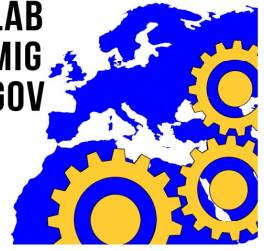


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**Policy papers**

**HOW TO MAXIMISE THE BENEFITS OF  
HIGHLY SKILLED MIGRATION**

**What can be learned from Canada and Spain**

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April 2014

## **Executive summary**

The creation of recruitment schemes for highly skilled migrants is at the top of many Western countries' policy agenda. The European Union approved the 'Blue Card Directive' in order to provide EU Member States with a common framework for recruiting highly skilled workers, aiming to strengthen European competitiveness. However, the goal of making the European Union more attractive for highly skilled migration is challenged by the persisting diversity of EU Member States in terms of production structures, credential recognition procedures or language. Using Spain and Germany as reference cases, this policy paper seeks to highlight which specific barriers may inhibit the transformation of the European Union into a 'global player' in the recruitment of human talent and which strategies may be applied to overcome them.

## Introduction

Attracting highly skilled migrants currently represents a major challenge for many EU Member States. Policy makers and migration scholars agree that recruitment schemes for highly skilled migrants can be considered as a useful strategy for adapting to the socio-economic, technological and demographic changes fuelled by rapidly changing labour markets. Highly skilled migration is not only seen as a boost to human capital development, but also as a strategic choice to avoid immigrants' welfare dependency and integration problems. As the EU Commission stated recently, "Europe is part of a globalized and interconnected world where international mobility is expected to increase [...] It will be crucial to maximise the benefits Home Affairs policies can bring to fostering economic growth and attract people with the right skills" (EU-Commission, 2014: 2). The European 'Blue Card Directive' to regulate the entry and residence of third-country nationals for highly qualified employment certainly represents the first important step in this direction.

This notwithstanding, it is worth noting that Europe's attractiveness for highly skilled workers still very much depends on how recruitment schemes for highly skilled workers are managed by single EU Member States. As a matter of fact, the European migration panorama is highly diversified in terms of labour market structures, credential recognition procedures and language. Consequently, country-related variables may jeopardise the overall attractiveness of the European Union for highly skilled workers, despite the existence of common rules at the supranational level. In view of this, policy makers should take into account such a diverse panorama in order to better assess Europe's chances of being a global player in attracting human talent. Moreover, a better knowledge about existing shortcomings at the national level may help EU Member States to avoid the mistakes made by internationally renowned human capital models such as in Canada, where the recognition of credentials or language skills have constituted an important barrier to integrating highly skilled migrants for decades.

The objective of this policy paper is to highlight which factors may hamper Europe's competitiveness, using Germany and Spain as reference cases. Analysis of recruitment policies for highly skilled workers in Germany and Spain may provide insight into possible barriers to highly skilled migration in two very different European migration regimes. To achieve this goal, this policy brief focuses on i) the main recruitment tools for attracting highly skilled workers ii) foreign credential recognition procedures iii) language skills and finally iv) the use of nationality requirements. Analysis will be used to draw up a series of recommendations in order to maximise the benefits of highly skilled migration and to avoid system dysfunctionalities such as down-skilling practices.

## **1. Tools for recruiting highly skilled workers in Germany and Spain**

The 'Blue Card Directive' currently represents the main pillar for recruiting highly skilled workers in both Germany and Spain. The transposition of the directive in both countries has been complemented by additional tools with the goal of accelerating recruitment procedures. The Spanish government has created the 'Unit of Large Companies and Strategic Groups', an independent department of the Spanish Ministry of Labour that provides large Spanish companies with a fast-track procedure for recruiting highly skilled workers from abroad without a foregoing labour market check. Since 2011, this 'fast-track procedure' has also been available to certain types of medium-sized businesses in the information technology, renewable energy, environmental, water, health, bio-pharmacy, biotechnology, aeronautical and aerospace sectors. However, it is important to note that highly skilled technicians recruited via the Unit can be hired either through the 'Blue Card' regime or the general regime, which represents the general employment framework for foreign workers in Spain. The main differences between the two recruitment avenues regard salary requirements. The minimum gross salary of € 28,090 required for recruitment through the general regime is lower than that required for the 'Blue Card' regime. Interestingly, the outburst of the economic crisis did not interrupt the Unit's functioning, which can be considered a sign of the persisting demand of some types of highly skilled workers in Spain.

