

# THE LEGAL FRAMEWORK FOR HIGHLY-SKILLED MIGRATION TO THE EU: EU AND US LABOUR MIGRATION POLICIES COMPARED

Anja Wiesbrock  
Metka Hercog

February 2010

Working Paper  
MGSoG / 2010 / 001

Maastricht Graduate School of Governance (MGSoG)



## **Maastricht Graduate School of Governance**

The 'watch dog' role of the media, the impact of migration processes, health care access for children in developing countries, mitigation of the effects of Global Warming are typical examples of governance issues – issues to be tackled at the base; issues to be solved by creating and implementing effective policy.

The Maastricht Graduate School of Governance, Maastricht University, prepares students to pave the road for innovative policy developments in Europe and the world today. Our master's and PhD programmes train you in analysing, monitoring and evaluating public policy in order to strengthen democratic governance in domestic and international organisations.

The School carefully crafts its training activities to give national and international organisations, scholars and professionals the tools needed to harness the strengths of changing organisations and solve today's challenges, and more importantly, the ones of tomorrow.

### **Authors**

Dr. Anja Wiesbrock, Assistant Professor

Faculty of Law

Maastricht University

[Anja.wiesbrock@maastrichtuniversity.nl](mailto:Anja.wiesbrock@maastrichtuniversity.nl)

MSc. Metka Hercog, PhD Fellow

Maastricht Graduate School of Governance

Maastricht University

[Metka.hercog@maastrichtuniversity.nl](mailto:Metka.hercog@maastrichtuniversity.nl)

### **Mailing address**

Universiteit Maastricht

Maastricht Graduate School of Governance

P.O. Box 616

6200 MD Maastricht

The Netherlands

### **Visiting address**

Kapoenstraat 2, 6211 KW Maastricht

Phone: +31 43 3884650

Fax: +31 43 3884864

Email: [info-governance@maastrichtuniversity.nl](mailto:info-governance@maastrichtuniversity.nl)

# THE LEGAL FRAMEWORK FOR HIGHLY-SKILLED MIGRATION TO THE EU: EU AND US LABOUR MIGRATION POLICIES COMPARED

Anja Wiesbrock

Metka Hercog

## ABSTRACT

In the international competition for highly-skilled labour, many industrialized countries are changing their policies in order to become more 'attractive' for highly-skilled migrants. Several European countries have recently introduced fast-track entry systems for knowledge migrants and in May 2009 the EU Member States adopted the 'Blue Card' Directive. Nevertheless, the number of migrants entering and residing in the Member States under such policies has been lower than expected. This paper addresses the question on how European countries can improve their position in the 'international competition for talents'. In this context, we look at the existing legal framework on highly-skilled migration in three EU Member States and compare it with the labour migration policy of their main competitor country in the international competition for highly-skilled labour force, namely the United States of America. We have chosen three major EU immigration countries with recently introduced migration policies, targeting skilled migrants. These are the United Kingdom, the Netherlands and Germany. We look at a set of immigration policy dimensions, trying to assess the 'attractiveness' of EU and national rules for potential highly-skilled migrants. The comparison is done by looking at five different aspects of policies: eligibility criteria, special provision for young migrants and options for former students, validity of permits and access to permanent residence, family migration options, employment rights and social security provisions. The paper also addresses the question of the added value of the Blue Card Directive for the entry and residence of highly-skilled workers in the European Union.

**Key words:** highly-skilled migration, immigration policy, European legislation, comparative analysis, Blue Card Directive

## 1. INTRODUCTION

In the international competition for highly-skilled labour, many industrialized countries are changing their policies in order to become more 'attractive' for highly-skilled migrants. The 'traditional immigration countries' (Australia, Canada and the United States) have long offered flexible admission criteria and attractive residence rights to highly-skilled migrants. European countries, as to the contrary, have for a long time been reluctant to give up their 'zero-migration' policies of the past. However, in recent years, European countries have become increasingly involved in changing their labour migration policies in order to attract highly-skilled migrants from third-countries. It is beyond doubt that so-called 'replacement migration' cannot be the sole option to deal with shrinking labour forces and an ageing population. Labour immigration can only be part of a 'policy mix' addressing these problems, including next to labour migration policies, higher retirement ages, higher labour force participation rates of women and migrants and active family policies (Münz 2009). Be that as it may, there is a growing recognition for the need of the EU and its Member States to implement more attractive migration policies for highly qualified immigrants. Europe has thus emerged as a new player in the 'global competition for talent', competing with traditional countries of immigration for the brightest migrants (Papademetriou, 2003).

In recent years, a growing number of European countries have introduced labour migration policies specifically targeted at highly-skilled migrants. National admission schemes were supplemented in May 2009 by the adoption of a Community instruments for the admission of highly qualified labour: Directive 2009/50/EC. In spite of such efforts, the number of migrants entering and residing in the Member States under such policies has been lower than expected. The number of highly-skilled migrants coming to the EU is still relatively low, especially in comparison with traditional immigration countries. The United States attract a considerably higher share of internationally mobile skilled labour force than the EU as a whole (Boeri, 2008).

Despite the potentially significant societal and labour market implications of highly-skilled migration policies in Europe, the new dynamics have only been subject to few inquisitive studies in the academic literature (Avato 2009; Geis et al., 2008; Zaletel 2006). This paper seeks to close this gap by comparing the existing legal framework on highly-skilled migration in three EU Member States, namely the United Kingdom, the Netherlands and Germany, and their main competitor country in the international competition for highly-skilled labour force, the United States of America. The three EU Member States were selected for the paper firstly, because of their relative importance for skilled migration within the EU and secondly, because of the targeted migration policies. We look at a set of immigration policy dimensions, assessing the 'attractiveness' of national rules for potential highly-skilled migrants.

We will start our paper by introducing the comparative criteria by which we assess national policies. For each of the criteria, we explain why they are considered relevant and in what way they play a role in affecting the attractiveness of the legislation. The subsequent section compares and evaluates the chosen immigration rules on the basis of the four selected criteria. In addition, we consider in what way the implementation of the EU Blue Card Directive can be expected to raise the attractiveness of the EU for highly-skilled migrants. The last section concludes by summarizing the findings.

## 2. COMPARATIVE CRITERIA FOR IMMIGRATION POLICIES

When choosing a country of destination, potential highly-skilled migrants are influenced by a huge variety of factors, including migration policies, wages, tax regimes and the political environment in the host country as well already existing migration networks (see Beine et al., 2009; Belot and Hatton, 2008; Grogger and Hanson, 2008). In this paper we will focus on the

first factor, namely the potential of highly-skilled migration policies in countries of destination to influence migration choices.

The selection of criteria for our analysis is based on the overview of major theories on determinants for migration (see Hercog, 2008) as well as on the overview of earlier comparative studies in this field. Several studies have identified the criteria for comparison of immigration policies. McLaughlan and Salt (2002) compare thirty-one schemes towards highly-skilled workers in ten countries. Policies in each of the countries are described according to four broad categories of criteria: permits, procedures, marketing, and collection of statistics. In the paper on policies and regulations, Lindsay Lowell (2005) ranked twelve countries according to seven criteria<sup>1</sup> in order to place them on a scale from controlled to competitive programmes. Christian (2000) compares advanced industrial countries in terms of class of admission, the use of quotas, the employment authorization type, and application procedures.

