



# EU legislation on Legal Migration

**DG HOME - Legal Pathways and Integration**

# EU migration basic facts and figures

- 23.4 million third-country nationals (TCN) in the EU-28
- 4.6% of EU-28 population

Valid residence permits **EU-25** (2010-18)

## ➤ Migration reasons:

- Family reunification
- Studies/research
- Work
- International protection



# EU migration policy: objectives

Art. 79 TFEU: "*The Union shall develop a common immigration policy...*"

## Objectives:

- **Efficient management of migration flows: common conditions of entry and residence**
- **Fair treatment of third-country nationals: definition of rights and intra-EU mobility rights**
- Prevention and fight against *illegal* immigration and trafficking in human beings [*and smuggling*]
- + **Strengthen EU competitiveness and growth**

## EU legal migration policy:

- EU develops a legal framework for the common immigration policy (Art. 79(1) TFEU) via Directives
- Member States implement the rules according to their legal and administrative traditions, using the options available in the Directives
- Member States can determine the numbers of TCN they admit for economic purposes (Art. 79(5) TFEU)
- EU verifies compliance and follows-up on possible infractions
- Integration of migrants: support and incentives, no harmonisation of laws
- *Denmark and Ireland (as UK before exit) do not apply*

# EU legislation on legal migration: a 'sectoral' approach

- **Family reunification (2003)**
- **Long-term residents (2003)**
- **Highly-qualified employment ('Blue Card') (2009)**  
*(being revised – negotiations ongoing)*
- **Single Permit (2011)**
  
- **Seasonal Workers (2014)**
- **Intra-Corporate Transferees (2014)**
- **Students, researchers, trainees, volunteers (EVS) (2016)** replacing the Students (2004) and Researchers (2005) Directives

# EU legislation on legal migration: what relevance for procedures?

*Directives tend to cover different aspects of the migration process:*

- Admission procedures – general: Single Permit*
- Admission conditions*
- Rights of the persons/their family members*
- Intra-EU mobility*
- End of stay: withdrawal or non-renewal (conditions, procedures)*

Directive	Admission conditions	Admission procedures	Provisions on equal treatment (differing)	Access to work	Right to family reunification	Intra EU mobility
<b>1. Family reunification</b>	√	√	(√)	√	√	
<b>2. Long Term Residents</b>			√	√	√	√
<b>3. Single Permit</b>		√	√			
<b>4. Students and Researchers</b>	√	√	√	√	√ (researchers)	√
<b>5. EU Blue Card</b>	√	√	√	√	√	√
<b>6. Seasonal Workers</b>	√	√	√	√		
<b>7. Intra-Corporate Transferees</b>	√	√	√	√	√	√

# Single Permit: one application procedure

## One application

Who applies? The applicant is either TCN or the would-be employer

Where? – from the 3rd country or in-county

When? - When a new permit is issued, when existing permits are renewed

## One (main) authority

- to receive the application and issue the single permit without prejudice to the involvement of all relevant authorities
- "the competent authority" being responsible for the single decision

## One decision

Single administrative act

- if yes - a single permit is issued,
- if no - reasoned decision in writing

When? Decision within 4 months

## Procedural guarantees

- legal challenge, upon request info on required documents
- provisions on the fees – proportionality and may be based on the services actually provided

# Single Permit Directive (2): Right to Equal treatment

- **Working conditions**
- **Freedom of association and affiliation**
- **Education and vocational training**
- **Recognition of diplomas**
- **All branches of social security**
- **Portability of pensions when moving to a 3rd country**
- **Tax benefits**
- **Access to goods and services**

***With limitations***

# Directive: EU Blue Card Directive:

→ Work and residence permit for highly qualified workers

- Work contract or binding job offer for at least 12 months
- Salary threshold: **at least 1,5 times the average gross annual salary in the MS concerned**
- For *regulated* professions: meet the legal requirements
- For *unregulated* professions: higher education qualification
- General conditions (e.g. health insurance, public policy/security)

## → Rights:

- Equal treatment
- Faster and easier family reunification
- Facilitated access to EU Long-Term Resident status
- **Intra-EU mobility after 18 months:** new Blue Card with some benefits compared to first admission

## EU Blue Card Directive: why a revision?

- Blue Card: underused; competes with national schemes; too low to respond to existing/future skills shortages in the EU
- **Objective:** EU scheme more accessible, simple and attractive – especially intra-EU mobility rights

### Key proposals by the Commission:

- **Scope: single scheme for highly skilled workers**
  - Shorter work contracts covered (6 months→) + lower salary threshold + facilitation for recent graduates and workers in shortage occupations
  - Professional experience recognised (skills vs formal qualifications)
- **Faster procedures**
- **Enhanced rights** (labour market access, family reunification...)
- **Intra-EU mobility**
  - **Short-term business activity**
  - **Blue Card in a second Member State** (after 12 months of residence)

## ICT Directive

- **Common EU rules for admission** of intra-corporate transferees (no labour market test; 90 days processing; « trusted » undertakings)
- Covering entry, residence, mobility within EU, rights of transferees and their family (incl. right to work)
- **Scope:** Managers, specialists; 'trainee employees'  
*Cool-off period for renewal?*
- **Equal treatment** between transferees and EU nationals
  - Social security, Freedom of association, Recognition of qualifications, Pensions (limited exceptions)
- **Working conditions:** equal to EU posted workers (except remuneration = to nationals)
- **Intra-EU Mobility**

## Fitness Check:

- **Objective:** Evaluate possible gaps and inconsistencies  
**Evaluation criteria:** Relevance, Coherence, Effectiveness, Efficiency, EU Added Value  
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### **Main conclusions (1):**

Policy on legal migration remains broadly in line with its **objectives** (efficient management of migration flows; fair treatment; approximation of national legislation, based on a shared assessment of the economic and demographic developments)

→ *Main change: Shift of emphasis towards the needs of EU economy and EU competitiveness; addressing skills shortages; attraction of talent*

## Fitness Check:

### Main conclusions (2):

A number of **gaps** between objectives and needs have been identified, e.g.: not covering admission conditions for major categories of migrants, such as non-seasonal low- and medium-skilled workers, self-employed and entrepreneurs, service providers other than ICTs, investors, highly mobile workers).

→ *These gaps are generally covered by national rules (e.g. national schemes for the admission of low- and medium-skilled third-country workers) and the result is a **fragmented system**.*

**There is room to improve the interaction with other EU policies:** asylum, irregular migration, borders and visas, justice and fundamental rights, employment and education, external relations, and trade.

## Fitness Check:

### Main conclusions (3):

The action at EU level has proven **added value**, in special:

1. (partial) harmonisation of conditions, procedures and rights, helping to create a level playing field across Member States;
2. simplified administrative procedures;
3. improved legal certainty and predictability for all involved;
4. improved promotion of the rights of third-country nationals;
5. improved intra-EU mobility for certain categories.

# Questions?

DG Home Affairs – European Commission:

[http://ec.europa.eu/dgs/home-affairs/index\\_en.html](http://ec.europa.eu/dgs/home-affairs/index_en.html)

European Migration Network: [www.emn.europa.eu](http://www.emn.europa.eu)

European Website on Integration:

<https://ec.europa.eu/migrant-integration/>

EU Immigration Portal: <http://ec.europa.eu/immigration>