

The EU Blue Card Scheme.

On the way to the harmonization of economic migration in the European Union.

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## **Abstract**

The globalized increase of worldwide competition has also created a rising of opportunities for economic migration, and therefore for labor mobility and migration across political borders, particularly for those highly qualified workers who are in great demand among leading economies. While industrial states such as the USA, Canada and Australia have already been following migration policies especially designed to attract most skilled labor for several decades, the European Union, or more specifically its Member States did not successfully attempt to establish a common policy on economic migration in general and high-skilled labor migration in particular up until the 2000s. Since then, however, the EU has started to seriously pursue such a policy. It hence has entered the global rivalry for talent in order to fulfill its general goals of international competitiveness by presenting itself as desirable destination for skilled immigrants. The invention of the EU Blue Card Scheme constitutes one step in this direction, one whose appropriateness and effectiveness certainly remain subject to much controversy.

In this contribution, the EU Blue Card shall be critically analyzed in order to better understand its nature, benefits and potential problems and constraints from various perspectives. Therefore, the question shall be discussed whether the EU Blue Card is a convenient way for the EU and the Member States to enter the competition for high-skilled international labor, or whether the problems it brings along outweigh the benefits. In this sense and following a brief introduction in the first section, the second part deals with the idea, background and development of the scheme. The paper then focuses on the EU Blue Card itself and its key terms. In the fourth section, mostly limits and inherent challenges, but partly also new opportunities and proposals for solutions shall be examined. The conclusion is then designed to briefly summarize the main findings of the paper.

## 1 Introduction

The European Union hosts around one third of the world's 86 million migrant workers, a number that does not consider the common differentiation between mobility within the Union by EU citizens and migration to the EU territory by citizens from third countries. Despite the fact that it is the member states' right to "determine volumes of admission of third-country nationals (...) coming to their territories to seek work" (Article 79(5) Lisbon Treaty, 2009 cited in Boswell and Geddes, 2011: 76), the EU has been showing growing interest in this form of migration that traditionally has only to a limited extent been part of the Union's competencies (Boswell and Geddes, 2011: 44). Fundamental for this policy change is among others the general objective to increase the EU's economic competitiveness as outlined in the Lisbon Agenda of 2000, and thus to "strengthen employment, economic reform and social cohesion" (Lisbon European Council, 2000). In line with this universal strategic goal, the Union pursues "measures to attract and retain highly qualified third-country workers" (Council Directive 2009/50/EC (3)) since those workers are considered to contribute to its capacity to compete and be a solution to potential labor shortages. Therefore, the European Commission together with several national governments openly emphasizes the potential benefits labor migration of highly skilled TCNs might bring to the EU. As a consequence, the agenda has been reconsidered and several political debates about possibilities and constraints for a common EU framework in this field have taken place in the recent decade. Those debates, subsequent decisions and practical implications aim on building a corporate but also flexible setting within the Union while at the same time considering and incorporating the Member States' different needs and capacities (Boswell and Geddes, 2011: 77). One innovative but at the same time controversial proposal by the Justice, Liberty and Security General on how to accomplish common guidelines for the entry and residence of TCNs has been the Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of 'highly qualified employment' introducing the proposal of the EU Blue Card Scheme in October 2007, entering into force on 25 May

2009. This pattern is intended to provide an additional tool for the recruitment, retaining and more effective allocation of required workers for the EU and its Member States (Gümüs, 2010: 435). While the control over admission to the respective labor markets remains under the Member States' control, admission procedures for the category of qualified workers are to be harmonized in accordance with the directive, which also decides over the conditions of residence once admission has been permitted, the future the applicant for or holder of the card has within the EU and the final "condition for obtaining EC long-term resident status" (IOM, 2009: 22). In the following, these conditions and different arguments over benefits and costs of the EU Blue Card Scheme shall be illuminated and analyzed.

