Chapter 5

What is missing from the EU labour migration policy framework?

This chapter looks at what is missing from EU-level interventions in the light of policy developments inside and outside the European Union and how to fill and structure those gaps. It looks at how the European Union could play a role in increasing pools of candidates and improving the recognition of foreign qualifications. The chapter also looks at the EU's direct involvement in the selection of migrant candidates. It explores categories in the sector-based approach which have not been addressed – e.g. investors and entrepreneurs, including start-ups, exceptional talents and different occupations. The chapter assesses cross-cutting measures that are yet to be taken and could improve the effectiveness of current migration systems. They include standard application forms, EU-wide labour market tests and priority at border crossings. The chapter considers efforts to reduce the costs that migrants incur, then goes on to conclude.

A broad pool of candidates

In labour migration, a candidate pool is an intermediate step where interested candidates request inclusion in a list from which employers or public-sector player can choose. The pool of candidates can serve a number of purposes:

- Arouse greater interest and involvement from potential migrants and thereby improve matches between candidates and skills that are in demand. It is also a chance for employers to find workers who match their requirements.
- Increase the incentive for potential migrants to investment in their human capital and so improve their chances of selection.
- Preview eligibility requirements so that recruitment is accelerated when a skills match is found or a candidate selected.
- Improve caseload management, compliance, and programme monitoring.

There is a clear trend in non-EU OECD countries towards the use of pools of candidates for the selection of permanent migrants through so-called "expression of interest" systems introduced in New Zealand, Australia and Canada (OECD, 2014a). Such schemes seek to address the above-cited purposes, although means and procedures vary significantly. At present, however, there is no comparable pool of candidates at the EU level. No EU Member State systematically uses a pool of candidates for selecting economic migrants under its national scheme, nor requires inclusion in a pool as a prerequisite for labour migration.

The previous chapters have shown how the European Union is not perceived as a destination for labour migration in its own right, but that each country attracts migrants for particular reasons. At present, admission infrastructure reflects this single-country approach, with each Member State managing its own admissions for all permits whether national or covered by EU Directives. Consequently, candidates do not apply for admission in more than one EU Member State. National languages further link migrant applications to individual EU Member States, even though few of them have language requirements for temporary labour migration permits or research. The longstanding national approach to labour migration means that individual countries do not generally encourage third-country nationals to consider their eligibility for labour migration programmes in other EU Member States.

Instead, they see their mandate as attracting and admitting labour migrants whom they authorise for their own national labour markets.

A unified pool of candidates at the EU level would serve to break the exclusive bond between individual origin countries and single Member States by leading aspiring migrants to consider a broader range of destinations. The creation of a single pool at the EU level would allow candidates to express their intention of migrating to more than one EU Member State. Furthermore, it would allow all EU Member States to benefit from the interest shown by third-country nationals in a single EU Member State – resident in that country or abroad – by allowing employers across the European Union to find those third-country nationals who may never have thought to make their availability known beyond a single Member State.

National schemes cannot serve as the model for an EU-level candidate pool scheme, since only a limited number of examples or experiments with such pools have been identified in EU Member States. To date, experiments in national schemes in the EU have been oriented towards managing excess supply and ensuring training standards rather than increasing the attractiveness of the destination country. Some national seasonal work schemes – where workers' profiles are relatively undifferentiated and the potential pool very large – have used pools of candidates that allow employers to select workers who have been pre-approved by third parties.

Apart from seasonal programmes, national schemes in EU Member States have rarely involved creating pools of candidates. Spain practiced third-party selection for dependent non-seasonal employment during its boom years, with larger enterprises recruiting through selection processes under bilateral co-operation agreements with countries of origin. Italy reserves an admission quota for participants in training programmes in origin countries, which can be considered a pool. Some countries have run bilateral training programmes to prepare candidates for recruitment in regulated professions – like Germany's training scheme for nurses. However, their purpose is more aptly described as pre-recruitment rather than the creation of pools. Such programmes operate within the demand-driven paradigm, assisting employers in EU Member States to find candidates with the required qualifications.

There is scope for forming pools of candidates at the EU level. First, though, it is important to ensure that the mechanism can be incorporated into the existing EU framework. For example, seasonal work

programmes in individual countries have long worked through bilateral agreements to draw up lists of candidates. However, there is no provision for such lists in the EU Seasonal Workers Directive, which makes no mention of pools of candidates or the process of selection. While the Directive leaves open the possibility of placements conducted exclusively by the public employment services, it does not specify whether it means the PES in EU Member States only or in countries of origin as well. Nor does it regulate prior approval or selection by the PES or third parties.

Developing a pool of candidates could also hasten the introduction of a pre-approval system. Pre-approval accelerates the recruitment process for employers and makes it more predictable. Where labour migration procedures are complex or costly, or involve sponsorship schemes with high qualification thresholds, larger enterprises benefit from economies of scale. Pre-approval can help rectify the balance and grant more equal access to smaller employers or those recruiting fewer labour migrants (Ramasamy Kone, 2016). A pre-approval system usually entails the recognition of qualifications, so that if there is a single recognition process across EU Member States, the positive effects of the pool are multiplied.

Similarly, a pool can – though not necessarily – be linked to new or existing job vacancy databases and skills matching services. Matching databases could be a feature of the pool infrastructure. At present, public involvement in international recruitment is rare and limited to specific schemes and pilots, but the development of more robust, EU-wide matching platforms could provide the necessary infrastructure. The new expanded and revamped EURES mobility portal, approved by the European Parliament in February 2016, goes in that direction.

Beyond such databases, which help the public employment services scale up and expand their activities, governments can also take direct action to support skills matching. Examples include holding job fairs in countries of origin, or working with sectors to develop global recruitment strategies. To date, such efforts have been the work of individual EU Member States only. Thanks to its global presence, the EU is well placed to support recruitment efforts in countries of origin that bring together stakeholders from multiple EU Member States. Skills-matching tools and support are particularly helpful for small and medium enterprises and local authorities with little experience of international recruitment (OECD, 2014a; Ramasamy Kone, 2016).

A general recognition system

The recognition of qualifications is an important factor in employment-related migration and mobility. Within the EU, the absence of simple mutual recognition procedures has been identified as an obstacle to the employment-related mobility of EU citizens. Efforts to facilitate recognition have been an EU competence for decades, both in employment-related mobility and the transferability of degrees and credits. As for regulated professions, they are covered by specific Directives. The poor transferability of qualifications and the special requirements for regulated professions are even more of a barrier for third-country nationals – especially if they have earned their qualifications in third countries.

The recognition of foreign qualifications makes a big difference in the employment outcomes of immigrants. The highly educated foreign-born have an overqualification rate that is 27 percentage points higher than that of the native-born. The gap falls to 10 percentage points among the foreign-born who apply for recognition (Damas de Matos and Liebig, 2014). There may also be a self-selection effect among immigrants who seek recognition of their qualifications: it reflects their higher skills levels and confidence in their ability to perform work for which they are qualified and to navigate the recognition process. At the same time, the actual skills of foreign-educated immigrants are usually, though not always, lower than those acquired in their host country. Immigrants born in non-EU countries have lower literacy skills, for example, even taking into account education levels (Bonfanti and Xenogiani, 2014). Foreign education accounts for much of that difference, even though the language used in the assessment of skills may play a role, too.

For labour migrants, the recognition of qualifications and skills plays a different role than for those who migrate for other reasons. In demand-driven systems, it helps them both to secure the job offer that is a prerequisite for admission and to meet the requirements of certain permit categories. The employer is the arbiter of whether the qualifications match the job, while the national authorities decide whether they meet admission criteria. Other actors may be involved in recognising diplomas and professional qualifications, but are not directly involved in authorising workers to immigrate.

Formal recognition can support labour migration in several ways:

- It informs potential migrants of prospects in destination countries' labour markets.
- It helps employers gauge candidates' potential skills.
- It qualifies labour migrants for selective admission procedures.

There are thus three different beneficiaries of recognition: the immigrant, the employer, and the government department that authorises admission.

For migrants, the recognition procedure gives a clear idea of the likely value of their qualifications and enables them to make an informed decision as to whether to pursue further training prior to searching for a job in the European Union. Recognition may also be a requirement for access to regulated professions as well as admission to the host country.

For employers, recognition is a signal of skills. They tend to discount the value of qualifications obtained in non-OECD countries (OECD, 2007), however, which is a challenge to job seekers from those countries. That being said, employers do have consideration for the skills of foreign-educated labour migrants, or there would be no skilled migration from non-OECD countries at all. Employer criteria for assessing the qualifications of recruits are not universal, however, and may not be based on formal recognition processes but – instead or also – on professional experience and the relevant attributes of the candidate. There is wide variation between professions and EU Member countries in the value employers accord to formal qualifications and to the need for education to match occupation.

For EU Member States, the recognition of qualifications is crucial to any scheme in which admission criteria demand a specific level of qualifications. Even if recognition has little or no value in the labour market, immigrants must still prove that they have the qualifications required under the national scheme. Producing proof of degrees obtained in a different country – even in another EU Member State – may require time-consuming, expensive and extensive documentation, notarisation and translation.