In contrast to Spain, Germany does not have a separate department for recruiting foreign workers, and has completely lifted the foregoing labour market check for highly skilled foreign workers unless the salary offered by the employer falls below the minimum standards set by the 'Blue Card' regulation. The general minimum salary requirement is now € 44,800, but a special minimum salary threshold of € 36,000 was introduced for highly skilled workers in the so-called MINT professions (mathematics, informatics, natural sciences and technology) and the medical sector. The aim of lowering the salary was to make the recruitment of foreign workers more attractive to German businesses, especially small and medium-sized enterprises. The German Residence Act also introduced a new visa for highly skilled foreign job-seekers looking for work in Germany who can prove that they are able to sustain themselves financially despite not having a potential employer in Germany.

As can be seen, both the German and the Spanish cases show that the abolition of labour market checks, the introduction of positive occupation lists and the creation of a visa for job seeking may represent useful tools for supporting the recruitment of highly skilled workers. It is also worth noting that the creation of new entry channels for highly skilled workers went hand in hand with a reduction of minimum salary requirements in both countries in order to make highly skilled foreign workers more attractive to businesses.

All these novelties notwithstanding, the recruitment of highly skilled workers also continues to depend on the size and recruitment philosophy of businesses. In fact, not all types of businesses seem to rely on the 'Blue Card' to recruit highly skilled workers. Large Spanish businesses usually prefer to recruit workers who are already part of the business' network. In fact, they usually try to rotate their personnel and only rarely look for people whose qualifications are lacking in Spain. This is also why large companies prefer intra-company transfers to individual recruitment whereas the 'Blue Card' regulation is only used in a few cases to recruit non-company members abroad. The preference of large companies for intra-company transfers was already observed in the German case before the implementation of the 'Blue Card Directive' (Kolb 2004). As German interviewees observed, some large German businesses do not necessarily need to recruit foreign workers in engineering professions since they are attractive to German workers. Furthermore, large firms also rely on alternative recruitment channels such as intra-company transfers or direct recruitment from German universities. Hence, the most urgent shortages concern the recruitment of foreign workers by small and medium-sized businesses that are experiencing increasing bottlenecks in specific labour market segments and that are often geographically isolated. For this reason, the governments of some German *Länder* (the German federal units), such as Bavaria, have launched regional campaigns to attract foreign workers while the German federal government has decided to introduce a visa for job-seekers to facilitate the employment of highly skilled workers in small and medium-sized firms. This notwithstanding, the employment of foreigners in small and medium-sized businesses still seems to be hampered by a lack of trust in foreign degrees and applicants' inadequate German skills. In this respect, improving foreign credential recognition procedures certainly represents one of the most important steps towards improving the quality and effectiveness of recruitment programmes for highly skilled workers in all EU Member States.

## **2. Recognising foreign credentials**

Restrictive recognition policies are often seen as a major obstacle to the employment of highly skilled workers. For instance, it is well known that the recognition of credentials in Canada is a barrier to integrating highly skilled migrants in highly skilled jobs (Reitz, 2007; Brouwer, 1999). While there are usually no recognition requirements for non-regulated professions such as IT specialists, foreign credential recognition is particularly relevant in the case of highly regulated professions. Since 1975, EU Member States almost automatically recognise degrees obtained at any officially recognised university in the European Union. The EU directive 2005/36/EC of 7 September 2005 regulates the recognition of professional qualifications obtained in an EU Member State. However, regulations for third-country nationals depend to a great extent on internal rules. The German government soon acknowledged that the creation of new avenues for highly

skilled migrants had to be matched by an improvement in foreign credential recognition procedures. For this purpose, the new recognition law of 2012 (*Berufsqualifikationsanerkennungsgesetz*) establishes a common and transparent recognition procedure that may take no longer than three months and that can also be started from the applicant's country of origin. The new regulation aims to facilitate the recruitment of highly skilled professionals in technology and the health care sector, where the demand for foreign physicians is particularly urgent in rural areas and for certain types of specialties, such as family medicine.