## **2 The rough but right way to the EU Blue Card?**

There are several reasons why the EU Blue Card is still under critique as being improper for the European Union and its Member States as tool to harmonize their labor migration policy, one of which is its history of origin that has been characterized by trade-offs and set-backs. Also, one could argue that there has to be a grave reason why it took the Union that long to come up with a serious and feasible plan to create an instrument to facilitate and harmonize the conditions of entry and residence of highly skilled workers. One explanation could be the assumption that neither proposal for such a tool has been able to meet all specific needs and demands by the different Member States concerning the complicated topic of migration in general and labor migration in particular.

### **2.1 The legal basis of the directive on the EU Blue Card**

The way to the Council Directive 2009/50/EC cannot be explored without a brief reflection of the development of the policy on legal migration and labor migration in general.

The free movement of labor, which is part of the four freedoms upon which the EC was built in 1957, does not apply to TCNs but only to workers moving from one Member State to another for economic activity – while there is no need to “show any economic activity” at all (IOM, 2009: 19). Only since the Treaty of Amsterdam in 1999 – the late date being a clear sign for the Member States’ reluctance to give up national competences on the issue of immigration in favor of a common approach – “policies relating to the free movement of all persons”, hence also immigration, have been “moved from the JHA pillar to Title IV of the EC Treaty” (IOM, 2009, pp.19) whose Articles 61 to 63 offer measures on the immigration of TCNs. For the Blue Card, especially Article 63 (3a) and (4) are relevant, since they regulate entry, residence and mobility of TCNs in the EU (Lay, 2011, pp.126). These measures shall be adopted by the Council in accordance with Article 14 within five years after the entry of the Treaty of Amsterdam into force, its conditions and the immigrants’ inherent rights that have to be accounted for (Consolidated Version of the Treaty establishing the European Community, 2002, Art. 61).

To facilitate the goals of the Treaty of Amsterdam, several programs have been created. The Tampere Programme of 1999 in its five-year program only partly organized the treatment of TCNs, but has been thought to be too ambitious and has in 2004 been succeeded by The Hague Programme, which is designed for the strengthening of freedom, security and justice in the EU. This program emphasized the importance legal migration will have on the achievement of the goals of the Lisbon strategy, also in partnership with third countries, and the importance of the integration of TCNs, but also determined that the “[... ] volumes of admission of labor migrants is a competence of the Member States” (The Hague Programme 2005, Art. 3). In the successional policy plan for legal migration, not only a common framework for the rights of those TCN’ legally employed within the EU, but also four specific directives “have been proposed as legally binding instruments” (IOM, 2000: 21) and one of them is of high interest for this paper.

Notwithstanding the fact that the directive on high-skilled migration finally entered into force in 2009, it becomes obvious already during its formation, that this issue involves

complications. Much work on the agenda of the Tampere Programme that should develop a comprehensive immigration policy remained undone since the Member States considered it too extensive. Additionally, the debate over a directive on common conditions of admission and stay of TCN workers must not be considered new. Already in 2001, a proposal for the Council Directive COM(2001) 386 has been launched by the Commission to deal with “the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities” (COM(2001) 386 final, 2001)). Whilst the proposal got positive opinions by the other institutions, it failed in the Council already after a first reading of the text, followed by an official withdrawal in 2006. Recalling the fact that legal immigration is a matter of unanimity in the Council with simple consultation competencies of the EP (SEC(2007) 1403, 2007: 5), the negotiations leading to nowhere clearly demonstrate the difficulty of and disagreement on this issue. This argument may be further emphasized by the fact that neither the UK, nor Ireland and Denmark fully participate in Title IV mentioned above. Both the UK and Ireland preserve the right not to opt-in, while Denmark in advance only accepted certain measures.

## **2.2 The idea of the EU Blue Card in the economic and political context**

The proposal of the EU Blue Card Directive must also be examined within a certain economic and political context. Measures to support an appropriate management of economic migration from third countries should be taken in accordance with the comprehensive goal of the Lisbon Strategy of 2000, for the EU “to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion” (Lisbon European Council, 2000, Art. 5). To do so, and in regard to vacancy rates in this sector, a skilled labor force and an open European labor market should be achieved in partnership with the Member States. Hence not only the development and use of human resources already available in the EU (with an expected percentage of 8% being high-skilled), but

also labor supply from skilled immigration from third countries should be encouraged (Commission Staff Working Document). Compared to 'other' industrial states (the Union not being considered a state), the EU cannot be considered an early bird in the field. Not only the US, whose Green Card serves as a role model, but especially Australia and Canada have been employing a migration policy that has been linked to educational or specific sectorial qualifications for several decades.

