

# Attracting Highly Qualified and Qualified Third-Country Nationals

European Migration Network Study 2013



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## DISCLAIMER

This Synthesis Report has been produced by the European Migration Network (EMN), which comprises the European Commission, its Service Provider (ICF GHK-COWI) and EMN National Contact Points (EMN NCPs). The report does not necessarily reflect the opinions and views of the European Commission, EMN Service Provider (ICF GHK-COWI) or the EMN NCP, nor are they bound by its conclusions. Similarly, the European Commission, ICF GHK-COWI and the EMN NCPs are in no way responsible for any use made of the information provided.

The Focussed Study was part of the 2013 Work Programme for the EMN.

## EXPLANATORY NOTE

This Synthesis Report was prepared on the basis of National Contributions from 23 EMN NCPs (**Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden** and **United Kingdom**) according to a Common Template developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities. Statistics were sourced from Eurostat, national authorities and other (national) databases. The Statistics provided in this Synthesis Report are entirely sourced from Eurostat. The listing of Member States in the Synthesis Report results from the availability of information provided by the EMN NCPs in the National Contributions.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States up to and including 2013 and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted also.

EMN NCPs from other Member States could not, for various reasons, participate on this occasion in this Study, but have done so for other EMN activities and reports.

The EMN would also like to recognise the contributions made by the Organisation for Economic Co-operation and Development (OECD) Research undertaken by the OECD on the matter of attracting highly qualified third-country nationals is available at the following source: <http://www.oecd.org/migration/>

## EXECUTIVE SUMMARY

### KEY POINTS TO NOTE

- ★ The [Europe 2020 Strategy](#) sets out a clear need to pave the way for economic migration in sectors in which labour and skills shortages are emerging, as well as to attract highly skilled third-country nationals in the **global competition for talent**;
- ★ In the EU-27 between 2008 and 2012, there has been an **increase in the proportional employment of third-country nationals in high-skill occupations** (ISCO 1-3)<sup>1</sup>;
- ★ In the past 10 years **most EU Member States have introduced measures to attract and facilitate entry to highly qualified third-country nationals** for the purpose of employment. This tendency has been further stimulated by the implementation of [Directive 2005/71/EC](#) on a specific procedure for admitting third-country nationals for the purposes of scientific research and [Directive 2009/50/EC](#) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment;
- ★ What constitutes a highly qualified or qualified third-country national currently varies across the Member States, with **different definitions and concepts**, based on national labour market demands and other national criteria;
- ★ Most of the Member States have national **policies and strategies** in place for attracting (highly) qualified third-country nationals, some of which explicitly target these groups. Similarities exist in the **rationale** for establishing such national policies and strategies - the creation of more jobs and growth, filling current labour market shortages and addressing future labour market needs. The development of policy is often subject to **debate** due to high national unemployment rates in some Member States;
- ★ Some Member States' policies **focus on certain groups of individuals** (e.g. self-employed workers, researchers, intra-corporate transferees) as well as for individuals working in precise areas of occupation (e.g. IT, healthcare, academia, sport). In addition to sectors, some specific niche skills are in demand;

<sup>1</sup> The International Labour Organization's International Standard Classification of Occupations (ISCO). For definitions based on the ISCO "highly qualified" as well as "qualified" mostly relate to managers, professionals and technicians and associate professionals.

- ★ The focus on attracting **self-employed persons, entrepreneurs and investors** is also increasing in EU Member States, in parallel with the development of EU policy in this area;
- ★ **Policy measures** to attract third country nationals include fast tracking of procedures; unrestricted access to the labour market; awareness and information provision; and employer sponsorship. Other measures include more favourable conditions for family reunification, taxation and access to social security benefits and integration measures. Accelerated procedures for entry plus allowable absences to return to the country of origin are also measures applied in relation to entrepreneurs.
- ★ There is limited evidence that Member States have entered into **agreements with third countries** to attract highly qualified and qualified workers. However, agreements that are in place are considered to be effective which suggests that this is a measure whose capability could be further realised in the future;
- ★ For Member States to compete effectively, they will need to overcome **challenges and barriers** to the uptake of skilled employment. This can be done through the implementation of **good practices** that have been identified in relation to a number of different aspects of the migration process. These relate to the **provision of information**, the **adaption of migration procedures**, the introduction of **incentives** to attract (highly) qualified migrants and the **customisation of labour market practices**;
- ★ Though some **challenges and barriers** have been identified, it is expected that **national policies will further develop**, with some Member States placing increased focus on identifying specific occupational and sectoral gaps in the labour market which cannot be filled by nationals or EU citizens;
- ★ Through the EU Blue Card, there is also the **potential to maximise the benefits of highly qualified third-country national migrants** at the EU level by facilitating their mobility and allowing for skills progression and development, so that talent is both attracted to and, where still required, retained in the EU.

### IS THERE A NEED FOR HIGHLY QUALIFIED MIGRATION?

The **Europe 2020 Strategy** sets out a clear need for economic migration in sectors in which labour and skills shortages are emerging, as well as to attract highly skilled third-country nationals in the **global competition for talent**. Countries outside the EU,

such as the **US, Canada and China**, are also, through national policies, competing to attract highly qualified third-country nationals to their labour markets.

Legal migration, including labour migration, is also an integral part of the EU’s cooperation and dialogue with third countries and a key area of the EU’s external migration policy as defined through the **Global Approach to Migration and Mobility (GAMM)**. Policy priorities include the need to “better organise legal migration and foster well-managed mobility”, focusing, amongst others, on (highly) qualified third-country nationals, based on the premise of offering employers wide opportunities to find the most suitably qualified individuals from the global labour market.

The **EU Entrepreneurship 2020 Action Plan**, adopted in 2012,<sup>2</sup> recognises Europe’s need for more entrepreneurs, as a driver of economic growth and job creation and foresees migrants as an important pool of potential entrepreneurs for the EU.

### WHO IS CLASSIFIED AS HIGHLY QUALIFIED OR QUALIFIED?

Definitions and concepts of highly qualified and qualified third-country nationals vary across Member States, as these depend on national labour market demands and other national criteria. Member States therefore **do not have concrete definitions but seem rather to mix definitions with concepts**, and with specific academic, salary and professional requirements. The criteria applied in the Member States are frequently drawn from the **ILO’s International Standard Classification of Occupations (ISCO)**, with highly qualified and qualified categories applied to occupations which include managers, professionals and associate professionals (Levels 1 – 3) as well as **UNESCO’s International Standard Classification of Education (ISCED)** which provides an indication of the education levels attained by highly qualified individuals.

The **EU Acquis** has influenced the concepts used in the Member States, by setting out common definitions for both “highly qualified employment” and “higher professional qualifications” when Member States had no prior concepts and definitions. The most frequently used criteria are those based on education and / or salary levels. In practice, reported salary requirements existing in the Member States range from €1 293 per month<sup>3</sup> to a minimum annual salary of €67 842<sup>4</sup>.

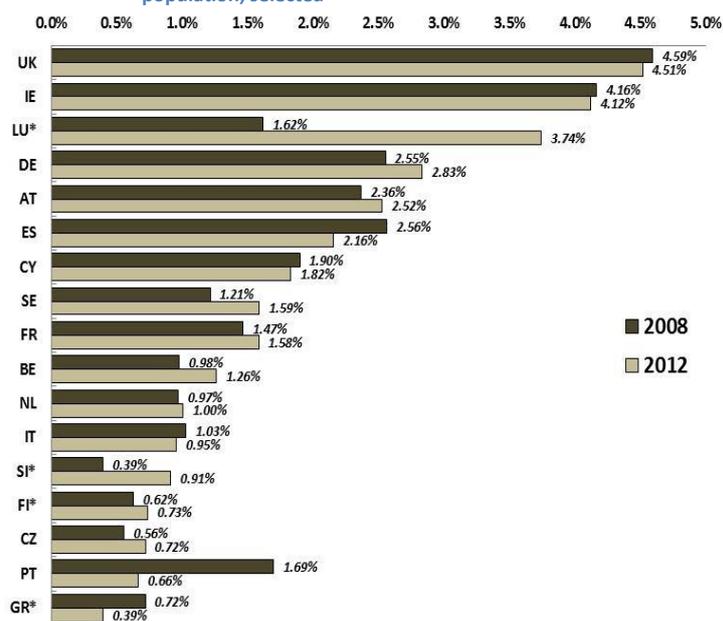
<sup>2</sup> COM(2012) 795, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:en:PDF>.

<sup>3</sup> Lithuania

### WHAT IS THE SCALE OF (HIGHLY) QUALIFIED MIGRANT EMPLOYMENT IN THE EU?

In the EU between 2008 and 2012, there has been a **slight increase in the proportional employment of third-country nationals in high-skill occupations (ISCO 1-3)** in the total employed population from 2.01% (2008) of third-country nationals compared with 2.08% (2012),<sup>5</sup> corresponding to an estimated 1.6 million persons.<sup>6</sup> This increase was experienced by 10 of the Member States for which reliable and comparable statistics were available (**Figure 1**).<sup>7</sup>

**Figure 1** Proportion of employed third-country nationals working in high-skill occupations (ISCO 1-3) among the total employed population, selected



*Note:* Data for those Member States with an (\*) is characterized by low reliability. No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Labour Force Surveys

In the EU in 2012, 26% (2.03 million) had reached the highest educational attainment level (university degree and/or PhD, ISCED categories 5-6) and 21% (1.64 million) were working as either managers, professionals, technicians or associate professionals (ISCO categories 1-3), accounting for up to 4.29% of all employees working in such categories.

<sup>4</sup> Luxembourg

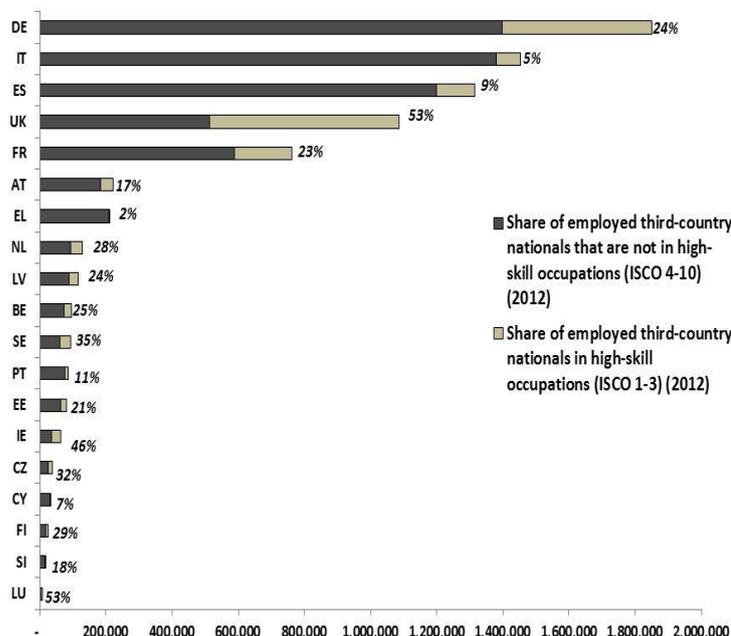
<sup>5</sup> Of the total employed population

<sup>6</sup> The number of all third-country nationals working in the EU in 2012 was 7,815,380. 21% of them worked within ISCO categories 1-3, accounting for 1,641,229 persons.

<sup>7</sup> AT, BE, CZ, DE, DK, EL, ES, FI, FR, HU, IE, IT, LU, NL, PL, PT, SE, UK.

Figure 2 gives an overview of the share of third-country nationals working in high-skill occupations on the total number of employed third-country nationals.

Figure 2 The share of employed third-country nationals (ISCO categories 1-3) on the total number of third-country nationals employed, 2012



### WHAT PROVISIONS HAVE BEEN MADE WITHIN THE EU ACQUIS?

In the past 10 years, most EU Member States have introduced measures to facilitate entry to highly skilled third-country nationals. This tendency has been further stimulated by the implementation of [Directive 2005/71/EC](#) on a specific procedure for admitting third-country nationals for the purposes of scientific research (hereinafter Researcher’s Directive) and, to a lesser extent given its recent transposition by Member States, [Directive 2009/50/EC](#) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (the EU Blue Card Directive).

### WHAT NATIONAL POLICIES ARE BEING IMPLEMENTED?

Most of the Member States have policies and strategies in place for attracting (highly) qualified third-country nationals, many of which pre-date the EU Blue Card Directive. While the majority of the Member States include provisions targeting this group in wider migration policies, some have developed specific policies targeted at (highly) qualified migrants. Similarities exist in the rationale for establishing national policies and strategies, with the most commonly identified objectives being the creation of more jobs and growth, the contribution to the establishment of centres of research and excellence,

the filling of shortages and existing labour market needs and the addressing of potential future labour market needs.

As part of their national policy, some Member States have placed a **specific focus on certain groups of individuals** (e.g. self-employed workers, researchers, intra-corporate transferees) as well as for individuals working in precise areas of occupation (e.g. IT, healthcare, academia, sport). In addition to sectors, niche skills and specific mixes of skills, for example languages experience, are in demand.

The systems in place in the Member States vary from points-based systems to systems which are employed led. In some Member States where such policies are in place, higher shares of (highly) qualified workers have been reported.

### ARE SPECIFIC POLICIES IN PLACE FOR ENTREPRENEURS AND INVESTORS?

Several Member States have **developed specific measures for self-employed, entrepreneurs and investors** which define the conditions and criteria for admission and grant, in certain cases, specific benefits and exemptions to attract these groups. **The focus on attracting entrepreneurs and investors appears to be increasing in the EU**, with new targeted policies being introduced recently in some Member States. The conditions applying to self-employed and entrepreneurs primarily relate to the expected potential economic activity so that the Member State can assess the added value that the third-country national will bring to the national economy. The main admission criteria relate to the sum of money to be invested as well as proof of secured funding for entrepreneurs.

### WHAT MEASURES ARE IN PLACE TO ATTRACT HIGHLY QUALIFIED THIRD-COUNTRY NATIONALS TO THE EU?

A wide array of measures is used by the Member States to attract third-country nationals. These include the **fast-tracking of procedures, unrestricted access to the labour market**, and the **provision of information and employer sponsorship**.

Some Member States have also developed several measures aimed to positively influence the immigration decision of third-country nationals, by offering **improved rights, benefits and incentives**. These include the right to be accompanied by family members with unrestricted access to the labour market and / or exemptions for family members from proof of language skills and / or from signing integration contracts for family members of highly qualified workers. Tax incentives are also offered by a few Member States to both employers and (highly) qualified employees. These range from granting specific expatriate statuses which offer tax-free

allowances and tax exemptions to general income tax reductions.

### DO AGREEMENTS WITH THIRD COUNTRIES HELP IN MEETING DEMAND FOR (HIGHLY) QUALIFIED LABOUR?

Member States have entered into many agreements with third countries which aim to facilitate labour migration though **only a very limited number** of these agreements focus specifically on attracting (highly) qualified third-country nationals to their territory. The limited number of specific agreements currently in place could be explained by the strong interest of Member States to attract the most relevant and talented (highly) qualified third-country nationals to their territory from anywhere in the world.

### ARE POLICIES AND MEASURES APPLIED IN THE MEMBER STATES EFFECTIVE?

Trends in the proportion of employed third-country nationals working in high-qualified occupations over the period 2008 to 2012, show that many Member States that had specific policies and measures in place to attract (highly) qualified migrants saw an increase in the proportion of the total number of employees in these occupational levels. Though the impact of the policies and measures introduced can be seen in some cases, only a few Member States have specific evaluation systems in place for regularly assessing the impacts of policies aimed to attract highly qualified and qualified third-country nationals, for example, through conducting evaluations, reports and interviews with stakeholders.

Based on the examples provided by Member States through national evaluations (or individual analysis), emerging good practice has been identified in relation to a number of different aspects of the migration process. Identified good practices have been in the areas of:

- ★ **information provision** (provision of relevant up-to-date information and guidance to migrants and employers from third countries and the establishment of focal points);
- ★ **adaptation of migration procedures** (replacing generic highly-skilled routes by more specialised routes, maintaining an open, employer-driven system);
- ★ the **introduction of incentives to attract** (highly) qualified migrants (tax advantages, improved family reunification rights); and

- ★ the **customisation of labour market practices** (ensuring that highly qualified third-country nationals are employed in sectors showing a shortage of domestic supply, involvement of national institutions in scrutinising the suitability of applicants).

In addition to good practices, the Member State evaluations and analysis highlighted a number of existing **challenges and barriers** to attracting highly qualified migrant workers. These include:

- ★ **characteristics which are inherent to the Member State's culture**, including history and traditions, language etc. Public debate related to immigration, community conflicts may also present challenges;
- ★ **economic, social and educational factors** including the economic crisis, salaries/wages, working conditions; and
- ★ **immigration rules and measures** (bureaucracy, lack of information, waiting times to process applications etc.).

The national evaluations undertaken have outlined that these challenges and barriers have led, in some cases, to shortage occupation lists not necessarily keeping pace with current needs, to targets initially agreed not being reached and to policies aim at attracting (highly) qualified third-country nationals ultimately having a limited impact on migration flows.

### WHAT HAS BEEN THE IMPACT OF THE EU ACQUIS IN ATTRACTING (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS?

Member States identified a number of benefits arising from the provisions of the EU Blue Card Directive, such as: the introduction of a definition of 'highly qualified' third-country national, which did not exist in some national legislation prior to the Directive's transposition; the facilitation of intra-EU mobility for third-country nationals providing the opportunity to change jobs and be temporarily unemployed; facilitating access to long-term residence; and the facilitation of family reunification. The main advantages identified in the Member States from the Researcher's Directive were the provisions to exempt from the work permit requirement, to apply for a long term residence permit and facilitating of family reunification.

