

## University of Groningen

### Europeans in-Between

Klein, Lars ; Tamcke, Martin

**IMPORTANT NOTE: You are advised to consult the publisher's version (publisher's PDF) if you wish to cite from it. Please check the document version below.**

*Document Version*

Publisher's PDF, also known as Version of record

*Publication date:*

2012

[Link to publication in University of Groningen/UMCG research database](#)

*Citation for published version (APA):*

Klein, L., & Tamcke, M. (Eds.) (2012). *Europeans in-Between: Identities in a (Trans-)Cultural Space*. Euroculture consortium.

**Copyright**

Other than for strictly personal use, it is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), unless the work is under an open content license (like Creative Commons).

The publication may also be distributed here under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license. More information can be found on the University of Groningen website: <https://www.rug.nl/library/open-access/self-archiving-pure/taverne-amendment>.

**Take-down policy**

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

*Downloaded from the University of Groningen/UMCG research database (Pure): <http://www.rug.nl/research/portal>. For technical reasons the number of authors shown on this cover page is limited to 10 maximum.*

# Building a more attractive Europe.

## The Blue Card experience

*Silvia Mosneaga*

### 1 Introduction

Demographic projections show that by 2060 the European Union's (EU) active population<sup>1</sup> will decline whereas the numbers of retired people will increase. The share of people aged 65 years or over in the total EU population is projected to increase from 17.1% to 30.0%. And the number of 65 year olds is projected to rise from 84.6 million in 2008 to 151.5 million in 2060.<sup>2</sup> This trend poses a real danger to the economic productivity of the EU, especially because the ratio of working population for every EU citizen aged 65 years or over is expected to drop to 2 to 1.<sup>3</sup> The negative effects of this phenomenon are addressed in different proposals and strategies at European and national levels. One of the approaches considered at this stage is that immigrants could compensate for the gap in the active population and the recession in the work force. Therefore, the possibility for the EU to tackle labour force shortages and to boost the economy by attracting highly skilled

---

<sup>1</sup> Population of working age (15-64 years old).

<sup>2</sup> European Commission, Eurostat, Population projections, Eurostat, data from April 2011, [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Population\\_projections](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Population_projections) (accessed 15 May 2011).

<sup>3</sup> Rainer Muenz, "Aging and Demographic Change in European Societies: Main Trends and Alternative Policy Options," 1-3, SP Discussion Paper no. 0703, March 2007, <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Labor-Market-DP/0703.pdf> (accessed 15 May 2011).

workers from outside has been discussed since 2005.<sup>4</sup> The same tendencies on the labour market are reported by a number of researchers from the Institute for the Study of Labour from Germany.<sup>5</sup>

This paper will analyse the Blue Card – a horizontal directive establishing a single permit and procedure for high-skilled immigrants from third countries applying for work in the EU. The main objective is to examine to what extent the implementation of the Blue Card Directive makes the EU more attractive for highly qualified migrants. It is the contention of this paper that the diversity of EU national labour markets and distinct national immigration policies limit the effectiveness of the EU Blue Card. The first two sections of this essay will introduce the main features and functionalities of the Blue Card Directive. The third section will present the theoretical framework which underpins the immigration policy construction cycle at national level. The fourth section will examine the main challenges that this policy sector faces presently in Europe with a particular focus on HSI approaches. The fifth section will look at the policies of Spain and Germany for “highly skilled immigrants” and discuss developments and improvements at the respective national levels including the progress in the Blue Card implementation. In order to assess the competitiveness of the Blue Card system in a broader context, the European model will be compared to the United States Green Card scheme. Finally, this essay will present a critical approach towards the Blue Card system with regard to the existing “highly skilled immigration” (hereafter HSI) policies in the EU. The Conclusion will summarise the main findings of this paper.

## 2 The Blue Card: main features and functionalities

Attracting highly skilled migrants is seen by the EU as a measure to improve its international competitiveness. As Vice-President Franco Frattini, the Commissioner responsible for Freedom, Security and Justice stated: “We want Europe to become at least as attractive as favourite migration destinations such as Australia, Canada and the USA.”<sup>6</sup> The figures presented by him show that 55% of the United States (US) immigrants are highly qualified (engineers, technicians and ICT specialists), whereas in the EU only 5% of immigrants are highly skilled and another 85% have limited qualifications.<sup>7</sup> Translating these figures into percentages

---

<sup>4</sup> “An EU ‘Blue Card’ for high-skilled immigrants?,” EurActiv, <http://www.euractiv.com/en/socialeurope/eu-blue-card-high-skilled-immigrants/article-170986> (accessed 15 May 2011).

<sup>5</sup> Klaus F. Zimmermann and Martin Kahaneca, “High-Skilled Immigration Policy in Europe,” Institute for the Study of Labour, December 2010,1, <http://ftp.iza.org/dp5399.pdf> (accessed 15 May 2011).

<sup>6</sup> European Commission, Press release IP/07/1575, *Making Europe more attractive to highly skilled migrants and increasing the protection of lawfully residing and working migrants*, 23 October 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1575> (accessed 15 May 2011).

<sup>7</sup> “An EU ‘Blue Card’ for high-skilled immigrants?”

of the total employed population, the highly qualified workers in the EU constitute 1.72%, in Australia – 9.9%, Canada – 7.3% and US – 3.2%.<sup>8</sup> Based on these statistical data, it can be concluded that the EU has recently experienced difficulties in attracting skilled foreign workers.

Therefore, in an attempt to gain more competitiveness and attract highly skilled workers from third countries, after a long process of negotiation and elaboration, the EU Council adopted the European Blue Card system in May 2009. The legal framework is set under the Directive 2009/50/EC clarifying the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment.<sup>9</sup> The Directive aims at facilitating work conditions and authorizations for highly skilled professionals from non-EU countries in order to improve the EU's ability to attract a highly qualified labour force. Another goal of the Blue Card project is to reduce the existing differences between the laws and practices of the 27 member states.<sup>10</sup> Thus, the Blue Card system was developed in compliance with the objectives of the Lisbon Strategy and does not replace the existing EU member states immigration systems. In fact, it represents a horizontal approach to a new common process of receiving highly qualified professionals from third countries. Bearing in mind the necessity to tackle the challenges of demographics, labour markets and economic realities, the signatory states have to implement by 19<sup>th</sup> of June 2011 individual systems for qualifying the applicants and issuing the Blue Cards consistent with the EU Council's guidance and policies.

