

# Integration of highly skilled third country nationals in Europe:

a new proposal for circular talent management



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a new proposal for circular talent management

## COORDINATION

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## Introduction

The project “Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management” HOME/2010/EIFX/CA/1832 co-funded by the European Integration Fund was coordinated by the Comillas Pontifical University - IUEM (Spain) together with the Legal Clinic for Refugees and Immigrants - LCRI (Bulgaria), the Ministry of the Interior (Finland), the Centre for Migration Law - CMR, Radboud University Nijmegen (the Netherlands), the High Commission for Immigration and Intercultural Dialogue - ACIDI (Portugal), the *Asociación por la integración de profesionales inmigrantes* - INPROIN (Spain) and the General Secretary of Immigration and Emigration - Ministry of Employment and Social Security (Spain).

The main aim of this project was to define integration processes adapted to different highly skilled immigration patterns and the socio-economical needs of European countries, on the basis of a multidisciplinary discussion/thinking on the relationships between admission policies, integration of highly skilled third country nationals in EU countries and circular talent management.

The project lasted 18 months and provided the following activities:

- Five national reports that have contributed to knowledge on admission and integration processes/itineraries of high skilled third country nationals, as well as on tools for analysing productive and labour needs that are applied.
- A consolidated European report of comparative analysis, based on national reports that have contributed to update knowledge on admission and integration processes/ itineraries of highly skilled third country nationals.
- The organisation of three workshops involving the direct participation of highly skilled third country nationals, in order to analyse migration projects and identify different patterns of highly skilled immigration.
- The design of a Map on Integration Itineraries, considering diversity and the specificity of different migration projects, and including the existence of circular mobility periods.
- A Virtual Discussion Forum has tried to help define a model of highly skilled third country nationals Integration Process, based in a new integration concept that turns people into active subjects of an enriching transnationality.
- A set of recommendations on the adjustment of national admission policies, in order to favour the attraction and integration of high skilled immigration in Europe.
- A database of organisations, stakeholders and experts working on themes related to high skilled immigration and circular talent management in the EU.
- The design of a Communication and Results Transfer Plan, covering the permanent Project dissemination and the tracking down of synergies. And finally we will constitute a European Thinking Network on Integration of highly skilled immigration in order to continue thinking and working.

This issue has become an important subject in the most recent European debate regarding legal migration. Currently, different admission rules are applied in different European Member

States, according to their immigration policies, their economic productive structure and the labour market demands, as well as aspects linked to their history, but also to their world positioning expectations. Setting out the need of a common strategy on highly skilled third country nationals' integration and circular talent management does not seem to be easy, but it is essential on a single market scene, common currency, workers mobility and the building of a social and balanced Europe. In this context it is necessary to improve knowledge and analyse the link between different immigration patterns and integration processes, making possible the generation of new models and itineraries that allow the arrival of highly skilled workers, their integration and mobility for voluntary periods or in those of less demand. This dynamic immigration should be based, in order to be effective, on a peer-to-peer relationship and on a win-to-win approach, that support the development of families and societies, both European and third countries.

This document consists of five different parts:

- Part 1: presentation of a model proposal of highly skilled third country nationals integration process, based on the map of integration itineraries, which considers diversity and the specificity of different migration projects, and includes the existence of circular mobility periods.
- Part 2: comparative study on the national framework of the five countries (Bulgaria, Finland, the Netherlands, Portugal and Spain) regarding the admission, the integration of highly skilled third country nationals and their possibilities to profit from circular migration.
- Part 3: a summary of the main findings from national workshops conducted in Finland, the Netherlands and Spain.
- Part 4: main conclusions of the project and final recommendations to the European Commission and the national governments concerning the integration of highly skilled third country nationals and circular migration.

This publication includes the results of all above activities and is a unique opportunity to better understand this issue and to help improve policies on the admission, integration and circular migration of this type of migrant. The Comillas Pontifical University and its partners hope to give a useful contribution to that debate.

