

## Promoting Legal Labour Migration to Europe: A Discussion Paper

This document is a background paper for the event: ***Legal labour migration to Europe***. The background paper will first provide a brief overview of the European Union's (EU) New Pact on Migration and Asylum (2020), focusing on the several measures and mechanisms proposed to promote more legal labour migration to Europe by the European Commission.

This overview will be followed by a joint statement authored by the Center for Global Development (CGD), Overseas Development Institute (ODI), por Causa Foundation, and Hello Europe which was submitted to the European Commission's public consultation on legal migration<sup>1</sup>. The statement emphasises the critical role of legal migration to the pact. It touches upon what the implementation of legal migration mechanisms must focus on and recommends how they should work.

### What is the EU's New Pact on Migration and Asylum?

The New EU Pact on Migration and Asylum (2020) brings together the policy areas of migration, asylum, integration, and border management, stressing progress in all these fronts to achieve efficiency. The Pact has proposed to promote legal migration to the EU through a new skills and talent package, expected in 2021. The new skills and talent package will contain legislative changes to current mechanisms - mainly the Directive on Long-term Residents, the Single Permit Directive, and the EU Blue Card Directive. For instance, a revision to the directive on long-term residents will create a long-term EU residence status, enabling long-term residents to move and work in the other Member States. Similarly, revisions to the Single Permit Directive will establish a single procedure and a single work permit for labour migrants to the EU, promoting intra-EU mobility. The European Parliament and the Council are also scheduled to conclude negotiations on EU Blue Card Directive, to attract highly skilled third-country nationals.

Creating talent pathways and setting up an EU Talent Pool are the new mechanisms suggested in the pact, to promote legal migration to Europe. The EU Talent Pool will act as an EU-wide platform for international recruitment. The platform will enable skilled third country workers to express their interest in migrating to the EU. Then they can be identified by EU migration authorities and employers based on their labour needs.<sup>2</sup> The pact also proposes strengthening international legal migration and mobility through Talent Partnerships, arrangements with third countries to facilitate labour migration to the EU and increased economic development for all actors.

### Joint Statement to European Commission public consultation on Legal Migration

The European Commission's New Pact on Migration and Asylum has many laudable goals, including reducing the human suffering and political distortion associated to irregular migration across the Mediterranean and Eastern borders. Despite the fact that such irregular migration only [makes up five percent](#) of all mobility to Europe each year, these flows have received the lion's share of political attention and funding. In particular, the response has focused on deterrence and an increased security apparatus, which have been particularly [ineffective](#), as well as ethically fragile.

Less attention has been paid to the role that expanded legal migration pathways play in reducing such flows, and the role that migrants play in our economies and societies, particularly given Europe's

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<sup>1</sup> This [EC consultation](#) was open between **23 September – 30 December 2020**.

<sup>2</sup> European Commission (2020) New Pact on Migration and Asylum : Questions and Answers ([https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_1707](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1707))

demographic realities. A new, more balanced, conversation on migration is needed—this brief attempt to outline what such a conversation could focus on.

## Why is legal migration essential to the success of the New Pact?

The “[European Agenda on Migration](#)” proposed four pillars of action which, if pursued together in a strategic way, would have a meaningful impact on reducing irregular migration. One of these pillars was expanding legal pathways. The importance of legal pathways was also reiterated by all three new European Union Commissioners, all of whom were [tasked with expanding legal pathways](#) through stronger cooperation with countries of origin and transit. It has also been clear that when legal channels of migration are not available, [migrants often resort to irregularity](#).

Despite this focus, to date, little attention has been paid to this fourth pillar. For example, a review by Oxfam found that [1.5 percent of the Emergency Trust Fund for Africa was spent on expanding regular migration schemes](#) from Africa to Europe. The [Mobility Partnerships Facility \(MPF\)](#), run by the International Center for Migration and Development (ICMPD) was set up, but has only funded five pilot projects which expand legal migration pathways. Other promising initiatives in the labour mobility area, such as the [Rabat Process](#), have been equally side-lined in the benefit of a deterrence-focused approach.

Thankfully, the New Pact does acknowledge the role of legal labour migration in the European Union and does advocate revisions to existing skilled migration schemes as well as the establishment of new ones. This is imperative, given the significant demographic shifts Europe is facing. By 2100, [its working-age population is projected to decline by almost 30 percent from 2015 levels](#) owing to a combination of low birth rates and increased longevity. If Europe is to continue to grow and sustain its current social programmes, it will need a [substantial increase in the number and type of potential workers](#). Automation and digitalisation alone will not be sufficient to meet future labour needs.

Only by [expanding legal migration pathways alongside border enforcement](#) will the EU have any hope of curbing irregular arrivals to Europe and meeting its own demographic needs.

## What should the implementation of the legal migration instruments in the New Pact on Migration and Asylum focus on?

The Pact, as it pertains to legal migration, speaks to four key policy actions: reform both the Blue Card Directive and the Long-Term Residence Directive, while establishing an EU Talent Pool and Talent Partnerships. In our opinion, these are the correct policy actions to focus on. But what is less clear is how the EU plans to finalise, revise, or implement these actions given that migration policy remains the sole competence of Member States. In addition, the interaction between these four instruments (alongside Member State visa schemes) is unclear.