The Blue Card facilitates several aspects for migrant applicants. The main feature of the Blue Card is that qualified migrants from outside the EU have the right to work and reside in an EU country for a period between 1 and 4 years (decided individually by each member state), after which the foreign national may apply for a new Blue Card, in the same or another member state. During the first period of admission, 18 months consecutively, the highly skilled professional is limited to work in the country that issued the Blue Card.<sup>11</sup> Furthermore, the Blue Card project foresees simple admission and application procedures both for the migrant and the employer. In addition, family reunification and the right to work for

---

<sup>8</sup> European Commission. Press release MEMO/07/423, *Attractive conditions for the admission and residence of highly qualified immigrants*, 23 October 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/423#fnB1> (accessed 15 May 2011).

<sup>9</sup> European Union, The Council of the European Union, *Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*, EUR-Lex, 25 May 2009, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0050:EN:NOT> (accessed 15 May 2011).

<sup>10</sup> Nonetheless, Denmark, the United Kingdom and Ireland opted out.

<sup>11</sup> European Commission, *Entry and residence of highly qualified workers (EU Blue Card)*, Summaries of EU legislation, last updated 18 August 2009, [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/114573\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/114573_en.htm) (accessed 15 May 2011).

spouses are fundamental elements granted through the above-mentioned Directive.

With regard to the eligibility criteria, the Blue Card applicant needs to present plenty of documents beforehand, such as: a valid work contract or a binding job offer of at least one year in one of the EU member states; a document attesting legal requirements of the contract in case of regulated professions, or establishing the relevant higher professional qualifications in case of unregulated professions; a valid travel document as determined by national law, and proof of health insurance. Concerning the salary threshold, the Directive respects the competences of the member states and sets a wage of “at least 1.5 times the average gross annual salary in the Member State concerned.”<sup>12</sup> For certain professions, member states may reduce the salary threshold to 1.2 times. In line with these requirements, Blue Card holders and their family members should enjoy equal treatment in terms of working conditions, social security, pensions, recognition of diplomas, access to services, etc.

Nonetheless, the same Directive stipulates that in order to respect the principle of Community preference, member states have to maintain control on the qualification profile and the number of foreign nationals entering their labour markets. On the one hand, it is a “mechanism for improving labour market efficiency, preventing skill shortages and offsetting regional imbalances;”<sup>13</sup> on the other hand, it gives preference to the new 2004 and 2007 member states workers over the third-country nationals. This is to say that the Directive enables the EU countries to decide based on their own labour market circumstance whom the priority is given to: national workers, EU citizens or third-country nationals who are already residents or wish to become long-term residents.<sup>14</sup>

The EU estimates that while medical and technical professionals will be particularly sought after for the Blue Card program, a number of professions from other fields will be in demand as well.

### 3 Immigration policy construction cycle

In order to verify the hypothesis put forward by this paper, namely that EU national labour markets are diverse and distinct in their immigration policies approaches and outcomes, I build on the theoretical framework developed by Lucie Cerna in *The Varieties of High-Skilled Immigration Policies: Sectoral Coalitions and Out-*

<sup>12</sup> European Union, *Directive 2009/50/EC*.

<sup>13</sup> European Union, *Directive 2009/50/EC*.

<sup>14</sup> European Union, The Council of the European Union, *Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*, EUR-Lex, 25 November 2003, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML> (accessed 15 May 2011).

comes in *Advanced Industrial Countries*.<sup>15</sup> Applied to the European context, one notices that on the one hand the EU institutions try to identify and tackle common challenges among the member states. However, on the other hand, the 27 member states have distinct preferences as to highly skilled immigrants in the labour markets along with different factors that influence the immigration policy outcomes. This model was developed based on data from specific members of the Organisation for Economic Co-operation and Development;<sup>16</sup> however it is also applicable to the EU.<sup>17</sup> In order to demonstrate that inside the whole Union there are distinct approaches in developing immigration policies, it is sufficient to show that at least some countries have different outputs. Furthermore, due to the unanimity rule of voting in the Council of the EU and the different degrees of influence exerted by different players in the policy-making process, this section will further elaborate on the above theoretical framework in order to determine how HSI policies are developed and what factors influence their contents both at national and European levels.

This paper proceeds from the assumption that interactions occur in the EU at two levels: national and supranational (EU level). On the national stage each government enacts separate immigration policies; at the Union level, each government wants to influence and bring forth its own input. Therefore, when it comes to deciding on a common immigration procedure at the supranational level, the process of achieving unanimity is gruelling and burdensome. This explains, as will be explained in this paper, why the approval of the Blue Card has been a long and diffuse process.

### 3.1 National process of HSI policy making

According to Cerna, there is a continuing divergence among countries' policies that target HSI.<sup>18</sup> Subsequently, considering that although all EU countries have common goals and opt for liberalised policies, not all of them are equally transparent due to their internal preference and priorities. To put it differently, the policy-making process at the national level represents a controversy that implies convergent goals with divergent immigration policy developments.

---

<sup>15</sup> Lucie Cerna, "The Varieties of High-Skilled Immigration Policies: Sectoral Coalitions and Outcomes in Advanced Industrial Countries" (paper presented at the European Union Studies Association Conference, Montreal, Canada, 17-19 May 2007), <http://aei.pitt.edu/7784/1/cerna-l-11i.pdf> (accessed 15 May 2011).

<sup>16</sup> Namely: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom and the United States.

<sup>17</sup> The analysed countries are among the main global highly skilled immigration players.

<sup>18</sup> Lucie Cerna, "The EU Blue Card: A Bridge Too Far?" (paper presented at ECPR Pan-European Conference on EU Politics, Porto, Portugal, 23-26 June 2010), <http://www.jhubc.it/ecpr-porto/virtualpaperroom/041.pdf> (accessed 15 May 2011).