## 1. Introduction

The aim of this focussed study was to outline policies and concrete practical measures in Member States that aim to attract (highly) qualified third-country nationals. More specifically, the study aimed to achieve the following objectives:

- ★ Provide an overview of national policies and EU acquis aimed at attracting (highly) qualified third-country nationals for the purpose of work;
- ★ Outline concrete practical measures which are implemented to achieve the goals of the national policies;
- ★ Investigate available evaluative evidence and inform practitioners, policy officers, decision makers and others about the effectiveness (or non-effectiveness) of different practical measures for attracting (highly) qualified third-country nationals where possible;
- ★ Map labour migration agreements specifically targeting (highly) qualified third-country nationals and analysing their effectiveness, also in the framework of Mobility Partnerships, if relevant;
- ★ Identify challenges or barriers that affect the attractiveness of an EU Member State for (highly) qualified third-country nationals' immigration;
- ★ Draw conclusions on good practices and lessons learnt with regard to attracting (highly) qualified third-country nationals.

This study builds on the findings of previous EMN Studies, most notably *Satisfying Labour Demand through Migration* (2010)<sup>8</sup> which showed that existing national entry and admission procedures to EU Member States could be further facilitated for third-country nationals with relevant skills and competencies. It also complements the results from the following two studies: *The Immigration of International Students to EU (Member) States* (2012)<sup>9</sup> and *Conditions of Entry and Residence of Third-Country Highly-Skilled Workers in the EU* (2007).<sup>10</sup>

<sup>8</sup> Available at [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=11\\_Satisfying LABOUR DEMAND through migration](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=11_Satisfying%20LABOUR%20DEMAND%20through%20migration)

<sup>9</sup> Available at [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=06\\_Immigration of INTERNATIONAL STUDENTS to EU Member States](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=06_Immigration%20of%20INTERNATIONAL%20STUDENTS%20to%20EU%20Member%20States)

<sup>10</sup> Available at <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=EDECCF80AEA39>

Since the publication of the 2007 Study, EU Policy in this area has developed considerably. While the 2007 Study aimed to identify the conditions of entry and residence of third-country nationals during the Commission's envisaged proposal of an EU Blue Card in the Policy Plan on Migration,<sup>11</sup> the 2013 Study aims to examine the policies in place in the Member States following the evolution of EU policy and acquis in this area, after the adoption of the EU Blue Card and the publication of new policy documents which place even greater emphasis on attracting highly qualified third-country nationals.

The Report is divided into six sections. Following this introductory [Section 1](#), [Section 2](#) presents an overview of EU policy and acquis and provides statistical data on attracting (highly) qualified third-country nationals. [Section 3](#) then examines the national policies implemented by Member States to attract (highly) qualified third-country nationals. [Section 4](#) evaluates the effectiveness of such policies and measures. [Section 5](#) focuses on the impact of the EU acquis. Finally, a summary of the report and its main conclusions are set out in [Section 6](#).

This Synthesis Report was prepared on the basis of National Contributions from 23 EMN NCPs (**Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Malta, Poland, Slovak Republic, Slovenia, Spain, Sweden** and the **United Kingdom**) according to Common Specifications developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

## 2. Background

This Section provides an overview of the EU Policy and acquis currently in place ([Section 2.1](#)) as well as the current trends in highly qualified and qualified third-country national migration for reasons of employment in EU Member States ([Section 2.2](#)).

<sup>11</sup> COM(2005) 669, available at [http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005\\_0669en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0669en01.pdf).

## 2.1 EU POLICY AND ACQUIS

### 2.1.1 EU Policy

The EU's policy approach to (highly) qualified migration, as defined by the **Europe 2020 Strategy**,<sup>12</sup> underlines the need to pave the way for new economic migration in sectors in which labour and skills shortages are emerging, as well as to attract highly skilled third-country nationals in the global competition for talent.

The issue of legal migration, including labour migration, is an integral part of the EU's cooperation and dialogue with third countries in the area of migration and mobility, and a key area of the EU's external migration policy as defined through the **Global Approach to Migration and Mobility (GAMM)**. One of its policy priorities is to "better organise legal migration and foster well-managed mobility", focusing, amongst others, on (highly) qualified third-country nationals. According to the Communication from the Commission of 18 November 2011 on the GAMM<sup>13</sup>, European policy on the organisation and facilitation of legal migration and mobility within the GAMM is based on the premise of offering employers wider opportunities to find the most suitably qualified individuals for EU vacancies from the global labour market.

In addition to the development of policy to attract (highly) qualified migrants, the **EU Entrepreneurship 2020 Action Plan** was adopted in 2012 with the aim of reigniting the entrepreneurial spirit in Europe.<sup>14</sup> The plan recognised Europe's need for more entrepreneurs, with entrepreneurship considered as a powerful driver of economic growth and job creation. The Action Plan identified migrants as an important pool of potential entrepreneurs in Europe, though highlighted the obstacles some encounter when attempting to enter the EU, such as legal difficulties, limited labour markets and limited opportunities for advancement. With a view to promoting migrant entrepreneurship in the EU, the Action Plan called for the Commission to propose policy initiatives to attract this group of third-country nationals and to facilitate entrepreneurship

<sup>12</sup> COM(2010) 2020 final, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>.

<sup>13</sup> COM(2011) 743 final

<sup>14</sup> COM(2012) 795, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:en:PDF>.

among migrants already present in the EU as well as analyse the opportunity of proposing legislation aimed at the removal of the legal obstacles existing for the establishment of businesses and giving qualified migrant entrepreneurs a stable permit.

As the European Commission continues to develop its policy in this area, the results of this Synthesis Report provide EU policymakers with an overview of the situations existing in the Member States.

### 2.1.2 EU Acquis

Throughout the recession, dedicated channels for the immigration of (highly) qualified migrants have remained widely available in a number of EU Member States. In the past 10 years most EU Member States have facilitated entry to highly skilled third-country nationals.<sup>15</sup> This tendency has also been stimulated by Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purpose of scientific research<sup>16</sup> (hereafter "Researcher's Directive") and, to a lesser extent given its recent transposition by Member States by Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment<sup>17</sup> (hereafter "EU Blue Card Directive"). This last instrument is the first direct EU response to shortages of highly qualified workers.

#### *The EU Blue Card Directive*

The EU Blue Card Directive was adopted in 2009. The objective of this Directive is to improve the EU's ability to attract highly qualified workers from third countries, but also to limit brain drain. The legislative instrument is designed to (1) facilitate the admission of these persons by harmonising entry and residence conditions throughout the EU; (2) simplify admission procedures; and (3) improve the legal status of those already in the EU.

<sup>15</sup> Policy Highlights – Summary of the Research Findings of the IOM Independent Network of Labour Migration and Integration Experts (LINET), 2013.

<sup>16</sup> Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, the United Kingdom is not bound by the Directive.

<sup>17</sup> 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. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, these Member States are not bound by the Directive.

The Directive sets out a number of **criteria for admission** to the Member State (Article 5) which includes an obligation on third-country nationals to produce a work contract or binding offer with a salary of at least 1.5 times the average gross annual salary paid in the Member State, or 1.2 times for certain professions where there is a particular need for third-country nationals.

The EU Blue Card Directive provides some leniency to Member State **admission procedures**, with Member States able to reject the application on the groups of volumes of admission (Article 6) and with them free to decide whether the application for an EU Blue Card has to be made by the third-country national and/or by their employer (Article 10). Member States are therefore able to determine the number of third-country nationals they admit under the EU Blue Card scheme.

The Directive provides EU Blue Card holders with the **right to be accompanied by their family members**, with Article 15(4) providing that residence permits for family members shall be granted *at the latest* within six months from the lodging of the application. The duration of validity of the family members' residence permits are the same as the EU Blue Card holders'. Family members are also entitled to access the labour market, with Member States obliged to not apply a time limit in respect to their access. These provisions are more flexible than those provided in relation to general family reunification rules, as provided in Directive 2003/86/EC.<sup>18</sup>

With regard to **access to employment**, Article 12 provides that for the first two years of legal employment, access to the labour market shall be restricted to the exercise of paid employment activities which meet the conditions for admission. After two years of legal employment, the third-country nationals may receive equal treatment with nationals as regards access to any highly qualified employment. In addition, the Directive provides for temporary unemployment (Article 13) of less than three months.

The EU Blue Card also provides the holder with the right for him/her and their family members to **move to a Member State** other than the first Member State for the purpose of highly qualified employment, under

certain conditions, after 18 months of legal residence (Article 18).

Denmark, **Ireland** and **United Kingdom** did not participate in the adoption of the Directive and are not bound by it or subject to its application.

### **The Researcher's Directive**

The 2005 Directive introduced a special procedure governing the entry and residence of highly qualified third-country nationals coming to the EU to carry out a research project for more than three months.<sup>19</sup> The Directive provided an obligation on Member States (Article 7) to admit researchers if they comply with a number of conditions including the presentation of a hosting agreement signed with a research organisation, with Member States obliged to issue a residence permit for a period of at least one year (Article 8), renewably annually. The Directive also allowed Member States to decide to award a residence permit to the family members of a researcher, whose permit will last the same length of time as the researcher's permit.

The Directive allocated a number of **rights** to the researchers, with holders of the residence permit entitled to equal treatment with Member State nationals regarding (a) the recognition of diplomas, certificates and other professional qualifications; (b) working conditions including pay and dismissal; (c) social insurance as defined by national legislation; (d) tax concessions and (e) access to goods and services and the supply of goods and services made available to the public. Article 13 of the Directive also enabled holders of the residence permit with sufficient mobility to carry out part of their research in another Member State.

Again, Denmark and **United Kingdom** did not participate in the adoption of the Directive and are not bound by it or subject to its application. **Ireland** is, however, bound by the Directive.

### **Future developments**

In addition to the main Directives described above, the Commission's proposals for a recast of the **Directives**

<sup>18</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:en:PDF>

<sup>19</sup> By virtue of Articles 1 and 2 of the Protocols on the positions of Denmark and of the **United Kingdom** and **Ireland**, annexed to the Treaty on the European Union and the Treaty establishing the European Community, the Directive did not apply to those Member States. Article 17(1) of the Directive imposed a deadline of 12 October 2007 for the transposition of the Directive by the Member States.

on **Students** and on **Researchers**<sup>20</sup> will have the aim of further facilitating admission, residence and intra-EU mobility of (highly) qualified workers, widening their access to the European labour market and at the same time contributing to achieving economic growth objectives by helping to fill skills gaps and counteract demographic trends towards an ageing of the EU population.<sup>21</sup>

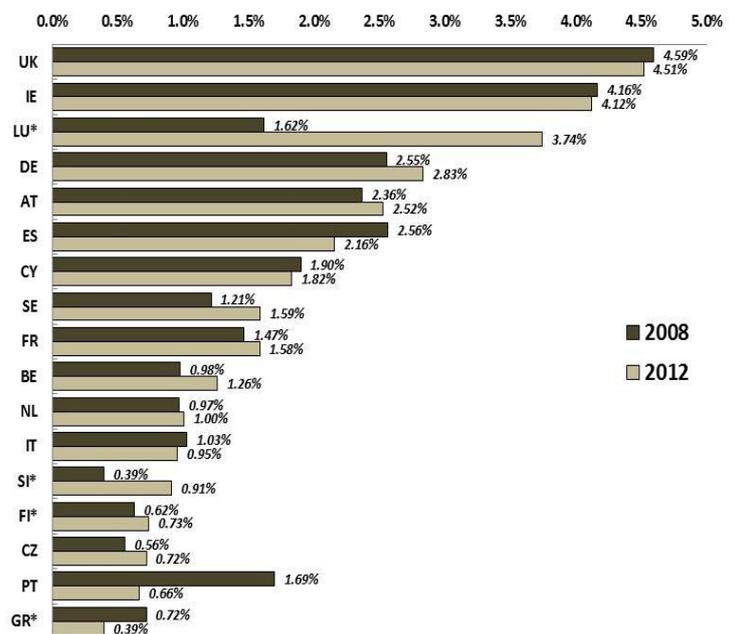
Moreover, the Commission’s proposal in 2010 for a **Directive for intra-corporate transfer of non-EU skilled workers**,<sup>22</sup> currently under negotiation within the European Parliament and the Council, will also improve the current situation in relation to highly qualified third-country nationals. The Directive, when adopted, will provide companies outside the EU with a set of common rules and requirements, facilitating the process for sending workers to the EU. EU companies will also have better and faster access to global talent to meet staffing needs for managers, specialists and graduate trainees. The EU will thus be provided with a greater pool of skilled staff which will help to secure a knowledge-based and innovative economy that will attract investments and subsequently create jobs.<sup>23</sup>

## 2.2 CURRENT TRENDS IN THE REPRESENTATION OF (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS IN EU EMPLOYMENT

According to statistics available from Eurostat, based on national Labour Force Surveys, in EU-27 between 2008 and 2012, there has been a slight increase in the proportional employment of third-country nationals in high-skill occupations (ISCO categories 1-3) in the total employed population from 2.01% (2008) of third-country nationals employed in this kind of occupation to 2.08% in 2012,<sup>24</sup> corresponding to an estimated 1.64 million persons.<sup>25</sup> This increase was experienced by ten of the Member States for which reliable data

was available.<sup>26</sup> As shown in [Figure 1.1](#) below, in **Luxembourg**, this increase was particularly strong, since the proportion of third-country nationals in high-skill categories rose from 1.6% to 3.7% (approximately 4 840) over the same period.<sup>27</sup> In 2012, this share reached 2.8% in **Germany** (approximately 453 000) and 2.5% in **Austria** (approximately 36 600). Conversely a slight decrease was experienced in **Cyprus, Greece, Ireland, Portugal, Spain** and the **United Kingdom** between 2008 and 2012.

**Figure 1.1** Proportion of employed third-country nationals working in high-skill occupations (ISCO 1-3) among the total employed population, selected Member States (2008-2012)<sup>28</sup>



*Note: Data for those Member States with an (\*) is characterized by low reliability. No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Member State Labour Force Surveys*

Changes in the representation of third country-nationals working in high skill occupations in the EU have been influenced by recent trends and developments in policy to attract this category of

<sup>20</sup> Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

<sup>21</sup> Commission Staff Working Document accompanying the 4<sup>th</sup> Annual Report on Immigration and Asylum (2012), SWD(2013) 210 final.

<sup>22</sup> COM(2010) 378 final Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

<sup>23</sup> Information available at [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/immigration/work/index\\_en.htm#3](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/immigration/work/index_en.htm#3)

<sup>24</sup> On the total employed population.

<sup>25</sup> The number of all third-country nationals working in the EU in 2012 was 7,815,380. 21% of them worked within ISCO categories 1-3, accounting for 1,641,229 persons.

<sup>26</sup> AT, BE, CZ, DE, EL, ES, FI, FR, HU, IE, IT, LU, NL, PL, PT, SE, UK.

<sup>27</sup> Statistics from the Labour Force Survey. Other national statistics for Luxembourg show an increase following the introduction of highly qualified worker status by the Law of 29 August 2008. The percentage of residence permits issued and renewed to highly qualified workers rose from 8.5% of the total for third-country national salaried residence permits in 2009 to 9.7% in 2012.

<sup>28</sup> ISCO categories 1-3 include occupations classified as managers, professionals and associated professionals in the International Standard Classification of Occupations (ISCO-88 or ISCO-08).

migrants within selected (non-EU) OECD countries<sup>29</sup>. In the United States, between 2006 and 2012, high-skilled foreign-born workers, entering the country either via the demand-driven schemes for visa (EB-2 and EB-3) or via temporary visas, continued to comprise a relatively high share of new hires (30.3%, against 28.2% of medium-skilled and 16.7% of low-skilled foreign-born workers). Better adaptation of the migration system to meet the labour market needs is central to the on-going discussion in the United States on immigration reform. New Zealand witnessed an increase of 20% in the number of participants to its Study to Work programme between 2011 and 2012. In Canada a new Federal Skilled Trades programme was implemented in 2013, to address serious labour shortages in some regions, accepting applications from up to 3 000 individuals in 43 specific trades. In the same year, Canada launched a new “Start-Up Visa” programme, linking immigrant entrepreneurs with private sector organisations in the country. Australia adopted more selective procedures to hire skilled migrants and recruit international students, yet at the same time it introduced a Significant Investor visa as well as a new post-study work visa. An Educational Credential Assessment (ECA) was also introduced which helps determine whether the foreign educational credential is authentic and equivalent to a completed credential in Canada.<sup>30</sup> In addition to non-EU OECD countries, China’s National Medium- and Long-term Talent Development Plan (2010-2020), as well as setting a blueprint for creating a highly skilled national workforce over a ten year period, includes measures for favourable taxation, insurance, housing, family reunification, career development, research projects, and government awards for highly qualified workers from third countries willing to work in China.