1. **Blue Card.** Since its introduction in 2009, establishing an EU-wide Blue Card to attract highly skilled workers has been extremely difficult. Member States have established their own programmes (such as the *Kennismigrants* program in the Netherlands) and are likely to compete among each other on this front as the demographic crisis starts to bite. According to the [roadmap](#), discussions on the reform of the Blue Card are to be concluded this month, though the way forward remains murky. Despite it all, this is the one area where the European institutions have gone further in the effort to increase legal labour mobility and a more substantive commitment from Member States should be encouraged.
2. **Long-Term Residents Directive.** Similarly, the implementation of the directive has run up against the individual permanent residence provisions of various Member States that conflict with the desires of the EU. Migrants have access to disparate rights provisions, and little clarity and guidance as to these rights. There are no clear channels of naturalisation or citizenship acquisition that flow from the possession of EU long-term status. These barriers to

migrant participation and integration in various Member States will plague the reform of this directive.

3. **EU Talent Pool.** The establishment of such a Pool, similar to [reforms in Australia, Canada, and New Zealand](#), is laudable. It is yet unclear how such a Pool will function, which skills it will cover, and how it will get over the aforementioned hurdle of migration being the competence of Member States. Will employers be able to directly engage with the Pool, or will it be mediated through Member States (with inevitable delays)? And given the Pool will likely focus on highly skilled, or in-demand professions, how will it differ from the Blue Card and Talent Partnerships?
4. **Talent Partnerships.** Partnerships are to “help match labor and skills needs in the EU, as well as being part of the EU’s toolbox for engaging partner countries strategically on migration.” [Providing targeted legal migration opportunities to third countries](#) appears to mirror the pilot projects approach being conducted by the Mobility Partnerships Facility (MPF). Yet these projects are conducted bilaterally; scaling them to the entirety of the EU seems incredibly difficult, especially considering different countries have different skill needs, curriculum requirements, and political opinions of legal migration. Ensuring such Partnerships have a [true developmental benefit for countries of origin](#) must also be paramount, investing in building enhanced skills, improved education and training systems, and effective institutions.

In addition to these four instruments, the EU should promote the benefits of migrant regularization and amnesties, encouraging Member States to pursue this policy route. COVID-19 has reminded many of the critical role migrant workers play in our societies, and [some countries such as Portugal and Italy have extended regularization programmes](#) in recognition of this. Given the positive impact of such reforms, they should be understood as part of a broader reformist agenda, enabling Europe to ensure effective control of its external borders, while streamlining the immigration system to align it with our core values, labour needs, and long-term interests.

### **How should these instruments be implemented?**

Recent years have taught us that EU-wide agreement on legal migration instruments will be almost impossible. Instead, the EU should be clear about its own role in the implementation of the above policy actions, and foreground the role of others:

- **The EU** should provide funding to support the establishment of the EU Talent Pool and Talent Partnerships, shouldering the risk of the unknown that may put off other actors. They should harmonize curriculum and training requirements as much as possible, to facilitate the directive and the two new instruments. Only the EU has a birds-eye view of the discussions being conducted within Member States and is therefore in a unique position to play a matching function. And finally, they should [promote the benefits of migration](#), engendering a positive EU-wide conversation on the role of migration in our economies and societies.
- **Member States** should seek to come together in ‘coalitions of the willing’, grouping those with rapidly aging populations and large skill gaps, interested in collaborating on new legal migration instruments and harmonizing curriculum requirements. These front-runners can innovate, evaluate, and prove the use-case for other Member States looking to follow their lead. Doing so will require bringing together relevant government ministries, including Labor, Interior, Development, and Foreign Affairs, to see migration as a tool for both domestic skills gain and long-term foreign development investment.
- **Cities and local authorities** are at the forefront of human mobility challenges and are uniquely positioned to find innovative solutions to practical problems faced by their communities. Cities are already effectively collaborating [across Europe and Africa](#), to drive reforms and innovations from ground up. Although migration policy is set at the national level, local authorities and cities take practical steps in migrant integration and inclusion, upskilling and reskilling workforces, supporting green and digital transitions, and informing local and regional growth strategies.

All of these actors should be heartened by the fact there is [public support across Europe for expanding the migration of people with productive, immediately needed](#), skills, regardless of country of origin. Such support, for migrant "[key workers](#)", has only been increased by the pandemic. COVID-19 has also exposed the difficulties migrants face—finding legal pathways to enter high-income countries, getting their qualifications recognized, getting free / low-cost access to health services, and suffering substandard working conditions to name just a few. There has therefore never been a better time to push for new and expanded legal migration pathways with additional migrant safeguards.

Finally, such reforms should be pursued within the framework of the [Global Compact for Migration](#) since it is the key international agreement that can be used as a context to build collaborations between EU member states and third countries on the topic of legal migration. Significantly, it provides a useful framework to develop safe and orderly migration channels and promote migrant integration. The opportunities to reap the collective benefits of the Compact are highlighted in the United Nations Secretary General's Biennial Report, [published last October](#).

The EU needs to build its legal migration institutional architecture through a process of testing, failing, evaluating, and improving. It will be a bumpy road, and one that must be approached with an open mind and a readiness to innovate. Fortunately, the EU can build on internal and external experiences, as well as institutional platforms such as the Compact. The Pact should make an explicit commitment to be open to engaging with and learning from these experiences, continuing to promote the benefits of migration as it enters its next phase.

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**Date:** February 2021

**Format:** Discussion Paper