, immigration policies and programmes are more than three decades old (Graeme Hugo, 2006).

Since 1996, Australia's permanent immigration policy focused not only on skill recruitment, but also new temporary migration visas has been developed to attract skilled workers in particular areas.

In particular, since the 1980s, the government has developed policies designed to target migrants with experience in areas where there is a skill shortfall through its General Skilled Migration program.

As a result, a complex and articulated immigration program has been developed. The main characteristics can be summarized as follows:

- The immigration program is generally based on a points test selection system;
- This program provides for a range of visa options, depending on whether the migrant is applying for an onshore visa or an offshore visa¹⁵¹ or a visa as an independent migrant or sponsored migrant by a relative, or a State/Territory government.

Moreover, over the decades, some relevant issues have emerged and a significant shift in focus has occurred:

¹⁵⁰ In the 2001 population census, some 23.1 percent of the resident population were foreign born (24.2 percent of the workforce) and a similar proportion were Australian born but had at least one parent born overseas (Khoo et al. 2002).

¹⁵¹ Application for a skilled visa as a New Zealand resident is also foreseen.

- State and territory specific migration schemes have been created, in order to encourage skilled migration to the regions where skill shortages are particularly acute;
- Visa arrangements for business people have been developed with an aim to encouraging successful business people to settle on a permanent or temporary basis in Australia and develop new or existing businesses.
- The attention toward temporary immigrants has strongly increased. In fact, it was found that temporary migration is more related to the labour market as well as temporary work migration is very much skill related and restricted to the top three ASCO categories (which are the highest skill groups)¹⁵².

Moreover, the points test is continually being fine tuned and the points allocated to particular criteria is adjusted according to the changing needs and the settlement experience of different visa categories of immigrants¹⁵³.

On the whole, the increasing skill orientation in Australia's immigration program has borne fruit in terms of the improved labour market performance of migrants in Australia. Furthermore, this contrasts sharply with the experience in other traditional immigration nations like Canada (Ruddick 2003; Zhang 2003) and the United States (Martin 2004) where the labour market situation of immigrants has deteriorated in recent times.

In particular, the increased level of skills of the immigrant intake is evident in a comparison of the occupation composition of immigrants in the 1996 and 2001 censuses. Between the 1996 and 2001 censuses the number of recent migrants (those who arrived between the censuses) who were in the workforce, increased by 28.9 percent¹⁵⁴. Moreover it is clear that the increase in the number of recent migrants was particularly substantial in the most skilled occupations, reflecting changes in the immigration policy. The fact that there were very rapid increases in the numbers of managers and administrators (46.8 percent), professionals (36.8 percent) and associate professionals (41.9 percent) among recent migrants between the 1996 and 2001 censuses is particularly indicative of the effect of changes to the immigration policy. At the other end of the occupational spectrum it will be noted that there was only a moderate increase in the number of recent migrants employed as labourers and related workers (14.4 percent)¹⁵⁵.

On the whole, there is no question that the development of an articulated system and the changes in settler selection according to the new and emerging needs have contributed toward the broader level of skills of Australian society.

Immigration and settlement policy

This section provides an overview of the main schemes for highly skilled workers in the Australian system. The single schemes are discussed with a focus on the following main issues:

¹⁵² Australian Standard Classification of Occupations.

¹⁵³ See the Box below for more details on the Australian points system.

¹⁵⁴ This compares to an increase of 8.6 percent in the Australian-born workforce and an increase of 3.2 percent in the workforce made up of immigrants resident in Australia for more than five years.

¹⁵⁵ ILO 2006; data source: "1996 and 2001 Census of Population and Housing".

- Legal definition provided;
- Conditions of entry;
- Conditions of residence.

Main aspects of Australian system

The Australian Points System

A key element of the Australian immigration programs is a **points assessment system** whereby applicants for settlement are allocated points according to a number of criteria.

From a comparison with other points systems, notably those presently existing in Canada and New Zealand, the characteristics of the Australian points system can be better understood (see Table below). The Australian points test gives the highest priority to **education and training**; also, the age of applicants and the presence of family residing in the destination country receive particular attention. At the same time, the **priority of occupation and skill sets** with respect to the internal labour market demand are highly considered, but only as compared to the Canadian system, as well as prior study or work experience in the destination country. The criterion that appears to receive the **least attention**, as compared to Canada and New Zealand, is **definitively the “work experience”**: in Australia this factor has a share equal to 6 or 3 percentage points (depending on whether the work experience is relevant or not to occupation), whereas Canada and New Zealand assign to this element up to 22 percentage points. Finally, it is worth noting that the pass mark (as a percentage of points possible) in Australia is the lowest. This aspect fundamentally highlights a less stringent approach in selecting highly qualified migrants as compared to the other traditional countries of immigration considered.

Point Systems in comparison: relative weight of selection factors, as percentage of total possible score - As March 2004

Factors	New Zealand	Australia	Canada
Education/training	28	34	25
Work Experience (Relevant to occupation/non relevant)	0/22	6/3	21/21
Age	12	17	10
Family resident in destination country	0	9	5
English and French (for Canada only), Language skills (beyond minimum required for eligibility)	0	14	24
Job offer (relevant to training or work experience/non relevant)	24/0	4/4	10/10
High priority/demand occupation/skill set	12	9	0
Prior work or study in destination country	38	11	5
Prior income			
Other factors	8	6	5
Pass mark (as % of points possible)	74	63	67

Source: Migration Research Group, 2006.

Furthermore, the composition of the test has varied since it was first introduced around thirty years ago, with the points allocated to particular criteria being adjusted and the pass mark whereby entry is assured also being changed.

It is clear that the points test is a key instrument in the skill part of the programme, and its modification as well as other changes in the immigration selection process in the last decade

have been heavily based upon the findings of research into the settlement experience of different visa categories of immigrants¹⁵⁶. In particular, in recent times strong attention has been paid to the regional distribution of highly qualified migrants, so that there have been bonus points available to migrants who indicate they will settle in regional areas. This is in order to encourage skilled migration to the regions where skill shortages are particularly acute. On this issue, it is worth noting that in 2004 to 05, 18 700 visas were granted under the state-specific and regional migration schemes– a significant increase on the 12 720 visas granted the previous financial year¹⁵⁷.

On the whole, this system appears to allow the Australian Government to target particular groups and to shape the content of the intake of immigrants so that it can better contribute to national development goals.

Skill Matching Database

The Skill Matching Database has been designed to help match skilled people, who have applied to migrate, with skilled vacancies or skill shortages in Australia.

The Skill Matching Database contains the **educational, employment and work details** of skilled migrants and includes people interested in living and working in Australia who have skills and qualifications in an occupation that is required in this country. The applicants for the Skill Matching Database must nominate a **skilled occupation from Australia's Skilled Occupation List**.

To be included on the Skill Matching Database, applicants must have a valid application for one of the several visa categories¹⁵⁸ under the general Skilled Migration Program and must meet a set of basic requirements.

Thus, the database is accessed by **State and Territory governments** as well as by **employers** who may nominate for migration an applicant with the sought-after skills in order to fill vacancies. The details of applicants are kept on the database for 2 years.

On one hand, applicants for migration who satisfy the basic requirements but are unsure that they will pass the points test (foreseen for other visa categories) could enter through this route. As above mentioned, to be placed in the database it is not necessary to achieve the pass mark for the points test, but the applicants must satisfy the basic requirements, with a lesser recent work experience requirement and a possible lesser English language requirement.

On the other hand, the Skill Matching Database seems an efficient tool in order to overcome skill shortages by helping migrants to settle in parts of Australia where their skills and abilities are more in demand.

¹⁵⁶ For example, the “Longitudinal Survey of Immigrants in Australia (LSIA)”.

¹⁵⁷ DIMIA, Annual Report 2004–05.

¹⁵⁸ To be included in the Skill Matching Database, applicants must have a valid application for one of the following visa categories: Skilled Matching visa; Skilled - Independent visa; Skilled - Australian Sponsored visa; Skilled - Independent Overseas Student visa; Skilled - Australian Sponsored Overseas Student.

General Skilled Migration: Independent Categories (Permanent)

Issues	Factors	Description
Legal definitions	Type of definition	<p>This scheme is addressed to <i>applicants who are not sponsored by family member or employer</i>. Thus, potential immigrants are selected solely on the basis of their education, skills and work experience and their ability to contribute quickly to the Australian economy.</p> <p>A range of visa subclass, with different targets and criteria to be satisfied, is foreseen:</p> <p>Skilled Independent - must be highly skilled and have education, skills and employability, which will contribute to the Australian economy.</p> <p>Skilled - State Territory Nominated Independent - must be nominated by a participating State or Territory which will select nominees on the basis of occupations being in shortage in the particular State or Territory.</p> <p>Skill Matching Database - to be placed on the database the applicant must meet the pool mark for the points test and complete the 'skill matching' section of the form. The database is sent regularly to certain Regional Certifying Bodies and State and Territory governments who may nominate applicants to fill vacancies that cannot be filled.</p> <p>Skilled - Independent Overseas Student - similar to the skilled independent visa but is only available to eligible overseas students in Australia wishing to apply for permanent residence under this category.</p> <p>Skilled Independent Regional (Provisional) (SIR) Visa – this visa supports state and territory governments to sponsor skilled migrants who commit to living and working in regional Australia.</p>
	Type of criteria to be fulfilled	<p>Applicants are selected on the basis of a points test, which includes the following criteria:</p> <p>Criminality – clean criminal records.</p> <p>Age - must be under 45 when application is made.</p> <p>Language ability.</p> <p>Educational level - Post secondary qualifications (eg university or trade). In some occupations substantial relevant work experience is acceptable.</p> <p>Skills - Applications must include a nominated skilled occupation which fits the applicants skills and qualifications. This occupation must be</p>

Issues	Factors	Description
		<p>on the Skilled Occupations List.</p> <p>Recent Work Experience - If the nominated occupation is worth 60 points the applicant must have had been in paid employment for at least 12 of the 18 months before applying. If the occupation is worth 40 or 50 points the applicant must have been in paid employment for at least two of the three years before applying¹⁵⁹. In the case of SIR Visa: have an occupation on the Skilled Occupation List (SOL) and recent work experience in a skilled occupation, or have recently completed an Australian degree, diploma or trade qualification.</p> <p>Health - the applicant and all dependent family members must undertake a medical examination by the appropriate authorities.</p> <p>The specific requirements change accordingly to the visa subclass which the application is for: independent categories must pass the point test, whereas the nominated by a participating State or Territory and the applicants for Skill Matching Database has to meet the pool mark¹⁶⁰ for the points test. Moreover, for the SIR Visa, an extra 10 points are allocated for the state/territory sponsorship¹⁶¹.</p> <p>However, applicants must have skills and qualifications for an occupation listed on Australia's Skilled Occupation List (SOL).</p>
	Supply/demand based approach	Mostly supply based, since the points test is the main system of selection and job offer/contract has little incidence.
Conditions of entry of HSW	Type of permit	<i>A single application</i> is needed and the visa issued allows to work and live in Australia.
	Complexity of documents to be presented	<p>Before an application is made the relevant Australian assessing authority as suitable for your nominated occupation must assess skills.</p> <p>Applicants must indicate the class of visa they require and complete the correct form.</p> <p>The completed form and certified copies of any required documents should be mailed to the Adelaide Skilled Processing Centre.</p>
	Employer role	The employer has no role in the application.