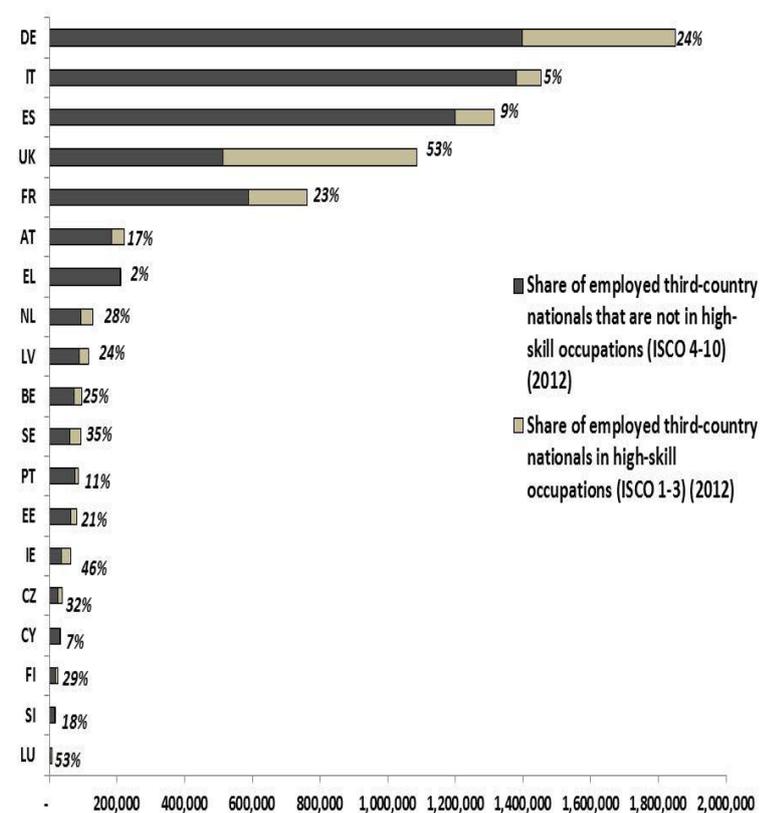
Although it is too early to measure the impact of these recently implemented initiatives, the development of policies to attract highly qualified third-country nationals in non-EU countries need to be closely monitored, since these countries are, in essence, competing with the EU to attract the highly skilled, meaning that their policies can also impact on the decisions of third-country nationals migrating or considering to migrate to EU Member States.

In the EU in 2012, out of all employed third-country nationals, 26% (approximately 2.04 million) had

reached the highest educational attainment level (university degree and/or PhD, pertaining to ISCED categories 5-6) and 21% (approximately 1.64 million) of them were working as either managers, professionals, technicians or associate professionals (falling into ISCO categories 1-3), accounting for up to 4.29% of all employees working in such categories.

Figure 1.2 below gives an overview of the share of third-country nationals working in high-skill occupations on the total number of employed third-country nationals.

**Figure 1.2** The share of employed third-country nationals (ISCO categories 1-3) on the total number of third-country nationals employed (2012)<sup>31</sup>



*Note:* No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Member State Labour Force Surveys

**Luxembourg** and the **United Kingdom** both show very high shares of employed third-country nationals working in jobs classified as high-skill occupations

<sup>29</sup> OECD International Migration Outlook 2013 available at <http://www.oecd.org/els/mig/imo2013.htm>

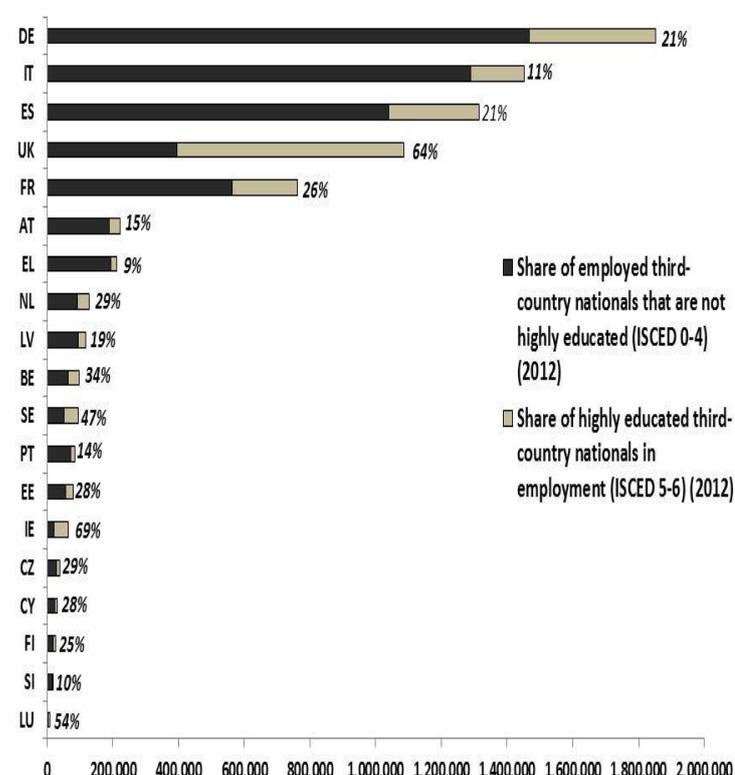
<sup>30</sup> Information available at <http://www.cic.gc.ca/english/department/media/backgrounders/2013/2013-04-18.asp#educ>

<sup>31</sup> ISCO categories 1-3 include occupations classified as managers, professionals and associated professionals in the International Standard Classification of Occupations (ISCO-88 or ISCO-08)

(53%). This share is also particularly high in **Ireland** (46%), **Sweden** (35%) and the **Czech Republic** (32%). Low shares can be noted in **Portugal, Spain, Cyprus, Italy** and **Greece**, where the proportion of third-country nationals in high-skill professions is between 11% and 2%.

Figure 1.3 below shows the share of employed third-country nationals in selected Member States in 2012 having reached the highest educational attainment level (ISCED categories 5-6), against the total number of employed third-country nationals.

**Figure 1.3** The total number of employed third-country nationals and the share having reached the highest educational attainment level (ISCED 5-6) (2012)<sup>32</sup>



*Note:* No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Member State Labour Force Surveys

The relative share of highly educated third-country national workers amongst all third-country national employees was particularly high in **Ireland** (69% or approximately 44 500), the **United Kingdom** (64% or approximately 690 700), **Luxembourg** (54% or approximately 4 900) and **Sweden** (47% or

approximately 44 000). In some Member States (**Belgium, Cyprus, Ireland, Spain, Sweden, United Kingdom**), the share of highly educated migrants is significantly (+10 percentage points) higher than the share of migrants in high-skill occupations, which confirms the tendency of third-country nationals to be overqualified for the jobs they work in.<sup>33</sup>

### 3. National Policies including concepts and measures

This section provides a full overview of the current Member State situations. An overview of the different concepts used with regard to qualified and highly qualified third-country nationals (Section 3.1) is first provided, with the national policies in place (Section 3.2) then presented. The varying approaches and measures used by the Member States are then outlined (Section 3.3) as well as the associated public debates (Section 3.4). The section then presents the agreements in place with third countries (Section 3.5) and concludes with the issues arising in relation to brain drain and brain circulation (Section 3.6).

#### 3.1 DEFINITIONS AND CONCEPTS

The understanding of who is a highly qualified and qualified third-country national varies in the Member States, with different definitions and concepts existing. This can be explained by the fact that often these depend on national labour market demands and other national criteria. Member States therefore do not have concrete definitions of these individuals but rather seem to mix definitions with concepts of whom these individuals are and with specific academic, salary and professional requirements set for these individuals.

The table in Annex 3 provides a full overview of the national concepts existing in the Member States.

#### **International Standards**

International Standard Qualifications exist for education and occupation in order to comparatively identify levels of qualification and occupation.

The Member States base many of their requirements on the ILO's International Standard Classification of Occupations (ISCO), where highly qualified and qualified jobs are classified to managers, professionals, and associate professionals (Levels 1-3).

<sup>32</sup> ISCED categories 5-6 include educational programmes classified to the first and second level of tertiary education in the International Standard Classification of Education (ISCED 1997)

<sup>33</sup> See also the report "Using EU Indicators of Immigrant Integration", March 2013, prepared at the request of the European Commission by the European Services Network (ESN) and the Migration Policy Group (MPG).

UNESCO’s International Standard Classification of Education (ISCED) provides an indication of the level of education for highly qualified individuals. For definitions based on the ISCED, “highly qualified” as well as “qualified” these will, in most cases, be the first and second stages of tertiary education (Levels 5 and 6) as well as some post-secondary education (Level 4). A full overview of these standards is provided in Annex 1.

### **EU Blue Card Directive**

The EU Acquis has also influenced the concepts used in the Member States, by setting out common definitions for both “highly qualified employment” and “higher professional qualifications”, especially when Member States had no prior concepts and definitions. Article 2 of the EU Blue Card Directive provides that “‘highly qualified employment’ means the employment of a person who:

- In the Member State concerned, is protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of someone else,
- Is paid, and,
- Has the required adequate and specific competence, as proven by higher professional qualifications.”

Article 2(g) sets out the requirements in relation to ‘higher professional qualifications’. These are qualifications:

- ★ Attested by evidence of higher education qualifications or,
- ★ By way of derogation, when provided for by national law, attested by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer.

### **Categorisation of Member States**

Member States can therefore be classified into the following categories:

- ★ Member States which only apply the concept from the EU Blue Card Directive (**Greece,**

**Hungary, Italy, Luxembourg,<sup>34</sup> Poland, Slovak Republic, Lithuania);**

- ★ Member States which have a number of concepts in place (**Austria, Belgium, Czech Republic, France, Germany, Ireland, Latvia, Netherlands, Slovenia, United Kingdom);**
- ★ Member States which are in the process of developing and adopting concepts (**Estonia, Spain);**
- ★ Member States which did not report specific definitions and concepts (**Cyprus, Malta, Sweden).**

A number of concepts are in place in a number of Member States due to the different migration schemes and residence permits available to third-country nationals when wishing to migrate for (highly) qualified work. The different permits in place also have different requirements associated with them. For example, in the **Czech Republic**, those highly qualified workers applying for an EU Blue Card are required to fulfil all conditions set out in the Directive while highly qualified workers applying for a Green Card Type A/Key personnel need to fulfil different requirements, with more emphasis in this case placed on the employer’s needs.<sup>35</sup>

The development and detail of concepts relating to (highly) qualified workers in the Member States can be associated with the level of maturity of national policy. When examining the different concepts existing in Member States such as **Austria, Germany** and the **United Kingdom**, where policies for attracting highly qualified third-country nationals have been in place for already a few years, it is clear that these concepts, and their associated requirements, are more elaborate than in Member States which have developed policy in this area more recently and thus have adopted the definitions provided in the EU Acquis. National policies are further discussed in Section 3.2 below. The link between concepts and policies is also clear in **Sweden**: since the national policy for labour migration does not specifically target highly-skilled migrants but provides an employer-driven system for recruitment which is open to all skill levels, there is no legal definition in national legislation of what constitutes a

<sup>34</sup> In **Luxembourg**, a partial transposition of the concepts included in the Blue Card Directive was introduced into national legislation prior to adoption of the Directive at EU level.

<sup>35</sup> The Green Card is the national residence permit. It is a dual document. There are three types of Green Cards, the others covering for workers in general.

(highly) qualified worker, nor are there any salary thresholds or quotas applied.

With regard to the criteria underpinning such definitions in the Member States, these relate to the following:

- ★ Education (**Austria, Belgium, Czech Republic, Germany, Finland, Italy, Lithuania, Luxembourg, Netherlands, Slovenia, Slovak Republic, Spain, United Kingdom**);
- ★ Salary (**Austria, Belgium, Czech Republic, Estonia, Germany, Finland, France, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Spain, United Kingdom**);
- ★ Professional Experience (**Austria, Germany, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Spain, United Kingdom**).

The most frequently used criteria are those of education and salary.

Concerning the ISCED levels used by the Member States, it is clear that where there is a distinction in Member State concepts between qualified and highly qualified third-country nationals, different levels of ISCED levels are required. For example, in **Austria**, 'very highly qualified workers' require ISCED Levels 5 or 6 while 'skilled workers in shortage occupations' can be eligible, regardless of any higher education qualification, as long as they have completed professional training in a relevant shortage occupation. Moreover, in the **Czech Republic**, ISCED Levels 5 and 6 are required to obtain a Type A Green Card for highly qualified third-country nationals, while ISCED Level 3 is needed to obtain a Type B Green Card as a qualified third-country national. Different ISCED levels are also applied in **Lithuania**, depending on whether the professions are regulated or non-regulated.

With regard to professional occupations, the ISCO Groups differ in some Member States. While the Major Groups 1 to 3 are used in all Member States citing these standards (or their equivalent) at national level (**Austria, Czech Republic, Germany, Italy**), other major groups are also considered within the concept of (highly) qualified third-country nationals. For example, in **Austria**, 'skilled workers in shortage occupations' can also fall under ISCO Major Groups 4-8. Moreover, in the **Czech Republic**, individuals falling under ISCO Major Groups 1-5 can be considered as highly qualified and thus eligible for a Type A Green Card. In **Luxembourg**, requirements are stricter, with highly qualified third-country nationals only those being

employed in jobs classified to ISCO Major Groups 1 and 2.

Where salary requirements are applied by the Member States, the manner in which these are calculated varies. These include the following:

- ★ Application of a minimum salary requirement (**Austria**<sup>36</sup>, **Czech Republic, Finland, Ireland, Luxembourg, Netherlands, Poland, United Kingdom** (for qualified third country nationals coming under Tier 2 route for skilled migrants));
- ★ Application of a coefficient of the annual average salary (**Belgium, Estonia, Lithuania, Spain**), minimum salary (**France, Italy**) or threshold for the general pension scheme (**Germany**).

In addition to the salary requirements imposed on third-country nationals, **Austria** (for the category of 'other key workers') and the **Netherlands** vary the salary threshold depending on the age of the applicant, whether they are below or over 30 years of age.

The salary requirements existing in the Member State vary from €1 293 per month (**Lithuania**) to a minimum annual salary of €67.842 (**Luxembourg**).

For the EU Blue Card, whilst Member States are in conformity with the provisions, either applying a coefficient of 1.5 times<sup>37</sup> the minimum salary or 1.2 times for certain professions with specific shortages, it is interesting to observe the difference in salary scales, depending on the Member State in question. In 2013, these ranged from €46 400 in **Germany**, €49 995 in **Belgium**, €54 274<sup>38</sup> in Luxembourg, €56 004 in **Finland** and €60 952 in the **Netherlands**. Though the threshold is applied by the Member States, the benchmark salary varies. In the **Czech Republic**, the average salary is used as a benchmark while in **Italy** the minimum level set for the State's medical expenses contribution exemption is used as a benchmark.<sup>39</sup>

Many Member States (**Austria, Czech Republic, France, Ireland, Luxembourg, Netherlands and United Kingdom**) have policies that in some way differentiate between qualified and highly qualified

<sup>36</sup> This requirement concerns not all categories of (highly) qualified third country nationals.

<sup>37</sup> In **Lithuania**, the coefficient is two times the average salary which in the first quarter of 2013 was €1 293.

<sup>38</sup> €54 273.60

<sup>39</sup> Analysis on this matter is presented in the OECD's International Migration Outlook 2013, p 49.

third-country nationals and can target the workers needed most. In **France**, whereas highly qualified third-country nationals benefit from several targeted measures, qualified third-country nationals are often part of broader provisions aimed at all third-country national economic migrants.

### 3.2 NATIONAL POLICIES

In addition to EU policy which has identified the need to attract highly qualified third-country nationals in the global competition for talent, national policy has also developed over recent years in order to ensure that the (highly) qualified vacancies are filled in their labour market.

Most of the Member States have policies and strategies in place for attracting (highly) qualified third-country nationals. While the majority of the Member States included provisions targeting this group in wider migration policies (**Belgium, Estonia, Finland, Greece, Hungary, Lithuania, Luxembourg, Slovak Republic, Slovenia, Sweden**), some have developed separate policies targeted at (highly) qualified migrants (**Austria, Czech Republic, Germany, France, Ireland, Netherlands, Spain, United Kingdom**). Where such specific policies were established, in the majority of cases, these combined different categories of highly qualified and qualified third country nationals.

Some of the Member States having **specific policies** in place are amongst those attracting higher shares of (highly) qualified workers, for example in **Ireland** and the **United Kingdom**, where indeed the proportion of third-country nationals classified to the ISCED 5-6 categories was 69% and 64% respectively in 2012 and the proportion of third-country nationals in the ISCO 1-3 jobs was 46% and 53% respectively. High shares have been also noted amongst Member States which included provisions targeting (highly) qualified workers in wider migration policies. For example, in **Sweden**, the proportion of third country nationals classified to ISCED 5-6 was 47% while those in ISCO 1-3 classified jobs amounted to 35% in 2012. In **Luxembourg** the proportion of third country nationals classified to ISCED 5-6 categories was 54% while the proportion of third country nationals in ISCO 1-3 classified jobs amounted to 53%. Section 4 below provides more information on the *effectiveness* of these policies.

**Cyprus, Hungary, Italy, Latvia, Malta** and **Poland** did not establish any national policies or provisions for attracting (highly) qualified third-country nationals. While, overall, these Member States do not seem to attract higher shares of (highly) qualified workers,

there is an exception in **Cyprus** where the proportion of third-country nationals classified to ISCED 5-6 was 28% in 2012.

Some similarities in the rationale for establishing national policies and strategies aimed to attract (highly) qualified third-country nationals and in their objectives can be noted. The most commonly identified ones are:

- ★ Create more jobs and growth, strengthen the competitiveness of Member States' economy and encourage foreign investments;
- ★ Contribute to the establishment of research and excellence centres;
- ★ Make Member States an attractive destination country;
- ★ Help employers and companies to find the specialised workforce missing from labour market;
- ★ Fill in shortages and existing labour market needs;
- ★ Address potential future labour market needs.