The comparison of migration policies for this paper is done by looking at four different aspects of policies, which we consider to be relevant in migrants' decision to move to a particular country, The observed dimensions are: 1) eligibility criteria, 2) special provision for young migrants and options for transition to the labour market for former students, 3) validity of permits and access to permanent residence, 4) family migration options and 5) employment rights and social security provisions.

In comparison to the comparative studies mentioned above, we purposely chose a limited number of cases, in order to allow for an in-depth evaluation of national policies. A specific goal of this paper is to assess the relative attractiveness of migration policies of EU Member states as compared to the US. We assess the policy as successful when immigration process is made easier from a perspective of a potential migrant. In our comparative evaluation, each element of policy is considered to be closer to best practice when it facilitates the entrance and stay of migrants. Although we acknowledge that immigration policies have various other objectives, this paper looks solely at the goal of making policies more welcoming for foreign workers.

One of the crucial aspects determining the attractiveness of host countries for highly-skilled migrants is the definition of who constitutes a highly-skilled migrant and the nature of eligibility requirements. As there is no agreed international definition of 'highly-skilled workers', the use of the concept varies amongst countries and is closely linked to national eligibility requirements (OECD, 2002). Receiving states generally use a person's level of education and/or occupation in order to determine whether he/she falls within the category of 'highly-skilled migrant' (IOM, 2008). The more open these criteria are for skilled migrants, the more attractive we consider that country's policy.

Secondly, we look at whether immigration policies give special provision for making entry for younger migrants more accessible. In comparison with other categories of highly-skilled workers, young professionals and students educated in the host state hold a great potential to be active in the labour market for a long period. Younger, educated people are the most likely to migrate because of the longer period they will be able to reap the returns on the migration decision. At the same time, young highly-skilled migrants at the beginning of their career often lack the required work experience and salary level to be admitted under the 'ordinary' highly-skilled migrant programmes. An additional advantage of foreign students transitioning to host country's labour market as highly-skilled workers is that they have

---

<sup>1</sup> The seven comparative criteria used by Lowell are the following: hard numerical caps, strict labour market test, extensive labour protections, enforcement mechanisms, limited employer portability, restriction on dependents / working spouse, and limited permanency rights.

already proven themselves in the host country's education system. Consequently, several countries have adopted special rules applicable to young migrants and in particular to former students, allowing them to benefit from less demanding entry requirements.

The third policy dimension that we observe are the rules concerning the validity of the residence permit offered to highly-skilled third-country nationals. The opportunity to acquire a stable and secure residence status as well as access to permanent residence rights after a certain period of time have become valuable 'good' that countries can offer to highly-skilled workers in exchange for their skills and knowledge (Shachar, 2006). The maximum length of residence and access to a permanent residence status are therefore important in determining the attractiveness of national highly-skilled migrant programmes.

A further crucial factor influencing highly-skilled migrants' considerations when considering moving abroad, concerns the possibility to be accompanied/joined by members of their family. Also the rights granted to family members upon arrival can play a decisive role in their decision-making process (Koser and Salt, 1997; Liebig, 2003). Highly-skilled workers usually have partners who are also interested in their own careers. Offering the principal migrant's spouse a possibility to work in the host country is an important factor in the decision to move of dual-career couples, which are very common among highly-skilled workers.

Highly skilled third-country nationals are likely to inform themselves about employment rights and social security provisions in their future country of residence, which is the fifth criteria for the comparative analysis. Especially for people from developing countries, international migration offers means to overcome missing or failed markets for capital, credit, and insurance (Stark, 1991). When receiving countries' conditions are to some extent independent of economic conditions in the sending country, migration is considered as insurance against deterioration. For those highly-skilled people that migrate due to risk-diversifying strategy, a country will, hence, become more attractive when it provides more security for migrants and their families.

The following section observes each of these elements in US, British, German and Dutch immigration policies for the highly skilled and draws transparent tables at the end of each section, which enable clear comparison of policies in the chosen parameters.

### 3. COMPARING HIGHLY-SKILLED MIGRATION POLICIES IN THE US AND THE EU

#### 3.1 The definition of the 'highly skilled' and eligibility requirements

The US Immigration and Nationality Act provides several ways for foreign nationals to come and live in the United States on a temporary basis (holding non-immigrant visas). In this analysis we focus on provisions in respect to H-1B visas, which specifically apply to persons in a specialty occupation (as defined in section 214 (i) (1) of the Act). A further reason for focusing on H-1B programme is also the dominance of its use as compared to other programmes. Intra-company transferee visa programme (L-1 visa) is the second most utilized programme but in that case migrants themselves have less of an influence on where they will move for work. A discussion of all the different entry categories goes beyond the scope of this paper.

For an immigrant to be eligible for H-1B visa in The United States he/she must demonstrate that he/she is able to work in the specialty occupation for which he/she is being hired by the sponsoring employer (Immigration and Nationality Act section 101(a)(15)(H)). This can be demonstrated in a number of ways. Basically, the applicant should have at least a four year US bachelors' degree or its foreign equivalent. However, requisite experience can substitute for education, as three years of progressive work experience can substitute the fourth year of

the US bachelors' degree. In addition to that, particular specialty occupations require State or a Federal license in order to practice that occupation. An additional requirement for obtaining H-1B visa is that the prospective employer has to pay a salary equivalent to U.S employees engaged in a comparable position in the same field.

The British government introduced a so-called Points-Based immigration system with five different tiers in 2008 (House of Commons, 2008). This analysis focuses on Tier 1, which is explicitly targeted at highly-skilled migrants, even though highly-skilled migrants may possibly also enter the UK under Tier 2 on the basis of a fixed work contract or under Tier 4 as students. In order to be granted leave to enter under Tier 1 applicants must receive 75 points for their attributes as well as 10 points for English language skills and 10 points for available maintenance (Section 245C Immigration Rules). As far as attributes are concerned, for the general category of highly-skilled migrants, relevant criteria are the applicant's qualifications, previous earnings, age and UK work experience.

In Germany, the current rules on highly-skilled migrants were introduced with the entry into force of the 2005 Residence Act (*Aufenthaltsgesetz*, AufenthG). Section 19 of the Residence Act provides for the admission of 'highly qualified' workers but does not contain a general definition of who is considered to be 'highly qualified'. Three different categories of persons generally fall under the regime for highly qualified immigrants. The first category includes scientists and academics with outstanding qualifications. The second category refers to teaching personnel in high-rank positions (that is, tenured professors or academics who are leading scientific projects or research groups). Under category three, specialists and executive personnel are considered to be highly qualified if they have adequate professional experience and an annual minimum income of €63,600 (lowered from €85,500 as of 1 January 2009). In respect of these three categories of persons, a prior approval of the Federal Labour Agency is not necessary for the granting of a settlement permit (Section 3 Employment Ordinance). In addition to being considered a highly qualified worker, there are four general conditions for the granting of a settlement permit. Firstly, there must be a specific job offer (Section 18(5) Residence Act). Secondly, there must be reasons to assume that the immigrant will become well integrated into German society. This requirement is, however, mitigated by the fact that highly qualified workers (and their family members) are not obliged to pass a German language test prior to entry. Thirdly, the immigrant must demonstrate that he can sustain himself without relying on state resources (Section 19(1) Residence Act). Lastly, the entry of the person concerned must constitute a 'special case' (*in besonderen Fällen*) in the sense of paragraph 1 of Section 19 AufenthG.