¹⁵⁹ A certain amounts of “points per skills” is assigned to each occupation listed in DIMA’s Skilled Occupation List (SKOL). Applicants are exempt from the work experience requirement if they have completed and Australian qualification less than 6 months before lodging a visa application.

¹⁶⁰ If the applicant does not achieve the pass mark, the pool mark is the total number of points you must score if you application is to be held in reserve for up to 2 years after it is assessed, in a case a newer, lower pass mark is set.

¹⁶¹ All areas of Australia are covered except Sydney, Newcastle, Wollongong, New South Wales Central Coast, Melbourne, Perth, Canberra, Brisbane and the Gold Coast.

Issues	Factors	Description
	Acceptance of in-country requests	Applications can be made from both inside and outside Australia.
Conditions of residence	Internal mobility	Visas are not tied to a specific employer. State Territory Nominated Independent applicants are tied to the region that nominates them.
	Acquisition of permanent residence	<p>The SIR Visa grants a <i>three-year temporary visa</i> with the prospect of permanent residence (provided they are prepared to live for two years, and work at least 12 months, in a regional or low population growth metropolitan area in Australia).</p> <p>The <i>remaining visas grant permanent settlement</i>.</p> <p>Thus, several rights are granted:</p> <ul style="list-style-type: none"> live and work in Australia on a permanent basis; study in Australia at school or university; receive subsidized healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS); access certain social security payments (subject to waiting periods); be eligible for Australian citizenship (subject to the residency eligibility criteria); sponsor people for permanent residence.
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market.

General Skilled Migration: Skill Matching (Permanent)

Issues	Factors	Description
Legal definitions	Type of definition	<p>Skill matching has been designed to help overcome <i>regional skills shortages</i> by helping some migrants settle in Australia where their skills and abilities are in demand. Their details are placed in a <i>skills matching database</i> and this information is made available to <i>employers and State and Territory governments who may then nominate an applicant for migration</i> in order to fill specific vacancies.</p> <p>The category is not points tested and several basic requirements are set.</p>
	Type of criteria to be fulfilled	<p>Criminality - clean criminal records..</p> <p>Age - must be under 45 when application is made.</p> <p>Language ability.</p> <p>Educational level - Post secondary qualifications (eg university or trade). In some occupations substantial relevant work experience is acceptable.</p> <p>Skills - Applications must include a nominated skilled occupation which fits the applicants skills and qualifications. This occupation must be on the <i>Skilled Occupations List</i>.</p> <p>Recent Work Experience - the applicant must have been employed in a skilled occupation for at least 6 months in the 12 months before applying for migration¹⁶².</p> <p>Health - the applicant and all dependent family members must undertake a medical examination by the appropriate authorities.</p>
	Supply/demand based approach	Demand based, since the State/Territory/Employer will nominate the applicants that match the specific skills requirements.

¹⁶² Applicants are exempt from the work experience requirement if they have completed an Australian qualification less than 6 months before lodging a visa application.

Issues	Factors	Description
Conditions of entry of HSW	Type of permit	The visas issued under this scheme allow to work and live in Australia
	Complexity of documents to be presented	<p>There is a two stage procedure:</p> <p>Part I: 'Skill Matching' in the application form must be completed.</p> <p>Basic requirements are assessed and if the applicant is successful their details will be included on the database.</p> <p>Part II: if a State/Territory/Employer wishes to nominate an applicant they will lodge a nomination form with a DIMA regional office in Australia.</p> <p>The relevant overseas applicants will be contacted and the visa processing will be finalised.</p> <p>Two different kinds of visa will be issued:</p> <p>An applicant nominated by a State or Territory government may be eligible for a Skill Matching Visa.</p> <p>An applicant nominated by an employer may be eligible for a visa under the Regional Sponsored Migration Scheme (RSMS).</p>
	Employer role	Employer (as well ad State and Territory Governments) who are seeking to fill specific vacancies identify shortages and nominate an applicant.
	Acceptance of in-country requests	Applications can be made from both inside and outside Australia.
	Conditions of residence	Internal mobility
Acquisition of permanent residence		<p>The visa grants permanent settlement rights.</p> <p>Thus, several rights are granted:</p>

Issues	Factors	Description
		<p>live and work in Australia on a permanent basis;</p> <p>study in Australia at school or university;</p> <p>receive subsidised healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS);</p> <p>access certain social security payments (subject to waiting periods);</p> <p>be eligible for Australian citizenship (subject to the residency eligibility criteria);</p> <p>sponsor people for permanent residence.</p>
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market

General Skilled Migration: Skilled-Australian Sponsored (Permanent)

Issues	Factors	Description
Legal definitions	Type of definition	<p>This scheme is addressed to <i>applicants with a relative in Australia</i> who is willing to act as a sponsor and provide financial support.</p> <p>A range of visa subclass is foreseen, depending on whether the sponsor live inside or outside some “Designated areas¹⁶³”:</p> <p>Skilled-Designated Area Sponsored - the Government is seeking skilled migrants to settle in certain regions of Australia.</p> <p>Skilled-Onshore Designated Area Sponsored New Zealand citizen - only available to New Zealand citizens in Australia wishing</p>

¹⁶³ Designated Areas are: Victoria (anywhere), South Australia (anywhere), Northern Territory (anywhere), Tasmania (anywhere), Queensland (anywhere except urban Brisbane, Sunshine Coast and Gold Coast), Western Australia (anywhere except Perth metropolitan area), New South Wales (anywhere except Sydney, Newcastle and Wollongong).

Issues	Factors	Description
		<p>to apply for permanent residence under this category.</p> <p>Skilled-Designated Area Sponsored Overseas Student - only available overseas students in Australia wishing to apply for permanent residence under this category.</p> <p>Skilled-Australian Sponsored - This category is designed for potential skilled migrants whose sponsor lives outside the designated areas.</p> <p>Skilled-Onshore Australian Sponsored New Zealand Citizen - similar to the Skilled-Australian sponsored category but is only available to New Zealand citizens in Australia wishing to apply for permanent residence under this category.</p> <p>Skilled-Onshore Australian Sponsored Overseas Student - similar to the Skilled-Australian sponsored category but is only available to New Zealand citizens in Australia wishing to apply for permanent residence under this category.</p> <p>In general, applicants must pass the relevant section of the points test related to skills.</p>
	<p>Type of criteria to be fulfilled</p>	<p>This visa has a points test to select applicants with characteristics needed in the Australian labour market.</p> <p>In particular:</p> <p>Skilled-Designated Area Sponsored Categories:</p> <p>The applicant or their spouse must only satisfy the basic requirements of age, English language, qualifications, nominated occupation and recent work experience.</p> <p>Skilled-Australian Sponsored Categories:</p> <p>Applicants must pass the points test as well as satisfy the basic requirements.</p> <p>As to the basic requirements:</p> <p>Criminality - clean criminal records.</p>

Issues	Factors	Description
		<p><i>Age</i> - must be under 45 when application is made.</p> <p><i>Language ability.</i></p> <p><i>Educational level</i> - Post secondary qualifications (eg university or trade). In some occupations substantial relevant work experience is acceptable.</p> <p><i>Skills</i> - Applications must include a nominated skilled occupation which fits the applicants skills and qualifications. This occupation must be on the <i>Skilled Occupations List</i>.</p> <p><i>Recent Work Experience</i> - If the nominated occupation is worth 60 points the applicant must have had been in paid employment for at least 12 of the 18 months before applying. If the occupation is worth 40 or 50 points the applicant must have been in paid employment for at least two of the three years before applying.</p> <p><i>Health</i> - the applicant and all dependent family members must undertake a medical examination by the appropriate authorities.</p>
	Supply/demand based approach	<p>This scheme applies a mixed system:</p> <p>Applicants for the Skilled-Australian Sponsored Categories must pass the points test;</p> <p>Applicants for the Skilled-Designated Area Sponsored Categories are not required to pass the points test, but some basic criteria must to be satisfied.</p> <p>However, it is mostly a supply based system.</p>
Conditions of entry of HSW	Type of permit	The visas issued under this scheme allow to work and live in Australia.
	Complexity of documents to be presented	<p>The applicants must to:</p> <p>Obtain a <i>skill assessment</i> (proof of age and language ability and recent skilled employment or Australian qualifications.);</p>

Issues	Factors	Description
		<p>Obtain a proof <i>sponsor's residence</i> in a designated area of Australia and proof of <i>relationship to the sponsor</i> is required;</p> <p><i>Assurance of support</i>;</p> <p>Applicants must <i>complete the correct form</i> and supply the <i>requested documents</i>.</p>
	Employer role	Employer has no role.
	Acceptance of in-country requests	Applications can be made from both inside and outside Australia.
Conditions of residence	Internal mobility	Visas are not tied to a specific employer. Designated Area applicants are <i>tied to the region</i> that nominates them.
	Acquisition of permanent residence	<p>The visa grants permanent settlement rights.</p> <p>Thus, several rights are granted:</p> <ul style="list-style-type: none"> live and work in Australia on a permanent basis; study in Australia at school or university; receive subsidised healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS); access certain social security payments (subject to waiting periods); be eligible for Australian citizenship (subject to the residency eligibility criteria); <p>sponsor people for permanent residence.</p>
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market

Employer Sponsored Migration (Permanent)

Issues	Factors	Description
Legal definitions	Type of definition	<p>This program enables Australian employers to recruit, on a permanent basis <i>highly skilled staff from overseas or staff who are currently temporary residents in Australia</i>, in sectors/occupations where skills shortages exist on the domestic labour market.</p> <p>There are four categories of visa in this program:</p> <p>Employer Nominations Scheme (ENS)</p> <p>Regional Sponsored Migration Scheme (RSMS) – designed to help employers in regions where they are unable to fill skilled vacancies from the domestic labour market.</p> <p>Labour Agreements (LA) – enable employers to recruit, on a permanent or temporary basis, a specified number of workers in response to identified or emerging labour market or skill shortages in the Australian labour market.</p> <p>Regional Headquarters Agreements (RHQ) – provides streamlined immigration arrangements to enable the transfer on a permanent or temporary basis of executive and specialist personnel who are essential in establishing Regional Headquarters in Australia.</p> <p><i>A labour market test is carried out¹⁶⁴</i>. This requirement is waived for occupations on the Migration Occupations in Demand List (MODL).</p>
	Type of criteria to be fulfilled	<p>There are basic requirements, common to all the applicants, and specific requirements for each category.</p> <p>The basic requirements are the following:</p> <p>Criminality - clean criminal records;</p> <p>Age - must be under 45 when application is made;</p> <p>Language ability;</p> <p>Educational level;</p> <p>Skills - The nominee must meet the definition of ‘highly skilled’. i.e. have completed 3 years of formal training or equivalent experience and</p>

¹⁶⁴

Except that for RHQ.