#### **Focus on groups of individuals**

As part of their national policy to attract (highly) qualified third-country nationals, some Member States, have placed a specific focus on certain groups of individuals as well as for individuals working in precise areas of occupation. The most common categories of third-country nationals and occupations mentioned in the national policies/strategies are:

- ★ Self-employed workers (**Austria, Belgium, Germany, Ireland, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden**)
- ★ Executive staff and managerial employees (**Austria, Belgium, Estonia, Germany, Greece, Italy, Lithuania, Spain**)
- ★ Students (**Belgium, Germany, Estonia, Finland, France, Luxembourg, Ireland, Netherlands, Lithuania, Poland, Slovenia, Slovak Republic, Spain**)
- ★ Researchers and scientists (**Belgium, Germany, Estonia, France, Ireland, Luxembourg, Lithuania, Netherlands, Poland, Slovak Republic, Spain, Sweden**)

- ★ Persons employed by an international corporation or group that are involved in a personnel exchange or secondment (**Germany, France, Greece, Italy, Luxembourg, Spain, Sweden, United Kingdom**)
- ★ Investors (**Estonia, Germany, Hungary, Ireland, Luxembourg<sup>40</sup>, Spain, United Kingdom**)
- ★ Entrepreneurs (**Estonia, Germany, Ireland, Slovak Republic, Spain, United Kingdom**); and
- ★ Graduates (**Austria**);
- ★ 'Exceptionally talented individuals' (**United Kingdom**).

#### ***Focus on priority occupations***

In some cases, the focus on attracting certain categories of third-country national professionals and filling particular occupations relates to specific national labour market needs and shortages. **Austria, France, Germany, Hungary, Ireland, Lithuania, Slovenia** and the **United Kingdom** have established a list of occupations subject to shortages. The sectors most affected are:

- ★ Information and Communications Technology (**France, Germany, Austria, Ireland, Italy, Spain, United Kingdom**);
- ★ Healthcare (**Germany, Austria, Hungary, Ireland, Italy, Poland, Slovenia, United Kingdom**);
- ★ Sport (including athletes and coaches) (**Greece, Italy, Netherlands, Poland, Spain, United Kingdom**);
- ★ Academia (**Italy, Lithuania, Poland, Spain**);
- ★ Art (**Greece, Italy, Netherlands, Spain**)
- ★ Financial services (**France, Ireland, Malta**), aviation services (**Malta**);
- ★ Engineering (**Austria, Germany, Spain, Ireland**);
- ★ Maritime (**Italy**);
- ★ Innovation and creativity (**Malta, Spain**);

<sup>40</sup> No specific residence permit exists in Luxembourg for investors; in such cases a residence permit may be obtained for private reasons (autonomous) or as self-employed.

#### ★ Transport (**Lithuania**)

In addition to sectors, niche skills and specific mixes of skills, for example languages/business experience, are in demand. This is the case, for example, in **Ireland**.

In other cases, Member States specifically seek to attract third-country investors and entrepreneurs in order to help boost the national economy.

Most commonly, the admission and entry of the categories of (highly) qualified third-country nationals mentioned above is facilitated, for example, through fast-track procedures, exemptions from general immigration requirements and labour market tests and other incentives as further elaborated in section 3.3.

#### ***Immigration quotas***

In **Estonia, Hungary** and the **United Kingdom**, (highly) qualified third-country nationals fall under an immigration quota. These quotas set a limit to the number of permits issued to third-country nationals in order to enable them to enter/work in the Member State.<sup>41</sup> In **Estonia**, EU Blue Card applicants are subject to the general immigration quota. As of September 2013, however, and international students who finish their studies in **Estonia** wishing to remain for work, and their family members, will be exempt from such quota. Similarly, in **Hungary**, the Minister for Labour Affairs sets the maximum number of work permits to be provided annually. This includes the number of third-country nationals employed on the basis of an EU Blue Card. In the **United Kingdom**, some of the immigration routes are subject to an annual limit. This limit is set at 20,700 for Tier 2 General Applicants, at 2,000 for Tier 1 Graduate Entrepreneurs and at 1,000 for Tier 1 Exceptional Talent. Finally, in **France**, provisions have been included, within bilateral agreements signed with certain third countries on the concerted management of migratory flow, in relation to the "skills and talents" residence permit, specifying the annual quota.

In **Austria**, a quota system regulated the immigration of (highly) qualified workers prior to the introduction of the national Red-White-Red Card. By replacing the quota system, which placed limits on the numbers of labour migrants, Austria in particular focused on becoming a more attractive destination country for (highly) qualified third-country nationals in need.

<sup>41</sup> In **Hungary** the quota only limits the number of work permits that can be issued annually. Consequently workers not in need of a work permit or third-country nationals not coming for the reason of work do not fall under the quota restriction.

The information available suggests that, in the majority of the cases where quotas were established, the latter were not exhausted. This happened in **Estonia**, where in 2012, the quota was used up to 58%. Similarly, quotas have not been exhausted in **Hungary** and the **United Kingdom**.

### 3.3 APPROACHES AND MEASURES

This Section provides an overview of the approaches and measures taken by Member States. The overall approach to admission of (highly) qualified third-country nationals (Section 3.3.1) is firstly provided, with an overview then presented relating to the specific measures to attract (highly) qualified third-country nationals and facilitate their integration (Section 3.3.2) as well as the specific measures in place in relation to entrepreneurs and investors (Section 3.3.3).

#### 3.3.1 Overall Approach to admission of (highly) qualified third-country nationals

Five Member States have points-based systems in place (**Austria, Netherlands, Slovenia, United Kingdom**). In **Slovenia** this is still to be made operational and in the **Netherlands**, the system is only used for specific (and small) groups of migrants. The **United Kingdom** was the first Member State to introduce a system, in 2008, to better match economic migrants (of all types and skills levels) with national economic and labour market interests,<sup>42</sup> allocating points to specific qualifications, professional experience and other features of third-country applicants, followed by **Austria** and **Slovenia**. The systems are both supply and demand driven, in the sense that they focus both on addressing labour shortages, often requiring applicants to present a job offer and/or to be a specialist in a certain occupation or sector, and on identifying third-country nationals which can add a high value to the Member State. In **Czech Republic**, a points-based system was applied in the project 'Selection of Qualified Foreign Workers' as a condition for entry to the project.

The approach to immigration of highly-qualified workers is employer-led<sup>43</sup> in 16 Member States (**Belgium, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic,**

**Spain, Sweden, United Kingdom**)<sup>44</sup>. In 14 Member States (**Belgium, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Spain, Sweden, United Kingdom**), employer-led means that employers are expected to 'preselect' the third-country national they wish to hire and, in most cases, have to prove that both they and the third-country national are meeting certain conditions. The employers often have to prove that they could not find any national / EU citizen to fill the position, apply another type of labour market test and/or guarantee a certain wage level.<sup>45</sup> For some occupations, exemptions apply. Only in **Sweden**, are employers able to hire third-country nationals freely and only need to offer conditions which apply to the entire sector. The Swedish system does not foresee any quantitative or qualitative limits to the immigration of workers, with the general approach being that labour immigration should be driven by the recruitment needs of employers, regardless of whether they need highly qualified, qualified, low-skilled or unskilled workers.

Other approaches applied in Member States include inviting employers and employer organisations to actively contribute to exercises to forecast labour demand and to identify specific occupations and/or sectors in which demand is exceeding the national supply (**Greece, Italy**) and in **United Kingdom**, the occupational shortage list is consulted prior to changes being implemented. In **Czech Republic**, vacancies for highly-qualified workers are made by employers although the employer does not in general cases select the specific employee. With these as a basis, Member States can thus set quotas, develop immigration guidelines and/or determine in which sectors or for which professions exemptions may apply.

#### 3.3.2 Specific measures to attract (highly) qualified third-country nationals and facilitate their integration

Member States have deployed a wide range of measures to implement their policies aimed at attracting (highly) qualified migrants and positively influencing their migration decision, as well as helping them to successfully integrate. Some have multiple measures in place, usually combining information provision with other activities and advantages, whereas others have opted to focus on fewer and more specific ones.

<sup>42</sup> Other types of migrants are also included for whom other criteria apply.

<sup>43</sup> Subject to the Union preference principle.

<sup>44</sup> **Germany** and **Netherlands** thus combine both approaches.

<sup>45</sup> In **Luxembourg**, no labour market test applies though the position has to be declared vacant at the Employment Agency (ADEM).

Member States are promoting themselves as destination countries for highly qualified workers and are involving relevant organisations, through the following measures (in order of significance):

- ★ Fast-tracking of procedures (**Austria, Czech Republic, Ireland, Germany, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Netherlands, , Slovak Republic, Slovenia, Spain, Sweden, United Kingdom**) for permits and visas;
- ★ Unrestricted access to the labour market (**Austria, Belgium, Germany, France, Hungary, Italy, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden, United Kingdom**<sup>46</sup>), although this is in most cases limited to a few sectors and countries of origin, or is allowed only after a certain period of time;
- ★ Provision of information including information campaigns, mostly in the form of websites and portals, but also through one-stop-shops and expatriate centres (**Austria, Czech Republic, Germany, France, Hungary, Luxembourg, Netherlands, Spain, Sweden, United Kingdom**);
- ★ Employer sponsorship and/or involvement in the migration process (**Luxembourg, Slovak Republic** (to a limited extent), **Spain, Sweden, United Kingdom**) specifically and to some extent all Member States which have adopted an employer-led approach);
- ★ Attendance at recruitment fairs abroad (**Belgium**);
- ★ Cooperation with institutions /organisations in third countries (**Italy**);
- ★ Use of networks such as the Research Marketing Network which aims to attract junior scientists considered to be highly qualified workers (**Germany**);
- ★ Payment of fee in two instalments for Tier 1 exceptionally talented applicants where payment of the second instalment is required only if the applicant is endorsed by the competent body (**United Kingdom**).

<sup>46</sup> For Tier 1 high-value migrants and some migrants under Tier 2 for skilled workers.

Member States have also developed several measures to positively influence the immigration decision of third-country nationals, by offering improved rights, benefits and incentives. While many of these measures have been adopted following the entry into force of the EU Blue Card Directive, some measures were already in place prior to its implementation or go beyond the provisions set out in the EU acquis.

For example, as set out in Section 2 above, the EU Blue Card Directive (Article 15(4)) provides that family members shall be able to accompany an EU Blue Card Holder at the latest within six months from the date on which the application was lodged for family reunification. Many Member States (**Austria, Belgium, Czech Republic, Germany, Estonia, France, Greece, Lithuania, Italy, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden**) grant family members of highly qualified workers the right to directly accompany them to the Member State, rather than within a six-month period from application, thus making their policy more attractive. This approach is also adopted in **Ireland** in respect of holders of the Irish Green Card.

As provided for in the 2009 EU Blue Card Directive, the duration of the residence title granted to family members is linked to the duration of the permit of the main card holder.<sup>47</sup> Some Member States allow family members to benefit from unrestricted access to the labour market (**Austria, Belgium, France** (for certain categories), **Germany, Lithuania, Italy, Netherlands, Slovenia, Slovak Republic** (where no work permit is required), **Sweden**) or access under similar conditions as the main card holder (**Germany** for some categories).

Other advantages are also offered to family members, for example exemptions from proof of language skills (**Austria** for family members of 'very highly qualified' workers,<sup>48</sup> and **Germany** for spouses of highly qualified workers) and from having to sign integration contracts (**France** for certain categories). These provisions also go beyond those applied in the Directive.

**Belgium, Finland, France, Ireland, Luxembourg, Malta, Netherlands** and **Sweden** offer tax incentives, to both employers and (highly) qualified employees. These range from granting specific ex-

<sup>47</sup> Article 15(5) provides that 'the duration of validity of the residence permits of family members shall be the same as that of the residence permits issued to the EU Blue Card holder insofar as the period of validity of their travel document allows it.

<sup>48</sup> This also applies to family members of EU Blue Card holders

patriate statuses which offer tax-free allowances and tax exemptions (**Belgium, France**); to general income tax reductions (**Ireland, Malta, Sweden**); and allowing employers to provide tax-free benefits to cover the costs related to the move and settlement of the third-country national in another country (**Luxembourg, Netherlands**). In some cases, tax incentives are restricted to so called “key persons” e.g. a small group of very senior managers in companies (**Finland**), those employed temporarily (**Luxembourg, Netherlands**) and/or those in occupations of special interest to the Member State (**Luxembourg, Malta**). In the case of **Ireland**, the tax incentives are specifically aimed at encouraging companies to seek out talent from across the borders.

Specific arrangements with regard to social security are being offered in **Belgium**, as part of agreements with over 20 third countries (and at least two new agreements are about to be ratified). Under these agreements, temporarily seconded (highly) qualified third-country nationals can continue paying social security in their home countries. In addition, long-term benefits built up in Belgium can, under certain conditions and to a certain extent, be exported to the home country. The Belgian insurance periods are also taken into account when determining the entitlement and calculating the benefits in the home country. The **Netherlands** signed a social security treaty with India in 2009, which exempts (highly) qualified employees who are seconded from one of these countries to work in the other country for a maximum period of 60 months from paying social security payments in the guest country. Those who are not seconded but who have rather migrated to the **Netherlands** to live more permanently only need to pay in the guest country, thus avoiding that double premiums can be charged.

Other incentives applied include the exemption from having to obtain formal recognition of higher education degrees in **Austria** and **Czech Republic**, as well as other support mechanism to facilitate the recognition procedures for other forms of education and professional experience. The **Netherlands** facilitates start-up procedures for self-employed from the US and Japan in the Netherlands. Self-employed persons from these countries are not tested under the points system as to whether they actually serve in the interests of the Dutch economy.

General provisions relating to integration applied by Member States may also be aimed at the integration of (highly) qualified third-country nationals. The following have been identified by Member States as particularly relevant for (highly) qualified migrants:

- ★ Measures to improve language proficiency, including courses (**Austria, Estonia, Italy, Luxembourg**) and guidelines (**Italy**). In most cases (highly) qualified third-country nationals can make use of the same language training opportunities offered to all migrants.
- ★ Provision of information and civil orientation, mainly provided through websites (**Austria, Belgium, Italy**), courses (**Luxembourg**) and other documentation such as handbooks (**United Kingdom**). In a few cases, these have a specific focus, such as in **Austria** and **Germany** where information is provided on how to get qualifications and experience recognised. Again in most cases the services are offered indiscriminately to all migrants.
- ★ Other, including participation in general integration programmes (**Italy**).

**Estonia** has not applied specific measures for highly qualified migrants, but plans to do so from 2013 in recognition of identified needs.

### *3.3.3 Specific measures to attract entrepreneurs and investors*

According to the LFS, an estimated 11% of all working third-country nationals were self-employed<sup>49</sup> in 2012, with peaks of 36% in the **Czech Republic**, followed by the **Netherlands** (16%) and **Italy** and the **United Kingdom** (both 13%).

Several Member States have, as part of their policies to attract (highly) qualified migrants, developed specific measures for self-employed, entrepreneurs and investors (**Austria, Belgium, Germany, Estonia, Greece, Hungary, Ireland, Luxembourg, Netherlands, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom**) which define the conditions and criteria for admission and grant, in certain cases, specific benefits and exemptions to attract these groups, providing the specific criteria can be met. The focus on attracting entrepreneurs and investors appears to be increasing in the EU. For example, new targeted policies were introduced in January 2012 aimed at attracting non-EEA migrant entrepreneurs and investors to **Ireland**. The **United Kingdom** also, in 2011, introduced measures to attract investors and entrepreneurs, including

<sup>49</sup> It is noted that this is restricted to self-employed and may therefore not include all third-country entrepreneurs. The statistics are also not restricted to highly-qualified third-country national.

accelerated procedures, lower thresholds allowed where funding is obtained from sources endorsed by the UK Financial Conduct Authority, UK Trade and Investment, UK government departments and allowable absences.

The conditions applying to self-employed and entrepreneurs primarily relate to the expected economic potential of the activity (**Austria, Belgium, Germany, Greece, Ireland, Netherlands, Spain, United Kingdom**), so that the Member State can assess the added value the third-country national will bring to the national economy. **Austria**, for example, requires self-employed key workers to pursue a gainful activity which supports overall economic growth, which is assessed by the regional public employment service. Similarly, **Belgium** requires applicants to prove the potential added value of their activity, which can consist of the creation of new jobs, a positive economic impact on enterprises based in Belgium, the innovation or specialised nature of the activity, or the social, cultural, artistic or sport-related benefit of the activity. The added value is assessed by the Federal Department for SMEs.

Some Member States require self-employed third-country nationals and /or entrepreneurs to provide proof of secured funding (**Estonia, Germany, Greece, Luxembourg, Ireland, United Kingdom**). **Greece** has set a minimum amount of €60 000, **Estonia** €65 000 (or €16 000 for self-employed/entrepreneurs<sup>50</sup>), **Ireland** €75 000 and the **United Kingdom** has set a minimum of 200 000 GBP (about €232 600) for individuals wanting to invest by setting up or taking over and being actively involved, in running a business, or 50 000 GBP (about €58 000) if it is obtained from a specified source. In addition, applicant entrepreneurs need to prove access to a monthly minimum maintenance fund of £3 100 (about €3 600). On the other hand, graduates who wish to become “Graduate Entrepreneurs”, through the new Global Graduate Entrepreneurs Programme, launched in June 2013 by UK Trade & Investment, only have to prove that they have access to monthly minimum maintenance funds of £1 800 (about €2 100). In **Luxembourg**, a specific value is not prescribed, however the applicant must provide proof of sufficient resources to practice the activity.