A recognition framework for TCNs requires progress on mutual recognition – a general objective of EU policy with regard to the single market and the European Higher Education Area. Those general policy efforts are laying the foundations of a recognition scheme for third-

country nationals, even if there are limits to the legal basis at EU level for developing an EU-wide recognition scheme

In the absence of a single EU recognition system, however, there are still areas where labour migrants could benefit from EU-wide initiatives. In most countries, third-country nationals are not entitled to equal recognition of their qualifications until they have obtained a residence status which grants them equal treatment. Some countries may require applicants for work permits – including the EU Blue Card – to obtain formal recognition of their qualifications, even if they do not intend to exercise a regulated profession. The statutory limit on processing times does not include recognition procedures, which may be lengthy.

The unequal treatment of non-residents, even if problematic from the point of view of rights, is not the principal barrier. Obstacles are related more to the origin of qualifications than of applicants. In other words, they are less of a reflection on the applicant than on the institution which issues the qualification. In fact, equal treatment would not necessarily lead to wide-scale recognition, given that Member State nationals are as likely to face hurdles in getting third-country qualifications recognised as third-country nationals.

Sectors not yet covered under the sector-based approach

Since falling back on a sector-based approach to labour migration policy, the European Union has developed legislation that governs many different categories of migrants at different points in the migration cycle. Most legally resident TCNs enjoy a set of basic rights, the prospect of family reunification and a clear pathway to permanent residence, subject to conditions. The sector-based approach, however, fails to cover, or only partially covers, a number of categories.

A scheme for global talent superstars

Schemes are in place in all EU Member States to ensure that the most sought-after talents – those with high incomes, high qualifications and a job offer in hand – are able to come and work. In some cases, the EU Blue Card application procedure offers faster, simpler admission than applicable national schemes (see Chapter 4). But in all countries, the highly talented are likely to obtain a permit – be it general or targeted – which grants them admission and work rights.

What is missing is a permit scheme targeted at the indisputably top talent that offers rapid approval and conditions that are substantially better than for qualified migrants. It is the very intention of restrictive schemes to target a very small number of beneficiaries. Nonetheless, such schemes may be appropriate for ensuring that exceptional talents jump to the top of the queue and, more importantly, are granted a residence status that is clearly more favourable than for other migrant categories.

There are several national schemes offering exceptional conditions to outstandingly talented individuals with the right attributes. Germany has a provision for granting immediate permanent residence for "researchers and scholars" who demonstrate a "lasting prospect of integration". The United Kingdom maintains a Tier 1 (Exceptional Talent) allotment for migrants of outstanding ability or promise in certain fields. They are comparable to – outside the European Union – the United States' EB-1 Visa for those with "extraordinary ability". Such permits are highly restrictive channels. Germany, despite putting no ceiling on issuance, has granted only a handful. The United Kingdom sets an annual cap of 500 on its Tier 1 visas, but its strict requirements mean that the cap has never been reached. Nor has the United States ever used up its annual allotment of EB-1 Visas.

Few such schemes for top talent draw people from abroad. They are taken up mostly by foreigners already living in the host country under another status. The United States, for example, issued only about 500 EB-1 Visas yearly to new arrivals between 2010 and 2012. Japan introduced a top-tier permit regime in 2012 and, similarly, found that it was taken up almost entirely by foreigners already resident.

Defining exceptional ability is a complex, time-consuming task that requires peer reviews. The United Kingdom requires applicants to be endorsed as exceptional by representative bodies in their field. The United States, for its part, requires assembling proof of qualifications, such as publications and awards, and generally grants visas to migrants of undisputed repute who are at the top of their field.

Since all EU Member States are able to find grounds for admitting such individuals, a narrow definition of eligibility for admission would not open the door to anyone who couldn't previously enter. The challenge in designing a scheme with stringent conditions lies in finding an appropriate means of verifying the exceptional nature of talents. The national certification process in the United Kingdom, for example, would

be difficult to harmonise at the EU level, as it is based on support from national authorities. A focus on groups with measurable talents would help. It could emulate existing arrangements for artists and athletes, who are covered by national provisions exempting them from formal qualifications and, often, even salary levels.[1] A top-talent permit could use several criteria that draw on the experience of similar schemes: e.g. high salaries, high-level management positions, and scientific output.

The discussion of salary levels in Chapter 4 pointed to the drawbacks and limitations of using salary thresholds to identify talent and skills. Top-talent programmes, by contrast, make very high salaries a criterion, as in the United Kingdom and in Japan. Very few individuals meet those criteria but, when they do, they are exempt from most other requirements and granted favourable conditions.

A focus on inventors and patent holders

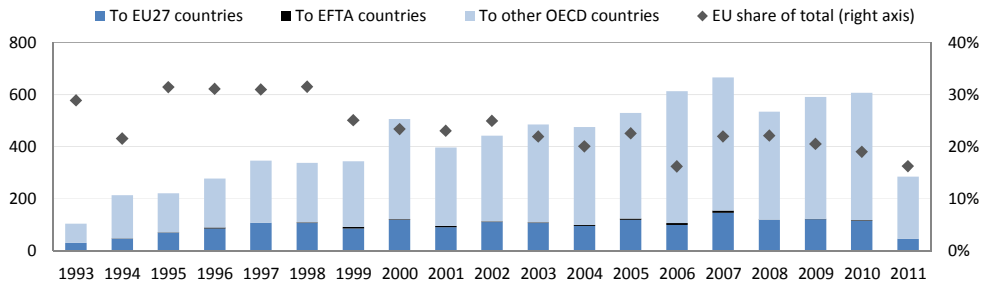
A highly talented group of obvious interest to policy makers – but which is also sensitive to residence status conditions – is high-value inventors, here defined as holders of patents. Patents are a key indicator of innovation and patent-holding inventors are a highly mobile group. In 2011, 6.5% of all patents were issued to inventors working outside the country of their nationality (a figure which does not account for migrant inventors who have naturalised). The nationalities of the two largest groups of migrant inventors were Chinese, of whom 7% worked abroad, and Indian, of whom 18% worked abroad.

Migrant inventors are increasingly less attracted to EU Member States than they are to other OECD destinations. The EU's share of non-EU nationals, who were awarded a patent in an OECD country other than their own, fell from about 26% in 1996-2004 to 20% in 2005-11 (Figure 5.1).

While the European Union has a framework for the highly qualified and researchers, these schemes are rigid in the salary thresholds that they apply and the hosting relationships with recognised institutions that they demand (see Chapter 4). As a result, some researchers do not fall under either framework. The recast Students and Researchers Directive grants greater flexibility in expanding the scope of coverage of researchers, especially by allowing Member States to drop the register of approved research institutions. However, it does not offer particularly competitive terms for top talent or inventors, nor does it consider scientific output.

Figure 5.1. The European Union is home to a dwindling share of non-EU immigrant inventors

Patents issued annually to immigrants from outside EU/EFTA to the EU27 or EFTA countries, 1993-2011



Source: OECD analysis of data from the World Intellectual Property Organization (WIPO) in Fink and Miguelez (2013).

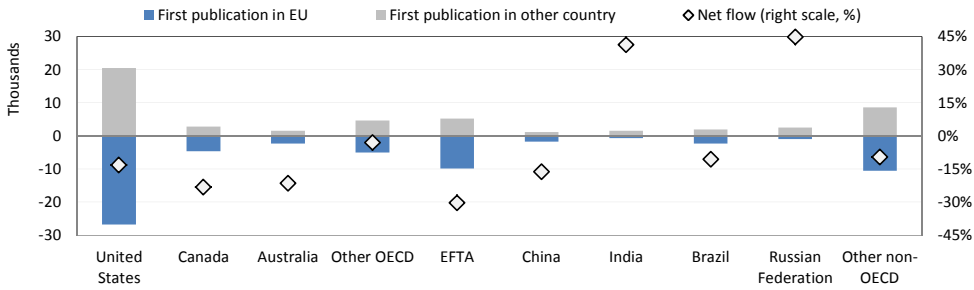
Scientific publications as an indicator

Another yardstick for measuring top talent is scientific publications. The European Union loses more scientific authors than it gains. Comparisons between the institutions to which scientists were affiliated when they published their first paper and those where they work when they publish their most recent reveal that the net average number of researchers that the EU lost every year 1996 and 2011 was 1 500 (OECD, 2013). The indicator does not specify the nationalities of researchers, so it is possible to interpret the loss of scientists as the positive mobility of "brains" returning to their home country. The net inflow of scientists to the EU is positive only from two main countries of origin, India and Russia, while there is a net outflow towards China and Brazil (Figure 5.2). Over the same period, however, the United States showed a positive net inflow.

A number of countries look at scientific publications when assessing their skills to determine whether they qualify for special visas. The scientific publications indicator could be considered for assessing top talents in the EU. Institutional affiliation is another measure of talent, although third-party rankings (such as global higher-education rankings) can be problematic from the point of view of reliability and transparency (OECD, 2014a).

Figure 5.2. The European Union loses more researchers than it gains

International flows of scientific authors into and out of the EU, 1996-2011, by location of their first and last publication



Note: Denmark, Ireland and the United Kingdom are excluded as they are not bound by EU migration policy.

OECD, calculations based on the abstract and citation database of peer-reviewed literature, Scopus Custom Data,[2] version 5.2012, May 2013; OECD (2013).

Provide exceptional conditions for exceptional talents

A top-talent scheme should not involve large numbers, but seek to benefit reputed experts in their field. They could be identified through nomination or points-based schemes such as patents, scientific publications, very high salaries, or other measures. Regardless of how the small group of top talents is defined, they should be offered exceptionally favourable conditions and the permit itself should be specifically for the talented. It may be difficult to propose benefits which set the talent permit apart from the EU Blue Card and other permits. Immediate permanent residence could be one distinguishing feature, but would break with the prevailing concept of permanent residence as a reward for integration and change it into a factor of attraction. The permit could also grant mobility rights in the European Union without a labour market test. Only a small number should be issued at first to reassure participating countries and underline its exclusive nature.