Issues	Factors	Description
		completed 3 years of relevant work experience since this training. <i>Health.</i>
	Supply/demand based approach	These programs are employer driven (thus a demand based approach is adopted) and there is no points test.
	Conditions of entry of HSW	Type of permit
Complexity of documents to be presented		The employer in Australia must to nominate the applicants and submit the nomination to a DIMA Business Center. If the nomination is approved, the employer will advise the nominee who will lodge the application within a certain period of time. Moreover, the employer must show evidence of the labour market test and grant certain conditions of employment (i.e. the position must be full time, fixed appointment for at least 3 years) ¹⁶⁵ .
Employer role		Employer has a leading role, since he/she nominates the prospective applicants and starts the procedure for the application.
Acceptance of in-country requests		Applications can be made from both inside and outside Australia. However, in order to apply from within Australia, applicants must hold a valid visa with permission to work and hold a temporary resident visa, a working holiday visa or a student visas.
Conditions of residence	Internal mobility	Visas are not tied to a specific employer. Regional Established applicants are tied to the region that sponsors their application.
	Acquisition of permanent residence	The visa grants permanent settlement rights. Thus, several rights are granted: live and work in Australia on a permanent basis; study in Australia at school or university;

¹⁶⁵ Other specific requirements apply to each application included in this scheme. In particular, for example, the employer must assess the nominee's qualifications if registration, licensing or membership of a professional body is mandatory in the proposed field of employment, or if the Tradesmen's Rights Regulations Act covers the trade.

Issues	Factors	Description
		<p>receive subsidized healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS);</p> <p>access certain social security payments (subject to waiting periods);</p> <p>be eligible for Australian citizenship (subject to the residency eligibility criteria);</p> <p>sponsor people for permanent residence.</p>
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market

Distinguished Talent (Permanent)

Issues	Factors	Description
Legal definitions	Type of definition	<p>Small category is included in this scheme and notably: distinguished individuals with special or unique talents of benefit to Australia.</p> <p>There is no labour market restriction or skill shortage assessment.</p>
	Type of criteria to be fulfilled	<p>Applicants must be nominated by and Australian organization, citizen or permanent resident.</p> <p>The basic requirements are the following:</p> <p>Criminality - clean criminal records;</p> <p>Age – no restriction;</p>

Issues	Factors	Description
		<p><i>Language ability;</i></p> <p><i>Educational level - Skills</i> - Applicants must have relevant qualifications and/or awards in their profession or activity.</p> <p><i>Recent work experience</i> - Applicants must have an exceptional record of achievement in their chosen profession, the arts or sport.</p> <p><i>Health.</i></p>
	Supply/demand based approach	There is no points test, but the approach appears to be mainly supply based.
Conditions of entry of HSW	Type of permit	The visas issued under this scheme allow to work and live in Australia.
	Complexity of documents to be presented	<p>The nominator must complete an application form and include a brief résumé of their own standing in the nominee's field of 'distinguished talent'.</p> <p>Applicants must lodge the application and provide evidence that they are still prominent in the arts or sport (if applicable). References from persons qualified to this are also requested.</p>
	Employer role	Employer has no role. Australian organization, citizen or permanent resident can nominate the prospective applicants.
	Acceptance of in-country requests	Applications can be made from both inside and outside Australia.
Conditions of residence	Internal mobility	This visa is not tied to a specific employer or location.
	Acquisition of permanent residence	<p>The visa grants permanent settlement rights.</p> <p>Thus, several rights are granted:</p> <p>live and work in Australia on a permanent basis;</p> <p>study in Australia at school or university;</p>

Issues	Factors	Description
		<p>receive subsidized healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS);</p> <p>access certain social security payments (subject to waiting periods);</p> <p>be eligible for Australian citizenship (subject to the residency eligibility criteria);</p> <p>sponsor people for permanent residence.</p>
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market

Temporary resident (Economic stream)

Issues	Factors	Description
Legal definitions	Type of definition	<p>The Temporary Residence Program is designed to allow overseas people to migrate to Australia for a limited time and for specific purposes that benefit Australia. There are three streams in the program: economic, social and cultural and international relations.</p> <p>The economic stream comprises of three visa categories:</p> <p>Business Entry Visas (short stay) - allows employers to recruit skilled personnel from overseas to overcome temporary skilled labour shortages.</p> <p>Educational Visas - allow educational and research institutions or organisations to fill academic, teaching and research positions that cannot be filled from the Australian labour market.</p>

Issues	Factors	Description
		<p>Medical Practitioner Visas - for suitably qualified medical practitioners from overseas who satisfy labour market requirements. Visa grants now have a much greater focus on providing service to rural and remote communities.</p> <p>These visas are normally subject to a sponsorship from an Australian employer or organisation.</p> <p>For Business Entry Visas - labour market testing may be required to establish that the required skills are not available in Australia.</p>
	<p>Type of criteria to be fulfilled</p>	<p>The following basic requirements are foreseen:</p> <p><i>Criminality</i> - clean criminal records;</p> <p><i>Age</i> - ;</p> <p><i>Language ability</i>;</p> <p><i>Educational level</i>;</p> <p><i>Skills</i>;</p> <p><i>Recent work experience</i>;</p> <p><i>Health</i>.</p>
	<p>Supply/demand based approach</p>	<p>This scheme use a combination of supply and demand based criteria.</p>
<p>Conditions of entry of HSW</p>	<p>Type of permit</p>	<p>Business (short stay) visas may be issued for either single entry or for multiple entries. Holders of a multiple entry visa may make any number of journeys to Australia for up to three months on each occasion. Multiple entry visas may be valid for either up to five years, or the life of the passport (to a maximum of 10 years).</p>
	<p>Complexity of documents to be presented</p>	<p>Australia's Electronic Travel Authority (ETA) allows a business traveller to apply for a visa on the internet.</p>

Issues	Factors	Description
		No further documents appear to be requested.
	Employer role	These visas are normally subject to a sponsorship from an Australian employer or organisation.
	Acceptance of in-country requests	Applications can be made exclusively from outside Australia.
Conditions of residence	Internal mobility	The holders cannot change sponsor or seek employment outside the agreement with the sponsoring body, without DIMIA's approval.
	Acquisition of permanent residence	An applicant can apply for a permanent visa, before existing status expires. As to social benefits/civil rights granted, temporary residents are required to pay taxes on income earned in Australia and do <i>not have access to social welfare benefits or national public health cover.</i>
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses must satisfy the basic requirements and have immediate access to the labour market.

Temporary (long stay) Business Entry Streams

Issues	Factors	Description
Legal definitions	Type of definition	The temporary residence program is designed to help businesses that are unable to meet their skills need within the Australian labour force. <i>Employers can sponsor</i> and recruit staff from overseas for temporary entry to Australia <i>for up to four years.</i> These scheme cater for the entry of: <i>personnel (executives, managers and specialists) for companies operating in Australia;</i>

Issues	Factors	Description
		<p><i>personnel from offshore companies</i> seeking to establish a branch in Australia, participate in joint ventures, or fulfill a contract awarded to an offshore company;</p> <p><i>independent executives</i> seeking to establish a new business or joining existing businesses in Australia.</p>
	<p>Type of criteria to be fulfilled</p>	<p>Employers:</p> <p>To recruit staff from overseas employers must act as a business sponsor¹⁶⁶.</p> <p>Employers must show that their <i>business is of good standing</i>, explain <i>how Australia benefits</i> from employing overseas personnel and demonstrate the commitment of their business to training Australian residents or introducing new technology or business skills.</p> <p>Employers must also <i>nominate each of the positions that they wish to fill with a temporary resident</i>. The position must:</p> <p>Relate to an <i>occupation which meets the minimum skills threshold covering managerial, professional and trade occupations</i>.</p> <p>Remuneration must be at the <i>minimum salary level</i> - currently \$33,800.</p> <p>Applicants:</p> <p><i>Criminality</i> - clean criminal records.</p> <p><i>Age</i> - no restrictions;</p> <p><i>Language ability</i>;</p> <p><i>Educational level</i> - must have skills that match that of the nominated vacancy;</p> <p><i>Skills</i> - must have skills that match that of the nominated vacancy;</p>

¹⁶⁶ There are two types of sponsorship: (i) Pre-Qualified Business Sponsorship – for employers seeking to bring an unlimited number of people to Australia over a two-year period; (ii) Standard Business Sponsorship for employers seeking to recruit a specified number of people within a 12-month period.

Issues	Factors	Description
		<i>Health</i> - the applicant and all dependent family members must undertake a medical examination by the appropriate authorities.
	Supply/demand based approach	This is mostly a demand based approach : there is no points test, the employer nominates the foreign worker.
Conditions of entry of HSW	Type of permit	Temporary permit: between <i>3 months and 4 years</i> .
	Complexity of documents to be presented	Applicants must: Complete the relevant forms. Include a <i>copy of the job description and contract or offer</i> of employment. Provide a copy of their Curriculum vitae and evidence of <i>qualifications</i> . Include <i>references from previous employers</i> and the approval letter of sponsorship and nomination.
	Employer role	These visas are normally subject to a sponsorship from an Australian employer or organization.
	Acceptance of in-country requests	Applicants can apply from inside or outside Australia.
Conditions of residence	Internal mobility	The holders cannot change sponsor or seek employment outside the agreement with the sponsoring body, without DIMA's approval.
	Acquisition of permanent residence	An applicant can apply for a permanent visa, before existing status expires. As to social benefits/civil rights granted, temporary residents are required to pay taxes on income earned in Australia and do <i>not have access to social welfare benefits or national public health cover</i> .
	Intensity in family reunification support	The application may cover a family unit. Moreover, spouses are able to work during their stay in Australia.

ANNEX VII: DESCRIPTION OF POLICY OPTIONS

The first step concentrates on identifying and selecting the possible options on the main relevant aspects that must be considered and analyzed for defining the best policy solution for a common policy on HSW at EU level.

The identification of the aforementioned options tried not to disregard any interesting aspect that could have been identified both at EU level – in terms of the individual national legislative systems – and in respect of the most relevant international legislative systems: the purpose was to consider any single detail that could better qualify the proposal for an EU intervention on this subject, by comparing them also to the needs and peculiarities of the single national systems.

The identification the options has been based on the following steps:

- (1) Analysis of the MS replies to Migrapol 120 and 142, in order to thoroughly investigate and compare the main features of the national legislations on this issue;
- (2) Benchmarking analysis of the main relevant international legislative systems on HSW, namely the ones of Australia and the USA, in order to comprehensively investigate their solutions on this issue and analyze the potentialities, including the transferability to the EU context of the most interesting and peculiar solutions adopted by these benchmarks;
- (3) Consideration of the main EU Directives on legal migration (Council Directive 2005/71/EC; Directive 2004/114/EC; Directive 2003/109/EC; Directive 2003/86/EC), in order to identify:
 - the elements present in other EU Directives that could be in line with the purpose of the intervention on HSW and that could be applied also to HSW or to which a derogation may be necessary in order to reach the objectives;
 - the elements that must be considered while drafting the policy proposals, in order to reach an overall consistent EU legislative framework on legal migration.

According to the results of this analysis, the main elements which should be taken into consideration when structuring an effective EU policy on HSW are detailed with respect to four main issues: definition of HSW; conditions of entry; conditions of residence; further complementary measures. The results are presented in the table below.

Such an activity have been aimed also at screening the single elements according to their effectiveness (the extent to which options can be expected to achieve the objectives of the proposal), efficiency (the extent to which objectives can be achieved for a given level of resources/at least cost), consistency (the extent to which options are likely to limit trade-offs across the economic, social, and environmental domain).