For investors from third countries, the main admission criterion in the Member States (**Estonia, Greece, Hungary, Ireland, Spain, United Kingdom**) relates to the sum to be invested. The sums vary depending

on the Member State: €65 000 (**Estonia**), €250 000 (**Hungary**), €300 000 (**Greece**), €400,000 to €1 million (**Ireland**), €500 000 to €2 million (**Spain**) and £1 million (£1 188 870) in the **United Kingdom**.

Only few Member States require proof of qualifications from entrepreneurs and investors (**Slovenia** and the **United Kingdom** as part of the Graduate Entrepreneur route) or reserve the right to scrutinise business plans (**United Kingdom**). Member States also grant certain benefits and exemptions, in addition to those applied for (highly) qualified third-country nationals, as described in Section 3.3.2 above. For example, **Greece**, the **Slovak Republic** and **United Kingdom** apply fast-track procedures for certain categories of entrepreneurs and investors. In **Italy** and the **United Kingdom**, quotas on third-country migrants do not apply to entrepreneurs and investors, although in United Kingdom, quotas are applied to graduate entrepreneurs and ‘exceptional talent’. Third-country national entrepreneurs are also exempted from requirements in relation to language skills (**Germany, United Kingdom**).

The points/criteria-led-system is not applied to self-employed workers in **Austria**, and in the **Netherlands**, testing is not applied to specific categories of self-employed third-country nationals, including long-term residents, Turkish nationals (from 2011) and nationals from Japan and the USA (from 2010). In addition, such nationals from Japan and the USA do not need to prove their economic potential in order to be admitted. In **Ireland**, the Start-Up Entrepreneur Programme facilitates the entry of certain investors into the territory, by not setting any initial job creation targets for these individuals, by not requiring them to employ EU/EEA nationals and by lowering the amount of start-up capital required.

### 3.4 PUBLIC DEBATE

In most of the Member States, national immigration policies and policies specifically aimed to attract (highly) qualified third-country nationals have been subject to public debate. There are several reasons explaining why such debates were initiated in the Member States. The most common reason is linked to the economic crisis and rising unemployment amongst citizens (**Finland, Ireland, Italy, Lithuania, Spain**), a negative attitude held by citizens towards immigrants (**Latvia**), as well as shortcomings in existing legislation (**Czech Republic, Estonia** and **France**) were also cited as reasons initiating public debates.

<sup>50</sup> For self-employed/sole entrepreneurs

In some cases, negative attitude towards immigration of (highly) qualified third-country nationals has led to criticisms following the introduction of policies, aiming to attract such individuals. In **Austria**, for example, the Trade Union Federation and the Austrian Chamber of Labour were, during the development of the new policy, rather sceptic towards the introduction of the “Red-White-Red card” as they questioned the increased demand for immigration in Austria and underlined the danger of wage and social dumping (i.e. the practice of using cheaper labour) that was linked to its introduction. Similarly, in **Sweden**, current rules for labour immigration have been criticised by opposition parties for contributing to wage-dumping and for making it easier for employers to recruit foreign workers instead of investing into the further education and qualification of persons already living in Sweden.

On the other hand, in **France**, following the publication of a Circular on conditions applicable to international students relative to their entry into the labour market after completion of their studies in 2011, significant debates took place on the restrictive conditions applicable to international students and the consequent negative impact on the attractiveness of France on an international scale. In the framework of preliminary consultations to the debate on labour migration and student mobility which took place in Parliament between April and June 2013, the issues of reviewing the concept of first work experience and the length of the temporary residence authorisation were raised. In **Czech Republic**, the Green Card system used for issuing permits to (highly) qualified third-country nationals was criticised and, more specifically, shortcomings such as the time-consuming and administratively onerous requirements of the process for third-country nationals prior to their employment.

In some instances, public authorities organised public consultations on certain topics. Prior to adopting legislation or policies related to (highly) qualified third-country nationals, for example, some Member States organised wide-ranging consultations both at institutional as well as with social partners (**Czech Republic, Estonia, Slovenia, United Kingdom**). **Greece** also organised a public consultation before the adoption of the national legislation transposing the EU Blue Card Directive.

**Estonia** and **France** indicated that, following public debate, modifications were made to legislative texts. In **Estonia**, as a result of changes proposed as part of the stakeholder consultation, a simplified residence application procedure was introduced for (highly) qualified third-country nationals. In **France**, after the presidential elections of 2012, the Circular of 31 May

2011 was repealed and replaced by a new text introducing more favourable rules for international students intending to stay in the country after their studies, in response to public debate on the issue.

### 3.5 AGREEMENTS WITH THIRD COUNTRIES

Member States have entered into many agreements with third countries which aim to facilitate labour migration, but only a very limited number of these agreements focus specifically on attracting (highly) qualified third-country nationals to their territory. A full overview of the agreements in place with third countries relating to labour migration was presented in the 2010 Study on *Satisfying Labour Demand through Migration* as well as the 2012 Study on the *Immigration of International Students to the EU*. Annex 4 below sets out Member States’ agreements with third countries in relation to attracting (highly) qualified third-country nationals.

**France, Netherlands, Poland, Slovenia** and **Spain** have entered into agreements with third countries which have a specific focus on attracting (highly) qualified third-country nationals to their territory.

The agreements entered into by **France, Slovenia, Poland** and **Spain** aim to facilitate the entry of third-country nationals into the territory by easing the conditions relating to the issuance of work permits.

**Slovenia** recently entered into an agreement with Bosnia-Herzegovina which regulates the employment of nationals of the latter. The agreement includes provisions which are relevant for the purposes of attracting (highly) qualified third-country nationals as regards conditions for the issuance and renewal of their work permits. The agreement also focused on circular migration and the avoidance of brain drain, as described in the sub-section below.

In **France**, agreements have been entered into with a number of third countries (Senegal, Gabon, Congo, Benin, Tunisia, Mauritius, Cape Verde, Burkina Faso and Cameroon) which list occupations from third countries which are not subject to the labour market test. These include qualified jobs in the IT and finance sector.

**Poland** has entered into agreements which place geographical priority on attracting workers from certain third countries.

The limited number of specific agreements currently in place could be explained by the strong interest of Member States to attract the most relevant and talented (highly) qualified third-country nationals to their territory from anywhere in the world. This is

reflected by the approach of some of the Member States where the policies relating to attracting (highly) qualified third-country nationals are particularly well developed. The national contributions of **Germany** and the **United Kingdom** show, that no agreements are entered into since the policy focuses on attracting third-country nationals from every country where their skills and qualifications can fulfil the gaps and shortages needed at national level.

### 3.6 BRAIN DRAIN AND BRAIN CIRCULATION

Most of the Member States do not address the issues of brain drain and brain circulation in their national policies to attract (highly) qualified third-country nationals. The focus of their policies is to find the most qualified and to encourage their long-term settlement. Some Member States (for example **Finland**, **Slovak Republic** and **Sweden**) have however acknowledged the risk of excessive “absorption” of the labour force from third countries where it is needed locally. For example, in **Finland** and the **Slovak Republic**, cooperation with countries of origin to prevent brain drain and to promote development has been mentioned as a general objective within migration policies while in **Sweden**, the Government appointed, in 2009, an independent Parliamentary Committee to examine the connection between circular migration and development. The final report of the Committee in 2011 included several policy relevant proposals including allowing longer periods of absence from Sweden without the loss of residency status and providing support to diaspora groups. These proposals are currently being considered within the relevant Government offices.

In Member States where the issue of brain drain is specifically addressed, this is done through national legislation and/or bilateral agreements. For example, in **Belgium**, legislation states that the authorities can refuse a work permit application in cases where the relevant sector in the worker’s country of origin is experiencing a lack of qualified workers. In **Czech Republic**, access to the project ‘Selection of Qualified Workers’, was denied to some countries or quotas for applicants established, with the aim of preventing brain drain. Graduates from Czech educational institutions receiving foreign assistance were also excluded from the project. The Residence Act in **Germany** gives the opportunity to enact per statutory instrument that nationals from certain third countries shall not be issued an EU Blue Card due to a shortage of skilled workers in certain occupational groups in the country of origin. However, a corresponding statutory instrument outlining these countries has not been issued to date.

**Slovenia** has concluded bilateral agreements with third countries which include provisions to avoid the risk of brain drain. For example, according to the Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina, the latter has the possibility to restrict the employment of individuals in cases where their departure to Slovenia could undermine the labour market situation in Bosnia and Herzegovina.

Brain drain is sometimes addressed through the implementation of projects and programmes. For example, a number of specific programmes and pilot projects have been developed in **Germany** for certain third countries, such as the “Returning Experts” Programme and the “Triple Win Nurses - sustainably attracting nurses” programme. Arrangements exist also in the **United Kingdom** to control the recruitment of healthcare professionals from developing countries as well as some free trade agreements. For example, a Code of Practice for international recruitment for National Health Service employers was drafted in 2001, and subsequently strengthened in 2004, to cover recruitment agencies, temporary staff and private sector organisations providing services for the NHS. The key point of the Code of Practice is that healthcare professionals should not be *actively recruited* from developing countries, unless there is a bilateral governmental agreement which supports such recruitment.

The issue of brain circulation is addressed mainly through projects implemented jointly in the Member State and in a third country. In **Italy**, for example, effective policies for co-development have been carried out within the framework of decentralized cooperation as well as in the systems of compensation covered by bilateral agreements on labour.

## 4. Effectiveness of Policies and Measures

When looking at trends in the proportion of employed third-country nationals working in high-qualified occupations (ISCO 1-3) over the period 2008-2012, a number of Member States which had specific policies and measures in place to attract (highly) qualified immigrants saw an increase in their proportion on the total number of employees in these occupational levels between 2008 and 2012. In **Luxembourg**, there was an increase from 1.6% to 3.7%. An increase was also experienced in **Germany** from 2.55% to 2.8% between 2008 and 2012.

Between 2010 and 2011, there was also an increase in the proportion of employed third-country nationals working in high-qualified occupations in the **United Kingdom** (from 4.1% to 4.5%). This increase

coincides with the amendments made, in 2011, to Tier 1 of the points-based system (PBS) for categories of ‘high value migrants’ who contribute to growth and productivity – the Investor, Entrepreneur, Graduate Entrepreneur and Exceptional Talent Routes, which aimed to encourage high-value applicants. The amendments also had an impact on the number of Investor and Entrepreneur visas issued.

In the **Netherlands**, the decrease in the number of residence permits issued to (highly) qualified migrants, witnessed in the years 2009-2011, is interpreted as a result of the worsening economic situation in the country. **Greece** showed a decline over the full period covered (2008-2012) which is also largely attributed to the economic situation (decrease in employment placements, salary cuts, fewer research grants, etc.).

### National Evaluations of Impacts

Only a few Member States have specific evaluation systems in place for regularly assessing the impacts of policies aimed to attract highly qualified and qualified third-country nationals (**Ireland** and the **Netherlands**). In others (**Austria, France, Germany, Spain, Sweden** and the **United Kingdom**), although a thorough evaluation has not been conducted or periodic evaluation and monitoring is not in place, various reports reviewing some aspects of the effectiveness of policies were recently published or will be published in the future.

Overall, a number of impacts were identified in the Member States by the reports, evaluations and interviews with stakeholders conducted in the context of the studies.

Some of the evaluation reports, in addition to identifying the impacts of the current system, also focus on areas for improvement and possible future reforms. For example, evaluations carried out in **France** advocated for an improved transparency, streamlining requirements linked to the different residence permits, an improved coordination between the stakeholders involved in the provision of permits and improved analysis of shortages and needs within the national market (through consultation with the social partners and regional councils).

The identified areas for improvement by some Member State evaluations have led to the adaptation of policies and thus good practices emerging. These are described further in the section below.

### 4.1 EMERGING GOOD PRACTICE

Based on the examples provided by Member States through national evaluations (or individual analysis) as

well as an overall analysis of the National Reports, emerging good practice has been identified in relation to a number of different aspects of the migration process.<sup>51</sup>

Good practices identified in the National Reports include the following<sup>52</sup>:

#### Information provision

- ★ The provision of relevant, up-to-date information and guidance to (highly) qualified third-country nationals (**Austria, Germany, Netherlands**,<sup>53</sup> **Slovenia**) to inform them of the migration process and the situation that awaits them in the Member State;
- ★ The establishment of focal points in some selected third countries (**Slovenia**). For example, a focal point was established in the former Republics of Yugoslavia to provide information about job opportunities and on conditions and procedures for obtaining the appropriate permits

#### Adaptation of migration procedures

- ★ Replacing generic highly-skilled routes by more specialised routes for exceptionally talented individuals, qualified workers and employees of international companies (**Czech Republic, United Kingdom**) and ensuring that (highly) qualified third country nationals are granted with clearly differentiated permits compared to other non-qualified migrants (**Czech Republic, Ireland**);
- ★ Using premium services to speed up the processing time for (highly) qualified third-country nationals (**Spain, United Kingdom**);
- ★ Fixing a salary threshold in order for the salaries to be at an achievable level

<sup>51</sup> The Member States that are listed below include those that have identified good practice through evaluations undertaken at national level (**Austria, France, Germany, Ireland, Netherlands, Sweden** and **United Kingdom**) as well as those that have identified good practice through research and analysis undertaken for the drafting of the National Report and through stakeholder opinion.

<sup>52</sup> The Member States listed have identified the actions as good practices in their National Reports. While other Member States may also apply these measures, these have not identified them as good practice at national level.

<sup>53</sup> This has not been evaluated in the **Netherlands** but is rather a result of analysis.

(**Estonia**), or to avoid excessive pressure on some sectors (**Luxembourg**);

- ★ Maintaining an open, employer-driven system for labour immigration that minimises bureaucracy while preventing wage-dumping and exploitation of foreign workers by untrustworthy employers (**Sweden**).

#### **Introduction of incentives to attract (highly) qualified migrants**

- ★ Tax advantages to attract and retain (highly) qualified third country nationals (**France, Ireland, Luxembourg, Malta, Netherlands**);
- ★ Improved family reunification rights in accordance (at least) with the provisions of the Blue Card (**Austria, Belgium, Czech Republic, Germany, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden**);
- ★ Focussing the policies not only on attracting (highly) qualified third-country nationals but also on effectively retaining them (**Netherlands**).

#### **Customisation of labour market practices**

- ★ Ensuring that (highly) qualified third country nationals are employed in sectors showing a shortage of domestic supply (**Luxembourg, United Kingdom**). This also implies a better and more efficient shortage/needs analysis (**Slovenia**); and
- ★ Involvement of national institutions in scrutinising whether applicants are of the right calibre for talent routes as such institutions can identify exceptionally talented applicants well (**United Kingdom**).

#### **Use of evaluations**

- ★ The establishment of a system for the regular evaluation of policies, strategies and schemes (**Germany, Netherlands** and the **United Kingdom**) in order to determine the obstacles existing for attracting (highly) qualified third-country nationals to the territory and to identify measures to remove such obstacles.

## 4.2 CHALLENGES AND BARRIERS

In addition to identifying emerging good practices, the Member State evaluations, as well as consultations/analysis undertaken, highlighted a number of existing challenges and barriers.<sup>54</sup> These can be broadly divided into the following categories:

- ★ Characteristics which are inherent to the Member State's culture, history and traditions (language, public debate related to immigration, community conflicts, etc.);
- ★ Economic, social and educational factors (economic crisis, salaries/wages, working conditions, etc.);
- ★ Immigration rules and measures (bureaucracy, lack of information, waiting time to process visa applications in the Member State etc.).

Concerning the first category, language has been identified as a barrier in **Germany**, where the majority of companies, especially SMEs, require a good knowledge of German for obtaining a position. Language is also considered as a significant obstacle in **Austria, Finland, Greece, Italy, Latvia, Luxembourg**,<sup>55</sup> **Netherlands, Slovak Republic** and **Sweden**.

Research indicates that discrimination in the workplace and non-recognition of qualifications could result in decreased opportunities for non-EU nationals in **Ireland** and in **Italy**, where the National Office against Racial Discrimination has highlighted that ethnic harassment and discrimination in the workplace are increasing. Similarly, in **Austria, Germany, Latvia** and **Slovak Republic**, negative perceptions of immigration of some parts of society may limit the attractiveness of the Member State to (highly) qualified migrants. In **Germany**, in order to counteract this, measures have included the establishment of information services and the launching of programmes to promote tolerance of diversity.

As far as economic, social and educational factors are concerned, the recent economic crisis has acted as a major barrier to attracting and retaining (highly) qualified third-country nationals (especially in **Belgium, Finland, Greece, Ireland, Italy,**

<sup>54</sup> Those Member States listed in this section that do not undertake evaluations, as outlined in [Section 4.1](#), identified obstacles and challenges through research and consultations with stakeholders experienced in this area.

<sup>55</sup> In **Luxembourg**, the existence of three official languages creates this obstacle.