The Netherlands introduced a Knowledge Migrant Scheme (*Kennismigrantenregeling*) targeted at highly-skilled migrants in October 2004. The criteria to assess whether a person qualifies as knowledge migrant are exclusively based on the salary offered to the prospective migrant. Knowledge migrants are defined as immigrants who have been offered a position by an eligible employer and are set to receive a certain minimum income as stipulated by the Minister of Social Affairs and Employment on an annual basis. The prospective employer must have signed an agreement with the Immigration and Naturalization Service (IND) in order to become eligible for the accelerated procedure under the Knowledge Migrant Scheme. For 2010, the minimum annual gross salary for knowledge migrants is stipulated at €50.183 for employees 30 years of age or older, and €36.801 for employees below 30 years of age (Ministry of Social Affairs and Employment, 2009; www.ind.nl). Since November 2006, an exception to the salary criterion is made for scientific researchers and foreign doctors completing their studies in the Netherlands to become a specialist (Article 1d(1)(b) and (c) Decree implementing the Law on the Employment of Foreign Nationals (*Besluit uitvoering Wet arbeid vreemdelingen*))

The following table (Table 1) summarizes the eligibility criteria for the four observed countries looking at the requested criteria to be fulfilled by migrants.

Table 1 – Eligibility

	<b>United States</b>	<b>United Kingdom</b>	<b>Netherlands</b>	<b>Germany</b>
Minimum Salary	Equivalent to comparable US employee	No, but previous earnings relevant	€50.183 (aged 30+), €36.801 (aged <30)	€63,600
Required level of qualifications	4-years BA, or 3-years BA + work experience	BA (30 p.), MA (35 p.), PhD (50 p.)	No	No
Required work experience	3 y. substitute one year of studies	5-45 points	No	Yes
Required employment contract	Yes	No	Yes	Yes
Language test	No	Level 1C CEFR	No	No
Integration test	No	No	No	No
Maintenance obligation	Yes	Min. £2,800	Yes	Yes
Special rules for scholars/researchers	J-1 visa for researchers, professors, interns	No	No salary threshold for researcher, lecturers	No salary threshold for highly qualified academics/ lecturers

### 3.2 Special provisions for young migrants and former students

In the United States, the option to stay for up to one year and receive practical training has been given to foreign graduates of US universities for a long time (Konrad et al., 1996). This OPT (Optional Practical Training) is open to F-1 visa holders<sup>2</sup> and currently about 70,000 students take part in it. They work in their specific field of studies and get a chance to gain valuable experience in preparation for the job market. Graduates in the fields of Science, Technology, Engineering or Mathematics can now be granted a longer extension of up to 17 months. All OPT participants may later have the option to change their status to become a regular labour migrant (USCIS, 2009). Overseas graduates from post-secondary US institutions may take up employment in the United States on a temporary basis with a H-1B visa. Annually, there is a limit of visas given out in this category. For the fiscal year 2010 the maximum was set at 65,000 H-1B visas. Yet, the H-1B Visa Reform Act of 2004 made 20,000 new H-1B visas available for foreign workers with a Master's or higher level degree from a U.S. academic institution. For each fiscal year, 20,000 beneficiaries of H-1B petitions on behalf of persons who hold such credentials are statutorily exempted from the cap (USCIS, 2009). Employers filing a petition have to pass a labour attestation proving that they could not find a national for the position in the same way as for other immigrants.

In the United Kingdom, young professionals are in a favourable position to reach the 75 points under Tier 1 of the new United Kingdom points system, as youth (that is, those under

---

<sup>2</sup> F-1 visa is a non-migrant student visa which allows foreigners to study in the US.

28 years) are awarded 20 points. Special rules apply to third-country nationals who have pursued their studies in the UK. So-called 'post-study workers' can obtain 20 points each for having eligible qualifications, having studied at eligible UK institutions and having obtained qualifications whilst in the UK as well as 15 points for having applied within 12 months of obtaining the qualification. These points will be added towards reaching the pass mark of 75 points. Moreover, in May 2007 the UK introduced the International Graduates Scheme (IGS), allowing non-EEA graduates with a bachelor degree in any discipline from a recognized institution in the UK to remain in the country for 12 months to work after their studies. After the expiry of the one-year working period, graduates must either return to their country of origin or file a new application and comply with the criteria of the Tier 1 Highly Skilled Migrants scheme.

In principle, the German Residence Act does not distinguish between older and younger highly-skilled workers. This has been widely criticized as the tough entry conditions and high income ceiling make it extremely difficult for young professionals to enter the German labour market (Bundesministerium des Inneren, 2006). Section 19 *AufenthG* is clearly more directed to experienced scientific personnel (such as executive staff or executive managers) rather than graduates and young professional who stand at the beginning of their career. Yet, Section 16(4) *AufenthG* makes it possible for foreign students who have successfully completed their studies in Germany to obtain a prolongation of their residence permit to search for a job for a period of one year. Moreover, since 1 January 2009 the following categories of third-country nationals may obtain approval from the Federal Employment Agency to acquire a residence permit for the purpose of carrying out work corresponding to their qualification: 1) foreign university graduates with a recognised diploma, 2) third-country nationals holding a comparable qualification in the IT sector, 3) foreigners holding a German university degree and 4) graduates of German schools abroad with a recognised university degree or a vocational qualification obtained in Germany (Section 27 Ordinance of Employment (*Beschäftigungsverordnung*)). In respect of the latter two categories approval will be given without the application of a labour market test (Section 27 Ordinance of Employment in conjunction with Section 39(2) No. 1 Residence Act; see also Laubenthal, 2008).

The Dutch Knowledge Migrant Scheme takes into account that it is more difficult for younger migrants to reach the designated salary threshold. The required salary level is adjusted for people below 30 years of age, which makes it possible for younger people who are just starting their careers to reach the criterion (Article 1d (1) (a) no 1° Decree implementing the Law on the Employment of Foreign Nationals). For 2010, the lowered threshold for the minimum annual gross salary is €36.801 as compared to €50.183 for employees older than 30 years. An additional attribute of the Dutch migration policy is the job-search period after completion of studies at a university in the Netherlands (Article 1d (1) (a) no. 2 Decree implementing the Law on the Employment of Foreign Nationals). Foreign students have one full year to look for positions as highly-skilled migrants after the completion of their studies in the Netherlands. Moreover, a different salary criterion, applies to former students who find work at their education level immediately after the completion of studies. For 2010, the minimum starting salary for students, using a one-year job-search period, is stipulated at €26.376. The lowered salary criterion corresponds better to the actual salary levels of beginners on the labour market. Moreover, in January 2009, the Netherlands introduced a new pilot Admission Scheme for Highly Educated Migrants which allows recent graduates to get an authorisation for temporary stay even without a job-offer (Besluit van de Staatssecretaris van Justitie van 12 december 2008, 2008/30). A person who has completed a master's degree or a doctorate from a Dutch university or from a non-Dutch institution of higher education which ranks among the top 150 universities on the Times Higher Education list or the Academic Ranking of World Universities can within three years after graduation ask for a one-year residence permit and look for employment in the Netherlands without a prior job-offer. In addition to the academic-degree requirement, foreign nationals will be

assessed on the basis of a point system, which awards points with regard to age, level of education and other performance indicators in the Netherlands.

Table 2 compares the four observed countries with regard to giving preferable access to younger educated migrants.