Self-employment

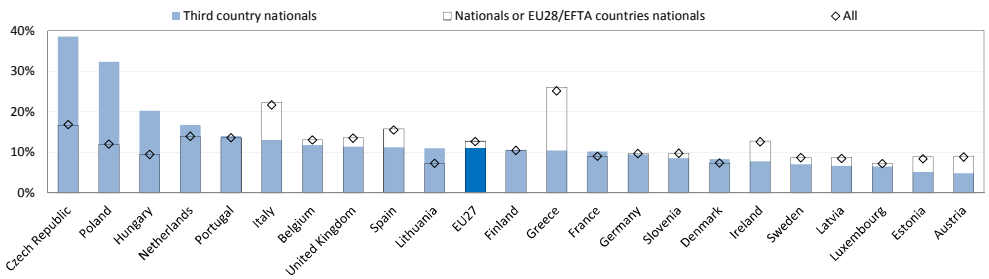
Immigrants widely show higher rates of entrepreneurship than the native-born (OECD, 2011a). They may be self-employed or run their own companies (of differing sizes) with employed workers. They may also be investors involved in managing the business in which they have a stake. Economic migration schemes do not have any single means of

distinguishing between the different categories of immigrant entrepreneurs. Not all schemes distinguish between investors, the self-employed and business operators and some, such as the Belgian system, do not have separate permit categories for any of those activities. Investors, who comprise a small share of the total, are discussed in more detail in the following section.

Self-employment accounts for about one in eight (12.6%) people in employment in EU Member States, although the range is wide – from 7% in Luxembourg to 26% in Greece (Figure 5.3). Third-country nationals have different self-employment profiles from the native-born. Mirroring the foreign-born in general, they are more likely to be self-employed in most EU Member States, except in those where native self-employment is generally very high (OECD, 2011a). In EU Member States, rates of self-employment among TCNs are slightly lower at 11%, but vary even more widely than among EU and host-country nationals.

Figure 5.3. Third-country nationality is no obstacle to self-employment

Self-employed persons as a share of all persons in employment, by nationality, 2013



Note: Excluding the agricultural sector and countries for which third-country nationals were below reliability threshold.

Source: Labour Force Surveys (Eurostat), 2013.

The highest share of self-employment is to be found in the Czech Republic (38.5%), Poland and Hungary, where TCNs are twice as likely to be self-employed as mobile EU nationals and natives. The picture is reversed in Italy, Greece and Ireland, where self-employment is high and twice as likely among EU nationals.

While self-employment makes up one-eighth of employed TCNs, it accounts for only a tiny fraction of admissions for economic reasons. Few self-employed immigrants were in fact admitted as such through

economic channels. The number of first issuances of self-employment work permits is much lower than the number of newly self-employed TCNs identified in the EU Labour Force Survey. There are a number of reasons why so few self-employed workers arrive directly from abroad. Self-employment usually requires some experience of the host country and calls for language skills. Moreover, if the self-employed are to practice a regulated profession, they must undergo licensing procedures. Self-employment is also a risky prospect: immigrant businesses fail more often than native entrepreneurs and may lose their status as a consequence. Immigrant entrepreneurs are thus more likely to start businesses after they have had some experience of the host country and hold a more stable permit – such as long-term residence or family reunification – or have acquired nationality.

In the European Union, self-employed migrants are covered by national schemes which vary in their requirements (OECD, 2011a; EMN, 2015). The business income threshold (and, therefore, the type of activity allowed) ranges from very low in countries such as the Czech Republic, Hungary, Italy and Spain, to much higher in Germany and France. For example, a small family shopkeeper will qualify in some countries but not in others which require business to bring added value or reach a minimum annual income level.

Available statistics on immigrants admitted as self-employed workers indicate low take-up. The EU Member States with the highest self-employed admission rates are those with the simplest criteria and lowest thresholds, or those where self-employment is a form of dependent employment under a single-client relationship. This is the case in Italy, which admits more self-employed third-country nationals annually than any other EU Member State, even if the number fell from about 5 000 per year in 2008-10 to less than 2 000 in 2013 and 2014. Small-scale entrepreneurs in the Czech Republic also make wide use of trade licences – to the point where the country has moved to restrict changes of status from dependent employment. Stricter conditions are applied in countries such as France and the Netherlands, where inflows are below 200 annually, and Germany with under 1 000 per annum.

In-country status changes are thus particularly important to immigrant entrepreneurs, both enabling them to create new businesses and helping to integrate new immigrants. Entrepreneurship is often a means through which immigrants overcome barriers to their employment stemming from poor networks, inadequate language skills or problems with the recognition of qualifications (OECD, 2011a).

No EU instrument that formalises self-employed workers' conditions of admission and rights is in place. They are specifically not covered by the Single Permit Directive. There is obvious scope for EU-level action to add value in this area, if it can improve the admission of job-creating entrepreneurs and help resident migrants start new businesses.

As EU Member States do not have any single threshold for admitting entrepreneurs and self-employed TCNs, and often use their own discretion to determine whether an activity is admissible, it would not be easy to agree on a single shared definition at the EU level.

Working holidays or youth mobility scheme

The chief purpose of youth mobility or "working holiday" schemes is not about meeting economic needs, but "long-term public diplomacy" (GAO, 2015a). Such programmes are designed to give young people a chance to live and work in another country on cultural exchanges and to strengthen ties between countries. They last for up to a year, although some countries allow an additional year. They operate on the basis of bilateral agreements (the exception is the United States, which offers a Summer Work Travel Visa valid for up to four months, without any bilateral arrangement). The countries which have the densest network of bilateral agreements – more than 30 each – and which host the most working-holiday makers are Australia, New Zealand and Canada. The basic requirements are generally to be between 18 and 30 years of age, have no dependents, and be financially self-sufficient – though there may be more requirements, such as health insurance. Youth mobility agreements have multiplied over recent years, with OECD countries extending them to nationals of emerging economies, although they have generally introduced numerical caps and require certain levels of higher education attainment or language ability. The limits are designed to prevent overstay and ensure that programmes retain their cultural exchange purpose.

While youth mobility agreements have not been negotiated to meet labour market needs, they have in practice become sizeable sources of temporary labour in the countries that make the main use of them. Australia, Canada, New Zealand and the United States all experience large inflows in the seasonal tourist sector, for example, and in hospitality services (Table 5.1).

Table 5.1. The European Union sends working-holiday makers abroad, but does not receive them

Numbers of participants in youth mobility programmes in selected OECD and EU countries

	2007	2008	2009	2010	2011	2012	2013	2014
Australia	134 610	154 150	187 700	175 740	185 480	214 640	258 250	239 590
United States	147 650	152 730	116 390	118 230	97 640	79 800	86 360	90 290
Canada	32 490	41 140	45 330	50 010	54 920	59 070		
New Zealand	35 610	40 310	41 220	44 820	45 060	50 830	50 830	57 630
United Kingdom	39 390	34 840	25 180	21 270	20 660	19 630	20 860	23 530
Japan	6 230	6 480	6 480	7 480	8 480	9 480	10 480	11 480
Korea	280	310	270	490	800	1 000	1 180	1 320
Italy	390	420	440	390	430	430	510	480
Norway	150	180	200	150	180	180		
Total	**396 410**	**430 540**	**423 200**	**418 570**	**413 650**	**435 050**	**342 100**	**424 310**

Source: OECD International Migration Database; national sources.

Most EU Member States have agreements with some or all of the countries in Table 5.1, as well as with Japan and Korea, although the only EU Member State to issue a large number of working-holiday visas is the United Kingdom. Nonetheless, flows of young working-holiday makers are very imbalanced – much greater into Australia, New Zealand and Canada than out of them. EU nationals comprise about two-thirds of the working-holiday makers going to Australia, for example. The European Union has eight times the population of Australia, New Zealand and Canada and youth mobility from them is about eight times smaller – and entirely to one Member State: the United Kingdom.

The rest of the EU struggles with attractiveness. Although working-holiday participants admitted to one Schengen country under a bilateral scheme are able to travel within the rest of the Schengen area, they may only work in the country for which they hold a working-holiday visa and permit. So they must apply for a visa for each country in which they wish to work, even if it is only for a short while. Visa fees range from EUR 60 for a national Schengen visa to as high as EUR 655 in the Netherlands, for example. The need to apply for separate visas particularly curtails the attractiveness of smaller countries. The added value of an EU-level youth mobility scheme would be substantial in allowing mobility.

Working-holiday agreements are generally not considered to be labour migration channels, even if they involve employment, although many EU Member States classify working-holiday makers as a subcategory of their labour migrant categories. They are generally exempted from labour market tests, since they are not meant to compete with local workers, and there may be restrictions on the duration of each

employment contract. The number of working-holiday makers in EU Member States is limited, with the exception of the United Kingdom and Ireland.

Nonetheless, youth mobility schemes may need to contain safeguards, as programme evaluations in countries with large inflows have identified risks (OECD, 2014b). They range from adverse effects on very specific local labour markets because of high concentrations of working-holiday makers in certain occupations and cities to the risk of employers exploiting young foreigners' unfamiliarity with labour law and the short-term nature of employment. The United States revised and capped its programme, which had fewer criteria for admission and relies on private intermediaries (GAO, 2015a).