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**Model on integration of  
HSTCN and circular migration**

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## 1. Introduction

The aim of this section is to present a model for the integration of Highly Skilled Third Country Nationals (hereafter referred to as HSTCN). This model, in addition to describing routes for the integration of these migrants and the different degrees of integration resulting from those routes, incorporates circularity as an added value. This variable not only modifies the concept of integration itself, but also permits the identification of additional routes for the mobility of talent, converting them into new sources for the design of public policies for the management of HSTCN.

This chapter is divided into eight parts, the first being this brief introduction. The second refers to the context that has surrounded the development of this model and describes the route followed in its preparation. Thirdly, we deal with the new concept of integrating HSTCN: classifying the subjects who fall into this category based on their routes of access to the country, and identify the main variables that will determine integration processes. The fourth part establishes different integration profiles depending on the typology and the variables previously identified. The fifth one attempts to incorporate the issue of circularity into the process of integrating these HSTCN; as such, after a brief review of the scientific literature most relevant to this purpose, new variables that interact with the processes and routes of integration of this collective are identified. The sixth part presents the proposed model for integrating HSTCN. Finally, some reflections are proposed.

## 2. Background

Today, migration of highly qualified professionals from third countries and their integration, as well as the debate on migratory circulation, are key elements on the political agenda across the European Union. The challenges related to integration are becoming more relevant, and the diversity of national situations that actually exists is increasingly being considered. Some countries are recently facing the phenomenon of migration while others have spent decades addressing it, as well as the challenges related to the integration of the immigrant population, which leads to a special interest in evaluating the relevant policies that have been implemented.

In line with the EU's desire to develop common approaches to immigrant integration in Member States and to promote good practices, this project aims to define the integration processes adapted to different highly skilled immigration patterns and the socio-economic needs of European countries. This has been done on the basis of a multidisciplinary discussion/thinking on the relationships between admission policies, the integration of highly skilled third country nationals in EU countries, and circular talent management.

The main strength offered by the map designed during the previous phase, and which has served as the base for this model, is that it provides new information on the perceptions of HSTCN in terms of their integration, and allows the differences and similarities established between the five Member States to be analysed. It also provides a picture of the starting position of HSTCN, and to what extent the challenges associated with their integration influence the final integration situation in which they can be found.

The model, which resulted from both the map and the opinions provided by experts via different virtual platforms (forum, twitter, facebook), manages to integrate the issue of circularity into the environment of HSTCN integration, identifying key variables in the optimisation of talent circulation. This has permitted the contribution of a number of recommendations to help those responsible for managing European skilled migration to improve the design and implementation of policies.

Regarding the methodology chosen, a qualitative one has been used for the preparation of this report, a fact which poses certain limitations when making the comparison:

- Firstly, the workshops were held in only three (Finland, the Netherlands and Spain) of the five countries participating in this study. However, the results for Portugal and Bulgaria have been taken from other primary and secondary sources to complete the analysis for the elaboration of this map, and so produce general conclusions extrapolated from the group of five countries.
- Secondly, the sample of workshop participants is not statistically representative of the whole population, leading to limitations in terms of generalisation, which would require a large scale quantitative study.

However, it should be emphasised that this document constitutes a first evaluation effort of the integration of HSTCN in the European Union and their possible circulation. Thus, this report constitutes a starting point<sup>1</sup> for the formulation of a HSTCN integration model in the European Union.

### 3. The Integration of HSTCN

The main findings from the process prior to the creation of this model can be summarised as the obtainment of a typology of HSTCN, depending on their route of entry into the country and on the identification of a number of variables that are key to the route of integration of these subjects.

<sup>1</sup> The information used in this map is the result of the systematisation made from the information provided in the workshops that took place in Finland, the Netherlands and Spain. The information provided by these workshops is obviously much wider and richer than that used in this document. See CD-ROM enclosed.

