



EU legislation on Legal Migration

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EU migration basic facts and figures

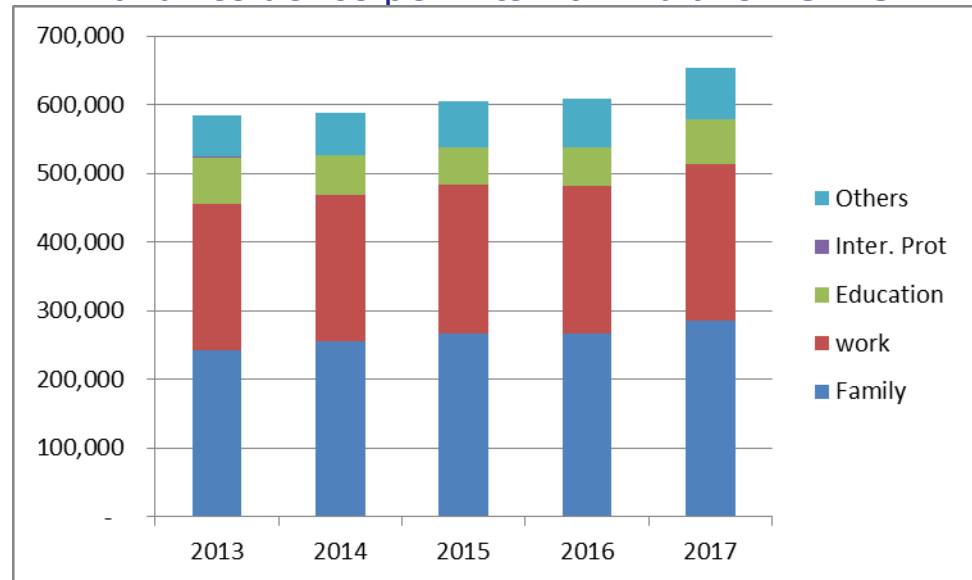
➤ 21.6 million third-country nationals (TCN) in the EU

➤ 4.2% of EU population

➤ Migration reasons:

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

Valid residence permits for Indians **EU-28**



EU migration policy: objectives

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

Objectives:

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

EU legal migration policy: shared normative competence

- EU may act on the conditions of entry and residence, standards of long-term visas, definition of rights .
 - **Directives approach – national implementing measures**
- Member States determine the numbers of TCN they admit for economic purposes
- Integration of migrants: at EU level, support and incentives, no harmonisation of laws

EU legislation on legal migration: a 'sectoral' approach

- **Family reunification (2003/86/EC)**
- **Long-term residents (2003/109/EC)**
- **Highly-qualified employment (Blue Card) (2009/50/EC)**
- **Single Work and Residence Permit (2011/98/EU)**

- **Seasonal Workers (2014/36/EU)**
- **Intra-Corporate Transferees (2014/66/EU)**
- **Students, researchers, trainees, volunteers (EVS) (2016/801/EU)** replacing the Students (2004) and Researchers (2005) Directives

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

Directives: EU Blue Card Directive:

→ Work and residence permit for highly qualified workers

- Contract or binding job offer for > 12 months
- Salary threshold: >1.5 average gross salary in the MS
- For *regulated* professions: meet the legal requirements
- For *unregulated* professions: higher education qualification
- General conditions (health insurance, public policy/security threat)

→ Rights:

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

EU Blue Card Directive: revision

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

Key proposals by the Commission:

- **Scope: single scheme for highly skilled workers**
 - Shorter work contracts covered (6 months→) + lower salary threshold + facilitation for recent graduates and workers in shortage occupations
 - Professional experience recognised (skills vs formal qualifications)
- **Faster procedures**
- **Enhanced rights** (labour market access, family reunification, LTR 3 years)
- **Intra-EU mobility**
 - **Short-term business activity**
 - **Blue Card in a second Member State** (after 12 months of residence)

Intra-Corporate Transferees

- 'Atypical' labour migrants
 - **Link to employer - «Undertakings »**
 - **Do not access labour market**
- Already regulated by free trade agreements
- Represent large share of international trade in services
- Important for EU also as exporter of services
- Challenges
 - **Intra-EU mobility**
 - **Circularity**
 - **Link with existing legislation and agreements**

ICT Directive

Main aspects:

- **Scope:** Managers, specialists; 'trainee employees'
- **Common EU rules for admission and stay** (no labour market test; duration 3 (1) years – possible extension ± cooling-off)
- Covering entry, residence, mobility within EU, rights of transferees and their family (incl. right to work)
- **Equal treatment** between transferees and EU nationals
Social security, Freedom of association, Recognition of qualifications, Pensions (limited exceptions)
- **Working conditions:** equal to EU posted workers (except remuneration = to nationals)
- **Procedures** : 90 days processing; « trusted » undertakings

ICT Directive:

Intra-EU Mobility

- Right to stay and work in other Member States
 - **Very flexible scheme: up to 3 months in each additional Member State (short term mobility)** (no procedure or notification – no fee)
 - **Long-term mobility: more than 3 months in a second MS** (notification or application)
- Second Member State can object if conditions are not respected

	Short-term mobility	Long-term mobility		Short-term mobility	Long-term mobility
BE	(notification)	(application)	LU	notification	application
BG	no procedure	application	HU	notification	application
CZ	no procedure	application	MT	notification	application
DE	notification	application	NL	notification	application
EE	notification	notification	AT	no procedure	application
EL	(notification)	(notification)	PL	notification	application
ES	notification	notification	PT	no procedure	application
FR	notification	application	RO	notification	application
HR	no procedure	application	SI	notification	application
IT	no procedure	application	SK	notification	notification
CY	notification	application	FI	notification	application
LV	no procedure	application	SE	no procedure	application
LT	no procedure	application			

Directive Students and Researchers

Scope

- Rules for researchers and students + for volunteers under the EVS and trainees (including remunerated trainees) (mandatory for first time)
- Newly added group: au-pairs (optional)

Admission conditions (common procedures/grounds for rejection; possible approval procedure for host entities)

During the stay:

- Researchers may teach
- Students have access to the labour market
- Equal treatment with nationals

Directive: Students and Researchers

Intra-EU mobility

- Researchers (and their family members)
 - up 6 months per MS: no procedure or notification
 - more than 6 months per MS: notification or application (or no procedure)
- Students
 - under programmes or agreements: up to 360 days per Member State (notification)

Job-searching or entrepreneurship

- Stay in the Member State for a period of **9 months** following the completion of research or studies
- Member State may require job-searching / entrepreneurship to correspond to the level completed

Fitness Check : 03/2019

- **Objective:** Evaluate possible gaps and inconsistencies
Evaluation criteria: Relevance, Coherence, Effectiveness, Efficiency, EU Added Value
Conclusions:
 - Some categories of TCN not covered – or not fully covered (Self-employed, low and medium workers – national rules)
 - Some internal coherence problems: parallel national schemes (LTR, high skilled)
 - Administrative burden
 - Key synergies and complementarity with other EU policies (i.e. development policies)
 - Advantages of action at EU level in terms of rationalisation and savings related to the single application procedure, increased legal certainty and predictability, harmonisation of admission conditions and improved recognition of rights of TCN, facilitated intra - EU mobility for certain categories of TCN

Questions?

DG Home Affairs – European Commission:

http://ec.europa.eu/dgs/home-affairs/index_en.html

European Migration Network: www.emn.europa.eu

European Website on Integration:

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

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