In light of the provisions of current bilateral agreements, the criteria applied in a pilot programme could include age, self-sufficiency, and education requirements, as well as a maximum length of stay in the European Union and limits on prior visits. Limits on working time in any single Member State could also be applied to encourage the mobility of participants. They would not be confined to the main partner countries, but would be extended as youth mobility programmes expand worldwide. Indeed, rising income and education levels in many non-OECD countries make them ideal partners for expanded working-holiday schemes. Numbers would initially be capped at the EU level, which would prevent large numbers of participants from clustering in a single city.

Under the current framework, individual Member States would issue the working-holiday visa, but it would be valid for employment in other EU Member States without a new visa application or labour market test. The young working-holiday maker would simply have to present his or her permit. Mutual recognition and speedy work authorisation – if required – would also be part of an EU-wide arrangement. However, until an EU-level body can issue a residence permit, it will not be possible to negotiate bilateral agreements at the EU level, although mobility provisions could be part of such framework co-operation agreements. Youth mobility programmes are traditionally under the aegis of the Ministry of Foreign Affairs, and any development at the EU level may have to respect that.

Investor schemes

Investors are a special group of economic migrants, distinct from entrepreneurs, as they bring financial capital rather than – or in addition to – entrepreneurial and management skills. Within the category, there are distinctions between the type of investment and investors' level of involvement. There is no EU-level policy governing investors.

There are basic admission programmes for three kinds of investors in the European Union: business investors, real-estate investors, and purchasers of government or other securities.

Business investment programmes

Business investment permits are subject to very different national definitions and expectations in financial requirements, investor involvement, business plans, added value and other criteria (OECD, 2011a). They tend to be restrictive and admit only investors whose businesses create jobs or have high turnovers, and allow investors to accompany and manage their capital. Many investors would qualify for dependent or self-employment visas, but the investor visa is meant to circumvent limitations on entrepreneurs hired by a new company without a record. In fact, new businesses may not be able to recruit from abroad before demonstrating business sustainability, but an investor visa allows third-country nationals to enter and work in their business immediately.

Nonetheless, schemes in OECD countries have harboured very high expectations of business investment and have, therefore, brought in very few investors. Or they have set lower thresholds and raised concerns about the added value of the investments (OECD, 2011a). Schemes that do not require the direct involvement of investors in the business, such as EB-5 in the United States, have prompted worries over programme integrity – primarily the origin of the capital – and their added value (GAO, 2015b). Similar concerns over added value led Canada to close its five-year interest-free escrow scheme in 2010. In the United Kingdom, the Migration Advisory Committee called for more closely targeted use of business investment (MAC, 2015).

Real-estate investment programmes

Permits for real-estate investors have increased over the past decade in EU Member States and are generally issued to investors who purchase property. The value of such permits for non-residents lies not only in the fact that they allow them to visit and use the property, but also to travel

freely within the Schengen area. For smaller EU Member States in particular, the supranational benefits are a key promotional factor in the scheme. A temporary permit can lead to permanent residence under the general rules in accordance with the minimum residence requirement, which may be shorter for investors than for other migrants or subject to less stringent criteria. Indeed, a common feature of many investor programmes is their more relaxed requirements for residence in an EU Member State – particularly when it comes to real estate and securities visas, which do not stipulate continuous presence in the country, but grant investors and their families residence permits. During the financial crisis, there was a race to the bottom between competing countries' real-estate programmes, with the introduction of progressively lower thresholds, especially in countries where the construction sector was hard-hit. While real-estate purchase schemes have been the most popular of all investor programmes, and the total value of property purchased is consequently high, there is little evidence of a positive effect (OECD, 2016). A number of EU Member States have stiffened their requirements as their property sectors have recovered.

Admission schemes for purchasers of government assets

Investment in government securities or bank deposits and loans or gifts to government funds can also open the way to residence permits or even naturalisation. Some OECD countries have moved away from cash deposit visas as they appear of little value. Canada suspended its scheme, while the United Kingdom increased its requirements following a sceptical report questioning its resumption of the programme (Migration Advisory Committee, 2014). Some high-threshold schemes may also contain provisions that facilitate naturalisation. Mediterranean-island Member States have introduced investment schemes which bring rapid naturalisation with no residency requirement. And since naturalisation policy lies within a strictly national purview, there is little one country can do if another one opens up an easier pathway to EU citizenship – even if the individual in question invested at the lowest possible price to obtain EU citizenship.

Possible EU-level added value in investor permit programmes

In light of the many different types of investor schemes, it would be difficult for a single EU scheme to offer eligibility criteria and focus that would cover them all. On the other hand, minimum standards could ease concern over countries using lower thresholds to compete – particularly

for investors in real estate and those who make contributions or loans to government funds. A single investor permit could address the question of attractiveness by creating an EU-level permit for high-value investors which the EU would promote widely.

An EU-level scheme could also improve compliance. One of the main concerns prompted by investor visas is money laundering. There is no EU-level database tracking financial transactions and EU-level co-operation in the fight against money-laundering is still developing. The 2015 Directive on the prevention of money laundering[3] is meant to improve risk assessment and could be linked to diligence in the assessment of applications for investor permits.

A scheme for start-ups

One programme which combines the attributes of investor, self-employment and entrepreneur visas is the start-up visa. Investor visas require a certain amount of capital, while start-up visas are based on a business plan or innovative idea and a direct management role for the start-up founder. Capital requirement levels vary, however.

Start-up visas have become more widespread in recent years as countries vie to attract innovation and host firms that drive growth. In practice, they generally mirror business investor schemes, although they may allow lower thresholds of financial support. Ireland, for example, introduced a start-up visa in 2012. Its minimum capital threshold was EUR 75 000 (later lowered to EUR 50 000), which was much lower than the EUR 300 000 minimum in Ireland's general business investor scheme, suspended in 2016. Denmark and Canada both introduced start-up permits in 2015. Denmark's was intended for up to 50 investors annually, requiring enough funds to be self-sufficient during the first year, while the Canadian scheme for start-ups requires investment from a Canadian venture capital fund, angel investor, or incubator.

The evaluation parameters and instruments range widely and are difficult to harmonise. And start-up visas, like business investor visas in general, are particularly challenging. The evaluation of innovative ideas and business plans may be cost-intensive, difficult to standardise, and left largely to countries' discretion. External evaluation and sponsorship both add tiers of discretion. Canada has a list of recognised sponsors, while the Netherlands demands support from one of eight "recognised facilitators". As for Australia, which has subsumed the concept of "start-up visa" in its general self-employment scheme, it requires provinces to

nominate individuals under its Business Innovation Stream. Italy has put in place an accelerated procedure for start-ups with a low capital requirement of EUR 50 000, where a business incubator reviews proposals or lends its support. The aim is to facilitate the six-month processing period for self-employment permit applications, rather than create a new start-up permit.

Most of these schemes are very recent and their outcomes have yet to be assessed. However, participation has been low so far and, where countries have set aside permit allotments, they have not been used up. An alternative is to offer funds. Chile's "Start-Up Chile" programme involves a competition for public funding, the prize being funds for winners to develop their idea in Chile. Evidence from the first four years of the programme shows that the retention rate was less than 20% and that about one in eight winners found venture funding outside the programme. The Chilean experience is reflected in France, which, instead of introducing a new visa, launched its so-called "Tech Ticket" programme within the existing visa framework. Judging a programme based on such indicators depends on expectations and broader programme benefits. High-visibility start-up programmes may also be acceptable as loss leaders, using public investment to support potentially innovative firms and improve nation-branding.

Given the widely varying objectives, constraints and parameters of EU Member States' current start-up schemes, it is not clear what an EU-wide start-up visa would look like. Some aspects, like duration and rights, could be harmonised in a number of Member States. Start-ups could, for example, be granted two-year permits to allow foreign investors to work in new firms, using private capital or public innovation funding. The European Union could also cap the length of processing times. For example, an extension to cover self-employment in a revised Single Permit Directive would bring processing time to a a four-month maximum, which could be further shortened for start-ups. However, countries that assess business plans as part of the application process may struggle to meet shorter processing times.

An EU start-up visa may not be the only way to institute a harmonised approach and develop an EU identity in this area. A start-up programme could also be introduced within the framework of current EU and national schemes without creating a new permit category – although a mobility component is possible only as part of an EU-level scheme.

Competition for innovative business plans could be supported by other EU programmes, such as research and innovation, using incubators as the legal person who would hire the third-country nationals associated with the winning application. A start-up visa could operate along those lines.

Self-employment options in permits, like the EU Blue Card, which do not currently foresee self-employment could allow permit-holders more options. Allowing EU Blue Card holders to meet income requirements and maintain their status through a combination of dependent employment and entrepreneurial activity would open up the EU Blue Card to start-up founders. The possibility of transitioning to a start-up visa of the Blue-Card type would enable a migrant entrepreneur to keep the years of residence accrued as a EU Blue Card holder. An EU start-up visa framework could also address the problem of researchers who, in some countries, are unable to qualify for self-employment permits to pursue business opportunities.

A status for international students who have graduated

Chapter 4 addressed the shortcomings of the Students Directive – in particular, the limited harmonisation of the post-graduate job-search extension. The addition of a job-search extension to the 2016 recast of the Students and Researchers Directives addresses that omission, but not related issues.