For these reasons, I concur with Cerna's affirmation: "No consistent HSI position of left and right parties exists cross-nationally because different coalitions between groups of high-skilled labour, low-skilled labour and capital take place."<sup>19</sup> Therefore, she builds the theoretical framework of varying HSI policy outcomes based on different types of coalitions of these actors, but also on the distinct preferences they have. Consequently, she designs a schema which is fully applicable to the hypothesis of this essay maintaining that EU national labour markets are diverse and distinct in their immigration policies (Figure 1).

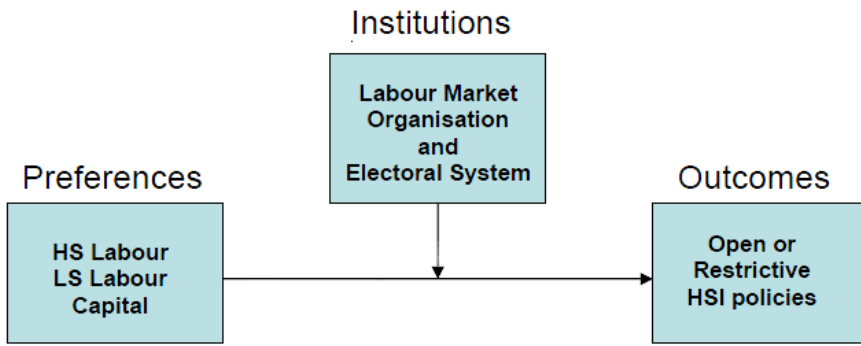


Figure 1: HSI causal schema,  
from: Lucie Cerna, *The Varieties of High-Skilled Immigration Policies: Sectoral Coalitions and Outcomes in Advanced Industrial Countries*, p. 4.

In the above schema, under the section "Preferences", Cerna presents in fact four groups that emerge at individual level, which she later simplifies and reduces to three: native high-skilled workers, native low-skilled workers, high-skilled industries and low-skilled industries. The preferences of these participants are determined by the political-economic organization and institutions governing their political participation. Therefore, she argues, these "Preferences" (i.e. personal wants and desires of political actors), when interacting with "Institutions" (i.e. formal and informal rules), lead to specific outcomes with regard to HSI policies.

Accordingly, she argues that native high-skilled workers oppose more open HSI policies due to labour market competition. The native group of labour would lose in competition with the immigrants, by accepting lower wages and/or facing unemployment. On the other hand, groups of low-skilled workers are more willing and pro-HSI, as they can benefit from greater "productivity and wages through increased demand for labour services."<sup>20</sup> Regarding the high-skilled industries and low-skilled industries, the author groups them under the same capital sector

<sup>19</sup> Cerna, "The Varieties of High-Skilled Immigration Policies," 2.

<sup>20</sup> Barry R. Chiswick quoted in Cerna, "The Varieties of High-Skilled Immigration Policies," 7.

(named “Capital” in the presented chart), which constitute owners and employers that are more or less in favour of the HSI liberalization, as in both groups they benefit from lower wages, greater profit and sustainable production growth. Such a presentation of actors and their preferences on a national labour market has a very wide application. Therefore, this model can be adapted to any EU national labour market.

As a next step, Cerna asserts that coalitions occur between these groups of interests inside a domestic labour market. The author presents three pairs of coalitions between the above-mentioned groups (native high-skilled (HS) labour, native low-skilled (LS) labour and capital) with six winning possibilities that predict six possible HSI policy responses (Table 1). Depending on the strength of the coalition towards the third actor, two HSI outcomes are anticipated.

Coalition line-up	Winner	Predicted HSI outcome
<b>Pair A:</b> 1) HS Labour + LS Labour vs. Capital 2) HS Labour + LS Labour vs. Capital	HS Labour + LS Labour Capital	Restrictive Open
<b>Pair B:</b> 1) HS Labour + Capital vs. LS Labour 2) HS Labour + Capital vs. LS Labour	HS Labour + Capital LS Labour	Restrictive Open
<b>Pair C:</b> 1) LS Labour + Capital vs. HS Labour 2) LS Labour + Capital vs. HS Labour	LS Labour + Capital HS Labour	Open Restrictive

Figure 2: Political coalitions and HSI outcomes, from: Lucie Cerna, *The Varieties of High-Skilled Immigration Policies: Sectoral Coalitions and Outcomes in Advanced Industrial Countries*, p. 8.



The first pair represents the combination of high- and low-skilled labour forces against the capital. If HS Labour and LS Labour make concessions or common agreements, for example supporting each other for higher wages, then, in a specific country, a restricted policy outcome can be predicted. On the contrary, a more open policy towards HSI is sought in case the capital wins, due to favourable benefits both owners and employers have from HSI. In this respect, a relevant example can be seen in the case of Sweden, which until 2006 was mainly protecting its domestic high-skilled workers with no specific policy towards HSI. However, with the change to the pro-business government, the new 2008 Immigration Law “liberalised immigration policy and made it more employer-driven.”<sup>21</sup> The case of Sweden is also relevant as an example of political influence on the coalition shift.

The second pair embodies the high-skilled labour and capital coalition opposing the low-skilled labour. If this coalition emerges to win, then HSI policies are expected to be restrictive. This can occur if a compromise is reached between these groups, for instance when native high-skilled workers agree to accept lower wages in return for less open HSI. Instead, a more open HSI policy outcome is predicted if native low-skilled labour comes out as a winner. The case of Denmark could be relevant for describing the HS Labour and Capital success on the labour market, since both entities participate in policy-making. In 2005, several highly-skilled unions expressed concern about labour immigration and so demanded the government not to lower their wages and to give preferential treatment to Danish unemployed specialists. Therefore, since 2005, the Danish government agencies give advantage to the professionals already residing in the country over foreign immigrants but do not pass by the need of HSI immigration labour in future.<sup>22</sup>

The third pair exemplifies the coalition of low-skilled labour and capital that can lead to more open policy outcomes. In this equation, both parts can benefit from HSI and this can be often seen in practice. However, due to the labour market competition, the native high-skilled workers also have the possibility to succeed. As an example of the succeeding coalition between low-skilled labour and the capital, United Kingdom (UK) can be named as one of the few countries with the most open programmes and policies for attracting high-skilled immigrants<sup>23</sup>. After revision of its immigration scheme in 2008, the UK introduced a target system for five groups. The first two categories are endeavouring to attract high-skilled immigrants, entrepreneurs, investors, and graduate students who have job

---

<sup>21</sup> Lucie Cerna, “Changes in Swedish Labour Immigration Policy: A Slight Revolution?,” *SULCIS Working Paper 2009:10*, 3, [http://www.luciecerna.com/uploads/5/1/2/5/5125288/sulciswp2009\\_10.pdf](http://www.luciecerna.com/uploads/5/1/2/5/5125288/sulciswp2009_10.pdf) (accessed 15 May 2011).