Table 1: elements considered while drafting the main options

Issue	Component	Possible elements	Notes	Examples of implementation
Definition HSW	Type definition of	Open definition		DK, EL
		Specific definition based on sectors/professions		ES, HU
		Differentiated definitions (i.e. “Highly skilled workers”, “qualified workers”, “young professional”)	This option will probably imply different conditions of entry and residence according to each category of HSW	IE, DE, FR, USA ¹⁶⁷
		Provision of specific exceptions to general definition of HSW	This option will probably imply more favourable conditions of entry and residence for HSW included in the foreseen exceptions (see below for possible grounds of exception)	
	Admission criteria	Salary level		BE, DE, USA, Australia
		Education/qualification/		DE, EL, EE
		Years of experience		UK, USA, Australia
		Age		Australia (not older than 45 years)
		Additional criteria (i.e. Possession of any relevant license that may be required in order to practice in a particular profession): relevant for regulated professions		USA, UK
		National priority lists		DK

Issue	Component	Possible elements	Notes	Examples of implementation
Definition HSW		National priority lists coordinated at EU level	This option will imply EC role in setting a EU definition of professions (i.e. in terms of education/years of experience) and in publicize national priority lists	NAFTA ¹⁶⁸
		EU priority list and national priority lists		
	Admission system	Based on a single criterion (i.e. salary level)		BE, NL, PT
		Based on a set of criteria		AT, DE, FR, USA
		Point system	This option could imply that the set of criteria will be defined at EU level while the weight of each criterion will be defined at MS level. Classically, the point-system is supply-driven, but there could be the possibility to add a criteria "existence of a job offer" (demand-driven one)	UK, Australia
	Possible exceptions	Higher salary level	As mentioned above, more favourable conditions of entry could be foreseen for HSW under these exceptions	USA
		Possession of higher education attainments		USA, NL
		Distinguished individuals with special or unique talents (including artists, sportsmen, etc.)		Australia (Distinguished Talent), USA (i.e. beneficiaries of Nobel prizes)
		Inclusion in priority list		

¹⁶⁷ In USA, two different systems exist for HSW accession (H-1 B e O-1), each one associated with the qualifications and the specific features of different categories of HSW.
¹⁶⁸ NAFTA Professional Job Series List provides for a complete list of professions defining minimum education requirements and alternative credentials. A citizen of a NAFTA country may work in another NAFTA country if his profession is on the NAFTA list.

Issue	Component	Possible elements	Notes	Examples of implementation
		Age		NL
Conditions of entry	Quotas	If quotas applied in national legislation, provision of specific quotas for HSW to be defined by MS	Definition of quotas is not within EC competence	
	Existence of job offer/contract	Admission not conditional on a precise work contract		UK, FR (for one scheme), Australia (for some schemes)
		Admission conditional on a precise work contract		Most of EU MS, USA
	Economic need test	Implicitly satisfied by fulfilling the admission criteria	This option shall imply an admission system based on a set of criteria or point system	
		Yes in any case		
		Yes as a general rule, but with exceptions possible to be defined at EU level	See above for possible exceptions	
		Yes as a general rule, but with exceptions possible to be defined at MS level		
		Choice left to MS		
	Issue permit of	Introduction of fast-track procedures for issuing work/residence permits	This option could foresee specific arrangements between the parties potentially involved in the issue of permit (i.e. national Ministries, Consulates, Employers Organisation). See DIRECTIVE 2004/114/EC.	
		Introduction of fast-track scheme (single procedure/single permit)	This option differs from the above, since it relates more to the formal administrative process.	AT, DE, USA, Australia

Issue	Component	Possible elements	Notes	Examples of implementation
		Definition of a maximum period of time (i.e. 4 weeks) for processing the applications	See Directive 2003/109/EC	
		Choice left to MS		

Table 2: Elements of the policy options

	Definition of HSW	Condition of entry	Condition of residence	Further complementary measures
Issue				
Policy Option B: Focused on establishing a basic common ground	<ul style="list-style-type: none"> - Open definition - Admission system based at least on a single common criterion (i.e. salary level, besides the job offer) and possible additional criteria defined by MS - Demand-based system 	<ul style="list-style-type: none"> - Economic needs test as a general rule, but with exceptions possible to be defined at MS level 	<ul style="list-style-type: none"> - Internal mobility in the cases established at MS level - Acquisition of EC long term residence status under the same conditions foreseen under Council Directive 2003/109/EC - Right to family reunification under conditions set by the 2003/86/EC - Granting to HSW the same rights granted to TCW 	

<p>Policy Option C: Focused on lowering barriers to entry</p>	<ul style="list-style-type: none"> - Open definition - Provision of specific exceptions to general definition of HSW - Admission system based on points system - Demand-based or supply-based system (depending on the weights assigned to the job offer). In alternative, design the minimum weights so to allow a quick shift from one system to the other (without the needs for further regulatory interventions). 	<ul style="list-style-type: none"> - Economic test implicitly satisfied by fulfilling the admission criteria - Introduction of fast-track scheme (single procedure/single permit) - Definition of a maximum period of time for processing the applications (i.e. 30 or 60 days) - Initial validity of permit: more than one year (i.e. 2 or 3 years) - Automatic renewal of the permit if the admission conditions are still met - Acceptance of in-country requests 	<ul style="list-style-type: none"> - Internal mobility after a “waiting period” (i.e. two years) - Allowing longer periods of absence from the territory of the EU (i.e. maximum 12 consecutive months and total 16 months) than those foreseen in the Council Directive 2003/109/EC¹⁶⁹, without interrupting the period for obtaining the EC LTR status - Allowing family reunification within the shortest delays - As an alternative to the above, application for entry covering a family unit 	<ul style="list-style-type: none"> - Creation of a Skill Matching database that collects data of potential applicants for HSW schemes
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¹⁶⁹ On the basis of Article 4(3) of Council Directive 2003/109/EC, “periods of absence from the territory of the Member State concerned shall not interrupt the period referred to in paragraph 1 (i.e. 5 years) and shall be taken into account for its calculation where they are shorter than six consecutive months and do not exceed in total 10 months within the period referred to in paragraph 1”.

<p>Policy Option D: Focused on fostering HSW integration</p>	<ul style="list-style-type: none"> - Open definition - Provision of specific exceptions to general definition of HSW - Admission system based on a set of criteria (job offer, salary level, education or professional qualifications) - Demand-based system 	<ul style="list-style-type: none"> - Economic needs test as a general rule, but with possible exceptions to be defined at MS level - Introduction of fast-track procedure¹⁷⁰ for issuing work/residence permits - Initial unlimited settlement permit¹⁷¹ - Automatic renewal of the permit 	<ul style="list-style-type: none"> - Internal mobility from the beginning - Acquisition of EC long-term resident status before the 5 year minimum residence period - Allowing family reunification within the shortest delays - Full and immediate access to the labour market for the spouses - Extending equal treatment as EU nationals to HSW along the lines of Article 12 of Directive 2005/71/EC on the admission of researchers 	
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¹⁷⁰ As compared to the policy option C, the introduction of fast track-procedures not necessarily leads to the introduction of a single permit/single procedures. More generally, the fast-track scheme relates more to the formal administrative process for issuing the permit, whereas the option of a fast-track procedure relates more to specific arrangements between the institutional bodies involved.

¹⁷¹ The unlimited settlement permit would be valid only at national level. It is therefore different from the EC long term residence status.

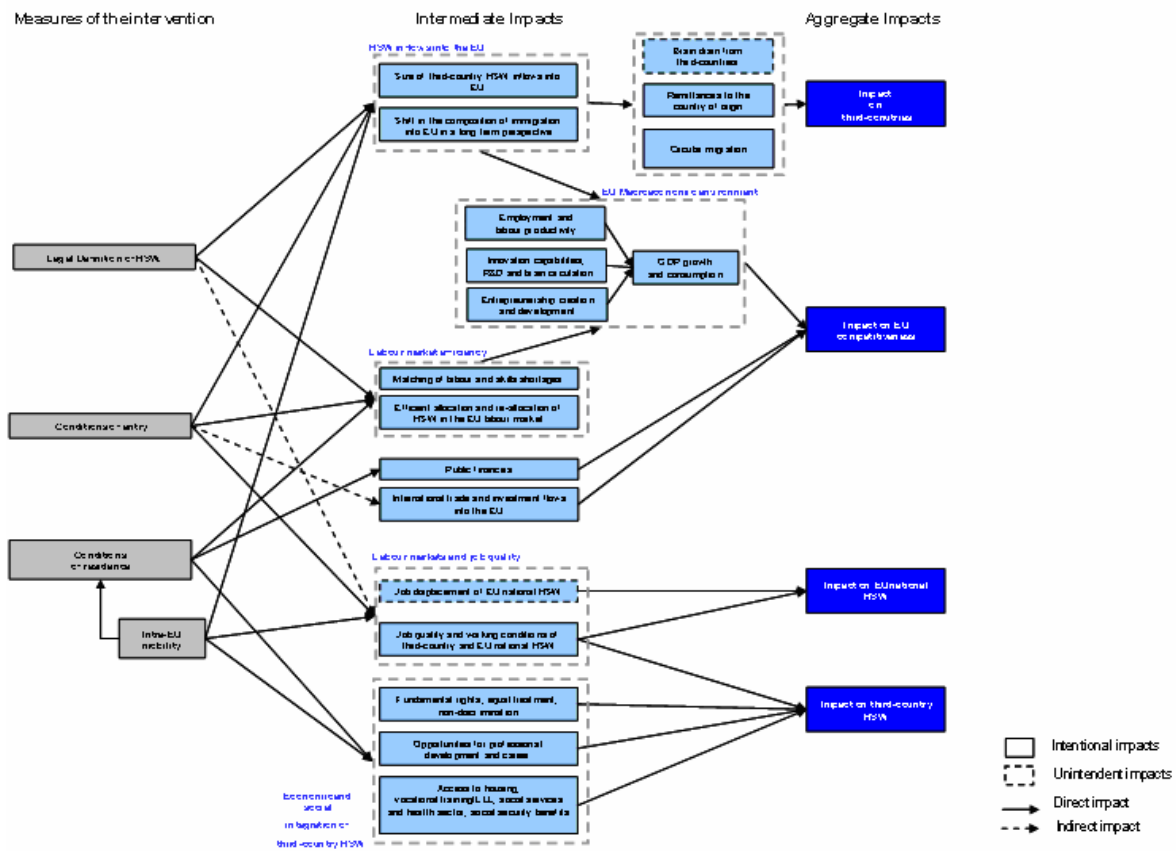
<p>Policy option E.1:</p> <p>Focused on fostering intra-EU mobility (EU blue card)</p>	<ul style="list-style-type: none"> - Open definition - Provision of specific exceptions to general definition of HSW - Admission system based on a set of criteria (job offer, salary level, education or professional qualification) - EU priority list and national priority lists - As alternative to the above, National priority lists coordinated at EU level - Demand-based system 	<ul style="list-style-type: none"> - Economic needs test as a general rule, but this test would be considered implicitly fulfilled for professions included in the priority lists - Introduction of fast-track scheme (single procedure/single permit called "EU Blue Card"). - Definition of a maximum period of time (i.e. 30 or 60 days) for processing the applications - Initial validity of permit: 2-3 years - Automatic renewal of the permit if the admission conditions are still met - Acceptance of in-country requests for categories established at EU level (plus other categories established at MS level) 	<ul style="list-style-type: none"> - Internal mobility after 2 years - Automatic withdrawal of the permit in case of unemployment only after a minimum number of days - Cumulating periods of residence in different EU MS in order to obtain EC long-term residence status after 5 years of legal residence in the EU - Allowing family reunification within the shortest delays - Creating an EU Blue Card, issued by the Member State of first entry, allowing HSW to move throughout the EU for reason of employment¹⁷², from the beginning or, in alternative, after a minimum "waiting period" (i.e. two years or four years)¹⁷³. - Extending equal treatment as EU nationals to HSW as stated in Article 12 of Directive 2005/71/EC on the admission of researchers 	<ul style="list-style-type: none"> - Creation of a database of EU blue cards' owners
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¹⁷² The "EU Blue Card" would be issued by the Member State of first entry, but it should be issued again or renewed if the third-country HSW moves to a second MS for highly qualified employment.