As an example, Australia's immigration policy has developed from an open gate policy to increase the country's population to one designed to primarily meet the labor market needs and shortages of its economy through skilled migration since the 1980s, which seems to pay off. The percentage of immigrants granted access through the Skill Migration Programme, has increased significantly ever since and especially in the past ten years, in total numbers reaching its peak with 125 755 of the 184,998 immigrants entering the country via this program in the year 2011-12 (Parliament of Australia, 2012). Also Canada with its points-based immigration system that aims on capturing the potential for economic benefit and a successful integration is highly efficient in the attraction of international talent (Weizsäcker, 2006: 74). If one compares these countries to EU standards, the need for an efficient system to attract high-skilled migrants becomes obvious. Compared to Australia with almost 10 % or Canada with 7,3 %, only 1,72 % of the EU's employed population consist of skilled TCNs (Gümüs, 2010: 438). Furthermore, there exists "significant variation in the proportion of high- or low-skilled migrants received by different European States (...)" (Boswell and Geddes, 2011: 77) Even countries like Belgium or Denmark that record more than 40 % of highly skilled immigrants are far away from Australian figures, not to mention states like Austria and Germany with less than 30 % of employed immigrants being suchlike categorized (Boswell and Geddes, 2011: 77). These diverging numbers offer an approach to explain the varying interest in a common regulation for the entrance and residence of high-skilled immigrants and the unequal intensity with which the different Member States have pursued the EU Blue Card Directive. Nevertheless, if the immigration of high-skilled workers really depicts such a potential beneficial factor for the EU's economy, it has to be figured out what measures must be

taken to become a serious contender for this category of labor forces but also what constraints and challenges the EU as 'non-state' faces on its way to do so. Because, even if the immigration policy is a general one, the MS face different policy dilemmas concerning labor migration. Furthermore, one must not forget the situation sending states, mostly developing states, are put in if being confronted with several pulling poles that lure the educated elite away from their countries of origin. These issues shall be dealt with in the next section, once the EU Blue Card itself has been introduced to the reader.

### **3. The Scheme itself**

#### **3.1 What is the EU Blue Card?**

The EU Blue Card Scheme was adopted on 25 May 2009 and a two-year period has been determined for the Member States to incorporate the new Directive into their national legislation (Gümüs, 2010: 435). The scheme is designed to be a tool to respond to fluctuating demands that might occur for labor forces with the attraction of highly qualified labor from third countries.

The EU Blue card is an approved work permit valid in the whole European Union except Denmark, the UK and Ireland and allows high-skilled third country nationals to live and work in any Member State (Directorate-General for Internal Policies, 2011: 59). In the Directive, conditions of entry and residence of third country nationals with high qualifications and their family members are regulated. It offers the possibility for enhanced freedom to enter labor markets and is part of the EU's goal "to attract the best-qualified labor from the developing world" (Gümüs, 2010: 435) in accordance with the Lisbon Strategy. In this respect it is necessary to facilitate admission by the creation of a fast-track admission procedure, as well as the granting of equal social and economic rights as citizens of the receiving MS in several areas (CD 2009/50/EC, 2009, Art. 7). Disparities between the Member States' immigration policies shall be removed and proportional

disparities in the allocation of international talent shall be reduced, since some destinations in the EU clearly attract more international labor than others (Gümüs, 2010). The institutionalized enabling for brain circulation that is being introduced by the Blue Card shall help to overcome Member States' fears of unfair distribution through the "opening of the borders" for international talent. Also, the Directive aims to solve the problem of labor shortage due to the decline of the EU's (working) population and its ageing. However, due to the wide range of this aspect, it will only be addressed shortly in this paper.