<sup>22</sup> Zimmermann and Kahaneca, “High-Skilled Immigration Policy in Europe,” 7.

<sup>23</sup> Cerna, “Changes in Swedish Labour Immigration Policy: A Slight Revolution?” 7.

offers in the UK.<sup>24</sup> Such an immigration policy output demonstrates the coalition strength of low-skilled labour and capital in a specific country.

Furthermore, according to Cerna's theory, these national actors build coalitions in order to compete for political influence. Therefore, the "Preferences" interact with another set of determinants of the policies outcome, called "Institutions", which comprise labour market organisation and the electoral system. In the interaction process, labour market organisations, represented by unions and employers' associations, target specific coalitions in order to gain authority in the policy-making process. For this reason, in some countries, unions or professional associations rather than political parties are interested in the representation of native, high-skilled workers (e.g. Scandinavia).<sup>25</sup> However, in other countries, preferences differ and hence are directly linked to the political interest and representation (e.g. Sweden, Germany).<sup>26</sup> To sum up, depending on a specific country, national labour actors interact more in response to labour market organisations or political parties and therefore achieve different policy outputs for high-skilled immigrants.

I argue that the described theoretical framework has a cross-national application and therefore can explain the distinct immigration policies approaches and outcomes. Each country has its own domestic coalition on the labour market; labour market organisation and political interests also change from one entity to another. All these disparities at national levels can be transferred successfully to the European level. The theoretical model can also be related to the Blue Card Directive, which provides EU member states with common regulations and provisions to interest foreign high-skilled immigrants in working in the EU. However, because of the earlier described policy approaches and consequences that vary from country to country, I consider that the implementation process resulting in a joint European policy will have dissimilar "shapes" and features, regulated internally on behalf of the sovereign state.

The EU reached promising agreements in terms of economic cooperation; nevertheless, when it comes to immigration, one can notice that member states are reluctant to cede their sovereignty over social or political matters. I argue that besides their will to control such matters, this also happens because of the distinct internal composition of actors, institutions' strength (e.g. associations, unions) and political parties' influence. These findings, based on the discussed Cerna framework, concur with the hypothesis of this paper and support the idea that EU national labour markets are diverse and distinct in their immigration policies approaches and outcomes.

---

<sup>24</sup> UK Border Agency, *Working in the UK*, <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/> (accessed 15 May 2011).

<sup>25</sup> Cerna, "The EU Blue Card: A Bridge Too Far?" 10.

<sup>26</sup> *Ibid.*

## 4 European immigration policy challenges

This section maps out the current challenges to the European immigration policy sector. In order to quantify the analysis, I will use data from the Institute for the Study of Labour (IZA) Expert Survey on High-Skilled Labour Immigration in the EU held in 2009. This survey is relevant to this study because it comprises data on possible inflow tendencies and perceptions of high- and low-skilled immigrants in Europe, based on IZA expert opinions (from a total of 545 fellows, 182 answered all the questions).<sup>27</sup>

Firstly, it appears important to address high and low immigration issues in connection with the current economic situation. Overall in the media it is often reported and assumed that due to the economic crisis the need for immigrants will decrease. Therefore, in search of pros or cons, it is imperative to take into account experts' data. Analysing experts' responses regarding their long-term expectations toward immigrants' labour force in the EU, 85.5% consider that the crisis will not change the need for immigrant labour. Moreover, 87.3% claim that European labour markets need at least as many immigrants as they already have, whereas 56.6% suggest an even higher number.<sup>28</sup> This is to say that the EU should consider immigrants as an essential part of their future economic welfare.

Considering the previous assumptions that high-skilled labour force impacts more positively economic productivity, it is necessary to consider at this stage what the expectations from the immigrant labour force are. 78.6% of the experts surveyed by IZA Institute foresee a growth in low-skilled immigrants' inflows. I believe that this assumption can be developed further. As long as there is no economic stability and safety, no unique diploma recognition system, or language barriers persist even at country level (e.g. bi-, multi-lingual European countries), then most immigrants, both low- and high-skilled, will be more inclined to turn their profile from a high to a low skilled one. This is to say that immigrants, generally, will take on jobs that require a lesser qualification than the ones they had in their country of origin. Therefore, one could anticipate the gaps and weaknesses the European immigration policy has from the perspective of an immigrant.

Building on the theoretical approach discussed above, this paper has shown how and why policy outputs may vary in different countries. Here the focus is on the overall progress of immigration policies and the importance of having more open and immigrant-oriented policies at national and European level. Many scholars argue that European countries rather hold back their immigration policies and therefore markets are affected by labour shortages. Looking back at the data from the survey, only 39.6% of the respondents believe that national EU immigration policies impede the access of third-country high-skilled workers, whereas 65.2% consider the same to be true for the low-skilled immigrants. Consequently, from these figures, it can be concluded that "current immigration policies help to reduce

<sup>27</sup> Zimmermann and Kahaneca, "High-Skilled Immigration Policy in Europe."