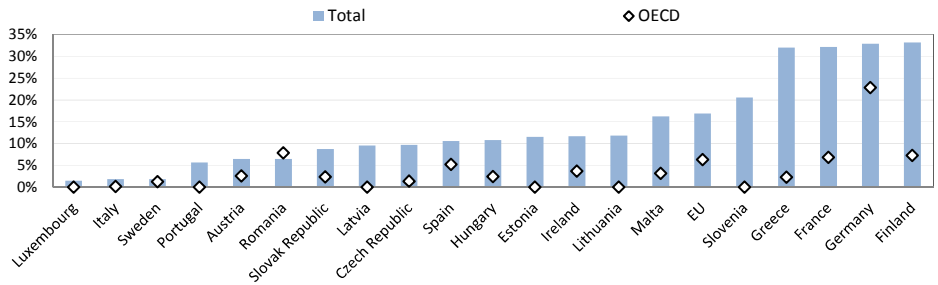
International student retention rates are low in the European Union. Depending on the method used for calculating those who stay on, the rates are estimated at between 16% and 30% (Weisser, 2016) and range significantly from one EU Member State to another (Figure 5.4).

The revised Directive does not resolve the issue of post-graduation intra-EU mobility or offer more favourable channels to other forms of employment. The Directive allows – but does not require – Member States where students have exercised mobility to issue job-search extensions, but does not extend this possibility to other Member States where the student has never exercised mobility. Nor does it favour an international student's status change, for example, through exemption from labour market tests. Such exemptions are already in place in many OECD countries.

More direct access to EU permit categories could also be provided. In the case of the EU Blue Card, for example, changes could lower salary requirements or ease – or even scrap – the criteria for recognising degrees obtained in other EU Member States by waiving notarisation and translation.

Figure 5.4. International students in the European Union mostly leave when they graduate

The estimated stay rates of international students from outside the EU/EFTA, 2010-12



Note: The EU denotes the EU28, with the exception of the United Kingdom.

Source: Weisser (2016) based on Eurostat permit data.

Minimum standards for domestic workers

An important sector of employment among the foreign-born, and third-country nationals in particular, is domestic work. It comprises several different distinct domains: household help in basic domestic tasks, child care, and personal care. Household employees often perform more than one of those tasks.

Domestic work is a significant area of migrant labour for a number of reasons:

- It is a transitional occupation for new immigrants and often the first job available to migrants, especially women. During the economic downturn of the late 2000s, the increased labour force participation of women, especially in the domestic sector, enabled many immigrant families to maintain an income even though the primary male breadwinner had lost his job (in a hard-hit cyclical sector).
- The domestic employment of immigrants has clearly contributed to increased labour force participation among natives, especially high educated women (Cortes and Tessada, 2011), even though child care and other social policy changes may have more of an impact.
- It raises legality-related issues. Domestic workers are among the most vulnerable groups of employed migrants, since they work,

and may even live, in private households where oversight is unlikely and compliance with regulations on wages and hours particularly complicated.

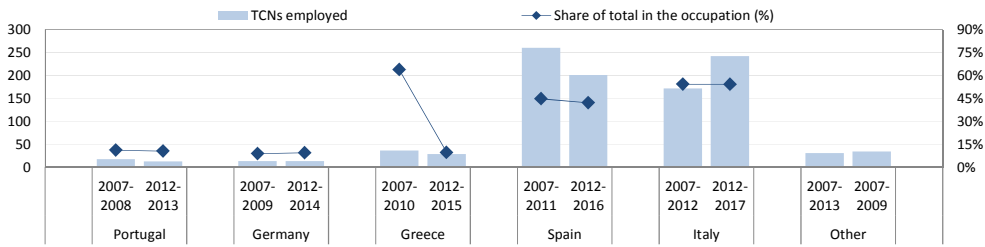
- Finally, the sector has been one of labour migration's main channels of entry in the past two decades, either through recruitment from abroad or regularisation.

EU-wide, domestic occupations account for about 0.4% of total employment, according to the 2012-13 EU Labour Force Survey. In some EU Member States in 2012-13, they accounted for much higher shares –1.6% in Spain and 1.2% in Italy. Such figures probably underestimate the true numbers because it is difficult to classify domestic occupations and capture workers in a traditional labour force survey. In Italy, for example, about 1 million people paid pension contributions as domestic workers in 2012, suggesting that up to 4% of the employed were in domestic work of one kind or another.

Third-country nationals accounted for 34% of employment as "domestic cleaners and helpers" in 2012-13, a share which increased from 30% in 2007-08. Most employment, however, is concentrated in Southern European countries, primarily Spain and Italy (Figure 5.5).

Figure 5.5. Southern Europe employs many third-country national domestic workers

Number and share of third-country nationals employed as "domestic cleaners and helpers", 2007-08 and 2012-13



Note: Excludes Mediterranean island Member States due to missing data. "Domestic cleaners and helpers" correspond to International Standard Classification of *Occupations* Code 913 for 2007-08 and Code 911 for 2012-13.

Source: OECD Secretariat calculations based on the EU Labour Force Survey (Eurostat), 2007-08 and 2012-13.

Another important category in domestic work is "personal care-workers employed by households". It includes childcare workers, teachers' aides, and personal care workers in health services. Most are home caregivers. The sector is driven by the demand for elder care which is expected to grow sharply as the population in European countries ages. "Home-based caregivers" account for 1% of total employment in Europe. Of that 1%, 30% are foreign-born (OECD, 2015). Although intra-European mobility contributes substantially to the personal care workforce, the share of TCNs among workers directly employed by households was about 37% in 2012-13 – up from 26% five years earlier. Labour force survey data indicate that Italy and Spain account for the bulk of TCN personal carers employed by households.[4]

EU-level intervention in the domestic work sector would primarily address minimum standards in order to clarify legal obligations, contractual conditions and rights. It would also address compliance measures. Mobility provisions may be applicable to domestic workers as they could increase the mobility of the employer, whether EU national or third-country national. Japan, for example, considered the possibility of migrants bringing an accompanying domestic worker sufficiently important to grant an exemption to its domestic worker restrictions for its exceptional talent migrant category.

There is, however, little consensus among EU Member States on whether domestic work should be encouraged or discouraged, and whether foreign domestic workers may be recruited. In fact, few EU Member States currently allow labour migration for the purpose of domestic work, childcare or non-regulated home care, as it is not considered sufficiently skilled and does not meet wage or qualifications requirements. The countries which do admit TCN domestic workers as labour migrants are confined to Southern and Eastern Europe. Any initiative in this area is likely to have more of an impact in those countries, but will also be resisted by Member States which have excluded domestic occupations from eligibility for labour migration.

A related question is that of au pairs, even though EU legislation treats them as belonging to a sub-category of rules for promoting youth and cultural exchange – much as national legislation does. Indeed, most EU Member States – apart from the few which consider them as workers – classify au pairs under educational or youth mobility schemes, since they are not supposed to work but to exchange cultural and learning opportunities with their host families. Au pair programmes in many

EU Member States, however, have become channels for paid domestic work (OECD, 2014d).

Box 5.1. Should au pairs be regulated as workers or as an education category?

Au pairs are meant to be part of cultural exchange. The issue of third-country nationals in au-pair programmes performing domestic work, particularly in Nordic countries and the Netherlands, has prompted scrutiny. Many au pairs, and host families, consider the purpose of their stay is employment rather than cultural exchange (Bikova, 2015). The recast 2016 Students and Researchers Directive (covering also trainees, volunteers and, as optional categories, school pupils and au pairs) recognises that the relationship between an au pair and the host family may be considered an employment relationship and gives Member States the option transposing the conditions included in the Directive or maintaining existing ones. The voluntary nature of transposition is unlikely to change the regulation of au pairs. Even if the conditions of the Directive are transposed, the Directive does not cover areas such as the fees charged by mediating agencies in the home country, or the difficulty of enforcement, both of which make au pairs more vulnerable (Stenum, 2011). Furthermore, some EU Member States have no special status for au pairs, who are generally treated as language students (in Italy and France, for example), in which case the economic relationship with the host family is entirely invisible and unregulated.

More could be done at the EU level to ensure that au pair work is clearly in the framework of cultural exchange. The fact that au pair permits are time-limited reduces the long-term risk of an exploitative employment relationship. But permits do not put a limit on the total time that an au pair stays in the European Union. They may therefore move from one EU Member State to another. However, some EU Member States do not admit au pairs if they have already been an au pair in another EU Member State. The added value that the European Union could bring those countries would be to put into place a mechanism for monitoring the circulation of au pairs, so that the cultural exchange programme does not become a means of hopping from one country to another for domestic work. The European Union could set a total au pair period.