### **3.2. Key terms of the EU Blue Card**

The core of the Directive is the requirement of higher education qualification - certificates of third countries' institutions - or at least three years of professional work experience that is equivalent; only those who fulfill these rather flexible conditions are taken into consideration to receive a Blue Card. Certainly, for some, exactly this flexibility is a thorn in their side and hence they criticize that the "proposal says little about the way qualifications from outside Europe might be recognized" (Collet, 2008). It is true that the acceptance of qualifications has been a notoriously complicated process and different definitions by Member States concerning the criteria pose a strong limitation to movement throughout the EU. In the framework of the directive, however, the recognition of higher education qualification is clearly stated. The minimum of three years of studies has to be completed in an "educational establishment recognized as a higher education institution by the State in which it is situated" (CD 2009/50/EC, 2009, Art. 2). Therefore, disparities between the Member States should – at least theoretically – not affect the well functioning of the scheme.

Nevertheless, the possession of the EU Blue Card does not create any right of entry (Guild, 2007: 4), but provides a residence permit and a set of rights that e.g. includes beneficial family reunification rights. Jose Manuel Barroso, the president of the European commission, supports the idea to "give a clear set of rights to all third country nationals

who legally reside in the EU”, prohibit unfair competition und promote the immigrants’ integration in the EU societies (Barroso cited in the Spiegel, 2007 cited in Gümüs, 2010: 436). After two years of restricted access to the labor market of the receiving state, workers enjoy equal treatment and are enabled to move between MS (World Migration Report, 2008: 51). They are also subject to more favorable family reunion policies, an issue that has made waves between supporters and objectors of the Scheme and will be addressed later.

Applicants to the EU Blue Card have to fulfill certain demands, such as proof of having (at least applied for) sickness insurance if such is not provided by the work contract. Among others, a valid work contract or a binding job offer that includes a salary “which shall be at least 1,5 times the average gross annual salary in the Member State concerned” or 1,2 times the average for “professions which are in particular need” (CD 2009/50/EC, 2009, Art. 5). Already here, criticism arises. The UEAPME, e.g., is of the opinion that the decision of the wage level is not the role of the European level but must be made by the respective Member States in consideration of domestic peculiarities (UEAPME, 2008). This argument can be valued with respect to the sovereignty of the MS in the sensitive field of economic migration, but on the other hand, is being debilitated by the fact that this specification does not apply to a EU wide general minimum salary, but is already being in line with the national average salary. It hence has to be questioned whether any less comprehensive approach fits the ideal of a general regulation of the entry and residence of highly qualified labor.

It has to be emphasized, however, that the Directive does not interfere with the principle of Community preference as already pointed out in its preamble (Blue Card Directive) and hence shall also respect the terms defined in the Acts of Accession (Gümüs, 2010: 442). According to this core principle, an employer can only staff a position with a highly qualified TCN if the vacant job cannot be filled with any EU citizen with equivalent qualifications. This principle of preferring any EU citizen fit for the job is no subject to discussion and hence should be adequate to appease those expressing concern that labor shortages and job vacancies should be met with workers from their or other EU nations.

## **4 The EU Blue Card's constraints and possibilities**

### **4.1 A unilateral advantage?**

The scheme is designed to be a tool to respond on fluctuating demands that might occur for labor forces and hence accentuates the benefits for the EU and its Member States. This formulation holds difficulties. Arguments that refer to the issue of sufficient protection for the cardholder to escape an exclusion from the labor market if they lose their employment are right in their concern. In this respect, e.g. the three-month limit for TCNs to look for work once unemployed has to be regarded critically. Fluctuation in the labor market might occur rapidly and even without this remark, any worker who leaves his home country, often with the whole family, takes several risks. Compared with standards such as the Council of Europe conventions that provide a five months period with the possibility to look for work in other Member States (Guild, 2007) the three month period that is, furthermore, limited to only one state seems unfair. As Guild further argues, employees threatened by expulsion once unemployed, might be coerced to accept bad working conditions or to keep "quiet about breaches of labour (or company) law on the part of" (Guild, 2007: 6) unscrupulous employers who capitalize on their strong position.