<sup>28</sup> *Ibid.*, 3.

the aforementioned mismatch between the supply and demand for high- and low-skilled labour in the EU.”<sup>29</sup>

Another relevant finding is that the respondent experts agreed that both national and European levels were essential when implementing immigration policies. However, only a small percentage considered the national level to be addressed primarily for this issue. This finding suggests that the EU level is the first stage where supranational immigration policies start to harmonise with the national ones. Furthermore, the data from the Eurobarometer 2008 show that 63% of the EU citizens consider that decision-making on the migration and asylum policies should occur at supranational level.<sup>30</sup>

#### 4.1 European HSI policy approaches

Until recently, the media and political discourse perceived immigration as a threat to the European integrity. In particular, not much importance has been given to the specific group of highly skilled immigrants, which are considered among scholars as economic immigrants. Nowadays, as a consequence of the economic crisis and the demographic decline represented by an increasing ageing population, economic immigration has become a priority and many countries have started to revise their domestic immigration policies in order to resolve specific labour market shortages. EU member states responded to this need by opening their internal labour markets, albeit not all of them (e.g. Romania and Bulgaria are still “outside” the free movement of workers zone). The positive developments of the enlargement related to labour markets are clearly stated in the European Commission Directorate General for Economic and Financial Affairs Communication report: “The enlargement has opened, for enterprises in the old member states, new markets for exports and foreign investment. It has offered them opportunities to increase their efficiency and competitiveness.”<sup>31</sup> Later member states started to revise immigration policies at the national level for third-country immigrants, whereas a common Community preference principle was agreed upon on the European level. When analysing the member states policies’ approaches towards third-country nationals, several restrictions can be spotted.

Transitional arrangements limited the EU 10 labour force to the “old” member states (2004 enlargement countries) until May 2010 and are still restricting the EU

---

<sup>29</sup> Ibid., 4.

<sup>30</sup> European Commission, *The role of the European Union in Justice, Freedom and Security policy areas*, Special Eurobarometer no. 290, June 2008, [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_290\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_290_en.pdf) (accessed 15 May 2011).

<sup>31</sup> European Commission, *Five years of an enlarged EU. Economic achievements and challenges*, European Economy no. 1/2009, 5, [http://ec.europa.eu/economy\\_finance/publications/publication\\_summary\\_14081\\_en.htm](http://ec.europa.eu/economy_finance/publications/publication_summary_14081_en.htm) (accessed 15 May 2011).

2 countries (2007 enlargement countries) until 2014.<sup>32</sup> In other words, competition to access the EU 15 labour market is now higher, especially for the highly skilled immigrants. The comparison with the US labour market reveals other unattractive restraining factors in the EU: no single communication language, strongly to moderately differentiated cultural patterns, diverse labour legislations. The listed differences are applicable both for EU nationals and immigrants. One could also add other administrative procedures impeding free circulation for labour migrants. For example, in case of third-country migrants further restrictions apply, such as transfer of social security benefits or health insurance. Furthermore, the tax system and pension scheme in each country is different and complex, both for EU and non-EU citizens. With regard to diploma recognition, foreign highly skilled immigrants face particular difficulties because of the variable coding of educational qualifications. Also, referring to the Directive 2005/36/EC on the recognition of professional qualifications, the related costs are high and the process is time-consuming.<sup>33</sup>

## 5 HSI developments and improvements at national and international level

This section adds an empirical layer to the research by examining two case studies of Spain and Germany. This analysis focuses on HSI policy developments and improvements at national levels. These countries have been selected on the grounds of different migration patterns: one from Southern Europe and the other from the Nordic corpus. Moreover, Spain presents a good case study due to the fact that it used to be an emigrant country which later emerged into one of the most attractive countries for a big number of low-skilled workers. Germany, instead, after World War II, has always been a popular host country for immigrants. Its immigration policies were revised twice during the last decade (in 2005 and 2009) and during the discussions on the approval of the Blue Card, Germany insisted on restricting the HSI for the first 18 months to one country. Therefore these two contrasting EU countries present good grounds for comparison of the success of their HSI policies. The findings and reflection of this comparison will also be applied to the Blue Card Directive.

---

<sup>32</sup> “EU free movement of labour map,” *BBC*, 17 April 2009, <http://news.bbc.co.uk/2/hi/europe/3513889.stm> (accessed 15 May 2011).

<sup>33</sup> European Union, The European Parliament and the Council of the European Union, *Directive 2005/36/EC on the recognition of professional qualifications*, EUR-Lex, 7 September 2005, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005L0036:20090427:EN:PDF> (accessed 15 May 2011).

## 5.1 Spain HSI policy developments and improvements

In 2005 Spain legalised 700.000 illegal immigrants. This decision was highly debated at the European level.<sup>34</sup> Nonetheless, the general work permit procedure in Spain functions in two ways. Either the immigrant has a Spanish employer with an “offer of employment” or a home employer hosted by a Spanish company. To be eligible for the second case, the worker should be remunerated from the home country. The work permit validity in the first case is up to three years maximum, whereas in the second case it can be for a maximum of nine months.<sup>35</sup> With respect to high-skilled workers, there is no direct mentioning of the category in Spanish immigration policies. Still, there are specific provisions applicable to certain categories of workers (e.g. researchers, academics, etc.), as well as a list of in-demand jobs.<sup>36</sup> With regard to social security, the period of registration with the Spanish authorities is one month. Spain is one of the EU countries that already incorporated the Blue Card Directive provision into its national law, but has not started accepting applications yet. As a result, the social security registration period has been extended to three months. Also, no more “offer of employment” is required. Nonetheless, with the introduction of the Blue Card, a formal labour contract with the proposed salary is required and it must be registered with a local employment office.<sup>37</sup>

## 5.2 German HSI policy developments and improvements

In 2005 and in 2009 Germany revised its Immigration Law and in both cases anticipated and introduced separate provisions for the high-skilled citizens of the new EU members and their families. Non-EU immigrants can receive a work permit only if there is a specific job position. However, priority to Germans, EU citizens, citizens from EEA states will be given over high-skilled immigrants from non-EU countries.<sup>38</sup> A temporary residence permit can lead to a permanent one after a stay of five years. The German legislation does not stipulate fixed salaries, but foresees language and culture integration courses for any immigrant (both EU and non-EU). Due to the special provisions enacted by the Immigration Law from 2009,

---

<sup>34</sup> Katya Adler, “Spain stands by immigrant amnesty,” *BBC*, 25 May 2005, <http://news.bbc.co.uk/2/hi/4579127.stm> (accessed 15 May 2011).

<sup>35</sup> Ministry of Labour and Immigration of Spain, <http://www.mtin.es/en/index.htm> (accessed 15 May 2011).

<sup>36</sup> “The EU Blue Card in Spain,” *Spain Expat*, 27 February 2010, [http://www.spainexpat.com/spain/information/the\\_eu\\_blue\\_card/](http://www.spainexpat.com/spain/information/the_eu_blue_card/) (accessed 15 May 2011).