Health professionals and regulated professions where mutual recognition is advancing

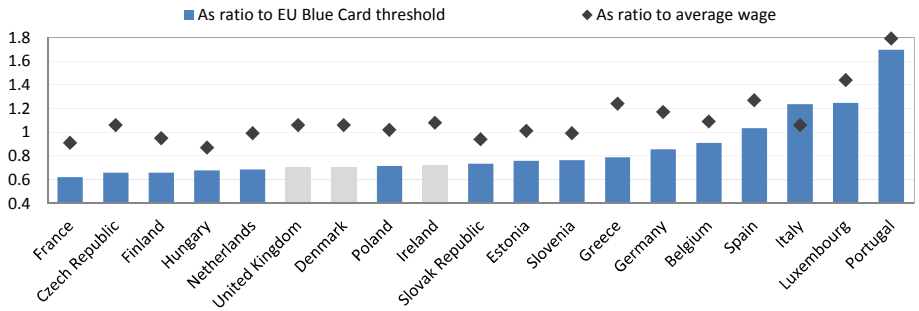
Between the highly qualified and low-skilled migrant groups, there is scope for new categories of common interest. They could include healthcare and other occupations where the recognition of vocational qualifications is evolving, but where professionals do not meet the salary requirements of the EU Blue Card. The framework governing regulated professions is developing faster than for those that are non-regulated. Minimum training requirements have been established for the mobility of EU nationals. The 2013 Directive on the recognition of qualifications (2013/55/EC) limits those measures to EU nationals and third-country nationals who enjoy equal treatment under specific Directives. Under the 2013 Directive, third-country nationals who move to a second Member State after gaining recognition and working in their first host country for

three years are able to transfer recognition if they benefit from equal treatment. Extending equal treatment to third-country nationals in other categories (e.g. self-employment) would facilitate mobility possibilities for those with EU qualifications.

Health professionals in particular are an area of great interest for labour migration. About 63% of the foreign-born nurses in EU OECD countries, and 70% of the doctors, were born in third countries. Although medical doctors generally qualify for Blue Cards, nursing professionals may not, as their Member State average salary fails to meet the card's threshold in most EU Member States and below the average wage (Figure 5.6).

Figure 5.6. Average salaries for nurses in EU Member States are often below the average national salary

Remuneration of hospital nurses, ratio to average wage, 2013 (or nearest year)



Note: Data from Ireland refer to registered ("professional") nurses, resulting in an overestimation. For the United Kingdom, Ireland and Denmark, the EU Blue Card threshold refers to 1.5 times the average wage.

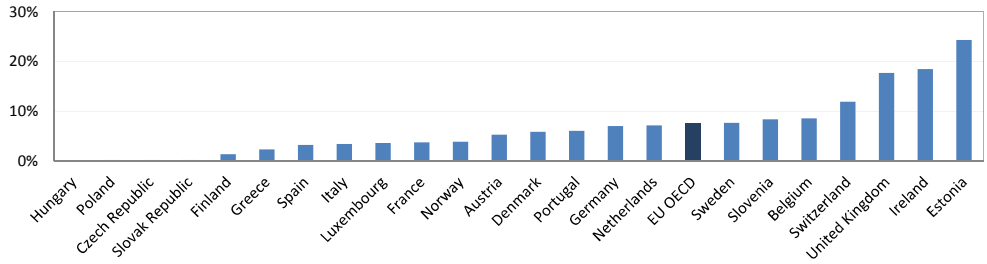
Source: OECD Health Statistics 2015, http://dx.doi.org/10.1787/health-data-en.

Immigrants from third countries supply about 7.5% of the foreign-born nurse workforce (compared to 11.6% of doctors). Much higher shares are to be found in the United Kingdom and Ireland (Figure 5.7). The share of foreign-born and foreign-trained nurses is increasing, although many of them train in EU Member States. An EU-level permit would build on efforts by single EU Member States to ease nurses' entry conditions under their national schemes. Nurses already benefit from exemption from volumes of admission, lower salary thresholds or inclusion of nursing on occupational shortage lists. The United Kingdom, for example, still includes nursing on its shortage occupation

list because most third-country nurses fail to meet admission criteria (MAC, 2016). An EU-level permit could also incorporate the 2010 WHO Global Code of Practice on the International Recruitment of Health Personnel. The WHO code seeks to promote and practice the ethical recruitment of healthcare workers.

Figure 5.7. Some EU Member States have a large share of medical personnel born in third countries

Share of practising nurses born outside the EU/EFTA, in European countries, 2010-11



Source: OECD Database on Immigrants in OECD Countries (DIOC) 2010/11, www.oecd.org/els/mig/dioc.htmand European Union Labour Force Surveys 2009-12, in OECD (2015).

In addition to nurses, the other regulated professions where automatic recognition is in place – dentists, veterinarians, midwives, pharmacists and architects – could also be subject to the sector-based approach, separately or together, in a single legislative package. Unlike nursing, however, national labour migration schemes have not sought to legislate for the other professions mentioned.

Following on from the sector-based approach, trades (i.e. occupations in crafts, commerce and industry, originally covered in Annex IV of the 2005 Professional Qualifications Directive and updated following the 2013 amendment) could be another area in which to build labour migration provisions. As trades recognition procedures develop, those where skills are in strong demand could be added. Provisions for the recognition of qualifications under any trade-oriented Directive would have to include:

- a shared definition of the requisite training and experience,
- the recognition procedure,
- the portability of qualifications as part of the mobility framework once admission is granted.

Provisions may also link recognition to trainee programmes: they would offer third-country nationals the option of completing a training programme which would lead to recognition and enable them to stay on for employment.

Mobility provisions for the Seasonal Workers Directive

Chapter 4 observed the lack of mobility mechanisms for seasonal workers The Seasonal Workers Directive seeks mainly to protect workers and prevent unfair competition between EU Member States by ensuring that wages meet the legal minimum standards. The Directive does not aim to put in place an approved seasonal labour force which follows the season from one Member State to another, as it does not allow seasonal employers to post their workers to other EU Member States. Workers have to file separate applications if they wish to follow an agricultural crop season or work in border regions straddling two or more Member States. However, the short working period and low wages in seasonal work would not generally justify the paperwork and fees involved in such multiple visa applications. Seasonal work is different from other types of labour migration because of the frequent involvement of co-ordinating bodies – employers, employers' associations, employment agencies and public employment services – in managing the recruitment and migration of multiple workers. There may be scope for determining categories of employers who could send their seasonal employees to take up jobs in different EU Member States. Communication requirements and compliance measures would be based on those used for other mobility mechanisms (e.g. the ICT or Posting of Workers Directive). Rather than allow all seasonal employers to post their workers, though, provisions could apply only to bilateral agreements or EU mobility partnerships with countries of origin under which wages and working conditions are closely supervised.

Horizontal approach

Taking the sector-based approach to specific categories is no substitute for addressing gaps in horizontal coverage. There are a number of steps which can be taken to extend minimum standards to a broader range of third-country labour migrants.

Increase coverage of minimum standards

The Single Permit Directive has extended minimum standards in processing times, in transparency and in equal rights with regard to social security, goods and services (including housing) to most categories of third-country workers admitted by EU Member States under EU and national schemes but not covered by other Directives. Some categories, however, are still excluded from the Single Permit Directive, as well as from other EU legislation. In addition to the gaps in coverage, several issues are not addressed by minimum standards. Conditions for in-country status change are not specifically regulated, while maximum permit costs are not defined. Nor is it clear whether the employer should recover fees from the employee, or vice versa. There is no absolute benchmark for costs, and fees vary widely among EU Member States.

Asylum seekers and refugees are generally not covered by labour migration Directives and are expressly excluded from coverage by the Single Permit Directive. In most cases, refugees benefit from relatively favourable rights under the asylum acquis although, in some cases, they are excluded from certain high-priority statuses. EU Blue Card holders and EU long-term residence for former EU Blue Card holders are examples. If highly favourable permit regimes are to be introduced, refugees should not be excluded from them. Overlap should allow access to greater rights without the loss of any protection already granted.

More complicated is asylum seekers' access to economic migration channels. The aim in keeping channels distinct is:

- to ensure that asylum seekers may access the asylum process rather than being redirected towards other channels that do not offer protection,
- the concern that allowing asylum seekers to join labour migration channels will increase the incentive to abuse the asylum channel.

The risk of abuse is presumed higher if asylum seekers who are refused protection are then allowed to apply for work permits. There is little conclusive evidence of this, however, as the Swedish example suggests. Sweden allows failed asylum seekers work permits if they worked while they were awaiting a decision on asylum. It introduced the policy in 2008 to encourage asylum seekers to take up employment during long procedures. Only about 10% did so (OECD, 2011b). Few EU Member States permit such status changes, though. Yet, there may be some scope, during and after the asylum procedure, for granting status

changes to high-threshold labour migration categories – for which few people would qualify, however – and to students and researchers, if supported or sponsored by an institution.

A further question is whether to support potential asylum seekers – e.g. displaced people in third countries or those under UNHCR protection – in accessing labour migration channels. There is a strong argument for the provision of labour migration opportunities as part of support for the displaced, especially those with low or no priority access to resettlement. They are not prohibited from applying for work – or EU-regulated study-based residence permits – as they have no specific status under EU law and are therefore treated like any other applicants. And the European Union has so far introduced no targeted provisions to facilitate employment (like the waiving of certain conditions). Displaced persons are clearly in need of special support – such as the recognition of their qualifications, for example – in order to be able to actually benefit from available migration channels.

A job search visa

There is no EU-wide job-search permit at present. Indeed, such programmes are rare in EU Member States and, where they do exist, they do not allow mobility for employment.

As the European Union itself cannot issue residence permits, or require countries to authorise labour migration permits to third-country nationals abroad, there are limited prospects of an EU-wide job-search permit. However, TCNs may be entitled to permits for such non-employment purposes as family reunification or study, an avenue that could be used to create a migrant category that enjoys mobility. As both students and researchers are allowed to seek employment and switch to employment permits if they meet conditions, similar arrangements could apply to other permits in the presence of a job offer.