Foreign credential recognition procedures are highly decentralised and are processed by different state offices, depending on the profession concerned. In the case of the health care sector, for instance, the recognition of specialty training depends on the State Chambers of Physicians (*Ärztekammer*), while the authorities of the *Länder* are responsible for recognising medical degrees. In contrast, the recognition of engineering degrees is processed by different types of authorities depending on the German state. However, the German government supported the establishment of the "Integration for Qualification" network, whose units are in charge of advising applicants on their chances of recognition. The new German foreign credential recognition system represents one of the most valuable contributions to improving the integration of foreigners on the labour market in Germany. Especially in the case of technical occupations, such as engineering, the approval of a recognition law has certainly helped to reduce mistrust in foreign degrees, which seems to be quite widespread in the German business world. In Germany, title recognition is required in order to hold or use the German title 'engineer' or 'consulting engineer', but the person need not actually to be employed as an engineer. Notwithstanding this, title recognition is not an aspect of secondary importance because it implies a different positioning in terms of responsibilities, tasks and, above all, salary. For this reason, foreign engineers generally prefer to have their foreign credentials recognised in order to enhance their chances of integration in the highly regulated German labour market.

However, the new foreign credential recognition system has not managed to eliminate barriers to entering the labour market. First, the German recognition system is still fragmented because not all German states have ratified the federal recognition law, which means that they continue implementing state law. Second, the right to apply for recognition does not necessarily imply an automatic right of recognition. This is particularly relevant in the case of physicians. In order to obtain a full licence to practice, non-EU physicians must pass a complete state of knowledge examination (Art. 3 § 3 BAÖ) if recognition bodies detect deficits in their professional and education background, which is often the case. On the one hand, this rule allows German professional organisations (as part of the recognition bodies) to retain a certain level of control over the entry of foreign physicians. On the other hand, it has triggered a kind of magnet effect towards those state authorities and chambers that seem to be more generous than the others in recognising foreign credentials.

Quite strikingly, interviewees have also highlighted difficulties with respect to the automatic recognition of specialty training carried out in other EU Member States. In fact, not all EU countries seem to implement the so-called IMI (Internal Market Information system) properly, which hampers the effective information exchange of foreign qualifications between different state administrations. Moreover, there is a clear lack of information with respect to the characteristics of specialty training carried out in new EU Member States. All this notwithstanding, it can be argued that Germany's policy makers have demonstrated not only their ability to carry out the necessary legislative reforms to improve foreign credential recognition procedures, but also to build the necessary administrative machinery to achieve this goal.

The decentralised German procedure stands in contrast to the highly centralised Spanish recognition system, where the Ministry of Education is responsible for almost all types of degree recognition. The centralised organisation and the absence of time limits clearly affect the speed at which applications are processed. For this reason, cumbersome procedures are usually referred as a major barrier to foreign credential recognition in Spain. According to available information, it takes about one year for medical degrees to be recognised. This means that foreign doctors can only apply for specialty training once their medical degree has been recognised. In contrast, the recognition of medical specialties proved to be even slower and much more cumbersome than the recognition of medical degrees. Long and cumbersome recognition procedures not only hindered recruitment, but also contributed to the development of bad practices in some hospitals which, during the economic boom, decided to hire doctors whose specialty recognitions were still being processed (González López-Valcárcel et al. 2011). As can be seen, credential recognition requirements can easily be used by the government to delay the entry of third-country professionals. In contrast, title recognition is not absolutely necessary for other regulated professions such as engineers. In fact, engineers only need their credentials to be recognised in order to become a member of the corresponding licensing body and to lead projects. In other words, third-country professionals can be employed as engineers in Spain without degree recognition if they are not required to lead projects. However, if recognition of an engineering degree is formally required for some reason, the recognition procedure can take up to two years. In such a case, the existence of bilateral agreements with third countries seems to facilitate the recognition process. Recently, for instance, the Spanish government signed an agreement with the Chilean government to facilitate the exchange of professionals between the two countries. In some cases, it is the Large Companies Unit itself that advises applicants to use a different type of job description in the contract (e.g. technician instead of engineer or researcher instead of chemist) to avoid any potential bureaucratic hassle related to recognition and to favour micro-matching between employees and employers (Finotelli 2013).