<sup>37</sup> Berry Appleman & Leiden LLP, “SPAIN – Introduction to the EU Blue Card and Changes to the National Immigration Law,” *LexUniversal*, 30 March 2010, <http://lexuniversal.com/en/news/10787> (accessed 15 May 2011).

<sup>38</sup> German Federal Ministry of Labour and Social Affairs, *Working in Germany*, 2009, [http://www.german-info.com/images/business\\_images/a388\\_\\_fachkraefte\\_arbeitnehmer\\_your\\_future\\_in\\_germany.pdf](http://www.german-info.com/images/business_images/a388__fachkraefte_arbeitnehmer_your_future_in_germany.pdf) (accessed 15 May 2011).

third-country nationals and their family members that hold university degrees and have jobs are allowed to work without the consent of the Federal Employment Agency.<sup>39</sup> Other positive developments are also listed in the law.<sup>40</sup>

By and large, the German immigration legislation liberalised and became more open towards HSI. But, even if Germany revised its approach for immigration, statistics show that it “did not seem to be the cause for an increase in the number of high-skilled foreign immigrants – only 151 in 2007 and still just 157 in 2008.”<sup>41</sup> Analysing further the German case and recalling the theoretical framework provided at the beginning of the paper, the case study can be enriched with more details regarding its political stage and the high-skilled immigrants’ policies. Germany is a country where on the national arena strong and prominent low-skilled native labours and the capital are present (unions, employers’ organisations, etc.).<sup>42</sup> The failure of the Green Card program can be explained by the fear of the unions to get lower wages. Only as time passed, following a lot of debates between the political parties and many compromises, was the new Law on Immigration adopted in 2009, a law which is more open toward HSI workers.

With regard to the Blue Card Directive, during the discussions leading to its adoption, Germany insisted on restricting the HSI for the first 18 months to a certain country. At the beginning, Germany opposed and refused the implementation of the EU Commission project aimed at highly skilled immigrants.<sup>43</sup> However, in August 2010, the German Chancellor Angela Merkel rejected the proposals of two cabinet members to improve the current HSI regulations in favour of the Blue Card.<sup>44</sup> No further information is available regarding the integration of the Blue Card into the existing immigration system of Germany.

---

<sup>39</sup> Zimmermann and Kahaneca, “High-Skilled Immigration Policy in Europe,” 7.

<sup>40</sup> In 2000, Germany also introduced an individual Green Card system to attract IT specialists. However, because of poor success, it was stopped.

<sup>41</sup> Steffen Angenendt and Roderick Parkes, “The Blue Card Impasse: Three Options for EU Policy on Highly Qualified Immigrants,” *German Institute for International and Security Affairs Comments*, June 2010, [http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C14\\_adt\\_pks\\_ks.pdf](http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C14_adt_pks_ks.pdf) (accessed 15 May 2011).

<sup>42</sup> Cerna, “The Varieties of High-Skilled Immigration Policies,” 18.

<sup>43</sup> David Crossland, “Germany Shows Red Card to EU’s Blue Card Idea,” *Spiegel Online International*, 14 September 2007, <http://www.spiegel.de/international/germany/0,1518,505843,00.html> (accessed 15 May 2011).

<sup>44</sup> “Germany rejects call for immigration proposal in favour of EU blue card,” Blue Card Immigration.com, 22 August 2010, <http://bluecardimmigration.com/news/2010-08-22/germany-rejects-call-immigration-proposal-favor-eu-blue-card.htm> (accessed 15 May 2011).

### 5.3 Competitiveness of the European Blue Card in comparison with the United States Green Card

The EU Blue Card policy is comparable to the US Green Card, the main European competitor in attracting migrants. The table below shows the main convergent and divergent features of both systems.

<b>Blue Card (EU)</b>	<b>Green Card (US)</b>
Does not give permanent residency.	Gives holder permanent residency.
Valid up to four years, renewable.	Valid for 10 years, renewable.
Allows holder and family to live, work and travel in the EU.	Allows holder and family to live, work and travel in the US.
Applicant must present: <ul style="list-style-type: none"> <li>• a recognised diploma, and;</li> <li>• proof of at least three years of professional experience, and;</li> <li>• a one-year EU job contract with an annual salary of 1.5 times the average gross annual salary.</li> </ul> Nevertheless, the Blue Card will be attached to the individual, not the job.	Five channels to seek a card: <ul style="list-style-type: none"> <li>• employment, or;</li> <li>• family links, or;</li> <li>• a lottery, or;</li> <li>• investment, or;</li> <li>• resident since before 1972.</li> </ul>
Permanent residency automatic after five years.	Holders can become US citizens after five years.

Figure 3: European Blue Card in comparison with the United States Green Card, from: An EU 'Blue Card'; for high-skilled immigrants?, EurActiv, 2009.

Analysing the table, one can see that the only common feature the two schemes share is the possibility to renew the card. As for the rest, it might appear that the Blue Card is more attractive for the holder's families to live, work and travel in the EU. However, this is not necessarily the case, as the US Green Card offers many more channels to seek a card, as well as a longer validity period and a permanent residence with the possibility to become a US citizen. For the most part, when comparing it to another internationally competitive system, the value of the EU model has decreased. According to Elspeth Guild, the EU Blue Card will not assure "the security of residence and access to the labour market that the US Green Card does."<sup>45</sup> Neither will it formulate "a right of entry for a labour migrant."<sup>46</sup> In addition, proceeding from the Directive provisions, the migrant worker has access

<sup>45</sup> Elspeth Guild, "EU Policy on Labour Migration: A First Look at the Commission's Blue Card Initiative," *CEPS Policy Brief no. 145*, November 2007, <http://ssrn.com/abstract=1334076> (accessed 15 May 2011).

<sup>46</sup> Ibid.



solely to one EU member state at a time. As a result, the mobility of the worker is geographically limited and offers fewer job opportunities. Therefore, the Blue Card programme is less flexible and competitive with similar programmes, such as the US Green Card, aimed at attracting highly skilled workers.