Table 2 – Policies for young migrants and former students

	<b>United States</b>	<b>United Kingdom</b>	<b>Netherlands</b>	<b>Germany</b>
Special provisions for young migrants	Equivalent to comparable US employee	20 extra points if < 28 years	Lower salary threshold if <30 years	N/a
Admission of former students from host state's universities	Special H-1B visa quota	special points system	Reduced minimum salary threshold of €25,800	No income requirement, no labour market test
Admission of former students from foreign universities	N/a	Extra points for higher education degrees, especially when in English	One-year permit for students from 150 top universities of THE ranking list	No income requirement for IT graduates
Job-searching period for former students	12-17 months practical training	12 months	12 months	12 months

### 3.3 Validity of the permit and access to permanent residence

In the United States, the H-1B visa is valid for three years and can be extended for additional three years up to a total of six years (Immigration and Nationality Act 214(g)(4)). A further extension is possible if the application for a permanent residence is being processed. H-1B visa holders are allowed to change employers, provided that the new employer sponsors another H-1B visa. Unlike other non-immigrant visas, H-1B visa also allows for dual intent, which allows migrant to apply for permanent residence. The Immigration and Nationality Act establishes two main channels through which an alien may obtain lawful permanent residence status in the United States: family reunification and employment. In the context of highly-skilled migration employment-based immigration is of particular interest. There are five different types of employment-based immigration which are classified in order of priority. Each priority category has an annual admission ceiling. Overall the Immigration and Nationality Act provides an annual minimum of 140,000 employment-based immigrant visas (US Department of State, 2009a).

In the United Kingdom, third-country nationals entering under Tier 1 will initially be granted three years' leave (Section 245D a) of the Immigration Rules). After expiry of this period, the highly-skilled worker can be granted a subsequent grant of leave to remain for two years (Section 245D b) and c) of the Immigration Rules). Highly-skilled third-country nationals in Tier 1 are permitted to change jobs within the UK. Young workers remaining in the UK under the sub-category of Post Study Workers, will only be granted a leave for two years, which is not renewable. After five (three plus two) years of residence in the UK, highly-skilled workers can obtain indefinite leave to remain (ILR) if the following requirements are fulfilled (Section 135G (i) of the Immigration Rules): The applicant and his/her dependants must be able to maintain themselves without recourse to public fund and have accommodation; applicants

must demonstrate that they have adequate English, Scottish or Welsh language skills and impose over sufficient knowledge of life in the UK. It is additionally required from highly-skilled migrants that they are still lawfully economically active in employment or self-employment (Section 135G (iii) of the Immigration Rules).

Highly-skilled workers residing in Germany on the basis of Section 19 AufenthG have an unlimited right of residence in Germany. The permit is neither restricted in time nor in scope, allowing the worker to change his employment position as he wishes. Only a few professions are exempted and may not be taken up by foreigners, such as the medical profession and employment in the civil service. In addition, after five years of residence in Germany in possession of a residence title, highly-skilled migrants can acquire an EC long-term residence permit (Section 9(2) No.1 Residence Act). Yet, the only major advantage of obtaining a long-term residence permit in addition to a settlement permit is the possibility to move and take up employment in another Member State.

The validity of the residence permit in the Netherlands depends on the type of employment contract. A migrant gets a residence permit for a period of the work permit if he/she holds a temporary work contract. When a knowledge migrant holds an employment contract for an indefinite period, a residence permit is granted for the duration of five years (Artikel 3.59a Aliens Decree (*Vreemdelingenbesluit 2000*)). The residence requirement to acquire EC long-term residence status is five years of uninterrupted legal residence for a non-temporary objective, such as employment or family reunification. Applicants for a long-term residence permit also have to fulfil certain material conditions. Sufficient and regular income to support his or her family is required. In addition, all non-EU/EEA immigrants have to pass an integration examination, which tests migrants for Dutch language skills and knowledge of Dutch society (Article 21, Aliens Act (*Vreemdelingenwet 2000*)).

The following table (Table 3) compares the described countries according to initial validity of the permit, possibility for extension and requirements for permanent residence.

Table 3 – Permit validity and access to permanent residence

	<b>United States</b>	<b>United Kingdom</b>	<b>Netherlands</b>	<b>Germany</b>
Initial validity of the permit	3 Years	3 Years	Up to 5 Years	Permanent
Possible extension	3 Years	2 Years	Depending on previous r.p.	N/a
Requirements for permanent residence:				N/a
Residence	N/a	5 Years	5 Years	N/a
Maintenance	No	No recourse to public funds	Sufficient & regular income	N/a
Language test	No	Yes	Yes	No
Integration test	No	Yes	Yes	No

### 3.4 Family reunification rights

In the United States, the H-1B visa allows principal migrants to bring with them a spouse and minor children, but they are not allowed to work. The principal migrant has to show that he is able to financially support the dependents.

Third-country nationals who have obtained permission to enter the United Kingdom under Tier 1 of the Points-Based System may be immediately accompanied by their spouse or civil

partner/unmarried partner and dependent children under the age of 18. However, a precondition for the entry of family members is that the immigrant can maintain his dependants. The right of residence of family members is generally equal to that of the sponsor. Family members of the sponsor have the right to work for any employer but cannot switch into a points system tier. If they wish to obtain a residence permit in their own right, family members are required to leave the UK and to apply from abroad (UK Parliament Committee on Economic Affairs, 2008).

In Germany, family members of highly qualified workers within the meaning of Section 19 AufenthG are exempt from the requirement of proving a certain degree of German language proficiency before entry (Section 30(1) Residence Act), as long as the marriage already existed at the moment the highly qualified worker entered Germany and that the worker has shifted the central point of his life to Germany. The incoming family members of highly-skilled workers are automatically entitled to take up paid employment and can obtain an independent right to reside and work after marital cohabitation in Germany for at least two years.

The Dutch Knowledge Migrant Scheme subjects family members of the skilled worker to a facilitated procedure when applying for a residence permit. When an application is submitted simultaneously with the principal migrant's application, the accelerated procedure applies also for family migrants. In the beginning, spouses are granted a residence permit of one year which will be extended, upon renewal in the next year, to a period equal to that of the principal migrant (Article 3.67 Aliens Decree). For children, the residence permit is valid for the same period of time as for the principal migrant. Moreover, there are no restrictions for family members to perform in the Dutch labour market. Knowledge migrants as well as accompanying family members are also exempt from integration requirements before entering the Netherlands.

Table 4 compares the countries with regard to family migration possibilities, which clearly shows that the observed countries pay attention to the fact that migration often involves other family members, with a notable exception of refusing the automatic right to work for spouses in the US.