A more indirect means of introducing a job-search permit is to require EU Member States to allow legally present third-country nationals to file their applications for work permits within the EU, rather than requiring them to return home. Such an advantage is afforded to some categories, like students, but the practice varies from one EU Member State to another. If it were applied to all legally present third-country nationals, including tourists, it would allow visits for any purpose to be used for effective job seeking. The nationals of countries who do not need visas obviously stand to benefit much more than those who do.

The EU cannot directly sponsor third-country nationals as their employer or guarantor, so it is unable to select job seekers and require member countries to admit them. However, it is able to support the intermediate bodies which are the legal persons employing or sponsoring TCNs. The admission of employees from outside the European Union is still subject to volumes of admission. Direct hires by EU-funded projects or programmes for activities in more than one EU Member State could benefit from greater mobility provisions and allow changes of status to employment categories if criteria are met.

Standardised procedures

At present, no EU body manages any part of the admission process. Employers and employees interact only with national authorities, who transpose, implement and report. Administrative decisions are taken at the national level and EU-level intervention, apart from some harmonisation under EU law, is confined to jurisprudence in the event of non-compliance or court challenges.

There is no EU-level registration of labour migrants either in general or in any of the categories governed by EU Directives. Intra-EU mobility – although facilitated under EU law for certain categories (e.g. long-term residents and highly skilled workers) – is conducted through bilateral arrangements with no reporting outside communication between the two Member States involved.

Similarly, there is no EU-level management of applications for admission, renewal or status change, so that only mobility in the statutory categories is captured statistically, even if mobility levels appear to be much higher according to data from the labour force survey estimates reported in the previous chapter.

No EU body issues or registers recognition of qualifications, the management of applications for labour migration, or the monitoring of intra-EU mobility. The ability to evaluate programmes is curtailed as a consequence.

Because there is no EU-level operational co-ordination, such as a central gateway for filing applications, statistical reporting involves extracting data from national permit registers which were not designed to cover categories and movements of interest at the EU level.

A standard application form

While there is a standardised format of residence permits, there is no such form for applications for residence permits, as there is for Schengen visas, for example. Application forms for national visas – used for employment permits – are not standardised, either.

A standard application form would simplify visa and permit applications to multiple countries and could be used in mobility requests under existing provisions. It would also facilitate compliance work within and between countries and the development of a database for better exchange of information on residence permit holders across Member States.

Finally, there is currently very little comparable statistical information on labour migration to EU Member States. Reporting requirements to Eurostat do not go into any detail on occupation, education or national permit categories, unlike richer national classification systems. A single application form could include occupational and education data in accordance with international classification systems to allow better analysis.

An EU labour market test

National labour market tests are designed to safeguard the national labour market. As noted, all EU Member States operate on the principle that recruitment from outside the EU must fill a vacancy which cannot be filled with available labour at prevailing (or minimum) wage levels within a reasonable time frame. LMT requirements are determined at the national level, with the onus of proof on the employer ranging from nominal to burdensome.

All EU labour migration schemes are structured on the principle that employers are capable of identifying a candidate that they would like to hire but who is not part of the local labour market. The labour market test is designed less to fill vacancies than to increase the cost, complexity and delay of international recruitment so that employers have an incentive to give preference to available local workers. The low refusal rate – cited by employers as evidence that the test is superfluous – is not the only grounds for evaluating the efficacy of the LMT. Even where there is no LMT requirement, the recruitment of third-country labour migrants, unless they enjoy equal access to the labour market, is more complex than hiring EU nationals. At best, there are administrative procedures and, at worst, high fees, lengthy delays and firm eligibility

requirements to meet. Such obstacles automatically give rise to preferences for candidates who can be hired with no red tape.

The LMT is thus a means of making it difficult – though not impossible – to recruit from abroad. If employers could not recruit from abroad at all, most vacancies would still be filled regardless of the size of the labour pool (Petrongolo, 2001). Allowing employers to expand their search to a larger labour market allows them match vacant positions with candidates who have better skills and greater productivity (Petrongolo and Pissarides, 2005), so achieving higher overall growth. Employers thus weigh the added cost of recruiting from abroad against the expected productivity gains from the candidates they find in the global labour market.

At present, a missing element is EU-level indications as to the structure and requirements of the labour market test. The value of an EU LMT could lie in safeguarding the EU labour market as a whole or encouraging mobility. In practice, the two are related, as greater mobility is a form of protecting the EU labour market.

The distinctiveness of an EU-level labour market test lies in two possible areas: coverage, i.e. *who* is considered and from *where* they originate; and the test procedure itself (how it is carried out and for how long).

As regards coverage, while it is simple to use existing legislation to clarify the employment rights of resident EU nationals – and add third-country nationals who enjoy labour market treatment – there is no clear argument for EU-wide geographical coverage or for the mandatory use of EU-wide vacancy matching systems, whether public or private. Since the willingness of workers to move for employment depends on many factors, a relevant generic catchment area is difficult to determine. The requirement to list vacancies at the EU level through public employment services – the future improved EURES Job Mobility Platform – could be included. It would obviate the need to set explicit requirements.

The mandatory posting of vacancies on the EURES platform, however, would have to be evaluated to determine whether it effectively supports the labour market test in finding the right workers, or whether it is just another level of administration that discourages the use of international recruitment. In either case, it serves the purpose of encouraging local recruitment. If it is just more red tape, then it could be replaced by a simple waiting period or a simpler disincentive to recruit abroad.

The EU-level labour market test could be defined by its length and the contractual information in the job description (employer, salary, conditions, etc.). A ceiling could be placed on restrictions to prevent the EU-level LMT from paralysing admission schemes. It could be limited to schemes targeting qualified workers, which would allow, for example, the Blue Card application procedure to function more smoothly in a number of EU Member States.

Finally, an EU-level LMT would immediately raise the related issue of an EU-wide shortage list that would exempt special-skills applicants from the test. Such a shortage list would be complicated to assess, as shortages are not uniform across the European Union and current mobility provisions have not done away with regional differences. The shortage list, however, could send a strong signal to employers and applicants abroad that advantageous conditions apply to recruitment of labour migrants in certain occupations. Nevertheless, the positive message from the signal would have to be weighed against its possibly adverse effect on individuals' and enterprises' investment in training in the European Union.

Trusted Migrant Workers

The "trusted traveller" concept – used normally to indicate a facilitated regime for border crossing for frequent (short-stay) travellers at border crossing points – could be extended to facilitate the admission of labour migrants in two ways.

First, circular migration is predicated on the idea of the "trusted worker". This idea is enshrined in the Seasonal Workers Directive which allows a number of facilitations (e.g. multiple permits, accelerated or priority processing). However, this only concerns re-entry in the same Member State. It could both be extended to other categories of economic migrants and cover successive entries to other Member States, so that prior work experience in one Member State leads to faster approval in another Member State at a later time.

Second, beyond a security check, the EU has scope for easing formalities at border crossings. While long queues at passport control might seem no more than an occasional nuisance, the wide take-up of trusted traveller schemes in EU and non-EU OECD countries indicate how important a smooth passage through border control is to some travellers. In France alone, for example, more than 150 000 had registered in the PARAFE fast-track border-crossing system by 2013.

Similarly, more than 3.3 million had signed up to the United States Global Entry Programme in 2014.

Another facilitation for the above categories would be to facilitate and speed up their border crossing. The Schengen Borders Code creates separate lanes at border control that distinguish between "persons enjoying the right of free movement under Union law" and others. Certain categories of permit holders could be included in this first group – such as EU Blue Card and EU Long-Term Residence Permit holders. The Schengen Borders Code also exempts certain categories of permit holders from the obligation to have their travel documents stamped.[5] Such an exemption could be extended to categories of residence permits for whom facilitation is judged important. The use of priority lanes and exemption from passport stamps are both measures which could be part of EU schemes only, not national ones.

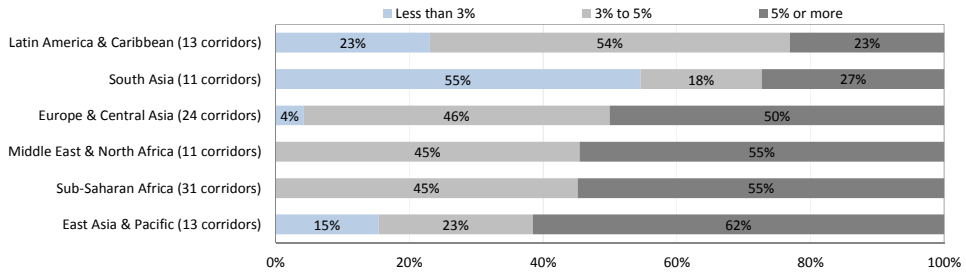
Efforts to reduce remittance costs

Goal 10 of the 2015-2030 Sustainable Development Goals (SDGs) is to reduce inequality in and between countries. It contains a migration target (10.7): "To facilitate orderly, safe, regular and responsible migration – including through the implementation of planned and well-managed migration policies" (United Nations, 2015).

The SDGs contain no specific indications on how to meet the migration target, nor have any indicators been agreed upon. The only concrete indication is to be found in the related goal of reducing remittance costs to less than 3% of transaction costs and eliminating remittance corridors where costs are higher than 5%. On this point, there is scope for action at the EU level, since the transaction costs of many remittance corridors from the EU to countries of origin exceed the SDG target level. An analysis of remittance corridors by the World Bank (https://remittanceprices.worldbank.org/en/countrycorridors) found that in the third quarter of 2015 almost half (47%) of all money-sending firms charged fees in excess of 5% for large remittances, i.e. EUR 345 in a single transfer. Average fees in only 12% of all corridors were below the SDG 3% target level. The most expensive were from the European Union towards the Middle East and North Africa, Sub-Saharan Africa and East Asia (Figure 5.8).