In general, it is indeed important that the Scheme remains demand-driven and sufficiently flexible for the states to adapt it in accordance with their needs – sectorial and geographical (Gümüs, 2010: 442). If it had not remained within the states' competencies to decide over volumes admitted to their territories, the Blue Card could most likely not have been realized, since also those not opting out like the UK and Ireland have remained cautious not to lose any competences. Therefore, Collett's (2008) degradation of the Blue Card Scheme's inability to replace the Member States' own migration systems as shortcoming seems doubttable, for such a replacement is entirely impossible at this particular time. However, from a normative perspective, a return to a scheme similar to the

guest worker programs applied in several countries in the 1960s, based on the principle that workers only are allowed to stay in the country as long as they are in demand, must be prohibited. Consequently, the rights of TCN coming to the EU for highly qualified labor have to be preserved.

#### **4.2 The (new) Member States' perspective**

There are admittedly not only arguments that see the sending states in an undesirable situation but also those that recall unfairness for some states already part of the European Community. Authors, such as Elsbeth Guild (2007: 2), argue that it might create tensions among the MS that while Blue Card holders from third countries are allowed to enter the European labor market, workers of those members that joined the EU in 2004 and/or 2007 have faced or are still facing restricted access to many EU countries' economies (Guild, 2007). This argument may, however, be contemplated as attenuated for some reasons. First, the Member States – the Council – had to agree on the Directive unanimously (Lay, 2011: 126), and despite some expressed concerns, none vetoed on the Blue Card in the end. Second, in respect of the Acts of Accession, the Member States were required "to give preferences to workers of the EU-8 and EU-2 over" TCNs (Gümüs, 2010: 442). And third, time did its work and most of the restrictions limiting several EU citizens from full migration, have fallen already since the launching of the Directive. Croatia as the only country joining the Union since, and every other candidate desiring to become a member, do this in full awareness of possible restrictions.

Another argument for a common approach to the attraction of international talent is, that in 2007 only ten of the MS have had a national scheme for highly qualified migration (Guild, 2007: 3). If such agreements indeed are in existence, certain conditions should be followed in order to prohibit unfair competition. The standards of the EU Blue Card must not be lower than those several Member States already are bound to via other international commitments such as the International Labour Organization conventions. At the same time, bi- or multilateral agreements that offer more favorable conditions for

highly skilled immigrants are to be prohibited as well. As agreeable and normative this argument might be, some authors such as Elisabeth Collet doubt that it mirrors the reality of competition between the EU countries. And, further talking about fairness, the approach does not bring the same benefits to all of them, since it offers little for countries that are already capable of attracting international talent (Collet, 2008).

### **4.3 The question of (dis-)qualified economic immigration**

The question is if the EU Blue Card and the more generous treatment of highly qualified immigrants that comes along with it will not be a way to the institutionalization of discrimination in regard to labor rights. Not only Guild (2007: 2), but also other organizations such as ETUC perceive problems with this legislation that might lead to a double-sided legal migration policy and discredits immigrants with lower skills instead of providing a common procedure that covers all EU migration legislation (ETUC, 2007). Especially if one preconceives the Employer Sanctions Directive (CD 2009/52/EC, 2009) that schedules sanctions for employers employing irregular migrants that are mostly people with lower skills, further unequal distribution becomes obvious. While ETUC (2007) denounces the lack of initiative to launch channels for the legal employment of low skilled immigrants, UEAPME (2008) highly welcomes these measures as protection for EU labor. Additionally, immigrants outside of the Blue Card Scheme might face relatively unfair treatment when it comes to family reunification. Substantially, more favorable family reunion provisions only apply to those who enter the EU as Blue Card holders. On the other side remain long-term residents of third countries who may have lived on Union territory for several years but are not subject to any advantages (Guild, 2007: 6). This argument, however, does not necessarily discredit the EU Blue Card framework as a whole, but rather points out the difficulties third country nationals in general are confronted with when it comes to family reunification. Also, more generally, the general framework Directive that accompanies the Blue Card Directive as a proposal for a general set of rights for all TCN that are legally residing in the EU territory should help to

overcome suchlike apprehensions. However, any critic must take into account the Member States' reluctance to comprehend legislation in the field of legal migration.