Table 4 – Family Reunification Rights

	<b>United States</b>	<b>United Kingdom</b>	<b>Netherlands</b>	<b>Germany</b>
Family members	Spouse & minor children	Spouse/partner & minor, dependent children	Spouse/partner & minor, dependent children	Spouse/same-sex partner & minor, dependent children
Waiting period	No	No	No	No
Integration conditions	No	No	No	No
Right to work for spouses	No	Yes	Yes	Yes

3.5 Employment rights and social security provision

In the United States, H-1B visa holders are allowed to change jobs under the condition that the new employer files a transfer petition to the USCIS (US Citizenship and Immigration Services) (Section 214 of the Immigration and Nationality Act). The transfers to new jobs are not counted towards the annual quote if the concurrent employment is in cap-exempt position

(positions at certain types of educational, non-profit or governmental organizations (Article 214(g)(5) of the Act)) or if the H-1B visa holder was already counted towards the cap for his/her first employment and is now transferring to new employment which would otherwise be subject to numerical limitation. Temporary workers generally do not have access to unemployment or any other social security benefits in the U.S. Their status is tied to employment and upon losing their job they are required to leave the country. The principle applicant has to prove that he or she is able to support any family member joining them, which is a measure to prevent abuse of welfare. Concerning retirement benefits, the general regulation in the U.S. is that you have to work legally for 10 years in the country. Since the described temporary visa categories mostly limit the stay to a shorter time period, temporary workers are generally not eligible for Social Security retirement benefits (Kapur and McHale, 2005). Other benefits including food stamps, supplemental security income, temporary assistance for needy families and Medicaid are not accessible for the first 5 years of residency. State and local public benefits may be available right away, depending on state legislation.

Highly skilled third-country nationals entering the United Kingdom under Tier 1 have the right to work and are permitted to change jobs within highly skilled categories of work. Immigrant workers in the UK have access to the national health system and are exempted from charges for NHS services (Flynn, 2006). As regards other social security provisions, highly skilled immigrants generally have no access to public benefits, as the maintenance obligation implies that they may not rely on public funds.<sup>3</sup> The prohibition from reliance on public funds also applies to social housing, which falls under the category of public benefits (Flynn, 2006). A further hurdle is the 'habitual residence rule' introduced in 1994. The requirement of habitual residence implies that in order to obtain access to public benefits, highly skilled workers must feature a certain "length, continuity and general nature" of actual residence as well as a "settled intention to remain in the UK" (CIS/1067/1995, *Bulletin 129*, para. 20) Factors such as the claimant's centre of interest, stable employment, length and continuity of residence, reasons for coming to the UK and future intentions are taken into account (CAS, 1994).

As already mentioned, the permanent permit acquired by highly qualified migrants in Germany is neither restricted in time nor in scope, allowing the worker to change his employment position as he wishes. Only a few professions are exempted and may not be taken up by foreigners, such as the medical profession and employment in the civil service. Section 39(2) Aufenthaltsgesetz stipulates that the wages, working hours and other terms and conditions of employment of foreign employees may not be less favourable than those applicable to comparable German workers. They also enjoy freedom of association and have free access to the entire territory of Germany. Moreover, highly qualified workers are subject to the same tax regime as native Germans. Highly skilled workers have the right to receive Unemployment Benefit I if they have been employed and subject to social security contributions for at least 360 days during the last two years (Section 123 SGB III) and are registered at the Federal Labour Agency.

The Netherlands, knowledge migrants are allowed to change jobs or employers within the Netherlands as long as they meet the conditions to qualify as knowledge migrant. The new employer must inform the IND Office for labour and highly-skilled migrants of the change of employment and provide all necessary documentation (Vc 2000, B15/5.12). Conversely, employment protection is much more limited. When an employment contract is terminated without this being attributable to the worker, the Knowledge Migrant Scheme allows a period

---

<sup>3</sup> An exception applies to nationals of states which have ratified the European Convention on Social and Medical Assistance (ECSMA) of the Council of Europe Social Charter and are legally resident in the UK. These immigrants have access to public benefits.

of three months to search for a new job. During the job search period the migrant has to support himself or herself. When knowledge migrants hold temporary contracts which come to an end without foreseen extension, they can no longer stay in the country on the basis of their current residence permits. The situation of a migrant who becomes sick or occupationally-disabled is rather insecure. Essentially, the rule applies that as long as a migrant meets the salary criterion, he or she is allowed to hold the residence permit as a knowledge migrant. This criterion can be met on the grounds of the salary or the benefits that a person receives in case of illness or partial occupational disability. However, when illness results in complete occupational disability, the residence permit will be revoked. On the contrary, the Netherlands has one of the more attractive taxation regimes when it comes to highly-skilled workers. Fiscal incentives for attracting high earners have been recognized in the so called 30 per cent tax rule. 30 per cent of the salary is reimbursed tax-free if the Tax and Customs Administration considers the applicant eligible (Tax and Customs Administration website).

Table 5 compares employment rights and social security provisions in the four countries under consideration.

Table 5 – Employment rights and social security provisions

	United States	United Kingdom	Netherlands	Germany
Employment contract required?	Yes	No	Yes	Yes
Employer portability options	Yes, new employer files a petition	Yes, also self-employment	Yes, within knowledge migrant scheme	Yes
Social security access	No	No, only health care	No, only child benefits	Yes

#### 4. EUROPEAN vs. US POLICIES AND THE ADDED VALUE OF THE BLUE CARD DIRECTIVE

##### 4.1 European and US Policies compared

The comparison of European and US Policies applicable to highly-skilled migrants shows that recent legislative changes in the EU Member States have diminished existing differences. In terms of eligibility requirements, the US rules are still rather favourable, as applicants are not required to comply with a minimum salary threshold and will be able to qualify for an H-1B visa on the basis of their professional qualifications or a combination of qualifications and work experience. However, the disadvantages of the American system are the requirement to impose over a work contract and the granting of H-1 B visas on the basis of a quota system, which results in a considerable degree of uncertainty for potential applicants. Within the European Union, highly-skilled migrants are likely to face the smallest hurdles for admission in the UK, as no employment contract is required and eligibility is assessed on the basis of a number of different factors. This means that for instance a lack of professional qualifications can (at least partially) be compensated by other factors, such as previous work experience or age. In Germany and the Netherlands, on the contrary, applicants have to impose over an employment contract and comply with a minimum salary threshold, which is higher in Germany than in the Netherlands. In both countries an exception to the salary requirement is made for high-level academic researchers and teaching personnel.

When looking at specific rules for young migrants and former students, the US does not set a particularly favourable example, as young age is no advantage in the application for an H-1B

visa. However, a special quota applies for former students at US institutions and former students are also eligible for a 12-17 months practical training period. The EU Member States seem to have gone further than the US in adopting specific rules for young migrants and former students. In particular, the Netherlands has adopted favourable rules for these categories of applicants, as a lower salary threshold applies to migrants below a certain age and to former students from a Dutch or a high-ranking foreign university. Also in the UK points will be granted for young age and post-study workers benefit from a special points system. Very recently Germany introduced a new rule, exempting former students from the labour market test. In addition, all three Member States allow former students from national universities to search for a job within the highly-skilled category for a period of 12 months after graduation.

Concerning the validity of the permit acquired and access to permanent residence status, migrants in the United States are in a privileged position, as they have the possibility to apply for a permanent residence status at any point of time when residing in the US. However, the backload of cases means that in practice they will face a substantial waiting period of around five years before acquiring such a secure residence status. The situation looks rather differently in the EU Member States, where in principle period of five years of residence is required in order to become eligible for a long-term residence permit or indefinite leave to remain. An exception is made for highly-skilled migrants in Germany, who are immediately granted a permanent residence permit. Thus, in terms of residence rights, Germany offers the most favourable conditions to eligible highly-skilled migrants. In the UK and the Netherlands, on the other hand, requirements for obtaining a long-term residence permit are rather demanding, including language and integration tests which are not applied in the US. In this respect, these two countries make it quite difficult for migrants to settle down for longer periods of time which is contrary to generous possibilities for short-term settlement.