### 3. Language skills

Together with foreign credential recognition, language skills are certainly one of the most important determinants in the recruitment of highly skilled workers. Knowledge of the host-country language not only increases the attractiveness of a destination country over others; it is also an important factor concerning the integration of migrants. That is why language skills have to be assessed before recruiting highly skilled workers. However, the relevance of such requirements may differ depending on the profession or the migrant's country of origin. Spain's connection with Latin American migration systems, for instance, makes the country particularly attractive to Latin American citizens, who are easier to integrate on the labour market than other national groups. Moreover, the formal assessment of language skills is not always necessary if other types of filters exist. The central examination for medical training in Spain, for instance, is an important tool for eliminating inadequate applicants because it is virtually impossible to pass the examination without a proper knowledge not just of medicine but also of the Spanish language. In this respect, improving Spanish language skills has never evolved into a specific policy goal. This is not the case in Germany. Poor German language skills currently represent an important integration barrier for foreign technicians and physicians. Even though language skills are perceived to be less relevant in technical professions (such as engineering), analysis of the German case shows that the relevance of language skills depends on the type of technical profession and the size of the firm. Most IT experts and researchers communicate in English, but this is not always the case with engineers. In this case, German language skills seem to be very important for interacting with colleagues not only in small and medium-sized businesses, but also in some large businesses. That is why German language skills continue to play a major role in determining the choice of candidate, who will inevitably be a German-speaking candidate. The sensation of trust induced by the knowledge of the language spoken in the country of destination is not an isolated phenomenon, but has been observed in other immigration countries such as Canada (Finotelli 2013). Despite this, the health care sector is probably where language skills are particularly relevant due to physicians' wide range of personal interactions. In Germany, state *Länder* authorities have agreed that intermediate language skills (B2) are required before a full licence can be issued, even though it is up to the recognition office to decide whether a simple language certificate suffices or whether an additional language test is required. In the German case, it is striking that C2 level (*proficiency A/N*) is required to study in Germany, while it suffices to have B2 level to work as a physician. Due to the increasing difficulties encountered in recruiting physicians with advanced German skills, several State Chambers have joined forces to organise language training. This notwithstanding, the design and implementation of policies to unify language requirements at the federal level are still inadequate. The reason may be related to fear that higher requirements would make Germany less attractive to highly skilled workers. However,



failing in tackling this issue would certainly affect German attractiveness in the long term and sensibly reduce the employment possibilities of highly skilled workers in Germany.