### 3.1. Theoretical background: the impossible consensus

In the area of integration of HSTCN, and constituting one of the central points of this project, it should firstly be noted that the broad academic and political debate on the concept of integration has highlighted the lack of consensus on its definition, a fact that is “certainly a problem if the idea is to root policy-making in research results”<sup>2</sup>. The differences in the interpretation of the concept of integration among the Member States of the European Union may lead to different objectives of their respective integration policies<sup>3</sup>.

Despite the complexity accepted when defining integration, it seems that there is a consensus on conceiving integration as a concept used to describe the social, political, cultural and economic factors that occur when migrants arrive in a new society.

Focusing on the discourse and approach of the European Union on integration, it should be emphasised that since the 90s the European Union has made a great effort to try to lay the groundwork for a common approach. In November 2004, it adopted the Common Basic Principles (CBPs), the purpose of which is to design a common framework for the implementation and evaluation of measures for the integration of immigrants<sup>4</sup>. One of the important recent papers on this topic is the European Agenda for the Integration of Third Country Nationals<sup>5</sup>, which emphasises the challenges associated with integration and identifies key areas for policy action. It also stresses the importance of monitoring the results through a series of indicators that were agreed by Member States at the European Ministerial Conference on Integration in 2010, which took place in Zaragoza. Integration is understood in those documents as *“a process that starts on the ground and integration policies should be developed with a genuine ‘bottom-up’ approach, close to the local level. Such policies include actions such as support for language learning, introductory measures, access to employment, education and vocational training and the fight against discrimination, which all aim at increasing migrants’ participation in society. Integration requires the engagement by the receiving society in accommodating the migrants, respecting their rights and cultures and informing them about their obligations. At the same time, migrants need to show the willingness to integrate and to respect the rules and values of the society in which they live”*<sup>6</sup>.

2 M. Martiniello (2008), “Towards a coherent approach to immigrant integration policy (ies) in the European Union”, available at: [www.oecd.org/dataoecd/42/58/38295165.pdf](http://www.oecd.org/dataoecd/42/58/38295165.pdf) (20.10.2012).

3 H. Entzinger & R. Biezeveld (2003), *Benchmarking in Immigrant Integration*, Report, Erasmus University, Rotterdam. Available at: [http://ec.europa.eu/home-affairs/doc\\_centre/immigration/docs/studies/benchmarking\\_final\\_en.pdf](http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/studies/benchmarking_final_en.pdf) (20.07.2012)

4 Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - A Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union, COM (2005) 389 final, available at [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/114502\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/114502_en.htm)

5 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Agenda for the Integration of Third Country Nationals. COM (2011) 455 final, available at: [http://ec.europa.eu/home-affairs/news/intro/docs/110720/1\\_EN\\_ACT\\_part1\\_v10.pdf](http://ec.europa.eu/home-affairs/news/intro/docs/110720/1_EN_ACT_part1_v10.pdf)

6 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Agenda for the Integration of Third Country Nationals. COM (2011) 455 final, available at: [http://ec.europa.eu/home-affairs/news/intro/docs/110720/1\\_EN\\_ACT\\_part1\\_v10.pdf](http://ec.europa.eu/home-affairs/news/intro/docs/110720/1_EN_ACT_part1_v10.pdf)



If we consider the European Union's institutional focus on integration, one can appreciate the clear appearance of areas of intervention: employment and labour integration (principle 3), language and training (principles 4 and 5), non-discrimination and access to public services (principle 6), social and urban environment (principle 7), cultural and religious diversity (principle 8), and citizenship and political participation (principle 9).