In respect of family reunification rights, it is notable that all four countries under consideration operate very similar rules in respect of which categories of family members will be admitted (spouses and minor children) and abstain from applying waiting periods or integration requirements to family members of highly-skilled workers. The US rules are, however, less favourable than European legislation in that they do not allow the incoming spouse to work.

Comparing the employment rights and social security provisions granted to skilled migrants in the observed countries, no country stands out in a particularly positive light. Highly-skilled migrants are in all countries under certain conditions allowed to change their employers within highly-skilled categories of work, which gives them better chances for improving their career prospects. On the contrary, access to social security is, with a notable exception of Germany, very restricted even for the highly-skilled category of migrants. The Netherlands and the UK still make certain positive exceptions while short-term migrants in the US are basically ineligible for any kind of social security since it is conditional on long periods of residence in the country. Limited social security might work as a disincentive if migrants move due to risk-diversifying strategy.

#### 4.2 The Blue Card Directive: What does it add?

In May 2009 the EU Blue Card Directive for the purpose of highly qualified employment was adopted. The Directive aims at attracting highly-skilled workers in order to address labour market shortages in the Member States (see recital 7 of the Directive's preamble). It defines the rules for admission and residence for a period of more than three months applicable to highly-skilled workers and their family Member States. The Directive also contains a number of socio-economic rights and the right to move to a second Member State for employment if certain conditions are fulfilled (Article 1). With the exception of the UK, Ireland and Denmark, the Member States will have to transpose the Directive into national law by 19 June 2011 (Article 23). However, it is important to note that the Blue Card will only complement rather than replace national policies for the admission of highly-skilled labour (Article 3(4)). This raises the question on whether the introduction of the Blue Card can be expected to lead to

facilitated admission procedures or extended rights of third-country nationals. What will be the added value of the Blue Card for highly-skilled migrants from third countries? This is a question that we will address in the last part of our paper.

In June 2011 the implementing provisions of the Blue Card Directive in Germany and the Netherlands will enter into force. As pointed out above, the implementing provisions will supplement rather than replace national legislation on highly-skilled migrants. Even though, the relationship between the Directive and national rules is not entirely clear, Peers has pointed out that Member States remain free to adopt higher or lower standards than the Directive or a combination of both (Peers, 2009). This section addresses the question of the added value of the provisions in the Blue Card Directive. The key question is in how far the implementation process will lead to more favourable provisions for the entry and residence of highly-skilled workers in the European Union. In the following we will assess the likely effect of the introduction of the Blue Card Directive for each of the policy dimensions analysed above.

First, the eligibility criteria in Directive 2009/50/EC are extremely demanding. Potential applicants for a Blue Card have to comply with four sets of requirements. First, they must impose over higher professional qualifications. This means that they must hold at least a higher educational qualification diploma granted after a recognised three-year programme. As an alternative, five years of professional experience may be sufficient *when provided for by national law* (Article 2(1)(g)). Secondly, applicants must be in possession of an employment contract or job offer *for at least one year* (Article 5(1)(a)), which complies with a salary threshold of at least 1.5 times the average gross annual salary (Article 5(2)).<sup>4</sup> Thirdly, next to the usual requirements of valid travel documents and sickness insurance, Blue Card applicants may be required to provide their address in the potential host country (Article 5(2)). Fourthly, the admission of highly-skilled workers may be restricted by way of national labour market tests and quotas (Article 6). Admission under the Blue Card scheme will in many respects be more difficult than admission under the national schemes in Germany, the Netherlands and the UK. Even though the salary threshold can be expected to be lower than the current threshold applied in Germany (and will be about the same as that applied in the Netherlands), the additional requirements imposed upon applicants are very demanding. In particular, it is notable that Blue Card applicants may be subjected to labour market tests and quotas, which is not the case for the admission of highly-skilled migrants under the national schemes.

As regards special provisions for young migrants and former students, the final version of Directive 2009/50/EC does not introduce any improvements for highly-skilled migrants from third countries. This was different in the original Commission proposal, which contained a special reduced salary threshold for young workers under the age of 30. Moreover, the Commission had proposed to exempt third-country nationals who have studied in the host Member State from the salary requirement. These special rules for young migrants and former students were not included in the final version of Directive. This renders an application under the Blue Card scheme 'less attractive' for these categories of highly-skilled migrants than under national schemes, where facilitated access is available.

Also with regard to the validity of the permit and access to permanent residence rights, the Blue Card adds little if anything at all to national admission schemes. The Blue Card will be valid for a period of between one and four years, according to a standard period of validity set by the Member States and provided that the work contract has an equivalent duration (Article 7(2)). The Directive does not mention anything about possibilities of renewal. This

---

<sup>4</sup> The salary threshold may be lowered to 1.2 times the average gross annual salary in respect of certain occupational branches listed in groups 1 or 2 of the International Standard Classification of Occupations, where third-country national workers are particularly needed, see Article 5(5).

means that highly-skilled migrants will be dependant upon national law in order to attain access to a permanent residence status. Rules are significantly more favourable in the national legislation of Germany, the Netherlands and the UK, all of which allow for access to permanent residence either directly upon arrival (G) or after the initial residence permit has been renewed. An aspect that might come to the benefit of highly-skilled migrants applying under Directive 2009/50/EC is the possibility to accumulate periods of residence in different Member States in order to fulfil the five-year residence requirement to obtain long-term residence status<sup>5</sup>. In addition, highly-skilled migrants are permitted longer periods of absence from EU territory than other (potential) long-term residents. However, these benefits are partially undermined by the fact that the Blue Card will only be valid for up to four years, falling short of the necessary residence requirement for obtaining long-term residence status.

Family reunification rights granted on the basis of Directive 2009/50/EC are more favourable than those applicable to 'ordinary migrants' under Directive 2003/86/EC. They may neither be subjected to a waiting period nor to integration abroad requirements. Family members of highly-skilled migrants also benefit from a swifter decision making procedure and must be immediately granted access to the labour market of the Member State of residence (Article 15). Yet, even though Blue Card holders are in this respect privileged over ordinary family migrants, the Directive will not add any additional benefits to existing national schemes. None of the countries under consideration applies waiting periods or integration abroad requirements to family members of highly-skilled migrants and direct access to the employment market is in all cases guaranteed.

As far as employment rights are concerned, the Blue Card Directive is less favourable than national highly-skilled migrant schemes in Germany, the Netherlands and the UK. As opposed to the three national policies, during the first two years of 'legal employment', Blue Card holders will not only be tied to highly qualified type of work but also to a specific employer. A change of employment is only possible upon authorisation of the Member State (Article 12(1) in conjunction with Article 12(2)). Even after this initial period, free access to highly-skilled work will only be available upon discretion of the host Member State. In Germany, the Netherlands and the UK, as to the contrary, highly-skilled migrants are from the start free to change their employer within highly-skilled categories of work. The only visible advantage of the Blue Card scheme is the possibility to take up employment in a second Member State (Article 18). However, it must be stressed that in the case of free movement the same conditions have to be complied with than for first admission. Member States may even apply quotas in respect of highly-skilled migrants moving from another Member State. These restrictions diminish the value of the free movement provision for highly-skilled workers to a significant extent.