**Lithuania, Latvia, the Netherlands, Slovak Republic and Spain**). The crisis has raised domestic unemployment rates and reduced job opportunities both for national citizens and foreign (highly) qualified individuals. The impact of the crisis on attracting (highly) qualified third country nationals is stronger in countries where employer-led systems are in place, such as for example in **Latvia** (see also section 3.5 above). The economic crisis has also exacerbated the negative perception of immigration within national communities, thus creating further obstacles to the integration of (highly) qualified third country nationals.

Salary thresholds have differing impacts in the Member States. In some (**Germany and Luxembourg**), the thresholds can act as a possible deterrent as, in some cases, these prove to be very difficult to achieve, especially for younger individuals. In other Member States (**France, Italy, Latvia, Lithuania and Slovenia**), the salary thresholds are achievable but are not considered as being competitive for attracting third-country nationals to their territory. Moreover, in **Finland**, the income level is considered to be low compared to the cost of living. Similarly, working conditions (limited services to employees and career opportunities) are perceived as a factor lowering the attractiveness of Member States **Ireland and Slovenia** to (highly) qualified third-country nationals, and limited access to public services, for example, information provided in English language, in **Estonia**. This is particularly the case for the science and research sector. In some Member States, insufficient financing from the state budget for the development of science and research projects is considered as a factor limiting the attraction of (highly) qualified researchers and scientists from third countries (**Greece, Italy and Latvia**).

Immigration rules and procedures are also considered to create practical problems in the majority of Member States (**Belgium, Czech Republic, Estonia, France, Germany, Greece, Italy, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Slovenia, Slovak Republic, Spain, Sweden, United Kingdom**). Bureaucracy and more specifically the recognition of diplomas and qualifications and the direct and indirect costs of the application process were cited as the most common barriers. A survey conducted among service users in the **United Kingdom** showed that about two thirds of applicants said that the application process was longer than expected. Those who wish to reduce waiting time may use paid for premium services, where a decision can be issued within 24 hours of an appointment in most cases. Geographic limitation of residence permits for

work and residence has been identified as a barrier in **Spain**. To reduce the bureaucratic burden, a one-stop agency has been introduced in **Latvia** in July 2010 for third-country migrants and their employers. **Slovenia** will also set up a one-stop shop following the transposition of the provisions of the single permit Directive (2011/98/EU) foreseen by end 2013.

The diversity of residence permits for work purposes have resulted in a fragmentation of the policy aimed at attracting (highly) qualified third country nationals, creating confusion amongst the target group in **France**.

Excessive times to process visa applications in the Member States has also been identified as a barrier for (highly) qualified third country nationals wishing to work in the EU (**Germany, Spain and Sweden**). The delays are mainly linked to the time taken for the labour market tests required for some occupations, the involvement of various offices in the visa issuing process, the use of paper forms instead of an electronic system linked to a database) as well as the burdensome registration process or shortages of staff at immigration authorities.

In **Sweden**, the current system is considered to be vulnerable to misuse by untrustworthy employers, with such individuals taking advantage of the possibility to recruit third-country nationals by paying lower wages to employees than originally promised or otherwise circumventing previously agreed working conditions.

In **Lithuania** employers argued that for highly qualified workers, abandoning the labour market test would further facilitate their arrival.

A lack of provision / awareness of information and guidance to (highly) qualified third country nationals is also considered as an obstacle in some Member States (**Belgium, Estonia, Finland, Italy, Lithuania, Luxembourg, the Netherlands and the United Kingdom**), for example with regard to information on schooling possibilities, social and medical care, taxation, family reunification rights, and the specific documentary requirements of these. Awareness is likely to be more limited where policies have been recently introduced. Language has also been reported as a barrier for third-country nationals in some Member States (e.g. **Czech Republic**).

The national evaluations undertaken by some Member States have outlined that the challenges and barriers existing have led to the following impacts:

- ★ The shortage occupations lists do not necessarily keep pace with current needs (**France, Ireland**); in **Ireland**, it is noted

that proactive policy measures may not have been developed rapidly enough to respond to persistent skills demand, particularly in ICT and health sectors.

- ★ Initially agreed targets for (highly) qualified third country nationals entering the Member States have not been reached for some categories of permits (**France, Netherlands**);
- ★ Policies aimed at attracting (highly) qualified third country nationals have ultimately had a limited impact on migration flows, mainly regarding the “skills and talents” residence permit (**France**) or have not been flexible enough to satisfy the internationalisation needs of national enterprises (**Spain**).

As described in [Section 4.1](#) above, Member States have attempted to adapt their policies in order to take account of these negative impacts.

## 5. Impact of EU Acquis

As set out in [Section 2](#), the EU acquis has developed over recent years in order to facilitate the entry of (highly) qualified workers. The instruments of the EU acquis which have had a particular impact are the EU Blue Card Directive ([Section 5.1](#)) and the Researchers’ Directive ([Section 5.2](#)). The impacts of these Directives are described in turn below.

### 5.1 EU BLUE CARD DIRECTIVE

Member States were required to transpose the Directive by 19 June 2011<sup>56</sup>. Though Member States have commented on the impacts of the EU Blue Card in their territory, the total number of EU Blue Card applications (available for 2012 only) is so far quite low which means that it is not yet possible for Member States to draw solid conclusions regarding the overall process. However, it can be outlined that in 2012, the 14 Member States<sup>57</sup> for which Eurostat data is available granted a total of 3 013 EU Blue Cards to (highly) qualified third-country nationals, with the number of EU Blue Cards issued ranging between 2 584 (**Germany**), 183 (**Luxembourg**) and 1 (**Hungary**). No EU Blue Cards were issued in 2012 in **Belgium, Malta** and **Sweden**.

<sup>56</sup> At the time of writing the National Report, Sweden had not yet implemented the Directive into national law. The United Kingdom and Ireland are not signatories to the Directive.

<sup>57</sup> **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Luxembourg, Malta, Poland, Slovenia** and the **Slovak Republic**.

The countries of origin for EU Blue Card holders in 2012 varied significantly geographically, with the top ten countries of origin being India (639), China (279)<sup>58</sup>, Russian Federation (251), United States (197), Ukraine (139), Syria (103), Egypt (101), Turkey (99), Japan (79) and Iran (71).

The most prominent occupations filled by EU Blue Card Holders in 2012 were general management (41), information and communications technology (26) and administrative and commercial management (17).

As outlined in [Section 2](#) and in [Annex 3](#), in many Member States, (**Austria, Belgium, Czech Republic, Estonia, Germany, France, Finland, Italy**), the EU Blue Card is being used in parallel with other national schemes for the issuing of permits to (highly) qualified third-country nationals wishing to migrate to their territory. According to Eurostat statistics, in **Austria**, 124 EU Blue Cards were issued in 2012, in comparison with 1 158 permits for highly skilled work in the same period and in **Italy** 6 EU Blue Cards and 1 695 permits for highly skilled work. Additionally, according to Eurostat, **Czech Republic** issued broadly the same number of EU Blue Cards and other permits for highly skilled work. In **Germany**, it seems that the EU Blue Card is now increasingly being issued instead of a residence permit for qualified employment. The number of EU Blue Cards issued in **Germany** in 2012 since its introduction in August 2012 amounted to 2 584. In the first quarter of 2013, in total 3 341 EU Blue Cards have been issued. The residence title specifically for highly qualified third-country nationals was issued 45 times. For researchers the number was 163 and for qualified employment 10 205<sup>59</sup>. The administrative process for changing residence status has improved in **Germany** following the transposition of the EU Blue Card Directive, making it easier for graduates of German universities who hold, as researchers or scientists, a residence permit for qualified employment or research, to change the purpose of their residence title to self-employment: they may be exempt from the requirement to demonstrate that there is an economic interest or regional need, that the self-employed activity is expected to have a positive effect on the economy, and that funding is secured by means of equity capital or a credit commitment. The intended self-employed activity must however be commensurate to the skills

<sup>58</sup> Including Hong Kong

<sup>59</sup> Statistics published at national level and not yet by Eurostat.

and expertise acquired during the university degree or the research activity.

**Belgium, Czech Republic, Germany, Estonia, France, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia** and **Sweden** identified a number of benefits arising from the provisions of the EU Blue Card Directive. The main benefits identified by a number of Member States related to the introduction of a definition of highly qualified third-country nationals which did not exist in national legislation prior to the transposition of the Directive,<sup>60</sup> as discussed in [Section 3.1](#) above. This enabled some of these Member States to become forming their own national policy in line with the EU acquis. Member States that have transposed the Directive have applied the same requirements as included in the definitions in Article 2. However, **Belgium**, has taken a more flexible approach, going beyond the provisions relating to professional requirements, with authorities deciding not to make use of the possibility to allow at least 5 years of professional experience of a level comparable to higher education as an indicator, with a minimum of 3 years introduced instead.

In addition, the following main benefits were identified:

- ★ Facilitation of intra-EU mobility;<sup>61</sup>
- ★ Providing the possibility to change jobs;
- ★ Possibility of temporary unemployment<sup>62</sup>;
- ★ Access to long-term residence<sup>63</sup>;
- ★ Facilitation of family reunification<sup>64</sup>.

The introduction of the possibility of temporary unemployment can be considered as real added value of the EU Blue Card since this did not exist in many Member States prior to the transposition of the

<sup>60</sup> An exception is **Luxembourg** which introduced the concept of highly qualified based on the negotiations relating to the adoption of the Blue Card Directive almost a year before the proposal was approved.

<sup>61</sup> Chapter V of the Directive provides for residence in other Member States for the EU Blue Card holder and their family members.

<sup>62</sup> Article 13(1) of the Directive provides that 'unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or it occurs more than one during the period of validity of an EU Blue Card'.

<sup>63</sup> Article 16 provides for long-term residence status for EU Blue Card holders

<sup>64</sup> Article 15 provides that Directive 2003/86/EC shall apply with the derogations laid down in the Directive in relation to family reunification.

Directive into national law. This flexibility allows (highly) qualified third-country nationals to stay in the EU territory in order to look for another employment if their work contract is terminated, which helps to enhance the attractiveness of the EU for such workers.

In addition to the benefits arising from the main provisions of the Directive, the administrative process has also been improved in **Hungary** and the **Slovak Republic**. The EU Blue Card procedure comprises several new elements in **Hungary** in comparison to the classic procedure for the employment authorisation, with third-country nationals having recourse to one single authority which facilitates administration.

**Luxembourg** cited the benefit of the hiring of (highly) qualified third-country nationals without requiring the advice/opinion of a consultative commission, thus making the third-country national play the role of a 'client' in the migration process. In the **Slovak Republic**, the process for issuing permits for highly qualified workers has been sped up, with all issuance decisions now undertaken within 30 days. **Lithuania** also considerably shortened time for issuing permits to highly qualified workers (2 months). This is now in line with the provisions of the Directive which foresees that a decision should be taken as soon as possible and at the latest within 90 days of the application being lodged.

Though the EU Blue Card has introduced advantages to national systems in place in the majority of Member States that did not have a highly qualified system already, **Austria** and the **Netherlands** have indicated that the EU Blue Card is no more advantageous than the system that was already in place. In **Austria**, the advantage of an EU Blue Card compared to the national Red-White-Red card is limited. Slight advantages only arise when it comes to intra-EU mobility. The **Netherlands** also considered that the EU Blue Card did not add much value compared to national systems already in place. In the **Netherlands**, the national *Highly Skilled Migrants Scheme* has a lower threshold than the EU Blue Card because it does not include an educational requirement and has a lower salary criterion.

In addition to the benefits of the EU Blue Card, one of the obstacles identified by a number of Member States is that the salary threshold for the EU Blue Card is set at a very high level, which does not reflect the realities of the national labour markets, particularly where salary levels are high. Member States have, however, made use of Article 5(5) of the Directive, applying the

reduced salary threshold of 1.2 times the average gross salary for professions which are in particular need of third-country national workers.

## 5.2 RESEARCHER'S DIRECTIVE

Many Member States (**Belgium, Czech Republic, France, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Slovak Republic, Slovenia, Sweden**) noted that the transposition of the Directive led to more favourable legislation, measures and conditions for researchers.

The main advantages in these Member States introduced by the provisions of the Directive related to the following:

- ★ Exemption from the work permit requirement (including associated labour market tests);<sup>65</sup>
- ★ Possibility to apply for a long term residence permit from within the Member State;
- ★ Facilitation of family reunification.<sup>66</sup>

The transposition of the Directive has also had a positive impact on the administrative procedure in the **Czech Republic, Germany, Hungary, Italy, Lithuania** and **Ireland**. This has mainly related to fast tracking of applications (**Czech Republic, Hungary, Ireland, Lithuania, Slovak Republic**) as well as the introduction of single desks and authorities responsible for the processing of these particular applications (**Hungary, Italy**). These measures have sped up the time taken for decisions to be made. For example, in **Hungary**, the processing times for considering a residence permit application is 15 days compared to the general deadline of 21 days.

In **Ireland**, a fast tracking system was introducing under the Hosting Agreement Scheme for Researchers in order to improve the administrative process for this group of third-country nationals. In **Italy**, applications

<sup>65</sup> Preamble 11 of the Directive provides that "it is appropriate to facilitate the admission of researchers by establishing an admission procedure which does not depend on their legal relationship with the host research organisation and by no longer requiring a work permit in addition to a residence permit.

<sup>66</sup> Article 9 of the Directive provides that (1). When a Member State decides to grant a residence permit to the family members of a researcher, the duration of validity of their residence permit shall be the same as that of the residence permit issued to the researcher insofar as the period of validity of their travel documents allows it. In duly justified cases, the duration of the residence permit of the family member of the researcher may be shortened. (2). The issue of the residence permit to the family members of the researcher admitted to a Member State shall not be made dependent on the requirement of a minimum period of residence of the researcher.

by researchers have been processed within the Single Desk duties following the transposition of the Directive.

## 6. Conclusions

The policies in the Member States have developed considerably since the 2007 Study undertaken by the EMN.<sup>67</sup> In 2007, **Estonia, Germany, Ireland, Latvia, Lithuania, Sweden** and the **United Kingdom**, did not have, or had less developed, special regulations existing specifically for third-country highly qualified workers, with general regulations applying to all foreign nationals for rights and entitlements in relation to family, social and health insurance, the taxation regime, access to education and settlement, while today **Germany, Ireland** and **United Kingdom** have well-developed policies and related measures in place and **Estonia** is in the process of revising the existing system.

EU-15 Member States overall have been among the first to develop policies and measures specifically aimed at attracting (highly) qualified third-country nationals, taking account of labour market needs and anticipating demographic change. In a number of cases, this happened before or during the introduction, adoption and transposition of the EU Blue Card Directive, which led to parallel schemes and measures within some Member States, still existing today, with different conditions and requirements, depending on the scheme. Other Member States have relied on the introduction of the EU Blue Card to shape policy and regulate entry and admission. Member States with well-developed policies and measures are, overall, the ones also attracting the highest shares of (highly) qualified migrants.

Most EU-12 Member States have, to date, no specific policies in place in relation to attracting highly qualified workers, although there are signs that these Member States are increasingly acknowledging the need for a specific policy, and several have undertaken the first steps towards this. In this respect, the EU Blue Card Directive has had a positive impact. First, because it helped Member States with limited or no policies to introduce concepts and definitions and to develop their legal framework on admission and entry of highly qualified workers around these. Second, on the back of this, it encouraged policymakers to consider the

<sup>67</sup> The EMN Synthesis Report for the 2007 Study on Conditions of Entry and Residence of third-country highly skilled workers in the EU presents the findings from eleven Member States: **Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, Netherlands, United Kingdom**.

direction of the national policy, in terms of the needs of the labour market and the type of occupations / qualifications required to address emerging skills gaps.

On top of facilitated entry and admission procedures for (highly) qualified migrants, Member States have recognised the importance of additional incentives to influence the migration decision of third-country nationals. This includes, in particular, offering improved family reunification rights, tax incentives, social security benefits and unrestricted labour market access. Entry and admission is also further assisted through fast-tracking and reduction of application fees. Wider measures to reach out to (highly) qualified third-country nationals include the provision of information, participation in recruitment fairs and the use of networks. These measures have led to the identification of emerging good practices such as ensuring the availability of up-to-date information, the adaptation of migration procedures and the customisation of labour market practices in the Member States.

The focus on attracting self-employed persons, entrepreneurs and investors is also increasing in the EU, in line with the development of EU policy in this area. While in 2007, there were notable schemes in place for self-employment in only a handful of Member States (e.g. **Belgium, Estonia, Germany, Ireland, Italy, Netherlands** and the **United Kingdom**), such schemes are now in place in 13 Member States. Specific measures, such as accelerated procedures and funding thresholds, are used to attract entrepreneurs and investors to the national territory, with Member States identifying the economic potential of these groups of third-country nationals, particularly during times of economic crisis. Indeed, the main admission criterion for entrepreneurs in the Member States relates to the perceived added value of the activity to the national economy. The main admission criterion for investors relates to the sum of money to be invested at national level. The greater focus on self-employed persons, entrepreneurs and investors can also be linked to the importance placed by Member States on increasing trade flows. By improving the schemes available to these individuals to facilitate their migration and economic activity, third-country national entrepreneurs and investors could potentially contribute to enhancing trade links with specific third countries.

While Member States are in the process of developing (and maintaining) policies and measures specifically aimed at attracting (highly) qualified third-country nationals, it is interesting to note that little focus has been placed on increasing relations with third countries

through the conclusion of specific bilateral agreements, especially when compared to the high number of general labour migration agreements in place with third countries. The limited number of specific third country agreements may reflect the wish for Member States to guarantee open competition for talent, thus ensuring that the labour market gaps are filled by the most suitably qualified candidates.