#### **4.4 Brain Drain**

The emigration of highly qualified nationals from developing countries that is called "brain drain" is assumed to have substantially negative consequences for the sending countries, especially for their economy and their welfare system. The emigrants are no longer conducive to the country's fiscal system since they neither pay taxes, nor contribute to the productive efficiency of the economy or to public life in general in any other way. The World Migration report of 2008 points out that in 2001 already nearly 10 % of people born in the developing world with tertiary and 5 % with secondary education have resided in industrialized countries, as well as 30 – 50 % of those trained in science and technology. The same report argues that a certain degree of emigration of highly skilled workers is necessary to stimulate the circulation of knowledge and investment (World Migration Report, 2008: 51).

However, arguments for the positive effects of brain drain for the source country, as they are also offered e.g. by Jakob von Weizsäcker (2006) have to be handled with caution and can only be taken as valid if emigration rates do not exceed certain levels. It remains arguable whether the "option to migrate (...) improves education incentive" (von Weizsäcker, 2006: 80). First of all for the reason that if the educated human capital of a country is consequently being withdrawn, the economy is rather likely to remain underdeveloped and there will be simply no resources available to foster further education. It is certainly accurate to assume that emigrants, returning with new skills and savings, might become a notable source for further development in their countries of origin and thus reinforces the general aim of brain circulation. But, on the other hand, one could point out that it is approximated ingenuousness to assume that the majority of the highly skilled emigrants is eager to return, as long as they actually are contributors to the welfare system (ergo before retirement), since it is probably being perceived as irrational

to give up better living conditions and payment. This counterargument is especially significant in the case of the EU Blue Card that is designed to provide a way for long-time resident status within the EU. Additionally, however, brain drain not only affects the sending country negatively, but might also have negative consequences for the receiving state as further discussed in Gümüs (2010: 439ff). That is to say that the simple "import" of skilled workers tends to lower incentives to build up an own educated elite, which results in less expenses for education and training. Consequently, an equilibrated proportion should be preserved.

But what kind of approaches to actually prohibit or at least limit the problem of brain drain could be taken? To indeed promote brain circulation within the EU but also with third countries, several possibilities that are not contradictory to the Blue Card Scheme could be taken into account. If e.g. immigrants from third countries had more flexible chances to move between their country of origin and any Member State, without their immigration rights being threatened, brain circulation could be significantly encouraged (ETUC, 2007). Furthermore, many developing countries suffer from poorly developed production because they lack working institutions, whose building-up remains slow in progress (von Weizsäcker, 2005: 77ff). Instead of pulling out all those countries' talent, the EU as normative, but also as economic power should be able and willing to invest in not only financial resources, but also professional skills in these countries. These kinds of external trade- and development policies promote a raise of living standards and further training opportunities in the sending countries (ETUC, 2007). As a consequence, these countries could build up efficiently working economies and hence would provide valuable trading partners for the EU.

Another solution could be offered e.g. by the Bhagwati tax, an idea that was introduced more than 30 years ago, based on the principle of compensation for the sending country in form of a partial re-transfer from the highly skilled migrants' tax income to their country of origin (Scalera, 2012: 447ff). In practice, and especially in the case of the European Union, the implementation of such taxes seems hardly reachable. One question that arises is which country would accept to abdicate a part of its taxation in favor of the sending

country, also considering the argument by opponents of (economic) migration in general that national welfare systems are put under stress by the increasing number of immigrants. The argumentation about the impact of the EU Blue Card system on the Member States' welfare system shall now be further examined.

#### **4.5 The EU Blue Card and the welfare system**

Authors taking a position against economic immigration in general often come up with the argumentation that immigrants by trend exploit the state's social system and contribute to the increasing public spending on health care and put further pressure on the already strained pension plans. Since in accordance with the Blue Card System the immigrant is equipped with the same rights and duties as a EU citizen, he or she is most likely to contribute positively to the state's welfare system by paying for health insurance, into pension funds and taxes. In this respect one could interrogate why there still exists much dispute in this special area, even though people with suchlike qualifications are much more likely to "fund pensions and boost the proportion of the population in the labor market" (Boswell and Geddes, 2011: 79) than to put a strain on state service. There remains, however, another argument in the field of social security that not only applies to Blue Card holders, but also to EU citizens, namely structural constraints if it comes to mobility between the Member States (Collett, 2008). Acknowledging her argument, existing barriers, differences in taxation and a non-elastic social security system that also affects the pension plans, might indeed put a limit to the mobility of labor within the EU borders. To find a solution to this problem might be difficult, since it relies on the cooperation of several Directorate-Generals that are involved (Collett, 2008).