## 5. CONCLUSIONS: ASSESSING THE ATTRACTIVENESS OF NATIONAL RULES ON HIGHLY-SKILLED MIGRATION

The comparison of different policy dimensions with regard to the admission and residence of highly-skilled migrants offers a rather complex picture. It appears that, whilst the US has employed migration policies that allow for the admission of highly-skilled workers for many years, the EU Member States are only gradually transforming their legislation with the view to attracting highly-qualified labour from abroad. Nevertheless, in recent years European migration policies have become increasingly favourable towards the admission of highly-skilled workers and have in certain respects become more 'attractive' than the H-1B visa in the United States.

---

<sup>5</sup> They must, however, have been resident in the Member State issuing the long-term residence permit for at least two years prior to lodging an application, Article 16(2)(b).

In particular, EU Member States have in recent years adopted specifically favourable rules for young migrants and former students and allow spouses of highly-skilled migrants to start working in the host state immediately. Rules on access to permanent residence status and citizenship are rather similar in all four countries, except for Germany where a permanent residence permit is acquired directly upon arrival but the acquisition of German nationality is more difficult. The only policy dimension, in which the US still scores better than at least the continental European countries, is eligibility. Rather than setting a fixed minimum salary level, the US makes use of a more flexible admission category of employment in a specialty occupation.

Be that as it may, when looking at various policy dimensions from an objective point of view, the EU Member States are at least as 'attractive' for highly-skilled migrants as the US. This outcome is slightly surprising as it runs counter to the general public perception of the US as an 'immigrant friendly' country of destination, and Europe as a place with zero-migration policies. The results also indicate that EU governments have already come quite far in adopting more favourable admission policy in order to compete with the US and other immigration countries in the competition for the best talents. Arguably, the largest remaining obstacles to transforming EU Member States into attractive countries of destination for highly-skilled migrants are first, the public perception of the EU as 'fortress Europe' and, second, the fragmentation of the European labour market and the lack of free movement rights for third-country nationals.

As regards the first issue, it is important to note that the public discourse at European and national level not only with regard to highly-skilled migration but also in respect of family reunification, integration, citizenship, illegal migration and asylum are important factors in shaping the image of Europe as a potential destination for third-country nationals.

Concerning the second aspect, the Community has made a first attempt at harmonizing the rules on highly-skilled migrants and offering them an opportunity to move to other Member States with the adoption of Directive 2009/50/EC. However, the final version of the Directive, as adopted by the Council of Ministers, leaves a lot to be desired in terms of offering an attractive option for highly-skilled migrants. In particular, highly-skilled migrants only acquire the right to move to a second Member State after eighteen months and must comply with the same requirements as for entry. This means that the possibilities for highly-skilled migrants to rely on Directive 2009/50/EC, in order to benefit from a larger European labour market have been reduced significantly.

Moreover, the distinction between high and low skilled labour in all countries under consideration can be criticized from a human-rights perspective. It underlines the utilitarian approach to labour migration dominant in migrant receiving countries, allowing for the entry and residence of third-country nationals only and as long as they are considered 'useful' for the national labour market. Moreover, the exclusively demand-based approach in all countries but the UK as well as the restricted rights granted to labour migrants can be criticized. Consequently, in spite of the fact that EU Member States have become more 'attractive' for highly-skilled migrants in comparison with the US, many aspects of EU and national labour migration policies remain open to discussion and criticism.

## REFERENCES

Avato, J.

2009 *Dynamics in Highly Skilled Migration: A European Perspective*, Doctoral Dissertation, available at [http://tobias-lib.uni-tuebingen.de/volltexte/2009/3953/pdf/Dissertatione\\_Avato2.pdf](http://tobias-lib.uni-tuebingen.de/volltexte/2009/3953/pdf/Dissertatione_Avato2.pdf)

Beine, M., F. Docquier and C. Ozden

2009 "Diasporas", *IRES Discussion Paper* no. 2009-02.

Belot, M. and T. Hatton

2008 "Immigration Selection in the OECD", *CEPR Discussion Paper* No. 571.

Boeri, T.

2008 "Brain Gain: A European Approach. Introduction to Panel 2", *CESifo Forum*, 9(3): 30-33.

Bundesministerium des Inneren

2006 „Bericht zur Evaluierung des Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz)“, 2006: 27-29.

CAS

1994 "Guidance for Adjudication Officers: Income Support. Habitual Residence Test", *Memo AOG* Vol. 3, July 1994.

Christian, B. P.

2000 "Facilitating High-Skilled Migration to Advanced Industrial Countries: Comparative Policies", *Working Paper of the Institute for the Study of International Migration*, Georgetown University.

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155/17, 18.6.2009.

Flynn, D.

2006 "The Rights of Migrant Workers in the United Kingdom", In R. Plaetevoet (Ed.), *The Right of Migrant Workers in the European Union* (pp. 82-97). Brussels: European Platform for Migrant Workers' Rights.

Geis, W., S. Uebelmesser and M. Werding

2008 "Why go to France or Germany, if you could as well go to the UK or the US? Selective Features of Immigration to four major OECD Countries", *CESIFO Working Paper* No. 2427.

Grogger, J. and G. Hanson

2008 "Income Maximization and the Selection and Sorting of International Migrants", *NBER Working Paper Series* 13821.

Hercog, M.

2008 "The Role of the State in Attracting Highly-Skilled Migrants: The Case of the Netherlands", *EIPASCOPE*, 3/2008.

House of Commons

2008 "Statement of Changes in Immigration Rules of 6 February 2008, HC 321 and 4 Novem [PubMed](#) ber 2008, HC 113.

IOM

2008 *World Migration Report 2008: Managing Labour Mobility in the Evolving Global Economy*, Academic Foundation, Geneva.

Kapur, D. and J. McHale

2005 "Give us your best and brightest – The global hunt for talent and its impact on the developing world", Center for Global Development, Brookings Institution Press.

Konrad, H. et al.

1996 "State of Employment-Based Immigration in the Wake of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996", *Race & Ethnic Anc. L. Dig.* 3.

Koser, K. And J. Salt

1997 "The geography of highly skilled international migration", *International Journal of Population Geography*, 3: 285-303.

Laubenthal, B.

2008 "The role of economic non-state actors in shaping labour migration policies: the German case in the European context ", *CeSPO Doc 4/09*: 2, 3.

Liebig, T.

2003 "Migration Theory from a Supply-side Perspective", *Discussion Paper* (Vol. 92), Research Institute for Labour Economics and Labour Law, University of St. Gallen, Switzerland.

Lowell, B. L.,

2005 "Policies And Regulations For Managing Skilled International Migration For Work", *United Nations Expert Group Meeting on International Migration and Development*.

McLaughlan, G. and J. Salt,

2002 "Migration policies towards highly skilled foreign workers", *Report to the United Kingdom Home Office*, London.

Ministry of Social Affairs and Employment

[home.szw.nl](http://home.szw.nl), accessed on July 10, 2009.

Münz, R.

2009 "Demographic Change, Labour Force Development and Migration in Europe – Current Situation, Future Outlook and Policy Recommendation", *Labour Migration and its Development Potential in the Age of Mobility*, Swedish Presidency, Malmö, 15-16 October 2009.

OECD

2002 "International Mobility of the Highly Skilled ", *OECD Publishing*.

Papademetriou, D.

2003 "Immigrant Selection and Admission Systems: Lessons from the Traditional Countries of Immigration", *Paper prepared for the Department of Social Affairs of the Ministry of Labour and Social Policy*, Como: Italian EU Presidency.