Though the development of policy specifically targeted at attracting (highly) qualified third-country national workers has been subject to debate in the Member States, due to high national unemployment rates caused by the economic crisis, it is expected that national policies will further develop to address identified skills gaps for highly qualified and qualified workers which cannot be filled by nationals or EU citizens and for Member States to 'compete' effectively in the global competition for talent.

A number of issues emerge however from the Study. For Member States to compete effectively, and to ensure their skills needs can be met in full, it is important that they seek to overcome or reduce the impact of the challenges and barriers to the uptake of skilled employment faced by highly qualified workers in accessing the Member States' labour markets. Simplifying immigration rules and procedures, reducing waiting times, expediting the recognition of qualifications and experience, and minimising the direct and indirect costs of the application process are all measures with the potential to facilitate access for this category of worker, whilst recognising the need to continue to apply necessary safeguards. Improving or tailoring integration measures, including language support, for these categories of worker may also help to address identified barriers relating to cultural and historical issues; tackling work-place discrimination effectively and the promotion of equal opportunities is also likely to reduce the potential for prejudice and to facilitate integration. As national policies and practices mature there is clearly considerable potential for cooperation in terms of sharing and learning from good practices.

At EU level, the impacts of the EU Blue Card Directive have yet to be fully realised and understood as a tool to complement and guide national policies in relation to highly qualified and qualified third-country nationals, but also as a tool to provide for the intra-EU mobility of these categories of workers. It is too early to understand the degree to which the possibilities for career advancement and development through access to highly qualified employment in other Member States may also be a factor in attracting third-country nationals to the EU, or whether barriers to intra-EU

mobility may indeed act as a deterrent, particularly when compared with the opportunities available globally in larger countries such as China and the USA.

At EU level also, this Study has identified that only a handful of Member States have entered into agreements with third countries which have a specific focus on attracting (highly) qualified third-country nationals to their territory. Whilst recognising that the competition for talent is frequently targeted at the level of the individual rather than country, the fact that some Member States have found these agreements effective, suggests that it is a measure whose capability has not yet been fully realised.

As these policies and the measures to implement them develop, there will be a need for more effective monitoring and evaluation of both the labour market

and the impacts of national and EU policies, already identified by some Member States as good practice, in order to ensure that national objectives are being achieved, labour market needs are identified in time and that any challenges and obstacles faced by (highly) qualified third-country nationals wishing to enter the EU are effectively removed. Through the EU Blue Card, there is also the potential to maximise the benefits of highly qualified third-country national migrants at the EU level by facilitating their mobility and allowing for skills progression and development, so that talent is both attracted to and, where still required, retained in the EU.

## ANNEX 1 INTERNATIONAL CLASSIFICATIONS OF EDUCATION AND OCCUPATIONS

There is no commonly applicable definition of the terms “highly qualified” and “qualified”. This is because definitions often depend on national labour market demands and other national criteria. The most common denominators consider level of education, the type of job (occupation) or salary level. For education and occupation, International Standard Qualifications exist to which most national statistical classifications are linked.

### UNESCO’s International Standard Classification of Education (ISCED) 1997

The ISCED classifies education levels into six different level. The definition for “highly qualified” from an educational perspective relates, in most national contexts, to first (Level 5) and secondary (Level 6) stages of tertiary education. The definition for “qualified” is less clear but can concern upper secondary (Level 3) and post-secondary (Level 4) education. The definitions for these are the following:

- ★ Level 3 (Upper Secondary Education) is defined as a level of education that typically begins at the end of the full-time compulsory education for those Member States that have a system of compulsory education. The educational programmes included at this level typically require the completion of some 9 years of full-time education for admission or a combination of education and vocational or technical experience;
- ★ Level 4 (Post-Secondary Non-Tertiary Education) is defined as a level of education that captures programmes that straddle the boundary between upper-secondary and post-secondary education from an international point of view although they might be clearly considered as upper-secondary or post-secondary programmes in a national context. Considering their content, Level 4 programmes cannot be considered as tertiary programmes;
- ★ Level 5 (First stage of tertiary education) is defined as Bachelor and Master Degree level in the Member States, with programmes having a cumulative theoretical duration of at least two years from the beginning of Level 5;
- ★ Level 6 (Second stage of tertiary education) is defined as Doctorate Degree level (PhD) in the Member States with this level typically requiring the submission of a thesis or dissertation of publishable quality which is the produce of original research and represents a significant contribution to knowledge.

### ILO’s International Standard Classification of Occupations (ISCO), ISCO-88 and ISCO-08<sup>68</sup>

For definitions based on the ISCO, “highly qualified” as well as “qualified” mostly relate to occupations in Major Groups 1-3 within ISCO-88 and ISCO-08.

The ILO Major Groups are the following:

- ★ (1) Managers
- ★ (2) Professionals
- ★ (3) Technicians and Associate Professionals
- ★ (4) Clerical support workers
- ★ (5) Service and sales workers
- ★ (6) Skilled agricultural, forestry and fishery workers
- ★ (7) Craft and related trade workers
- ★ (8) Plant and machine operators, and assemblers
- ★ (9) Elementary Occupations
- ★ (0) Armed forces occupations

<sup>68</sup> Available at <http://www.ilo.org/public/english/bureau/stat/isco/isco08/index.htm>

## ANNEX 2 PRESENCE OF POLICIES AND STRATEGIES FOR ATTRACTING (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS

Table A2.1 Presence of Policies and Strategies for attracting (highly) qualified third-country nationals per Member State

Member State	Specific policy/strategy on (highly) qualified TCN		Provisions in wider migration policies/strategies	No provisions on (highly) qualified TCN
	Consolidated policy	Fragmented (different permits)		
<b>Austria</b>	X			
<b>Belgium</b>			X	
<b>Cyprus</b>				X
<b>Czech Republic</b>		X	X	
<b>Germany</b>	X			
<b>Estonia</b>			X	
<b>Finland</b>			X	
<b>France</b>		X		
<b>Greece</b>			X	
<b>Hungary</b>			X	
<b>Ireland</b>	X			
<b>Italy</b>	X			
<b>Latvia</b>				X
<b>Lithuania</b>			X	
<b>Luxembourg</b>			X	
<b>Malta</b>				X
<b>Netherlands</b>	X			
<b>Poland</b>				X
<b>Slovak Republic</b>			X	
<b>Slovenia</b>			X	
<b>Spain</b>	X			
<b>Sweden</b>			X	
<b>United Kingdom</b>	X			

## ANNEX 3 NATIONAL CONCEPTS

A number of concepts exist in the Member States in relation to (highly) qualified third-country nationals. These are associated, in many cases, to the schemes in place. The table provides an overview of those existing in the Member States, as well as the requirements associated with the concepts. The requirements provided in accordance with the [EU Blue Card](#) are included within the description of concepts. The requirements relating to education, salary and level/years of experience relate to other concepts not falling under the EU Blue Card.

[Table A3.1](#) Existence of national schemes, definitions and concepts relating to qualified and highly qualified third-country nationals

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
<b>Austria</b>	<p>A scheme with different categories was created that determines which third-country nationals are considered as (highly) qualified and eligible candidates under the <b>Red White Red Card</b>.</p> <p>The scheme subdivides categories which lead to different concepts and requirements.</p> <p>The EU Blue Card and the Red White Red Card developed in parallel.</p> <p>An applicant for an EU Blue Card will in most cases be eligible to receive a RWR Card.</p>	<p>Two different schemes – EU Blue Card and Red White Red Card though they are similar in many ways for highly qualified third-country nationals.</p> <p>No definitions as such. However, the tiered scheme determines which third-country nationals are considered as (highly) qualified and therefore eligible under the Red White Red Card.</p> <p>Different concepts and requirements for <b>Very highly qualified workers; skilled workers in shortage occupations; other key workers; graduates of Austrian universities and colleges of higher education and self-employed key workers.</b></p> <p>With regard to self-employed key workers, third-country nationals can be admitted under this tier provided that they pursue a gainful activity which supports overall economic growth, especially in terms of the</p>	<p><b>Very highly qualified workers:</b></p> <p>First or second stage of tertiary education (Levels 5 and 6 ISCED)</p> <p>Level of education is decisive for this group.</p> <p><b>Skilled workers in shortage occupations:</b> higher education is not a prerequisite but gives additional points.</p> <p>Completion of professional training in a relevant shortage</p>	<p><b>Other key workers:</b> Minimum salary of €2 664 (over 30 years of age) and €2 220 (under 30 years of age)</p> <p><b>Graduates of Austrian universities and colleges of higher education:</b> Minimum of €1 998 per month</p> <p><i>All figures for 2013</i></p>	<p><b>Very highly qualified workers:</b> ISCO Groups 1-3</p> <p><b>Skilled workers in shortage occupations:</b> ISCO Groups 4-8</p>

<sup>69</sup> This relates to the classification of experience, usually according to ISCO Groups

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		associated transfer of capital investment and/or the creation and maintenance of jobs.	occupation <b>Graduates of Austrian universities and colleges of higher education:</b> Levels 5 and 6 ISCED		
<b>Belgium</b>	<p>Three types of work permits that grant limited or unlimited access to the labour market</p> <p><b>Type A</b> – grants free access to the labour market and is not linked to a specific employer. Can be obtained after having worked with a work permit Type B for a certain number of years.</p> <p><b>Type B</b> – the most common type of work permit for highly qualified third-country nationals.</p> <p><b>Type C</b> – grants the holder free access to the labour market and is not linked to a specific employer. This type of work permit can be obtained by individuals whose right to stay in Belgium is based on different grounds than labour migration. The permit has a maximum validity of 12 months renewable. It is not available to family members of</p>	<p>Two co-existing systems for employment authorisation of highly qualified third-country nationals: Type B Work Permit and the EU Blue Card.</p> <p>Even though Belgian legislation contains clauses that apply specifically to highly qualified workers, no definition for this is provided.</p> <p>Interpretations are given by the issuing bodies within the regions such as “<i>Persons who have completed university education, higher education or similar education and who are employed in that capacity for a minimum salary laid down in the Royal Decree</i>”.</p> <p>There is <b>no definition of qualified third-country national</b>.</p> <p>In comparison to the EU Blue Card, Belgian authorities have decided not to make use of the possibility to allow at least 5 years of professional experience of a level comparable to higher education as an indicator. The minimum gross annual salary for an EU Blue Card is €49 995 for 2013.</p>	University Education/Higher Education/Similar Education	Minimum salary laid down in the Royal Decree (€38 665 for 2013)	

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
	labour migrants.				
<b>Czech Republic</b>	<p>There are several schemes aimed at (highly) qualified foreigners. These are:</p> <ul style="list-style-type: none"> <li>- Green Card</li> <li>- EU Blue Card</li> <li>- Selection of Qualified Foreign Workers Project</li> <li>- Accelerated Procedure for Intra-corporate Transfers of Foreign Investors' Employees</li> </ul>	<p>A distinction is made between highly qualified and qualified third-country nationals.</p> <p>There is no definition but rather requirements for the different permits available.</p> <p><u>Highly Qualified third-country nationals</u> are considered to be:</p> <p><b>Green Card Type A</b></p> <p><b>Green Card Type A/Key personnel</b> – The key factor in this regard is that the employer's need is being filled. Education is not decisive.</p> <p><u>Qualified third-country nationals</u> are considered to be:</p> <p><b>Green Card Type B</b></p> <p>A distinction is made between highly qualified and qualified in order to set more advantageous conditions for highly qualified third-country national workers.</p> <p><b>Accelerated Procedure for Intra-corporate Transfers of Foreign Investors' Employees</b></p> <p>"Manager" – a person working in a senior position, who principally directs the management of the company, department, section or other unit of that company, supervises other employees who carry out supervision, professional checks or management checks, including the powers to recruit or dismiss employees or to recommend their recruitment, dismissal or other personnel measures.</p>	<p><b>Green Card (Type A):</b> Levels 5 and 6 ISCED</p> <p><b>Green Card (Type A/Key personnel):</b> Education level if not decisive</p> <p><b>Green Card Type B:</b> Vocational school training as a minimum – Levels 3C and 3A ISCED</p> <p><b>Intra-Corporate Transferees:</b> Employees do not necessarily have to be highly qualified in the sense of achieved formal education.</p>	<p><b>Green Card (Type A and Key Personnel):</b> Guaranteed Minimum Wage</p> <p><b>Green Card Type B:</b> Guaranteed Minimum Wage</p>	<p><b>Green Card (Type A):</b> ISCO 1-5</p> <p><b>Green Card Type B: ISCO 1-5</b></p> <p><b>Intra-Corporate Transferees:</b> Are not required to submit document confirming the high level of skills. They are required to submit Declaration of Employer on Transfer of Foreigner to the Czech Republic.</p>

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p>“Specialist” – a person possessing uncommon knowledge and skills essential to the activities, technologies or management of the undertaking, taking account not only of the knowledge specific to this company but also of the high level of achieved qualifications of that person referring to a type of work or trade requiring specific technical knowledge.</p>			
<b>Germany</b>	<p>Federal Government’s Strategy for employment immigration focuses on skilled worker, with the immigration management system and a firm offer of employment being at the heart of the strategy.</p>	<p><b>Concepts</b></p> <p>There are two types of classification for defining highly qualified and qualified third-country nationals. The definition according to German Residence Law (forming the basis for issuance of residence titles) and the definition according to occupational relevance.</p> <p>The Federal Government generally defines highly qualified third-country nationals as graduates i.e. persons with a (recognised) university degree.</p> <p>Since 1 August 2012, Section 19a of the German Residence Act - the EU Blue Card - has been authoritative for defining highly qualified third-country nationals. The income requirements are the following: Annual income that corresponds to at least two-thirds of the annual income threshold for the general pension insurance (€46 400 in 2013). For professions where there exists a special demand of skilled workers the minimum annual income is 52% of the annual income threshold for general pension insurance (€36 192 in 2013).</p>	<p>Highly Qualified workers: Tertiary Degree from a German university or a (recognised) degree from a foreign university</p> <p>Qualified workers: German professional qualification or a (recognised) professional qualification from abroad</p>		<p>Highly Qualified workers: Levels 1 -3 ISCO</p> <p>Qualified workers: Levels 4 - 8 ISCO</p>

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p>The Classification of Occupations can also give an indication though there is no unified definition of activities that must be performed by highly qualified or qualified persons. Activities for highly qualified third-country nationals best correspond to Levels 4, 3 and 2.</p> <p>The term “skilled worker” includes both highly qualified and qualified persons.</p>			
<b>Estonia</b>	<p>The term “<b>top specialist/senior specialist</b>” will be added to the Aliens Act as a result of the amendments that will come into force September 1st 2013.</p> <p>The proposed definition is the following: “<i>Senior or top specialist is a foreigner who has professional training or experience in any area of activity, whose employer is registered in Estonia and has agreed to pay the foreigner at least the latest annual average wages in Estonia published by Statistics Estonia, multiplied by the coefficient 2</i>”.</p>	<p>No definition of highly qualified foreigners/third-country nationals is currently provided by national legislation.</p> <p>Currently, the salary threshold has the coefficient 1.24 of the annual average gross monthly salary, as last published by Statistics Estonia. This applies to experts, advisors and consultants. The <b>EU Blue Card</b> threshold is 1.5</p>		Coefficient 1.24 of the annual average gross monthly salary	
<b>Finland</b>	<p>Residence permits for <b>specialists</b> is a one step process with no labour market needs test.</p> <p>Specialist, EU Blue Card</p>	<p>There are two types of permits available. A Residence permit for specialists and an EU Blue Card.</p> <p>Though there is no definition, section 79(1) of the Aliens Act mentions persons who work in senior or middle management in companies or in other duties, which require</p>	Academic Qualifications	Higher than the average salary which corresponds to a gross salary of at least €3 000	

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p>special competencies. These are the persons, who are referred to as 'specialists', which are closest to the mentioned definition of highly qualified third-country nationals.</p> <p>For the <b>EU Blue Card</b>, a gross minimum salary of €4 667 per month is required</p>			
<b>France</b>	<p><b>Skills and Talents</b> Residence Permit. Issued to third-country nationals "who are likely to contribute, through their skills and talents, in a significant and lasting manner to the economic growth, the territorial development and to the international outreach notably intellectual, scientific, cultural, humanitarian or sports of France and, directly or not, of their country of origin". Less than 300 permits are issued per year.</p> <p><b>Employee on assignment</b> residence permit aims to simplify procedures for the employees of international groups who are seconded or transferred to carry out temporary employment in France.</p> <p><b>Residence permits issued on grounds of exceptional economic contribution</b></p> <p><b>Temporary residence permit for international students</b> in order to gain first</p>	<p>There are a number of permits available including the <b>EU Blue Card</b>.</p> <p>There is no definition of highly qualified third-country nationals in France apart from that provided in relation to the EU Blue Card. This definition of highly qualified third-country nationals relies therefore on the level of qualification, professional experience at a comparable level, salary and length of employment contract.</p> <p>The lack of a definition is due to the fact that definitions are often linked to national labour market requirements and other national criteria.</p> <p>There are also no provisions for qualified third-country nationals. The "employee" residence permit can be issued to highly qualified, qualified and less qualified third-country nationals. A salary threshold is used as a benchmark which is 1.5 times the minimum wage.</p> <p>With regard to the <b>EU Blue Card</b>, at least 1.5 times the benchmark gross salary is €52 752 per annum.</p>	ISCED 5, 6	At least 1.5 times the minimum wage (Qualified workers and employees on assignment)	ISCO 1-3