Despite this focus, it should be noted that integration policies in the European Union are not community policies: each country adopts its sovereign decisions and policies in this area. In this project we have confirmed the differences existing between the five countries analysed in terms of the definition of "integration", which can lead to different objectives in the design and implementation of integration policies. We have confirmed that the differences in approaches and policies depend on political and ideological factors, but also on the policy instruments available, and the nature and history of immigration in each country. On this last point and with respect to this project, the Netherlands is traditionally regarded as a recipient country of immigrants, while Bulgaria, Finland Portugal and Spain are 'new' immigration countries.

The objective of this project<sup>7</sup> is not to analyse the many possible definitions, and therefore policies, on integration; however, this complexity invites us to analyse the main challenges that Member States, and specifically the five countries involved in this project, have been facing with the arrival of highly skilled migration from third countries and their specific needs in terms of integration.

### 3.2. On HSTCN typology

While it is true that typologies always tend to oversimplify reality, analysis of the results of this project have allowed the identification of **two categories of HSTCN**<sup>8</sup> related to situations occurring immediately after entry to the destination country:

- **Successful HSTCN:** Are those HSTCN who work in positions commensurate with their qualifications and who may have entered the country in two ways:
  - With permissions that recognise them as highly skilled migrants (Blue Card, researchers or through another mechanism in each country);
  - Without permissions that recognise them as highly skilled migrants, although this does not prevent them from working as such, i.e. in highly skilled jobs.

<sup>7</sup> For more information refer to the consolidated report which presents, in a comparative manner, the definition of highly skilled migrant for the five countries: <https://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWFpbnpbnRIZ3JhdGlvbWV1YXpZmljYXRpb258Z3g6NjczMGI3MTE4MWQyZmlwMA>, and see CD-ROM enclosed.

<sup>8</sup> Here it has been taken into account the typology proposed and developed by Catarina Reis Oliveira and Vera Fonseca, from the ACIDI, in the Portuguese national report completed for this project (see chapter 3). Additionally, please consult the study made by Pedro Góis and José Carlos Marques in their study on highly skilled immigration in Portugal. Gois, P. & Marques, J.C. [2007] *Estudo prospetivo sobre imigrantes qualificados em Portugal*, ACIDI, Lisboa, p.172. available at: [http://www.oi.acidi.gov.pt/docs/Revista\\_2/migracoes2\\_art3.pdf](http://www.oi.acidi.gov.pt/docs/Revista_2/migracoes2_art3.pdf) In English: [http://cream.conference-services.net/resources/952/2371/pdf/MECSC2011\\_0075\\_paper.pdf](http://cream.conference-services.net/resources/952/2371/pdf/MECSC2011_0075_paper.pdf)

The people who enter by the institutional/organisational route (whether public or private organisations, international organisations, universities, etc.) are in this category, as well as those HSTCN who voluntarily initiate the migratory process and succeed in working as highly skilled migrants.

- **Potentially successful HSTCN:** those people who have arrived with or without the main purpose of working as highly skilled migrants are in this category; although they have the capacity to end up working as highly skilled migrants. We are referring to those migrants who enter the country of destination for the following reasons: study, asylum, family reunification, and seeking employment. In relation to this last case, it is highlighted that it encompasses the HSTCN who still are not able to use their qualifications in the receiving country's labour market at the moment of entrance.

At this point it should be stressed that the literature on skilled migration has identified a large typology of highly skilled migrants<sup>9</sup>: by motivation (“forced exodus”, “emigration ethics”, “brain-drain”, “governmentally induced”, “industrially induced”); by nature of the places of origin and destination (migration originating from less or more developed countries and movements to more or less developed countries); by the channels that permit migration (in the domestic market of transnational corporations, companies with international contracts that transfer personnel due to their activities in other countries, and international recruitment agencies; also included are small recruitment agents, the operations of ethnic networks and the use of other mechanisms that enhance migration, such as the Internet); by the duration of residence (permanent or circular/temporary) and mode of incorporation into the destination country. This last typology developed by Portes & Borocz<sup>10</sup> identifies three modes of integration of highly skilled migrants in the destination country depending on their reception, which are: 1) “disadvantageous” if the immigrant faces a context that complicates his/her integration in the country (disadvantageous official reception, protectionist trade unions, discrimination or lack of legal status, unemployment, etc.); 2) “neutral” if integration on arrival coincides with the immigrant's qualification level and finally 3) “advantageous” as due to political, social or economic factors migrants experience mobility leading to professional and civic success<sup>11</sup>.