#### **4. The use of nationality requirements**

Nationality requirements and nationality caps for the entry of highly skilled workers can easily reduce the efficiency of recruitment schemes for highly skilled workers. Quite interestingly, the use of nationality requirements to prevent the entry of foreign workers seems to be particularly common in the health care sector. Both the German and the Spanish case show that nationality requirements can be used by governments as “instruments of exclusion” to halt the entry of foreign workers. Before the new German recognition law was approved in 2012, paragraph 3 of the *Bundesärzteordnung* (Federal Regulation of the Medical Profession) stated that a full licence to practice in Germany could only be issued to German or EU citizens, whose medical degrees or medical training are considered equivalent (*gleichwertig*) to German degrees and are therefore almost automatically recognised. Therefore, prior to 2012, it was almost impossible for non-EU citizens to have their specialty training abroad recognised without having previously obtained a full licence to practice. The application of nationality-based restrictions to the medical profession in Germany made this field *de iure* inaccessible to non-EU citizens for many years. The nationality requirement has been lifted in the context of the major paradigm shift in the German immigration model, from which foreign physicians could be barely excluded. The favourable economic situation and the increasing demand for foreign physicians, especially in certain types of specialties, have certainly facilitated this process. In contrast, nationality requirements continue to play an important role in employment in the Spanish health care sector, where the main avenue for entering the medical profession is centrally regulated medical training. Physicians’ access to medical training depends on their rank after taking a state examination. However, the access of non-EU foreigners to medical training was formally limited by a “cap for foreigners” (*cupo de extranjeros*) in the total training slots available, which was not permitted to exceed 10 per cent of all available training slots. The nationality cap was lifted only between 2007 and 2010 to respond to the widespread feeling that Spain required more physicians. This enabled Latin American physicians in particular to be attracted into specialties, such as family and community medicine, which are no longer attractive to native physicians. However, it is worth noting that after training, third-country nationals had fairly good chances of being employed in the private sector but were virtually unable to opt for permanent positions in the public sector, where many physicians with a permanent position still have civil servant status, which is restricted to Spanish and EU citizens.

After the outburst of the economic crisis, the Spanish government decided to reintroduce the nationality cap, which it set at 4 per cent of all available training slots. This means that

only 4 per cent of non-EU foreigners who pass the state examination are allowed to choose a medical training slot in Spain. Notably, the cap also applies to non-EU foreigners who obtained their medical degree at a Spanish university. Moreover, third-country nationals who complete their medical training in Spain have little chances of working in a private or public hospital because foreign recruitment is now subject to a foregoing labour market check. Consequently, such a situation shows how recruitment in the health care sector in Spain between 2007 and 2010 was characterised by a short-term perspective that allowed a large number of medical trainees to be recruited without considering their real long-term possibilities of labour market integration after completion of their specialty training. In this respect, the ‘internationalisation’ of medical training in Spain can be seen as a way of acquiring a ‘cheaper’ labour force to fill temporary highly skilled positions with trainees rather than as a method of enhancing human capital development in the long term.

### **5. The challenge of down-skilling**

Down-skilling represents one of the most feared side-effects of recruitment programmes for highly skilled workers. As was seen, the Large Companies Unit in Spain sometimes advises engineers to sign contracts as “technicians” in order to avoid time-consuming foreign credential recognition processes. However, it cannot be ruled out that the formal devaluation of foreign workers’ credentials in labour contracts may also imply that migrants who enter as highly skilled migrants will be employed in medium-skilled occupations and receive payment as medium-skilled workers. As a matter of fact, down-skilling practices are not an uncommon phenomenon in Spain. The existence of such practices is more realistic taking into account that both state officials and executives have described the poor quality of Spanish vocational training and the lack of medium-skilled workers in Spain as one of the main weaknesses of the Spanish production system. Moreover, it should be borne in mind that the Spanish government allows highly skilled professionals to be recruited for a salary below the levels established by the ‘Blue Card Directive’, which may favour salary dumping in certain occupations. In contrast, down-skilling in the public health sector is less likely to occur since the employment of physicians is regulated by public wage agreements. For a while, however, trade unions feared that physicians and nurses from third countries who entered Spain had been brought into the country for employment in private elderly care in order to reduce costs.

In Germany, the improvement of foreign credential recognition has certainly contributed to reducing down-skilling practices in the private sector. However, down-skilling phenomena cannot be excluded in the case of jobs where foreign credential recognition is not absolutely necessary or, as in the case of the engineering profession, when migrant workers are unaware of the implications that recognition of an engineering title may have on salary and tasks. In some cases, down-skilling may also be the outcome of a clear