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
	work experience in France. <b>Researcher's permit</b>				
<b>Greece</b>		<p>The definition is founded on the law transposing the EU Blue Card Directive.</p> <p>"highly qualified employment" means the employment of a person who:</p> <ol style="list-style-type: none"> <li>1. is protected by the Greek labour laws as an employee providing genuine and effective work for or under the direction of someone else, irrespective of the legal form of this relationship;</li> <li>2. is paid; and</li> <li>3. had the required adequate and specific competence, as proven by higher professional qualifications, i.e. qualifications attested by evidence of higher education qualifications or, by way of derogation, by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant to the profession or sector specified in the work contract.</li> </ol>			
<b>Hungary</b>		<p>There are only references to highly qualified employment of third-country nationals defined at EU level according to the <b>EU Blue Card</b> Directive. The requirements of the EU Blue Card are imposed.</p> <p>Interpretations have considered that it</p>			

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		could relate to Skills Level 4 typically involving the performance of tasks which require complex problem solving and decision making based on an extensive body of theoretical and factual knowledge in a specialised field. The capacities and skills required at this level are usually obtained as the result of study at a higher educational institution leading to the award of a first degree or higher qualification			
<b>Ireland</b>	The <b>Green Card</b> employment permit is issued to highly qualified third-country nationals.	<p><b>Concepts</b></p> <p>Remuneration is used as an indicator of skill. The terms qualified and highly qualified are considered to be broadly equivalent.</p> <p>The closest equivalent to a 'highly qualified' migrant in the Irish policy context is a green card holder, or a work permit holder with high annual remuneration (over €60 000 per year).</p> <p>Qualified workers may be interpreted to be employment permit holders (other than green card holders) who work in jobs attracting an annual salary of €30 000 to €60 000.</p>	Degree qualification required if salary between €30 000-€60 000	Minimum salary of €30 000 provided occupation is on the Highly Skilled Occupations list. All occupations eligible provided annual salary is €60 000 or over	
<b>Italy</b>		<p><b>"Highly qualified"</b>- a foreign worker must have completed a high school course of study of at least 3 years in his/her country of origin, and must have obtained a professional qualification which is recognized in Italy and falls within the levels 1, 2 and 3 of the ISCO classification.</p> <p>The Salary level for <b>EU Blue Card</b> holders is the following:</p> <p>Gross Annual Salary should not be less than</p>	ISCED level 5 and 6	Gross Annual Salary should not be less than €24 789. If there is a spouse, this amount is further increased by €516 for each dependant family member.	No

Member State	Schemes/Permits (highly) qualified third-country nationals for	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p>three times the minimum salary required to obtain exemption from paying health card expenses (no less than €24 789).</p> <p>If there is a spouse, this amount is further increased by €516 for each dependant family member.</p>			
<b>Latvia</b>		No definition is provided but there is a concept of what constitutes a highly qualified third-country national who do not fall within the <b>EU Blue Card</b> Directive.	ISCED Levels 5 and 6		Work in the profession complying with education.
<b>Lithuania</b>		The amendments to the Law on the Legal Status of Aliens which entered into force on 1 Jan 2013 introduced a definition of high professional qualification and set forth requirements for third-country nationals seeking highly qualified employment.	<p>Non-regulated professions: ISCED Level 5 and 6</p> <p>Regulated professions: Professional qualification and ISCED Level 4,5 and 6</p> <p>In the case of non-regulated professions higher education (qualified) - equivalent to ISCED Levels 5 and 6 professional experience - ISCED Levels 4,5 or 6; ISCO 08 Sub major groups 21 22 23 26 32</p>	<p>Minimum 2 times the average monthly gross earnings in the whole economy.</p> <p>This was a minimum of €1 293 in 2013 (1Q).</p>	<p>Non-regulated professions: not less than 5 years of professional experience equivalent to a higher education qualification</p> <p>Regulated professions: Professional experience if stipulated by legal acts.</p>

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
Luxembourg		<p>Article 45 (2) a) of the Law of 29 August 2008 expressly defines what is a highly qualify employment. It is the employment of a worker who exercises a salaried activity for which s/he fulfils the appropriate and specific competences required for the position (highly professional qualifications) certified by a higher education diploma or supported by a professional experience of minimum 5 years equivalent to a higher education diploma and that are pertinent for the profession or the economic sector indicated in the work contract.</p> <p>The salary requirements are the same as set out in the <b>EU Blue Card</b> Directive.</p> <p>At least 1.5 times the average gross salary Luxembourg (€ 45 228 x 1.5 = € 67 842 Euros in 2013<sup>70</sup>) or;</p> <p>At least equivalent to 1.2 times the average gross annual salary Luxembourg (€45 228 x 1.2 = €54 273.60 in 2013<sup>71</sup>) for jobs in occupations belonging to groups 1 and 2 (ISCO) for which a particular need for workers from third countries is recognised by the government. Until now this has not been done even though according to the Council of State Luxembourg is confronted with shortages of highly qualified workforce<sup>72</sup>.</p>	Higher education diploma		<p><b>ISCO categories:</b> In Luxembourg highly qualified workers are considered in the ISCO/08 categories 1 and 2</p> <p>In case a person does not have a higher education diploma, they can apply if they prove professional experience of a minimum of 5 years equivalent to a higher education diploma and which is pertinent for the profession of the economic sector indicated in the contract</p>

<sup>70</sup> <http://www.quichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

<sup>71</sup> <http://www.quichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-hautement-qualifie/index.html>

<sup>72</sup> Opinion of the Council of State, Parliamentary document n° 6306/02 of 11 October 2011, p. 2. See [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/141/041/104400.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexdpata/Mag/141/041/104400.pdf)

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
<b>Netherlands</b>	<p>A number of schemes are in place:</p> <ul style="list-style-type: none"> <li>- Highly Skilled Migrants Scheme</li> <li>- Highly Educated Migrants Scheme</li> <li>- Orientation Year for Graduates Scheme</li> </ul>	<p>No national definition in place.</p> <p>Depending on the scheme in question, there are conditions which the migrant must satisfy in order to qualify as a highly qualified third-country national.</p> <p><b>Highly Skilled Migrants Scheme</b></p> <p><b>Pilot project short stay</b> – for highly qualified workers who wish to come to work for two months.</p> <p><b>Highly educated migrants scheme</b></p> <p><b>Orientation Year for Graduates Scheme</b></p> <p>- Students from outside the EU who have successfully completed a higher professional education or university education in the Netherlands have the possibility of finding a job as highly skilled migrant within one year from the date of completion of that study</p>	<p><b>Highly qualified work</b></p> <p>Bachelor's or Master's Degree</p> <p><b>Highly educated migrant scheme:</b></p> <p>Master of PhD degree at one of the top 200 universities in the Times Higher Education World University Rankings, the QS World University Rankings and the Academic Ranking of World Universities.</p> <p>Or recognised higher professional education at a Dutch institution</p>	<p><b>Highly skilled migrants scheme:</b></p> <p>€52 010 (30 years and over)</p> <p>€38 141 (under 30 years of age)</p> <p><b>Pilot project short stay:</b></p> <p>Salary must be proportionately equivalent to the salary as demanded for highly skilled migrants of 30 years of age and over</p> <p><b>Highly educated migrant scheme:</b> Income of €27 336</p> <p><b>Orientation Year for Graduates Scheme:</b> Income of €27 336</p>	
<b>Poland</b>		<p>Definition of "higher education qualification" and "higher professional qualifications" in line with the transposition of the <b>EU Blue Card</b> Directive.</p> <p><b>Higher education qualifications:</b> Any diploma, certificate or other evidence of formal qualifications issued by a competent</p>			

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p>authority attesting the successful completion of a post-secondary higher education programme, on condition that the studies needed to acquire it lasted at least three years.</p> <p><b>Higher professional qualifications:</b> "qualifications attested by evidence of higher education" or by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer.</p> <p>The salary threshold for the <b>EU Blue Card</b> is: PLN 61 191.00 (2012)</p>			
<b>Slovak Republic</b>		<p><b>Highly qualified-</b> employment for the performance of which a higher professional qualification is required. Higher professional qualification is understood as the qualification proved by a document of university education or document certifying the performance of more than five years of professional experience in the respective area which is of comparable level with the university education which was issued as per a special regulation.</p> <p>This definition of highly qualified employment can be found in Art. 37, par. 3 of Act No. 404/2011 on Residence of Aliens and on Changes and Amendments to Some Acts (Act on Residence of Aliens), though this definition only defines the term highly qualified employment for the purpose of issuing the EU Blue Card</p> <p>The National Report uses the definition of the international standard classification of</p>	Document of university education	1.5-times the average salary in the given economic sector <i>in line with the provisions of the EU Blue Card Directive</i>	document certifying the performance of more than five years of professional experience in the respective area which is of comparable level with the university education

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
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		jobs ISCO-88, transposed to the extended classification of occupations KZAM-R in the SR. KZAM-R classifies workers mainly according to the nature of work, difficulty, responsibility and qualification requirements for the performed work. According to KZAM-R, the first three major groups can be considered as highly qualified employment, comprising the following groups of workers: 1. <b>Legislators, senior officials and managing employees.</b> 2. <b>Scientists and professionals</b> (i.e. international classification of qualifications ISCED 5 and 6); 3. <b>Technical, healthcare and teaching staff, and workers in related fields</b> (i.e. international classification of qualifications ISCED 5 or 4)			
<b>Slovenia</b>		Although an explicit definition of "highly qualified" and "qualified" employee is not included in the strategy, the latter generally distinguishes between highly qualified and qualified and low qualified workers.	Level 5 and 6 ISCED		
<b>Spain</b>	Once the legal project of law for attracting entrepreneurs and investors will be approved (in September 2013), two schemes for (highly) qualified third-country nationals will be differentiated: -EU Blue Card -The new scheme for: Investors Entrepreneurs	Investors- for individuals who wish to invest in Spain an amount of money. The sum (€500 000 to 2 million) depends on the kind of investment. It will also be considered as an investor the individual who wants to develop a business project in Spain and the project is considered good for the national interest.  Entrepreneur- for individuals who wish to invest by setting up or taking over and being actively involved in running a business in Spain and the activity has a			

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
	<p>Highly qualified workers</p> <p>Researchers</p> <p>Intra-corporate transfers</p>	<p>special economic interest for Spain. This character is recognised by a decision of the national authority according to different requirements, for example, the business plan, the individual's profile.</p> <p><b>Highly qualified workers-</b> for executive staff and managerial employees who want to be hired by an organisation with specific requirements related to the size, number of workers... It is also considered as highly qualified workers graduates and post-graduates individuals who have studied at highly recognized Universities and Business Schools.</p> <p>Researchers- for scientists, technicians, researchers and lecturers.</p> <p>Intra-corporate transfers- for third country nationals who have been working in an organisation for, at least, three months and have qualifications attested by evidence of higher education qualifications or, by way of derogation, by at least three years of professional experience.</p>			
<b>Sweden</b>		<p>As the Swedish policy for labour immigration does not specifically target highly-skilled migrants but provides an employer-driven system for recruitment which is open to all skills levels, <b>there is no official legal definition in the Aliens' Act of what a highly-qualified worker is, nor are there any salary thresholds.</b></p>			
<b>United Kingdom</b>	<p>A number of Tiers exist in relation to the <b>Points Based System.</b></p>	<p>Tier 1 consists of five high priority routes that are available to <b>investors,</b></p>	<p><b>Graduate Entrepreneur:</b> Minimum</p>	<p><b>Investor:</b> Availability of at least £1 million</p>	<p><b>Graduate Entrepreneur:</b> Need to be a</p>

Member State	Schemes/Permits (highly) qualified third-country nationals for	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		<p><b>entrepreneurs and those who are exceptionally talented in the fields of sciences, humanities and arts.</b></p> <p><b>Investor</b> - for high-net-worth individuals who wish to invest in the United Kingdom. Funds must be held in a regulated financial institution and must be disposable in the UK. Applications are assessed solely on their ability to make a substantial financial investment.</p> <p><b>Entrepreneur</b> - for individuals who wish to invest by setting up or taking over and being actively involved in running a business in the UK.</p> <p><b>Graduate Entrepreneur</b> - For MBAs (Master of Business Administration) or other graduates of Higher Education Institutions who wish to establish one or more businesses in the UK. This category also applies to overseas graduates who have been identified by UK Trade Investment as elite global graduate entrepreneurs.</p> <p><u>Other requirements:</u> Letter of endorsement from higher education institution, availability of a minimum of £1 800 maintenance funds. Knowledge of B1 English, <b>2 000 places per year</b></p> <p><b>Exceptional Talent</b> - For people who are internationally recognised as world leaders or potential world-leading talent in the fields of science, humanities and arts and who wish to work in the UK.</p>	<p>Bachelor's degree (ISCED level 5A Medium), MBA (ISCED level 5A Long) for global graduates.</p> <p><b>Exceptional Talent:</b> PhD (ISCED level 6) for natural and social scientists, medical researchers, engineers or scholars in the field of humanities. No formal requirement for exceptionally talented applicants in the field of arts and culture</p>	<p>to invest in the UK. No quota on the number of visas issued.</p> <p><b>Entrepreneur</b></p> <p>Availability of £200 000 to invest in the business or access to £50 000 if it is obtained from a specified source. Availability of a minimum of £3 100 maintenance funds. Knowledge of English equivalent to B1.</p>	<p>recent graduate</p> <p><b>Exceptional Talent:</b> Successful candidates need to be endorsed by a designated competent body which recognises that applicants' work is of exceptional quality and has international recognition.</p>

Member State	Schemes/Permits (highly) qualified for third-country nationals	Description of Concepts	Requirements		
			Education	Salary	Level/Years of Experience <sup>69</sup>
		Quota: 1 000 places per year			

## Annex 4 Member State agreements focusing on the attraction of (highly) qualified workers

Member State	Agreements
<p><b>France</b></p>	<p>Bilateral agreements related to the concerted management of migratory flows:</p> <ul style="list-style-type: none"> <li>- France-<b>Senegal</b> Agreement of 23 September 2006,</li> <li>- France-<b>Gabon</b> Agreement of 5 July 2007,</li> <li>- France-<b>Congo</b> Agreement of 25 October 2007,</li> <li>- France-<b>Benin</b> Agreement of 28 November 2007,</li> <li>- France-<b>Tunisia</b> Agreement of 28 April 2008,</li> <li>- France-<b>Mauritius</b> Agreement of 23 September 2008,</li> <li>- France-<b>Cape Verde</b> Agreement of 24 November 2008,</li> <li>- France-<b>Burkina Faso</b> Agreement of 10 January 2009,</li> <li>- France-<b>Cameroon Agreement</b> of 21 May 2009 (not yet ratified).</li> </ul> <p>Labour migration agreement also signed with <b>Russian Federation</b> (2009).</p> <p>Bilateral agreements relating to youth mobility with <b>Macedonia</b> (2009), <b>Montenegro</b> (2009), <b>Serbia</b> (2009) and <b>Lebanon</b> on the mobility of young people and workers (2010).</p> <p>These agreements contain measures specifically intended for (highly) qualified third-country nationals. It provides partner country nationals with a facilitated regime, with provisions in place for opening up the French labour market, based on lists of professions established according to the needs expressed by the partner country, allowing employees to work across the French territory.</p> <p>Provision has been made for measures relating to the "skills and talents" residence permit in the agreements on the concerted management of migratory flows signed with <b>Benin, Burkina Faso, Cameroon, Cape Verde, Gabon, Mauritius, the Republic of Congo, Senegal and Tunisia</b>. This facilitates the issuance of this residence permit with nationals of these third countries as well as providing clauses relating to young professional exchanges for those aged 18 to 35, for temporary stays of up to 18 months. These measures have also been added in the agreements on labour migration and/or youth mobility, signed with Lebanon, Macedonia and Montenegro.</p> <p>Measures relating to the "employee on assignment" residence permit are included in the agreements with: <b>Senegal, Lebanon, Macedonia, Montenegro and Russian Federation</b>.</p>
<p><b>Netherlands</b></p>	<p>The Dutch government signed a social security treaty with the Minister of Overseas Indian Affairs on 22 October 2009. The treaty was signed in the Indian capital city of Delhi. This treaty provides for a closer collaboration between the Netherlands and India and its aim is to make the migration of highly qualified migrants and experts to move more easily between the two countries. Employees of companies who are seconded from one country to work in the other country are exempted for a maximum period of 60 months from paying social security payments in the guest country. They are insured during this period through their country of origin and there is no need to pay double premiums. Employees or self-employed workers who are not seconded are included under the system of the guest country and not under the system of the country from which they were sent. Therefore they are also not required to pay double premiums.</p> <p>The treaty makes it more attractive for Indian businesses to set themselves up in the Netherlands and vice versa.</p>
<p><b>Poland</b></p>	<p>Neighbouring countries (<b>Belarus, Georgia, Moldova, Russian Federation, Ukraine</b>) have facilitated access to the labour market but the scheme has not been designated specifically to attract qualified and highly qualified work force. Citizens of the above countries can undertake work in certain cases on the basis of a permit issued within the simplified procedure.</p>
<p><b>Slovenia</b></p>	<p>Agreement with <b>Bosnia-Herzegovina</b> which regulates the conditions and procedures of employment of citizens of these countries. The agreement is however not explicitly designed to attract qualified and highly qualified work force, but it does contain some provisions recommended by the Strategy.</p>