¹⁷³ The different length of the « waiting period » could be associated to different conditions for mobility (i.e. two years in the case of a job offer in the second MS; four years in case of "job seekers).

<p>Policy option E.2:</p> <p>Focused on fostering intra-EU mobility (no EU blue card)</p>	<p>- As above, with the exception of the introduction of a points system (as in option C)</p>	<p>- As above</p>	<p>- As above, with the exception of the creation of an EU Blue Card and of the cumulation of the periods of residence in different MS</p> <p>- Extending to HSW intra-EU mobility existing for long-term residents under Council Directive 2003/109/EC</p>	<p>- Creation of a Skill Matching database that collect data of HSW admitted in EU</p>
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ANNEX VIII: THE CASUAL MODEL



ANNEX IX: SUMMARY ASSESSMENT OF THE POLICY OPTIONS

It should be recalled that this Annex must be read in conjunction with the tables of impacts in Section 5.2. of the Impact Assessment and with table 2 of Annex VIII.

Policy Option A: Status Quo

Main advantages:

The establishment of special procedure to quickly select and admit HSW and the development of attractive conditions to encourage them to choose Europe are high on the EU agenda. Indeed, numerous EU MS currently foresee specific schemes regulating entry and residence conditions of third country HSW (Group C). Several MS are planning to introduce a new legislation (i.e. Group B) or amending the existing rules on HSW.

Moreover, it should be noted that many MS (Group C) are already characterized by low barriers to entry and/or grant a set of favorable residence conditions in order to attract and retain HSW.

Thus, on the whole, the policy developments at MS level may have some positive results. Finally, within this Policy Option, MS would not be required to adopt new measures, thus no new cost would be required apart from those driven by national initiatives.

Main disadvantages:

On a legal perspective, a wide differentiation currently exist in this field among MS and the autonomous policy initiative left at MS level is likely to result in the adoption of national schemes different one from another. These differences in terms of conditions of entry as well as conditions of residence do not favour HSW efficient allocation in the EU labour market. For example, several MS, where shortages among the highly skilled labour are recorded, have no scheme specifically aimed at fostering the attraction of HSW from third countries (this is the case of EE, SE).

Without a common EU framework in this field, the negative effects of the competition among MS on the international scene could arise and, as a consequence, the whole ability of the EU in attracting HSW could remain unchanged (the introduction of new rules aimed at attracting third-country HSW in some MS could damage the relative position/the attractiveness of other MS, by diverting the inflows of HSW from one MS to another). Moreover, the possibility for the EU to act as a block and improve its role as a global player in the international competition for highly qualified resources would be compromised.

Finally, even if several MS are planning to introduce a new legislation (i.e. Group B) or amending the existing rules on HSW, it should be remembered that other MS (Group A) have no specific scheme in this field nor are planning to review the current legislation.

On a socio-economic perspective, the policy development at the MS level could be not sufficient to offset the evolution of the problems identified. Indeed, to the current state, the EU substantially fails in attracting HSW with respect to the traditional immigration countries (such as Canada, Australia) and, in the absence of a specific EU action in this field, the

attraction of HSW could remain small at the EU level (although it might grow for certain MS).

At the same time, the limited intra-EU mobility among EU nationals, the estimated EU demographic trends, the time and investment needed for the measures other than immigration-related (i.e. Lisbon Strategy) to have concrete effects and the current high employment rate among national HSW substantially suggest that MS cannot rely exclusively on national labour forces in order to offset the labour and skills shortages expected in the future, with possible negative effect on the long term EU economic growth.

Policy Option B: Directive focused on establishing a basic common ground

Main advantages:

This policy option would have several advantages:

Definition of HSW based at least on a single common criterion (i.e. the salary level, besides the job offer): these elements would partly foster the developing of an EU coherent approach, by introducing a minimum level of harmonization in terms of admission system. The establishment of such a common system would be particularly relevant as compared to the current lack of specific rules and schemes addressed to HSW in several MS (Group A) and in respect of the progressive development of a common policy on labour migration (first step legislation).

- The salary level as admission criterion would avoid the unfair competition among EU national and third-country HSW and would exclude the risk of exploitation of cheap labour. This consideration should be extended also to Policy options C, D, E1 and E2, as the introduction of the salary level as one of the admission criteria is envisaged in all of them.
- In terms of feasibility of the policy option, a wide autonomy would be left to MS in defining the peculiarities and distinctive elements of the national legislations on HSW. As a consequence, such a proposal is likely to require very little efforts to be ratified and transposed by MS. The problem of political acceptability (and the related risks for transposition) would be mostly limited to the MS of Group A (i.e. 7 MS that have no specific legislation addressed to HSW and no plan to introduce it).
- In terms of expected impacts of the policy option, job quality and working conditions of EU national HSW would be hardly affected and no negative effect in terms of job displacement of the EU national HSW is likely to occur. This is primary due to the likely limited effectiveness of the policy option as a whole in fostering a high attraction of HSW from third countries. Similarly, no significant effect is expected in terms of brain drain from third-countries.
- The fact of having the economic needs test as a general rule should avoid problems of compliance with the Acts of Accession.
- Finally, this policy option would require limited additional costs due to the limited scope of the new legislation.

Main disadvantages:

This policy option would substantially have a limited effectiveness in attracting HSW. As a consequence, although some MS could benefit from the establishment of schemes specifically addressed to HSW, the expected impacts of the policy option are supposed to be quite limited in terms of:

- The requirements of an economic needs test as a general rule, which would slow down the admission process, with possible negative effects in terms of quickness of the procedure and therefore of attractiveness of HSW.
- No specific measure addresses the matching of labour demand and labour supply or to foster the mobility of HSW among jobs and MS: the impact on efficiency of the EU labour market and on overall macroeconomic environment is likely to be very limited.
- No provision of the policy option grants HSW with favourable residence conditions in respect of other TCW. Therefore, the social inclusion and economic integration of third-country HSW are likely to remain unchanged in respect of the status quo (national legislation and EC acquis) as effect of the policy option. This may also hamper the attractiveness of the EU as a whole in respect of international competitors (for example, HSW may have to wait for a long period before being able to get family reunification under the terms of Council Directive 2003/86/EC).

On the whole, the effectiveness and the EU added value of the option would be quite limited.

Option C: Directive focused on lowering barriers to entry (by simplifying the admission system)

Main advantages:

This policy option is expected to produce several positive effects mainly due to the following elements:

- Simplification of entry conditions (economic needs test implicitly satisfied by admission criteria, introduction of fast track scheme and maximum time for processing applications), which could strongly promote and facilitate the migration of third-country HSW into the EU. The expected growing HSW inflows could substantially contribute to matching labour demand and labour supply and to offsetting possible labour and skills shortages in the shortest delays (thanks to the quick admission procedures). In particular, the introduction of a fast-track scheme (i.e. single application leading to a single permit) would also imply possible costs savings for HSW and/or employers in those MS currently requiring two separate procedures for admitting HSW (i.e. both residence and work permits), by cutting down red-tape.
- The creation of an EU points system, which would have several positive effects with regard to:
 - the attraction of HSW, since it would send them a clear and strong message about a significant change in the EU immigration policy addressed to third-country highly qualified workers. This impact would be even stronger in case of a supply-driven system;

- the selectivity of the immigration policy: the set of criteria and the scoring system would advantage the "best and the brightest" migrants with positive effects on the whole EU competitiveness. This impact would be even stronger in case of a supply-driven system;
 - a certain degree of flexibility of the immigration policy, which would allow the MS to “customize” the weighting system according to their priorities (i.e. formal qualifications instead of past work experience, etc.). At the same time, the definition of the set of criteria and the minimum associated weights at EU level would allow a greater harmonization the admission system. In addition, the points system could be designed to be demand or supply driven, or, as compromise, as to be compatible with both a demand-driven and supply-based approach, according to the overall weight (EU and MS) associated to the job offer. In the "compromise scenario", it is reasonable to assume that in the short term most MS would adopt a demand-driven approach, which would guarantee that HSW are admitted to offset existing and identified skill shortages. However, on a medium-long term perspective, the future and changing needs of the EU economy could lead several MS to shift to a supply-based system, admitting HSW as job-seekers. Such a shift would further lower the entry barriers (no need for a job offer), with possible significant positive effects in terms of attraction of HSW. Moreover, the presence in the EU of highly qualified job-seekers should facilitate EU enterprises (and especially SMEs) in the recruitment process.
- The skill matching database, which (if adequately connected with other instruments, such as EURES, etc.) could also contribute to match labour supply and labour demand;
 - The right to internal mobility (after a “waiting period”) would allow a more efficient allocation of human resources of the HSW already present in the MS. Moreover, the definition of a “waiting period” before granting HSW with internal mobility would also protect the EU firms, notably the SMEs, from the risk of losing the HSW once entered in the EU on the behalf of big companies. In addition, the internal mobility could enhance HSW job and career opportunities within the national labour market.
 - Granting an initial permit valid for 2 or 3 years would represent a step forward with respect to the current provisions in the majority of MS (on average, the initial validity of the permit is equal to 1 year). This provision would benefit both third-country HSW and EU employers, as it would be a further simplification (notably when the job contract lasts for more than 1 year).
 - Granting longer period of absence from the EU without interrupting the 5 years period for obtaining the LTR status would concretely support the circular migration of HSW and thus mitigate the possible negative effects in terms of risk of brain drain.

On the whole, the policy option is likely to produce particularly positive impacts on EU macroeconomic environment and GDP growth, thanks also to its capability to adapt to the future needs of the EU labour market and economy in the medium-long term.

Main disadvantages:

Some of the elements of the policy option could also lead to negative effects, risks and trade-offs, and namely:

- Lowering barriers to entry and allowing internal mobility could affect the competitive position of the EU national HSW and, although very marginal, negative effects in terms of job displacement and brain drain of HSW from the EU could arise. However, the provision of a “waiting period” for internal mobility should minimize such a risk.
- Granting longer period of absence from the EU within the period for acquisition of EC LTR status could be a too weak facilitation to be a real element of attraction.