The classification proposed by Portes & Borocz<sup>12</sup> has similarities with that which we have previously defined (Successful HSTCN and Potentially successful HSTCN), since both typologies show the way in which the State and the labour market of the destination country welcome different types of highly skilled migrants. However, the original contribution of this study is that it permits the identification of a number of existing challenges for the

9 R. Iredale (2001), “The migration of professionals: theories and typologies”, *International Migration*, 39 (5), pp. 7-24.

10 A. Portes, & J. Borocz (1989), “Contemporary Immigration: Theoretical Perspectives on Its Determinants and Modes of Incorporation”, *International Migration Review*, Vol. 23, No. 3, Special Silver Anniversary Issue: International Migration an Assessment for the 90's. (Autumn, 1989), pp. 606-630.

11 R. Iredale, (2001), “The migration of professionals: theories and typologies”, *International Migration*, 39 (5), pp. 7-24.

12 A. Portes, & J. Borocz, (1989), “Contemporary Immigration: Theoretical Perspectives on Its Determinants and Modes of Incorporation”, *International Migration Review*, Vol. 23, No. 3, Special Silver Anniversary Issue: International Migration an Assessment for the 90's. (Autumn, 1989), pp. 606-630.

integration of HSTCN in the destination country. As stated by the European Agenda for the Integration of Third-Country Nationals, “different integration challenges faced by various types of migrants, both low and highly skilled, as well as beneficiaries of international protection” exist. Thus, our analytical approach contributes a dynamic view of the integration of highly skilled third country immigrants, to show paths or processes of integration and the opportunities for mobility between the two categories.

### 3.3. Integration variables

A comparative study was performed of five countries on the integration of a particular group of immigrants from third countries in the European Union, namely those who are highly skilled, based on the analysis of the policies that each of these five countries has implemented in three dimensions, and specifically linked to this type of immigrant, i.e. highly skilled. The review of primary and secondary sources and the results of the workshops that were performed in three countries (Finland, Spain and the Netherlands) have allowed the identification of the factors that are essential for the integration of HSTCN, i.e. the actual challenges they face in their integration<sup>13</sup>.

A set of 10 variables related to the integration of HSTCN, divided into two areas (political-legal and socio-economic), has been identified.

However, it should be noted that it was difficult to reach consensus on these variables, for two main reasons: firstly, the contextual differences in the five cases analysed, and secondly, the lack of information that exists in some countries.

Despite the limitations relating to these variables, it is important to stress that they are still useful in identifying the major challenges that HSTCN face in terms of integration. Similarly, they facilitate the elaboration of indicators that permit the measurement of integration.

In the present study we start from the idea that integration is not linear or unidirectional, and that ‘swings’ are a possibility in the process: a HSTCN integrated at time  $x$  may not be integrated at time  $x + 1$  for multiple reasons<sup>14</sup>. Given this, we have developed a map that portrays the process of integration of HSTCN in the five countries from the results obtained during the project, which shows that the integration of this type of immigration occurs in the stages explained below.

<sup>13</sup> These challenges have been proposed and developed by Catarina Reis Oliveira and Vera Fonseca, from the ACIDI, in the Portuguese national report completed for this project (see chapter 3 and 6).

<sup>14</sup> M. Martiniello, (2008), “Towards a coherent approach to immigrant integration policy (ies) in the European Union”, available at [www.oecd.org/dataoecd/42/58/38295165.pdf](http://www.oecd.org/dataoecd/42/58/38295165.pdf) (20.10.2012).