Figure 5.8. High-cost remittance corridors from the European Union tend to be towards the least developed countries

Total average money transfer cost as share of EUR 345 transfer, by destination, Q3 2015



Source: OECD analysis of remittance price data from the World Bank, "Remittance Prices Worldwide", https://remittanceprices.worldbank.org/en/countrycorridors.

Remittance costs disproportionately affect lower-wage workers, since they remit smaller amounts and tend to use non-banking channels which carry higher costs. There has been ample research on means to reduce remittance costs, with most looking at non-regulatory solutions such as transparency and cost-comparison, banking partnerships, and contractual elements. None of the current economic migration Directives contain explicit reference to financial instruments or to the barriers to banking by foreign workers. The Seasonal Workers Directive, which applies to workers who remit their earnings, makes no reference to the issue. The right to equal treatment with regards to goods and services incorporates equal access to banking and financial services, although residence criteria may mean that effective access to banking is not possible. The payment of wages to a third-country bank is neither excluded (as in some OECD countries to facilitate compliance) nor regulated. There is scope for the Seasonal Workers Directive – and other ones – to address the issue of remittances directly.

More precise indications on acceptable fees

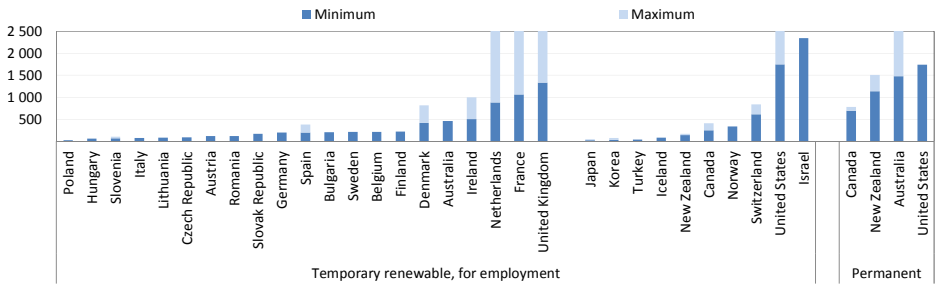
The SDGs do not explicitly address the overall costs of migration, which include government fees, the cost of gathering and preparing documentation, travel costs and recruitment agency fees. Agency fees have prompted concern in SDG discussions, since they are the biggest single cost in the migration of less skilled workers. One benchmark which has been advocated in the context of the Sustainable Development Goals has been to lower migration costs to the equivalent of one month's

expected earnings (ILO, OECD and World Bank, 2015). Concern in the development community has focused on poor and low-skilled workers for whom migration costs account for many multiples of monthly salaries and drive workers into debt.

Government fees, on the other hand, are not a major obstacle to the migration of highly qualified workers, since they amount to a fraction of monthly salaries in most countries. France, for example, levies a fee of 55% of the average monthly salary for the EU Blue Card. Even such higher fees, however, are lower than those in non-EU OECD countries (Figure 5.9).

Figure 5.9. Work permit fees are much higher in non-EU countries

Permit processing fees for applicants and employers, temporary and permanent programmes, 2015



Source: OECD (2014d) and national administrations.

Prompted by national trends in OECD countries and policy developments in EU Member States, this chapter has explored a number of elements missing from the current EU labour migration policy framework. Not all can be added to the policy framework, nor are all feasible. Some would be politically controversial, difficult to negotiate, or even require changes in the competences granted to the European Union. In other cases, outcomes cannot be predicted, making it important to proceed cautiously through pilot programmes which are conditional and subject to monitoring. The next chapter, which concludes the report, sets forth recommendations on how to pursue policy changes that address the most important gaps and improve the existing framework.

Notes

1. While it would be possible to draw up criteria such as league status for athletes or classifications for artists, the permit regime is not an assessment of such talents and the added value of any European intervention would be limited. Athletes and artists are not swayed in their choice of destination by their residence status.
2. For more on Scopus Customs Data, go to "Scopus Custom Data Fuels World Rankings" at https://www.elsevier.com/about/press-releases/science-and-technology/scopus-custom-data-fuels-world-rankings.
3. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.
4. In Italy, a direct family subsidy for eldercare is partly the reason (OECD, 2014c).
5. Stamps are likely to become less of an issue with implementation of the Entry/Exit System (EES), as they will be superseded by electronic registration.

Bibliography

Bikova, M. (2015), "Au Pair Arrangement in Norway and Transnational Organization of Care", in M. Kontos (ed.), *Migrant Domestic Workers and Family Life: International Perspectives*, Palgrave Macmillan, London, pp. 52-72.

Bonfanti, S. and T. Xenogiani (2014), "Migrants' Skills: Use, mismatch and labour market outcomes – A first exploration of the International Survey of Adult Skills (PIAAC)", *Matching Economic Migration with Labour Market Needs*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264216501-11-en.

Cortes, P. and J. Tessada (2011), "Low-Skilled Immigration and the Labor Supply of Highly-Skilled Women", *American Economic Journal: Applied Economics*, Vol. 3, No. 3, pp. 88-123, July.

Damas de Matos, A. and T. Liebig (2014), "The Qualifications of Immigrants and their Value in the Labour Market: A comparison of Europe and the United States", *Matching Economic Migration with Labour Market Needs*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264216501-9-en.

European Migration Network (2015), *Admitting Third-country Nationals for Business Purposes: A Study from the European Migration Network: Synthesis Report*, European Commission, Brussels.

Fink, C. and E. Miguelez (2013), "Measuring the International Mobility of Inventors: A New Database", *WIPO Economic Research Working Paper*, No. 8, Geneva, Switzerland, http://www.wipo.int/publications/en/details.jsp?id=3952

GAO – United States Government Accountability Office (2015a), "Summer Work Travel Program: State Department Has Taken Steps to Strengthen Program Requirements, but Additional Actions Could Further Enhance Oversight", Report 15-265 to the Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

GAO (2015b), *Immigrant Investor Program: Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefits*, GAO Report 15-696, United States Government Accountability Office, Washington, DC.

ILO, OECD, World Bank (2015), "The Contribution of Labour Mobility to Economic Growth", Joint paper for the 3rd meeting of G20 Employment Working Group Cappadocia, Turkey, 23-25 July, ww.oecd.org/g20/topics/employment-and-social-policy/The-Contribution-of-Labour-Mobility-to-Growth.pdf.

Migration Advisory Committee (2016), *Partial Review of the Shortage Occupation List: Review of Nursing*, Home Office, United Kingdom.

Migration Advisory Committee (2014), "Tier 1 (Investor) Route: Investment thresholds and economic benefits", Home Office, United Kingdom.

OECD (2016), "Responding to the Decline of Latvia's Population", *OECD Reviews of Labour Market and Social Policies: Latvia 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264250505-6-en.

OECD (2015), "Changing Patterns in the International Migration of Doctors and Nurses to OECD Countries", *International Migration Outlook 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/migr_outlook-2015-6-en.

OECD (2014a), "Managing Labour Migration: Smart policies to support economic growth", *International Migration Outlook 2014*, OECD Publishing, Paris, http://dx.doi.org/10.1787/migr_outlook-2014-6-en.

OECD (2014b), *Recruiting Immigrant Workers: New Zealand 2014*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264215658-en.

OECD (2014c), *Jobs for Immigrants (Vol. 4): Labour Market Integration in Italy*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264214712-en.

OECD (2014d), *Recruiting Immigrant Workers: Norway 2014*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264226135-en.

OECD (2013), *OECD Science, Technology and Industry Scoreboard 2013: Innovation for Growth*, OECD Publishing, Paris, http://dx.doi.org/10.1787/sti_scoreboard-2013-en.

OECD (2011a), "Migrant Entrepreneurship in OECD Countries", *International Migration Outlook 2011*, OECD Publishing, Paris, http://dx.doi.org/10.1787/migr_outlook-2011-8-en.

OECD (2011b), *Recruiting Immigrant Workers: Sweden 2011*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264167216-en.

OECD (2007), *Jobs for Immigrants (Vol. 1): Labour Market Integration in Australia, Denmark, Germany and Sweden*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264033603-en.

Petrongolo, B. (2001), "Re-employment Probabilities and Returns to Matching", *Journal of Labor Economics*, Vol. 19, No. 3, pp. 716-741.

Petrongolo, B. and C. Pissarides (2005), "Scale Effects in Markets with Search", *Economic Journal*, Vol. 116, No. 508, pp. 21-44.

Ramasamy Kone, (2016), "The Role of Employers And Employer Engagement in Labour Migration from Third Countries to the EU", *OECD Social, Employment and Migration Working Papers*, No. 178, OECD Publishing, Paris, http://dx.doi.org/10.1787/1815199x.

Stenum, H. (2011), "Abused Domestic Workers in Europe: The case of au pairs", Note, European Parliament.

United Nations (2015), "Transforming Our World: The 2030 Agenda for Sustainable Development", A/RES/70/1, Resolution adopted by the General Assembly on 25 September.

Weisser, R. (2016), "The Impact of International Students and Post-Graduation Internal Mobility: An Analysis of Student Mobility and Retention Rates", *OECD Social, Employment and Migration Working Papers*, No. 186, OECD Publishing, Paris, http://dx.doi.org/10.1787/1815199x.