In addition, more relevant issues could arise in terms of feasibility and political acceptability of the policy option:

- The fact that several elements will be defined at EU level (in particular, the minimum set of criteria and the minimum associate weights for points system as well as the maximum period for processing applications) would leave a more limited scope for national decision.
- The introduction of an EU points system which would imply possible risk and difficulties in terms of:
 - Acceptability by the MS: it would actually represent a relevant shift in the current immigration policy (even if it could be initially demand-driven), since the vast majority of MS has a tradition of demand-driven immigration system, and the establishment of an EU points system could be difficult to accept;
 - Significant additional costs could be due to the definition and implementation of the points system and the skill matching database. However, these costs could be reduced if the database would be created within existing or planned European databases (i.e. the entry-exit system) in order to gain economies of scale and enhance possible synergies (i.e. with EURES). Moreover, a reduction of costs could be envisaged on the medium term for EU and MS: the database could contribute to a more efficient management of the admission and circulation of HSW, as well as a more efficient matching between demand and supply of highly qualified workers.
 - Technical definition of the points system in terms of criteria, associated weights (EU and MS) and scoring. As a way of example, the weight and scoring system should be defined so that a shift from a demand to a supply-based system would not require an EU intervention. In alternative, the minimum weights could be agreed to through comitology, so to avoid having to go through an amendment procedure.
 - The concrete risk that an EU set point-system could be not flexible enough to respond to different needs in highly qualified labour in different MS and would lead to mismatches and/or tensions on the national labour markets.

In addition, the policy option could imply serious risks of brain drain, as a consequence of an increased attractiveness of the EU for third countries HSW. However, such negative impacts could be partially mitigated by several elements (apart from the support to circular migration, previously mentioned) such as: the remittances sent to the country of origin, patterns of employment in the countries of origin, possible diversion of flows toward the EU, the possibility for a better utilization of HSW already present in the EU (due to the internal

mobility after a waiting period) instead of recruiting them directly from third-countries. However, it is clear that safeguard measures will be necessary.

Finally, the policy option does not include important measures aimed specifically at fostering permanent migration. Therefore, the positive effects in terms of HSW attraction are more likely with regard to migrants who intend to stay for a short period. This could imply possible risks in terms of sustainability of the positive expected impacts on EU competitiveness, even though there would be a positive impact in terms of filling in temporary needs.

Option D: Directive focused on fostering HSW integration

Main advantages:

The advantages of the different elements included in the policy option can be summarized as follows:

- The whole set of foreseen residence conditions would clearly improve the EU ability to attract and, above all, retain third-country HSW. The effective integration of third-country HSW in the EU labour market would be the best way to maximise the contribution of HSW to the EU economic growth and development and it would really improve the ability of the EU to deal with the present and expected challenges (i.e. the demographic ageing, the current and future need for human resources more and more qualified, etc.).
- The internal mobility granted from the beginning (and to a lesser extent the automatic withdrawal of the permit in case of unemployment only after a minimum number of days), would play a relevant role for promoting a more efficient allocation and re-allocation of the HSW in the national labour market and it could help firms (in particular SMEs) in relieving the labour and skill shortages. It would also allow a better utilization of the third-country HSW already present in the MS, with the effect of partly mitigating the risk of brain drain from third countries.
- The demand-driven approach, the set of admission criteria, the economic needs test as a general rule are other elements of the policy option that would support the labour market efficiency, by ensuring that the third-country HSW can actually contribute to fill vacancies and labour shortages in the EU.
- Extending the provisions stated in Article 12 of Directive 2005/71/EC and the acquisition of EC LTR status before the 5 year minimum residence period would contribute to the social inclusion of the HSW thanks to the equal treatment with EU national attached to these elements. In addition, the favourable conditions for the acquisition of the EC LTR status would imply the acquisition of specific (but somewhat limited) rights in terms of intra-EU mobility for HSW.
- The favourable conditions for family reunification, and notably the access to labour market for the spouses, are another distinctive element of this option, which would concretely foster the social integration of HSW in the EU.
- The fact of having the economic needs test as a general rule should avoid problems of compliance with the Acts of Accession.

Main disadvantages:

As a first remark, it is worth noting that the positive effects of this policy option would be mainly associated to those third-country HSW who are interested in remaining permanently in the country of migration. Therefore the attraction of temporary migrants could be more limited and referable to very few elements of the policy option (i.e. introduction of fast-track procedure for issuing work/residence permits).

The requirements of an economic needs test as a general rule would slow down the admission process, with possible negative effects in terms of quickness of the procedure and therefore of attractiveness of HSW. This should be however compensated by the possibility, once admitted, to be entitled to a settlement permit.

The favourable conditions of residence, in certain cases, could have several drawbacks:

- The internal mobility from the beginning granted to third-country HSW could cause several risks on EU enterprises and especially SMEs: the SMEs could suddenly lose the third-country HSW on behalf of big companies (which may offer more attractive conditions both in terms of salary and other benefits) after having gone through all the procedures to hire him/her.
- The increased inflow of HSW from third-country could have possible negative effect in terms of job displacement and adverse consequences on job quality of EU nationals. Nevertheless, these effects are likely to remain limited and the creation of new job opportunity (fostered by the inflows of HSW) could widely overcome the negative effects on EU nationals.
- The unlimited settlement permit from the beginning could represent an advantage for both HSW and EU employers (i.e. no costs for the renewal of the permit and higher legal and employment certainty for both). However:
 - it would be strongly unbalanced towards permanent migration, not covering the needs of HSW/employers who are interested in temporary settlement/contracts. Therefore it would not contribute to offset temporary skill shortages arisen in the labour market.
 - it could be a too strong an option, difficult to be accepted by MS, as on average, the EU MS currently provide for HSW permits with initial validity equal to 1-3 years (the only exception is DE).
- The extension of rights granted could have negative effects on public finances, in terms of additional costs for unemployment and social assistance systems, as well as for education and health care systems. However, these costs should remain very limited, as the number of HSW entering the EU labour market is supposed to remain limited in absolute value. Moreover, these additional costs should be balanced by the taxes and other contributions that will be paid by third-country HSW.
- The introduction of fast track-procedures would not necessarily lead to the introduction of a single permit/single procedures (as for the fast-track schemes). Thus, this option could ensure faster procedures and a higher degree of certainty about the time for having applications processed, but the simplification of entry conditions would remain more limited as compared to the policy option C. The same considerations are valid for policy option E 2.

More generally, the whole set of residence conditions could have negative effects in terms of brain drain. In fact, the permanent settlement of third-country HSW in the host country as well as the incentive to family reunification could partly reduce the remittances sent abroad and discourage immigrants to move back to their country of origin. Thus, supporting measures should be put in place to mitigate such adverse consequences.

Policy Option E 1: Directive focused on fostering intra-EU mobility

Main advantages:

This policy option is expected to produce several positive effects mainly due to the following elements:

- Simplification of entry conditions (introduction of a fast-track scheme leading to a combined residence/work permit "EU Blue Card", the reduction of time for processing applications, the acceptance of in-country requests), which would lower the barriers to entry in the EU and contribute to attract also HSW who intend to stay for a short time only. These elements will also allow EU enterprise to simplify the recruitment of HSW from abroad and therefore to promptly respond to existing skill shortages. The provision that the economic needs test would be considered implicitly fulfilled for professions included in the priority lists would make the recruitment of these professionals even faster.
- Demand-driven approach, set of admission criteria, reference to national priority lists, economic need test as a general rule, which would guarantee the contribution of the admitted HSW to offset existing skill shortages, and thus her/his efficient allocation in the labour market. Moreover, the inclusion of the salary level among the admission criteria would protect EU national HSW from unfair competition.
- Initial validity of permit (2-3 years), in order to be consistent with the "waiting period" required before benefiting from internal and intra-EU mobility and in order to define clear patterns of migration (i.e. first renewal after the expiration of the "waiting period"). However, this should be valid only if in case of a job contract of unlimited duration; in the other cases, the initial validity should be linked to the actual duration of the contract, plus the same period to be granted in all cases if the HSW loses his/her job (for example, 2-3 months).
- Cumulating periods of residence in different EU MS in order to obtain EC long-term residence status after 5 years of legal residence in the EU. This provision (strictly linked to the intra-EU mobility) would promote HSW social and economic inclusion, also thanks to the acquisition of the equal treatment with EU nationals attached to the EC LTR status, and would help not to penalise mobile HSW, therefore encouraging geographical mobility.
- Intra-EU mobility attached to the EU Blue Card and internal mobility, which would have several positive effects with regard to:
 - The attraction of HSW (especially those who intended to settle permanently or at least for a minimum number of years in the EU), thanks to enhanced job and career opportunities. In particular, the EU Blue Card could offer the perspective of an integrated EU labour market, whose size would be comparable to those of other major economies (i.e. US and Canada). The possibility for intra-EU mobility attached to the EU Blue Card could have positive effects also on the quality of life

of migrant HSW, as they could move where a better standard of living could be obtained.

- The EU labour market efficiency, thanks to the improvement of the re-allocation of the HSW in the national or EU labour market and the relief of skill shortages in certain areas/sectors (they could act as substitutes of non-mobile EU workers).
- The possibility for EU enterprise to recruit HSW already present in the EU, which would be easier and less burdensome than having to look for them in their countries of origin. These benefits are likely to be more relevant for SMEs, which hardly have the same possibilities of large companies to make use of international “head hunters”, neither HR departments organised for taking care of all the requirements (visas, permits, recognition of professional qualifications, etc).
- This possibility appears to be of particular interest for small non-English speaking countries (as first or second MS of residence), that may not be regarded by the “best and the brightest” as interesting destinations. This is a view shared by several Member States, big and small.

On the whole, the increased pool of highly qualified human resources and their enhanced circulation between regions and MS would also boost innovation, R&D capabilities, entrepreneurship and job creation, and, in turn, the whole EU macroeconomic environment and competitiveness.

Main disadvantages:

Some of the elements of the policy option could also lead to negative effects, risks and trade-offs, and namely:

- Definition of EU priority list of specific sectors and occupations where there are recognised gaps on the European labour market. Such a list would require burdensome obligations for its implementation and transposition (i.e. specific study and research at EU and national level, which shall be periodically updated), which also do not appear consistent with the proportionality principle. Therefore, an EU coordination of the nationality priority lists (drafted by MS on voluntary basis) appears preferable, even though also this element lists may have its rigidities (needs of constant updating).
- Economic needs test as a general rule (see policy option B).
- The intra-EU mobility attached to the EU Blue card, which could have several negative effects with regard to:
 - competition among MS, which could increase as effect of the possibility for moving to other MS (and the MS with lower wages would be damaged);
 - competition between EU national HSW and third-country HSW: the EU national would no longer avoid the competition of third-country HSW on the national markets by moving in other MS, as they would partially loose this comparative advantage. However, it must be recalled that presently only a very limited number of EU workers is mobile and that the rules under which non-EU HSW could move

to other Member States would still be much less favourable than those applicable to EU workers;

- social integration of HSW, if family members are not allowed follow the mobile HSW.
- granting intra-EU mobility from the beginning would expose EU enterprises (and especially SMEs) to the risk of losing the third-country HSW after having gone through all the procedure for hiring them from abroad. The definition of a waiting period would contribute to avoid the possible negative effects on enterprises.
- EU Blue Card database, which could imply significant additional fixed costs for its creation and implementation at EU level (central system) and MS level (national systems). However, these costs could be reduced if the database would be created within existing or planned European databases (i.e. the entry-exit system) in order to gain economies of scale and enhance possible synergies (i.e. with EURES). Moreover, a reduction of costs could be envisaged on the medium term for EU and MS: the database could contribute to a more efficient management of the admission and circulation of HSW, as well as a more efficient matching between demand and supply of highly qualified workers

As for the previous policy options (C and D), this option could have possible negative effects in terms of risks of brain drain from third-countries, which could be partially reduced thanks to the measures fostering HSW mobility (more efficient allocation of HSW in the EU by promoting their availability instead of recruiting them from third-countries). Moreover, the remittances sent in the country of origin could balanced the adverse consequences of brain drain (the remittances could be growing and particularly relevant thanks to the increased job and career opportunities offered to third-country HSW). On the other hand, the incentives for permanent settlement of third-country HSW in the EU (cumulating periods of residence in different EU MS in order to obtain long-term residence status) as well as the facilitations to obtain family reunification could partly reduce the remittances sent abroad and be an incentive not to come back to the country of origin. In this case, too, complementary measures would be needed.