#### **4.6 The right step in the right scope?**

In a first attempt to regulate economic migration of third country nationals to the European Union, the Commission proposed a comprehensive approach covering not

only highly qualified labor in 2001 which has been refused by the Member States. Therefore, the Directive that created the Blue Card has only been a mitigated version. But could and should have been done more? While some argue, that this step-by-step strategy is only a moldy alternative and would rather prefer a horizontal approach as provided by the original draft Directive of 2001 (ETUC, 2007), others view it as already too much intrusion from the EU in national business. Other parties appreciate it as correct in a sensitive policy area as economic migration. The UEAPME e.g. emphasizes the importance of such a slow harmonization and that the sovereignty to decide over volumes of admission remains with the MS (UEAPME, 2008).

Whoever might be "right", the EU has admittedly been loosing valuable time and already spent plenty of resources on the issue and hence a sectorial approach tentatively depicts the only way forward. A separate treatment of and legislation on the various immigration types is better than an unachievable comprehensive approach covering all the areas. Furthermore, reasoning that it could act as a role model in the way von Weizsäcker argues that the effective integration of high-skilled immigrants might help to reduce "anxieties associated with immigration [...] overall" (von Weizsäcker, 2006: 75) to adhere potential. Therefore, the Commission might use the instance of a successful implementation of the Directive on qualified immigrants to hang other proposals belonging to the issue of economic migration.

## **5. Conclusion**

The EU Blue Card should offer an answer to the question, how the European Union might reach the coordination demanded to be able to compete in the global competition for highly skilled workers by providing a sustainable framework beneficial for all parties included. A suchlike approach that shifts certain competencies to the EU level in the sensitive field of economic migration can only be successful in cooperation with the Member States. It hence has to be emphasized that the system of the EU Blue Card is not intended to replace immigration systems of the Member States but offers an innovative

additional possibility of access via a new and comprehensive process. Comprised safeguards such as the demanded work contract and the limitation to only one certain country for the first two years with the possibility for mobility within the Union afterwards under similar conditions, again depending on the Member States' needs, and the core principle of the Community preference ensure that no "unwanted" or unneeded immigrants enter the Union via the Blue Card Scheme and makes the circulation of skilled labor within the territory possible. The temporal limitation of access to state services such as social assistance and housing guards against the suspected exploitation of the welfare system, while otherwise equal treatment as national citizens assures a contribution to the state.

The importance over the decision about actual volumes of immigrants granted access with the Blue Card to the respective country remaining with the Member States must not be underestimated. Obviously, third country nationals having access to the EU labor market is a highly sensitive and complex issue and major competencies have to be left with the Member States to avoid an unacceptable loss of sovereignty. Not only the Member States, but also International Organizations and several authors deal with the EU Blue Card Scheme. Some consider it a step in the wrong direction, with little sense and value for the Union and the Member States. Others indeed assume that with the EU Blue Card, a step in the right direction has been taken, but often consider it either too much centralization or not enough attempt to develop a comprehensive EU wide approach in the broad area of economic migration. Obviously, the EU Blue Card Scheme is still being subject to much discussion since problems such as brain drain and unfair treatment are not easy to solve. Furthermore, it cannot be expected that the Member States always share the same perspective and disparities will continue to exist. However, the Blue Card Directive is a step to the comprehensive management of economic migration, covering entry, residence and rights of immigrants to the EU and therefore deserves certain attention. Nevertheless, many constraints and disparities remain, thus alternative proposals and amendments to the EU Blue Card Scheme concerning the migration of high-skilled labor and economic labor in general must not be dismissed a priori.

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