Peers, S.,

2009 "Attracting and Deterring Labour Migration: The Blue Card and Employment Sanctions Directives", *European Journal of Migration and Law*, 11: 387-426.

Shachar, A.

2006 "The Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes", *New York Law Review*, 81: 148-206.

Staatssecretaris van Justitie

Besluit van de Staatssecretaris van Justitie van 12 december 2008, 2008/30, houdende wijziging van de Vreemdelingencirculaire 2000, Stcrt. 2008, 251.

Stark, O.

1991 *"The Migration of Labor"*, Cambridge: Basil Blackwell.

UK Parliament Committee on Economic Affairs

2008 *"First Report. Appendix 8: Rights and Restrictions for Different Types of Immigration Status of Non-EEA Migrants"*.

U.S. Department of State

2009 *"Employment-Based Visas"*,

Retrieved 09.06.2009, from [http://travel.state.gov/visa/immigrants/types/types\\_1323.html](http://travel.state.gov/visa/immigrants/types/types_1323.html).

USCIS

2008 *"Questions and Answers: Extension of Optional Practical Training Program for Qualified Students"*, Retrieved 01.07.2009, from

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnxtoid=9a3d3dd87aa19110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>

USCIS

2009 *"2010 H-1B Petition Season"*,

Retrieved 01.07.2009, from

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=e7d696cfcd6ff110VgnVCM1000004718190aRCRD&vgnnextchannel=e7d696cfcd6ff110VgnVCM1000004718190aRCRD>

Zaletel, P.

2006 "Competing for the Highly Skilled Migrants: Implications for the EU Common Approach on Temporary Economic Migration", *European Law Journal*, 12: 613-635.

# Maastricht Graduate School of Governance

## Working Paper Series

### List of publications

---

2010

---

<i>No.</i>	<i>Author(s)</i>	<i>Title</i>
001	Hercog, M. and A. Wiesbrock	The Legal Framework for Highly-Skilled Migration to the EU: EU and US Labour Migration Policies Compared

---

2009

---

<i>No.</i>	<i>Author(s)</i>	<i>Title</i>
001	Roelen, K., Gassmann, F. and C. de Neubourg	Child Poverty in Vietnam - providing insights using a country-specific and multidimensional model
002	Siegel, M. and Lücke, M.	What Determines the Choice of Transfer Channel for Migrant Remittances? The Case of Moldova
003	Sologon, D. and O'Donoghue, C.	Earnings Dynamics and Inequality in EU 1994 - 2001
004	Sologon, D. and O'Donoghue, C.	Policy, Institutional Factors and Earnings Mobility
005	Muñiz Castillo, M.R. and D. Gasper	Looking for long-run development effectiveness: An autonomy-centered framework for project evaluation
006	Muñiz Castillo, M.R. and D. Gasper	Exploring human autonomy effectiveness: Project logic and its effects on individual autonomy
007	Tirivayi, N and W. Groot	The Welfare Effects of Integrating HIV/AIDS Treatment with Cash or In Kind Transfers
008	Tomini, S., Groot, W. and Milena Pavlova	Paying Informally in the Albanian Health Care Sector: A Two-Tiered Stochastic Frontier Bargaining Model
009	Wu, T., and Lex Borghans	Children Working and Attending School Simultaneously: Tradeoffs in a Financial Crisis

---

010	Wu, T., Borghans, L. and Arnaud Dupuy	No School Left Behind: Do Schools in Underdeveloped Areas Have Adequate Electricity for Learning?
011	Muñiz Castillo, M.R.	Autonomy as Foundation for Human Development: A Conceptual Model to Study Individual Autonomy
012	Petrovic, M.	Social Assistance, activation policy, and social exclusion: Addressing Causal Complexity
013	Tomini, F. and J. Hagen-Zanker	How has internal migration in Albania affected the receipt of transfers from kinship members?
014	Tomini, S. and H. Maarse	How do patient characteristics influence informal payments for inpatient and outpatient health care in Albania

2008

<i>No.</i>	<i>Author(s)</i>	<i>Title</i>
001	Roelen, K. and Gassmann, F.	Measuring Child Poverty and Well-Being: a literature review
002	Hagen-Zanker, J.	Why do people migrate? A review of the theoretical literature
003	Arndt, C. and C. Omar	The Politics of Governance Ratings
004	Roelen, K., Gassmann, F. and C. de Neubourg	A global measurement approach versus a country-specific measurement approach. Do they draw the same picture of child poverty? The case of Vietnam
005	Hagen-Zanker, J., M. Siegel and C. de Neubourg	Strings Attached: The impediments to Migration
006	Bauchmüller, R.	Evaluating causal effects of Early Childhood Care and Education Investments: A discussion of the researcher's toolkit
007	Wu, T., Borghans, L. and A. Dupuy	Aggregate Shocks and How Parents Protect the Human Capital Accumulation Process: An Empirical Study of Indonesia
008	Hagen-Zanker, J. and Azzarri, C.	Are internal migrants in Albania leaving for the better?

009	Rosaura Muñiz Castillo, M.	Una propuesta para analizar proyectos con ayuda internacional: De la autonomía individual al desarrollo humano
010	Wu, T.	Circular Migration and Social Protection in Indonesia

2007

<i>No.</i>	<i>Author(s)</i>	<i>Title</i>
001	Notten, G. and C. de Neubourg	Relative or absolute poverty in the US and EU? The battle of the rates
002	Hodges, A. A. Dufay, K. Dashdorj, K.Y. Jong, T. Mungun and U. Budragchaa	Child benefits and poverty reduction: Evidence from Mongolia's Child Money Programme
003	Hagen-Zanker, J. and Siegel, M.	The determinants of remittances: A review of the literature
004	Notten, G.	Managing risks: What Russian households do to smooth consumption
005	Notten, G. and C. de Neubourg	Poverty in Europe and the USA: Exchanging official measurement methods
006	Notten, G and C. de Neubourg	The policy relevance of absolute and relative poverty headcounts: Whats in a number?
007	Hagen-Zanker, J. and M. Siegel	A critical discussion of the motivation to remit in Albania and Moldova
008	Wu, Treena	Types of Households most vulnerable to physical and economic threats: Case studies in Aceh after the Tsunami
009	Siegel, M.	Immigrant Integration and Remittance Channel Choice
010	Muñiz Castillo, M.	Autonomy and aid projects: Why do we care?

2006

<i>No.</i>	<i>Author(s)</i>	<i>Title</i>
001	Gassmann, F. and G. Notten	Size matters: Poverty reduction effects of means-tested and universal child benefits in Russia
002	Hagen-Zanker, J.	Exploring multi-dimensional wellbeing and remittances in El Salvador

---

and  
M.R. Muñiz  
Castillo

---

003 Augsburg, B. Econometric evaluation of the SEWA Bank in India: Applying matching techniques based on the propensity score

---

004 Notten, G. and  
D. de  
Crombrugghe  
Poverty and consumption smoothing in Russia

---

2005

*No.*     *Author(s)*     *Title*

---

001 Gassmann, F. An Evaluation of the Welfare Impacts of Electricity Tariff Reforms And Alternative Compensating Mechanisms In Tajikistan

---

002 Gassmann, F. How to Improve Access to Social Protection for the Poor?  
Lessons from the Social Assistance Reform in Latvia

---