## 6 Critical approach toward the future of the Blue Card and the existing HSI policies

When connecting the Blue Card features and functionalities to a broader European HSI immigration context, it can be observed that it offers some positive developments, such as the right to permanent residence for highly skilled immigrants and their family members. The possibility for a third-country national to move from one labour market to another after a minimum of 18 months can also be perceived as positive. Another positive element is the equal treatment in terms of working conditions, social security, pensions, recognition of diplomas, and access to services.

On the other hand, one needs to point out the impediments that could stop immigrants from considering the Blue Card program attractive. The case study of Spain and Germany showed us different levels of “readiness”, awareness and openness with regard to highly skilled immigrants. One could argue that some countries might appear more attractive than others due to bigger salaries and more HSI job opportunities, such as in the case of Germany. However, the differences these countries revealed may also create limitations. Based on the same case study, facts such as language barrier or the missing immigration integration programmes (refer to the case of Spain) can reflect negatively on the success of the Blue Card. Besides, the Blue Card Directive itself does not offer a concrete definition for HSI, which might result in some countries interpreting this profile of migrants in a different manner. Coupled with these negative outcomes of the programme, one could add the fact that each country, in light of the sovereignty principle, will determine its own need of HSI inflows and set domestic labour preferences over the HSI. Similarly, one could understand the first 18 months period of admission as limiting. The lack of a common recognition framework for qualifications and skills together with the social security, health insurance, taxes and other elements will still remain different among member states and as such will create restraints with regard to third-country nationals.<sup>47</sup>

To sum up, the Blue Card can be considered as a good tool in order to reduce differences at the European level. However, it should be seen only as a system that offers a common process that intends to attract highly skilled immigrants to the job vacancies that EU member states need to fill. Taking into consideration all the

---

<sup>47</sup> European Commission, Migrant Worker section, last updated 11 March 2011, [http://ec.europa.eu/youreurope/citizens/work/migrant-worker/index\\_en.htm](http://ec.europa.eu/youreurope/citizens/work/migrant-worker/index_en.htm) (accessed 15 May 2011).

above-mentioned constraints, the application of the system appears to be limited in scope and effectiveness.

## 7 Conclusion

Data on the current labour situation in the EU seem to suggest a lack of highly qualified professionals. To attract this segment of the labour force, the EU developed an analogue to the American Green Card – the Blue Card, a special work permit with a temporary residence condition. One of its main objectives is to create a common process regulating the entry and residence of third-country nationals for the purposes of highly qualified employment. Taking into consideration the distinctive European labour market preferences and demands, the cross-national theoretical framework showed in detail the immigration policy construction cycle, with a special emphasis on the national process of policy making. The theoretical framework explains how and why distinct immigration policies approaches have certain outcomes on national immigration policy. Examples of coalitions that exist in some countries showed that the disparities at national levels, transferred to the European level, also lead to diversification of policy results. Consequently, the case studies of Spain and Germany exemplified contrasting national immigration legislations and Blue Card approaches that have dissimilar “shapes” and features. The comparison with its US competitor – the Green Card – coupled with earlier depicted attributes, revealed further gaps and weaknesses of the Blue Card limiting the attractiveness of the system as a whole.

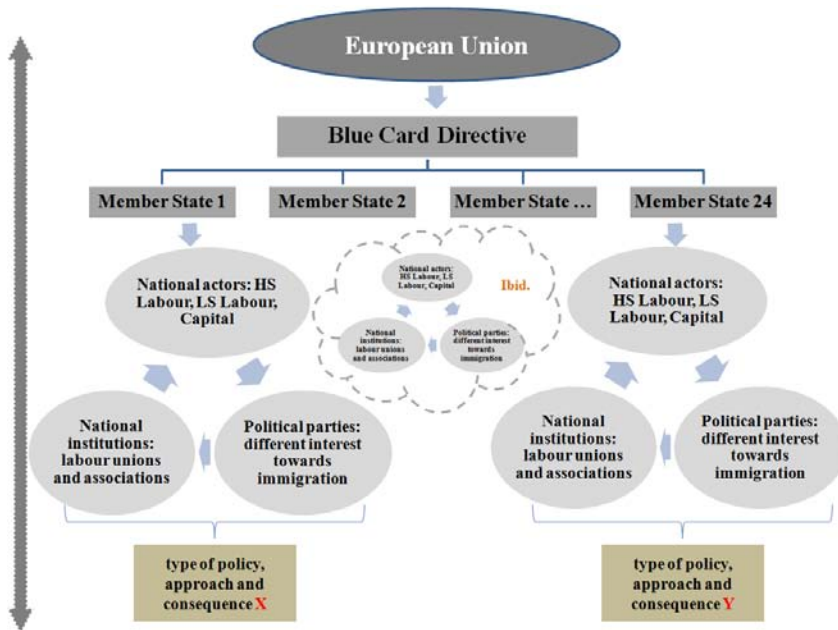


Figure 4

The chart above schematises the main conclusion of this paper: namely that as long as an EU policy area is dominated by distinct and divergent national interests and coalitions, its outputs will vary from country to country. Therefore, in the case of the Blue Card, whenever the EU launches an immigration procedure, each member will implement it in an individual way influenced by the existing actors on the national stage. The same pattern can be seen in the decision-making process at the EU level, where each state will try to push forward its distinctive approach and interest, as it happened with the lengthy approval of the Blue Card. In the end, on account of strong sovereignty willingness, EU member states agreed on a common process, but with a minimal number of harmonising and unifying provisions. The underlying hypothesis of this essay holds true: the diversity of EU national labour markets and distinct national immigration policies limit the effectiveness of the Blue Card. The individual member states need more convergence of their national immigration policies in order to provide a truly attractive scheme for highly qualified workers. In the short and medium term, this does not appear to be the case.