employer strategy aimed at testing the qualifications of a given employee. This is more likely to occur in small and medium-sized firms that do not have the same internal control structures as large firms. In other cases, down-skilling may be the consequence of poor language skills. The relationship between education, occupation and salary is certainly less rigid and less controllable for engineers employed in the private sector than for physicians working in the public health sector, where the application of agreed salaries is easier to monitor. However, it is worth noting that the minimum salary requirement for recruiting physicians is set at € 36,000, which is still above the threshold specified in the ‘Blue Card Directive, but way below the salary a German physician would accept to work in Germany. Such a salary corresponds more or less to the agreed wages for physicians in their first year of specialty. This means that the reduction of the minimum salary requirement mainly favours the recruitment of young doctors at the start of their medical training rather than more experienced (and expensive) specialised doctors. At this point, it is legitimate to question the extent to which the current reforms in Germany will contribute to human capital enhancement or whether they will simply “fill in the blanks” of unattractive positions, especially taking into account the “segmented” character of labour demand in the German health care sector.

## Conclusions

Analysis of the German and the Spanish case shows that several obstacles may hamper the efficiency of recruitment schemes in European countries depending on the internal labour market structures or the economic situation of each country. In view of the two countries' experience, maximization of the benefits of highly skilled migration could be enhanced by the following recommendations/should take into account the following remarks:

- I. The approval of the 'Blue Card Directive' as an instrument for regulating highly skilled migration is certainly an important step forward in the construction of a new European labour migration policy paradigm. However, additional tools such as positive occupation lists, the elimination of labour market checks or a visa for job-seeking may lead to a more effective, speedier match between supply and demand within a shorter space of time.
- II. Large firms seem to rely more on intra-company transfers than on individual recruitment instruments while the 'Blue Card Directive' seems to be more suitable to small and medium-sized firms. A country's production structure should therefore always be taken into account when assessing the success of recruitment policies for highly skilled workers.
- III. Foreign credential recognition procedures are essential for guaranteeing the integration of foreign workers on the labour market. However, they must be fast, efficient and possibly decentralised. In most cases, potential candidates should be allowed to apply from abroad. Finally, the establishment of a support network like the German "Integration through Qualification" network would be useful to inform foreigners about their chances of recognition and to relieve recognition offices from their information duties. In some cases, recognition procedures may be facilitated by signing bilateral agreements, as in the case of Spain and Chile.
- IV. Foreign credential recognition is still very much dependent on the assessment of state authorities and licensing bodies. Even though decentralisation is likely to increase the efficiency of recognition processes, public authorities should monitor decentralised recognition practices to avoid heterogeneous practices and magnet effects.
- V. The availability of human capital and adequate recruitment tools are often insufficient for fostering the recruitment of highly skilled workers. Small and medium-sized firms do not always seem to trust foreign candidates with foreign degrees. In such cases, it would be highly recommendable to support the development of mentorship programmes in order to help create a connection between employers and workers when required. In the case of physicians, the requirement to pass a state of knowledge examination could have a negative impact on the speed of recruitment procedures. In such a case, Member States should consider the option of organising training or preparation courses in order to speed up the recognition procedure.

- VI. The relevance of language requirements should not be underestimated. Countries that are particularly interested in maximising their attractiveness for highly skilled workers should avoid relying on language certificates alone and should consider the possibility of intensifying job-related language courses on their territory and in the main country of origin. Language courses would not only enhance the country's attractiveness, but also enhance the chances of immigrants being integrated on the labour market.
- VII. In some EU Member States, nationality requirements may be a barrier to the recruitment of highly skilled workers in the public sector, despite the existence of open recruitment avenues. Lifting nationality caps or barriers is often the first step in becoming attractive to highly skilled workers from third countries. In particular, any measure that favours the recruitment of foreign trainees in the public health sector should consider the possibility of long-term employment in public health care sectors, where nationality requirements play a major role in permanent employment.
- VIII. EU Member States should consider the consequences of reducing minimum salary requirements for highly skilled workers since such a strategy could reduce a country's attractiveness compared to other destination countries.
- IX. Especially in the case of small and medium-sized firms, close monitoring strategies should be implemented in order to avoid down-skilling practices aimed at employing highly skilled workers in medium-skilled occupations. EU Member States should therefore put more effort into enhancing vocational training for medium-skilled occupations to counteract the attractiveness of down-skilling practices.

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