Policy Option E 2: Directive focused on fostering intra-EU mobility

Main advantages:

Generally, as for Policy Option E 1, this policy option could be particularly effective in attracting and retaining HSW and matching demand and supply of highly qualified labour.

As compared to Policy Option E1, some specific advantages should be pointed out:

- Advantages associated with the introduction of an EU points system (see Policy Option C);
- granting the intra-EU mobility rights attached to the EC long-term resident status (which could be more limited than what would be foreseen for the EU Blue card) would expose EU national HSW to less adverse consequence in terms of job displacement and impacts on working conditions.

Main disadvantages:

As a first remark the rights to intra-EU mobility granted under the EC long-term resident status could be more limited as compared what would be foreseen in the EU Blue Card option in terms of intra-EU mobility. This could happen if Member States would apply to them the same conditions for access to their labour market they would apply to all other workers who are EC long-term residents. Thus the whole relevance of this policy option with respect to the achievement of this objective could be more limited as compared to the Policy Option E 1. On the contrary, if Member States were to be more open in respect of these workers, the policy option could be highly effective. Finally, a certain number of Member States appear to be quite reluctant toward the possibility of dropping controls on their labour markets even for this category of workers when they are first admitted by other Member States.

Because of this, impacts in terms of HSW attraction, labour market efficiency and EU macroeconomic environment are quite uncertain. This element could also create some confusion in terms of immigration rules to be enacted, as only part of Council Directive 2003/109/EC (long-term residents) would be applied initially.

Other possible specific disadvantages of this policy option are related to the introduction of an EU points system and the creation of the skill matching database (see Policy Option C).

Policy Option F: Communication, coordination and cooperation

Main advantages:

As also the stakeholders' opinion confirmed, this option would minimize the risks and difficulty for transposition and it would be easier to achieve a consensus among EU MS.

The envisaged interventions could promote the establishment of a common basic ground facilitating the attraction of HSW and a more efficient allocation of highly qualified human resources in the EU labour market.

Finally, the costs of such policy option would be quite limited (although a certain level of resources will be needed for organizing communication and coordination activities).

Main disadvantages:

A small effectiveness in achieving the objectives identified and in producing significant economic and social impacts is generally envisaged for this policy option.

Strong shifts in current national systems (for example the introduction of fast track schemes, etc) could be hardly could hardly be put in place in this way (especially in those MS that presently have no specific legislation concerning HSW). Moreover, other aspects, such as intra-EU mobility, cannot be achieved without the EU intervention.

Thus, this policy option would be too weak in order to actually improve the EU attractiveness and more efficient allocation and re-allocation of needed human resources.

ANNEX X: ASSESSMENT OF ADMINISTRATIVE AND IMPLEMENTATION COSTS

The main identified steps for MS Immigration Services are:

- Examination and assessment of documentation presented by the applicant or employer to prove that the entry conditions for the EU Blue Card are met (“retrieving relevant information from existing data”)
- Notifying the applicant of any decision rejecting an application for a EU Blue Card (“Submitting the information”);
- Processing the relevant information in the EU Blue Card database (“producing new data”)
- Filling in the EU Blue Card forms (“filling in forms and tables”)
- Issuing the EU Blue Card (“Submitting the information”)

Under the assumption that UK and IE will transpose the preferred policy options, the administrative costs have been assessed according to two scenarios:

- Scenario “ t_0 ”: 1st year of implementation of the preferred PO
- Scenario “ t_0+2 ”: 3rd year of implementation of the preferred PO. This scenario has been developed in order to assess the main administrative costs related to the Intra-EU mobility of holders of EU Blue Card issued in Scenario “ t_0 ”, and namely:
 - Issuing an EU Blue Card by the “second” MS (see steps above);
 - Informing the “first” MS on the outcome of the procedure.

Main assumption of Scenario “ t_0 ”

- Implementation costs for familiarising with the obligations associated to EU Blue Card (including training the personnel of MS Immigration Services). In absence of available and comparable information about the number of staff in charge of issuing residence/work permits in MS, the following estimations have been made:
 - an average of 6 senior officials (director, deputy directors and heads of unit) per MS would be deputed to familiarise with the obligations (assumption: two working days required, for an estimated total of 96 working hours per MS);
 - an average of 120 officials per MS would be involved in training about the obligations (assumption: two working days of training course, for an estimated total of 1,920 hours). The number of officials has been estimated on the basis of the estimated number of admitted HSW (see below) and of hours required for processing the applications, under the assumption that each official could issue an average of 3 EU Blue Card every 2 months.

- Tariffs have been estimated on the basis of the EU average hourly labour cost in Public Administration (NACE L), extracted from Eurostat. Eurostat provides hourly and monthly labour costs and gross earnings per economic sector. However, for government (NACE section L, Public administration and defence; compulsory social security) we only have information on the New Member States. Additional data were required to extend our information on labour costs to the entire EU27. Eurostat provides a number of possible indicators, namely average personnel costs in services in the EU27 in 2003 (NACE sections G, H, I, and K)¹⁷⁴, median gross annual earnings in industry and services in the EU25 in 2002 (the outcome of the Structure of Earnings Survey 2002)¹⁷⁵, and average hourly labour costs in industry and services of full-time employees in enterprises with 10 or more employees in 2002.¹⁷⁶ The relative differences between Member States in the level of labour costs in the NMS according to the various sources compares fairly well. OECD data were used to forecast the level of annual labour costs per Member State in 2008.¹⁷⁷ Information on the annual hours worked per employee in the total economy per Member State in 2005 were taken from the total economy database of the Groningen Growth and Development Centre.¹⁷⁸ The end result is an average hourly labour costs of employees in NACE section L (public administration and defence; compulsory social security) of €24.30 in the EU27 in 2008, and €23.30 excluding Denmark.
- The total number of working hours for processing a single application and issuing a single EU Blue Card has been estimated equal to 5 FTE, mainly related to the examination and assessment of documentation presented (45% of total time) and the processing the relevant information in the EU Blue Card database (30% of total time).
- The frequency of the action has been associated to the number of HSW submitting the applications for obtaining EU Blue Card. Very few information is available about the “success rate” (approved applications/submitted applications) of HSW applications: in Estonia almost all of the applications (99%) submitted by third-country nationals for a work permit have been approved between 2003-2005¹⁷⁹; in UK almost 50% of applications for the HSMP (Highly Skilled Migrant Programme) have been approved between 2003-2005¹⁸⁰. The relatively low “success rate” in UK could be explained by the adopted admission system (i.e. supply-based approach, points system and no need for an existing job offer/work contract). Since the narrow definition of eligible HSW (Groups 1 and 2 of the ISCO-88) and existence of a job offer/work contract as one of

¹⁷⁴ Eurostat, “Main features of the services sector in the EU”, *Statistics in Focus – Industry, trade and services* 19/2007.

¹⁷⁵ Eurostat, “Earnings disparities across European countries and regions. A glance at regional results of the Structure of Earnings Survey 2002”, *Statistics in Focus – Population and social conditions* 7/2006.

¹⁷⁶ Eurostat, *Europe in Figures 2005*, p. 169.

¹⁷⁷ OECD Economic Outlook 81 database. The average increase in labour costs in Poland, Hungary, the Slovak Republic and the Czech Republic was applied to the New Member States that are not a member of the OECD.

¹⁷⁸ Groningen Growth and Development Centre and the Conference Board, Total Economy Database, January 2007, <http://www.ggdc.net>. The average annual number of hours worked in the New Member States was 1,855 hours per worker, while the Eurostat data on labour costs per hour and per month result in an annual number of hours worked in NACE section L of 1,800 hours, suggesting that the data match.

¹⁷⁹ Source : Estonian Citizenship and Migration Board

¹⁸⁰ Source : Work Permits UK

the admission conditions for the EU Blue Card, it is reasonable to assume that the “success rate” of the applications would be quite high. At the same time, possible attempts to abuse and mistakes by the applicants (i.e. due to the lack of information on the new procedures) could occur in the first year of the implementation of the EU Blue card. On the whole, the “success rate” of the applications could be assumed equal to 80%.

- The average number of HSW admitted per MS has been assumed as the same estimated for 2004-2005¹⁸¹ (2,400 HSW admitted per MS). It has not been possible to estimate a reliable trend due to lack of statistics on immigration at EU level. However, it is reasonable to assume that major changes in HSW inflow would not be likely before the implementation of the Proposal.

Main assumption of Scenario “ t_0+2 ”:

- No implementation costs for becoming familiar with the obligations associated to the EU Blue Card.
- No significant changes in the tariffs (see Scenario “ t_0 ”) due to the limited period elapsed from “Scenario t_0 ” and the expected inflation rates at EU level.
- Economies of experience would occur in managing the obligations associated to the issue of the EU Blue Card, with a possible reduction of time (and of administrative costs) occurred for key actions. In particular, the following assumptions have been made:
 - a reduction of 0,5 FTE per application for the examination and assessment of documentation (-22% in comparison with Scenario t_0);
 - a reduction of 0,5 FTE for processing the relevant information in the EU Blue Card database (-33% in comparison with Scenario t_0);
- The “success rate” of the applications would be likely to increase (i.e. better information after two years of implementation) and could be assumed equal to 90%;
- Trend of HSW admitted in EU has been estimated on the basis of Australia’s average annual trend in HSW inflows between 1999-2001 (13.5% EU vs. 14.8% Australia). It is reasonable to assume that, after the implementation of the Proposal, EU attractiveness for HSW would be comparable to Australia, which has immigration patterns biased towards highly qualified migrants. Moreover, such an assumption is also due to the lack of statistics on immigration at EU level. Under such an assumption, the average number of HSW admitted per MS would be 3,100 in the 3rd year of implementation.
- As regards to intra-EU mobility, the administrative costs are related to the HSW admitted in “Scenario t_0 ” and moving into another MS after the “waiting period”. In particular:

¹⁸¹ See Statistical Appendix (Annex I), Table 4.

- Mobility rate of EU Blue Card owners (1,25% of HSW admitted in “Scenario t_0 ”) has been assumed as double the mobility rate of high-educated EU-15 nationals in 2005¹⁸², given that, on average, migrants tend to be more mobile than residents¹⁸³;
- The working hours for issuing a single EU Blue Card by the “second” MS would be lower than in the case of the issue of the initial EU Blue Card (i.e. adjusting existing data in the EU Blue Card database would require less time than producing new data);
- The notification to the first MS of the issue of the EU Blue Card in second MS would imply very limited costs (i.e. possibility of using existing channels of communications/contact points).

The likely administrative costs of the preferred policy option

On the basis of the assumptions described above, the following administrative costs could be estimated.