## Bibliography

- “An EU ‘Blue Card’ for high-skilled immigrants?” *European Union Information Website EurActiv*, 22 April 2008, <http://www.euractiv.com/en/social/europe/eu-blue-card-high-skilled-immigrants/article-170986> (accessed 15 May 2011).
- Adler, Katya. “Spain stands by immigrant amnesty.” *BBC*, 25 May 2005, <http://news.bbc.co.uk/2/hi/4579127.stm> (accessed 15 May 2011).
- Angenendt, Steffen, and Parkes, Roderick. “The Blue Card Impasse: Three Options for EU Policy on Highly Qualified Immigrants.” *German Institute for International and Security Affairs Comments*, June 2010, [http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C14\\_adt\\_pks\\_ks.pdf](http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C14_adt_pks_ks.pdf) (accessed 15 May 2011).
- Berry Appleman & Leiden LLP. “SPAIN – Introduction to the EU Blue Card and Changes to the National Immigration Law.” *LexUniversal*, 30 March 2010, <http://lexuniversal.com/en/news/10787> (accessed 15 May 2011).
- Cerna, Lucie. “Changes in Swedish Labour Immigration Policy: A Slight Revolution?” *The Stockholm University Linnaeus Center for Integration Studies Working Paper 2009:10*, 2009. [http://www.luciecerna.com/uploads/5/1/2/5/5125288/sulciswp2009\\_10.pdf](http://www.luciecerna.com/uploads/5/1/2/5/5125288/sulciswp2009_10.pdf) (accessed 15 May 2011).
- Cerna, Lucie. “The EU Blue Card: A Bridge Too Far?” Paper presented at ECPR Pan-European Conference on EU Politics, Porto, Portugal, 23-26 June 2010. <http://www.jhubc.it/ecpr-porto/virtualpaperroom/041.pdf> (accessed 15 May 2011).
- Cerna, Lucie. “The Varieties of High-Skilled Immigration Policies: Sectoral Coalitions and Outcomes in Advanced Industrial Countries.” Paper presented at the European Union Studies Association Conference, Montreal, Canada, 17-19 May 2007. <http://aei.pitt.edu/7784/1/cerna-l-11i.pdf> (accessed 15 May 2011).
- Crossland, David. “Germany Shows Red Card to EU's Blue Card Idea.” *Spiegel Online International*, 14 September 2007, <http://www.spiegel.de/international/germany/0,1518,505843,00.html> (accessed 15 May 2011).
- “EU free movement of labour map.” *BBC*, 17 April 2009, <http://news.bbc.co.uk/2/hi/europe/3513889.stm> (accessed 15 May 2011).
- European Commission. *Attractive conditions for the admission and residence of highly qualified immigrants*. Press releases RAPID, MEMO/07/423, 23 October 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/423#fnB1> (accessed 15 May 2011).
- European Commission. *Entry and residence of highly qualified workers (EU Blue Card)*. Summaries of EU legislation, last updated 18 August 2009, [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_mo](http://europa.eu/legislation_summaries/justice_freedom_security/free_mo)

- vement\_of\_persons\_asylum\_immigration/114573\_en.htm (accessed 15 May 2011).
- European Commission. *Five years of an enlarged EU. Economic achievements and challenges*. European Economy no. 1/2009, Office for Official Publications of the European Communities, 2009, [http://ec.europa.eu/economy\\_finance/publications/publication\\_summary14081\\_en.htm](http://ec.europa.eu/economy_finance/publications/publication_summary14081_en.htm) (accessed 15 May 2011).
- European Commission. *Making Europe more attractive to highly skilled migrants and increasing the protection of lawfully residing and working migrants*. Press releases RAPID, IP/07/1575, 23 October 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1575> (accessed 15 May 2011).
- European Commission. Migrant Worker section, last updated 11 March 2011, [http://ec.europa.eu/youreurope/citizens/work/migrant-worker/index\\_en.htm](http://ec.europa.eu/youreurope/citizens/work/migrant-worker/index_en.htm) (accessed 15 May 2011).
- European Commission. *Population projections*. Eurostat, data from April 2011, [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Population\\_projections](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Population_projections) (accessed 15 May 2011).
- European Commission. *The role of the European Union in Justice, Freedom and Security policy areas*. Special Eurobarometer no. 290, June 2008, [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_290\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_290_en.pdf) (accessed 15 May 2011).
- European Union. The Council of the European Union. *Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*. EUR-Lex, 25 November 2003, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML> (accessed 15 May 2011).
- European Union. The Council of the European Union. *Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*. EUR-Lex, 25 May 2009, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0050:EN:NOT> (accessed 15 May 2011).
- European Union. The European Parliament and the Council of the European Union. *Directive 2005/36/EC on the recognition of professional qualifications*. EUR-Lex, 7 September 2005, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005L0036:20090427:EN:PDF> (accessed 15 May 2011).
- German Federal Ministry of Labour and Social Affairs. *Working in Germany*. BMAS, 2009. [http://www.german-info.com/images/business\\_images/a388\\_fachkraefte\\_arbeitnehmer\\_your\\_future\\_in\\_germany.pdf](http://www.german-info.com/images/business_images/a388_fachkraefte_arbeitnehmer_your_future_in_germany.pdf) (accessed 15 May 2011).
- “Germany rejects call for immigration proposal in favour of EU blue card.” *Blue Card Immigration.com*, 22 August 2010,

- <http://bluecardimmigration.com/news/2010-08-22/germany-rejects-call-immigration-proposal-favor-eu-blue-card.htm> (accessed 15 May 2011).
- Guild, Elspeth. "EU Policy on Labour Migration: A First Look at the Commission's Blue Card Initiative." *CEPS Policy Brief no. 145*, November 2007, <http://ssrn.com/abstract=1334076> (accessed 15 May 2011).
- Ministry of Labour and Immigration of Spain. <http://www.mtin.es/en/index.htm> (accessed 15 May 2011).
- Muenz, Rainer. "Aging and Demographic Change in European Societies: Main Trends and Alternative Policy Options." *SP Discussion Paper no. 0703*, Social Protection Advisory Service, The World Bank, March 2007, <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Labor-Market-DP/0703.pdf> (accessed 15 May 2011).
- "The EU Blue Card in Spain." *Spain Expat*, 27 February 2010, [http://www.spainexpat.com/spain/information/the\\_eu\\_blue\\_card/](http://www.spainexpat.com/spain/information/the_eu_blue_card/) (accessed 15 May 2011).
- UK Border Agency. *Working in the UK*. UK Border Agency Home Office, <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/> (accessed 15 May 2011).
- Zimmermann, Klaus F., and Martin Kahaneca. "High-Skilled Immigration Policy in Europe." *Institute for the Study of Labour Discussion Paper No. 5399*, December 2010, <http://ftp.iza.org/dp5399.pdf> (accessed 15 May 2011).