In the first year of the implementation (Scenario “ t_0 ”), additional implementation costs (an estimated 1.2 million euro) would occur for MS Immigration Services for familiarising with the obligations associated to the EU Blue Card (including training personnel of MS Immigration Services in charge of issuing the EU Blue Cards).

The administrative costs associated to the issue of the EU Blue Card (including the examination of submitted documentation/applications and the notifications of rejections to the applicants) would amount to an estimated 66.2 million euro across MS Immigration Services (3,000 submitted applications and 2,400 issued EU Blue Cards). It has to be noted that most of these costs would not be additional because they are linked to activities currently carried out for residence/work permits. In the assessment grids below only additional costs are included. In particular, possible additional costs would be mainly related to:

- examination and assessment of documentation presented by the applicant or employer to prove that the entry conditions for the EU Blue Card are met (an estimated cost of 32.7 million euro), but only for those MS (i.e. Belgium, Netherlands, Greece, Ireland) currently applying less criteria than foreseen in the preferred option. However, for most MS there would be no significant additional costs and for some MS (i.e. Austria, UK) the costs would be smaller than today. Therefore these costs are not taken into account in the cost assessment grid.
- processing the relevant information in the EU Blue Card database (an estimated cost of 17.7 million euro), which would represent an additional obligation for all MS.

¹⁸² The mobility rate of high-educated EU-15 nationals have been calculated on the basis of the LSF variable “years of residence”, taken as a proxy for the annual change of residence. For further details, please refer to Chapter 5 of “Employment in Europe 2006“ (EC, DG Employment, Social Affairs and Equal Opportunities).

¹⁸³ See also “High level Task Force on skill mobility” – Final Report.

At the same time, possible costs savings could occur thanks to the introduction of the single application (EU Blue card) in 13 MS¹⁸⁴ currently requiring two separate procedures for admitting HSW (i.e. both residence and work permits). However, the estimates of possible costs savings could be based entirely on assumptions with respect to the reduction in labour input, since there is no information with which to make a more detailed estimate of organisational savings. That being said, it can be assumed a reduction of 3 working days (FTE) per application, due to the elimination of one of the two procedures currently requested. Therefore, the possible costs savings related to an average of 3,000 applications per MS would amount to an estimated 21.8 million euro across 13 MS Immigration Services that should be subtracted from the total of implementation costs (73.0 million euro).

In the third year of implementation of (Scenario “ $t_0 + 2$ ”), implementation costs for familiarising with the obligations wouldn’t occur. The number of submitted and approved applications is likely to increase, but economies of experience would occur in managing the obligations associated to the EU Blue Card, with a possible reduction of time occurred for key actions (i.e. examination and assessment of documentation; processing the relevant information in the EU Blue Card database).

On the whole, administrative costs for issuing initial EU Blue Cards would amount to an estimated 63.9 million euro across MS Immigration Services, and it could be estimated a reduction of around 18% of the administrative cost per permit in comparison with the Scenario “ t_0 ”.

As regards intra-EU mobility, the administrative costs have been estimated on a basis of an average of 30 EU Blue Card holders (admitted in EU in the Scenario “ t_0 ”) per MS deciding to move from the first MS to a second MS. Under such an assumption, the administrative costs would amount to an estimated 0,5 million euro, including the issue of the EU Blue Card by the second MS and the related notification to the first MS.

¹⁸⁴ BE, BG, CZ, ES, IE, FR (for one scheme), HU, LV, MT, PL, PT, RO, SI.

Table 1 Implementation costs “Scenario t_0 ”

Proposal on conditions of entry and residence of third-country highly skilled workers					Tariff (€ per hour)	Time (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total of actions	Total cost	Regulatory origin (%)			
No.		Type of obligation	Description of required action(s)	Target group	i	e	i	e					Int	EU	Nat	Reg
1		Application for individual authorisation or exemption	Familiarising with the information obligation	MS Immigration Services	23		96		2.236,8	1	26	26			100%	
2		Application for individual authorisation or exemption	Training members and employees about the information obligations	MS Immigration Services	23		1.920		44.736	1	26	26			100%	
Implementation cost savings of single application (EU Blue card)											Total implementation costs (€)		1.221.293			
1		Application for individual authorisation or exemption		MS Immigration Services	23		24		552	1	13	3000				
2																
											Total net implementation savings (€)		20.306.707			

Table 1 Administrative costs “Scenario t_0 ”

Proposal on conditions of entry and residence of third-country highly skilled workers					Tariff (€ per hour)		Time (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total of actions	Total cost	Regulatory origin (%)			
No.		Type of obligation	Description of required action(s)	Target group	i	e	I	e						Int	EU	Nat	Reg
1		Application for individual authorisation or exemption	Producing new data	MS Immigration Services (applications accepted)	23		12		279,6	2400	26	62.400	17.447.040				100%

Table 2 Administrative costs “Scenario t_0+2 ”

Proposal on conditions of entry and residence of third-country highly skilled workers					Tariff (€ per hour)	Time (hour)	Price (per action or equip)	Freq (per year)	Nbr of entities	Total of actions	Total cost	Regulatory origin (%)			
No.	Type of obligation	Description of required action(s)	Target group	i	e	I	e					Int	EU	Nat	Reg
1	Application for individual authorisation exemption or	Producing new data	MS Immigration Services (applications accepted)	23		8		186	3100	26	80.600				100%
2	Application for individual authorisation exemption or	Retrieving relevant information from existing data	MS Immigration Services-Intra EU mobility	23		14		326	30	26	780				100%
3	Application for individual authorisation exemption or	Adjusting existing data	MS Immigration Services-Intra EU mobility	23		4		92	30	26	780				100%
4	Application for individual authorisation exemption or	Filling forms and tables	MS Immigration Services-Intra EU mobility	23		8		186	30	26	780				100%
5	Application for individual authorisation exemption or	Submitting the information (sending it to the designated recipient)	MS Immigration Services-Intra EU mobility	23		2		46	30	26	780				100%
6	Application for individual authorisation exemption or	Submitting the information (sending it to the designated recipient)	MS Immigration Services-Intra EU mobility	23		2		46	30	26	780				100%

					(notification to first MS)														
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Total administrative costs (€) 15.569.060

As regards to highly skilled workers and their (potential) employers, it is hardly possible to assess clearly who would face additional administrative costs either benefit from the estimated savings. This is due to:

- Wide differences between MS with regard to their role in the admission process: in some MS (i.e. Austria, Germany) the worker is in charge of submitting the application; in other MS (i.e. Netherlands) the employer is in charge of submitting the application and/or attesting competences/skills of the employee. Moreover, in several MS both worker and employer play a role in the admission process (i.e. in Belgium and France the employer submit the application for the work permit, while the worker submit the application for the residence permit);
- The preferred policy option doesn't foresee specific provisions regarding the employer/worker role in the admission process.

At the same time, there are some data on the level of fees associated with residence and work permits (see table below), which show a considerable degree of variance between Member States. However, since the real costs of an application are unknown, no evidence is available about the correlation between the administrative costs faced for issuing a permit and the fees requested to the migrant and/or the employer. Therefore, it is not possible to quantify on reliable basis the effect that the above estimated increase/reduction of administrative costs would have on fees.

Table 3. Data on the fees associated with residence and work permits (€)

	<i>Austria</i>	<i>France</i>	<i>Ireland</i>	<i>Italy</i>	<i>Netherlands</i>	<i>Sweden</i>	<i>UK</i>
initial permit – work	18		1,000 ¹⁸⁵			96	211
initial permit – residence		203		46	262-821	96	
renewal permit – work	30			10		96	211
renewal permit – residence		51			262	96	167
document verification and authentication				10-33	10-126		

Sources: Clarke et al. 2004. Migrationsverket (Sweden). Irish Department of Enterprise, Trade and Employment

That being said, some of the estimated additional costs would be faced also by highly skilled workers and their (potential) employers, and namely:

¹⁸⁵ For 24 months. Source: Irish Department of Enterprise, Trade and Employment.

- costs for collecting and submitting the requested documentation to prove that the entry conditions for the EU Blue Card are met. As mentioned before, these costs would be additional only for HSW and employers in those MS (i.e. Belgium, Netherlands, Greece, Ireland) currently applying less criteria than foreseen in the preferred option;
- costs related to the intra-EU mobility: notification by the EU Blue card holder (or by her/his new employer) of her/his presence to the competent authorities of the “second” MS; collection and submission of the documentation requested by the “second” MS for issuing the EU Blue Card. However, it is reasonable to assume that these costs would be smaller than those currently faced by both HSW and employers, and in particular:
 - if no EU national could fill a given vacancy, it could be less burdensome for employers to recruit HSW already present in the EU than having to look for them in their countries of origin.
 - an HSW legally resident in the “first” Member State wouldn’t be obliged to come back to the country of origin to present the application at the local consulate of the “second” MS where he is supposed to move for employment reasons. Moreover, thanks to the harmonization of admission criteria foreseen by the preferred option, the HSW shouldn’t be requested by the “second” MS to produce new documentation, but mostly to adjust the existing one (whenever necessary).

Similarly, highly skilled workers and their (potential) employers would benefit from some cost savings associated to the provisions of preferred option, and namely:

- cost savings associated to the introduction of a single application (the EU Blue Card) in 13 MS¹⁸⁶ currently requiring two separate procedures for admitting HSW (i.e. both residence and work permits). This would imply that HSW (or her/his employer) will not be requested to pay the fee for the other procedure/permit. However, it is hardly possible to estimate the fee requested for the EU Blue card (given the above mentioned lack of evidence about the correlation between the administrative costs faced for issuing a permit and the fees requested by the MS) and to compare it with the current fees. Therefore, the extent of the net effect (“fees currently requested for the two separate procedures” *versus* “fee requested for the application for the EU Blue Card”) for HSW and employers could be hardly estimated, but it is reasonable to assume that it would be positive in the 13 MS above mentioned.
- cost savings associated to the initial validity of the permit (i.e. 2 or 3 years) which will be longer than the validity (one year) currently foreseen in some MS (Belgium, France, Greece, Portugal). In the case of a job contract for 2/3 years, this would imply that HSW (or her/his employer) will not be requested to submit the application for the renewal of the permit and to pay the associated fee. However, as mentioned above, it is hardly possible to estimate the extent of the net effect (“fees currently requested for the initial permit and its first renewal” *versus* “fee requested for the application for the EU Blue Card”) for HSW and employers, but it is reasonable to assume that it would be positive in the MS above mentioned.

¹⁸⁶ BE, BG, CZ, ES, IE, FR (for one scheme), HU, LV, MT, PL, PT, RO, SI.

- economic cost savings associated to introduction of a maximum period of time for processing the application. According to the available information on the legal deadlines for processing applications, the average (legal) processing times are between 50 and 65 days (see Table 4).

Table 4. (Maximum) processing time of an application for a residence permit or work permit (days)

Czech Republic	90-120
Latvia	30
Romania	10-30
Lithuania	30-60
Slovakia	90
Netherlands	35-90
Estonia	45
Italy	40
Germany	90
Finland	68
Greece	75
Portugal	30-60

Assuming that the maximum processing time of the EU Blue Card would be fixed in 30 days, the consequent average reduction could be estimated within 20-35 days. Therefore, the economic cost savings would correspond to the value of the time saved by HSW and their potential employers in waiting for the decision on an application. Moreover, further economic cost savings could occur with regard to intra-EU mobility, comparing the preferred option with the current situation (as described above).