AMBIT	VARIABLE	DEFINITION
POLITICAL- LEGAL	Entry and residence	The legal administrative situation of HSTCN at the moment of arrival in Europe.
	Nationality	Grade of difficulty of access to the nationality of the host country.
	Family reunification	Procedures for the reunification of families and other individuals.
	Political rights	Right to vote in the elections of the host country.
	Non-discrimination and equal treatment	<ul style="list-style-type: none"> <li>– Situations of rejection of HSTCN.</li> <li>– The host society correctly receives HSTCN. Tolerant, diverse and multicultural societies in which sensitisation is not necessary.</li> </ul>
SOCIAL – ECONOMIC	Access to labour market	Real possibility of access to labour market as HSTCN.
	Recognition of titles	To have recognition of the titles permitting work as HSTCN.
	Social rights	Recognition of the right to a pension in the host country, social security payments, etc.
	Over-qualification	Situations in which a work role is being performed that requires less qualification and is not in accordance with the titles and experience of the person.
	Host society and vehicular languages	Fluent mastery of the language of the host society that permits integration and progression in the labour market (for example to occupy managerial posts) and daily life.

Source: authors' elaboration.

## 4. HSTCN profiles

### 4.1 Integration profiles

Nine out of these ten variables were used to prepare an integration profile for both types of immigrants (successful and potentially successful):

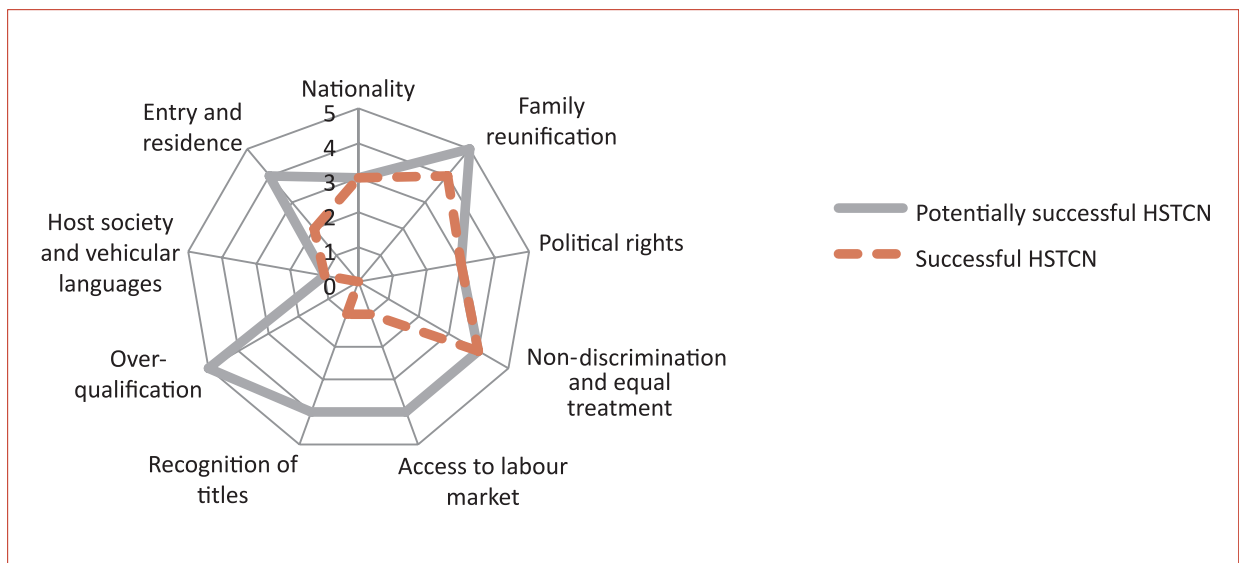
- Entry and residence;
- Nationality;
- Family reunification;
- Political rights;
- Non-discrimination and equal treatment;
- Access to labour market;
- Recognition of titles;
- Over-qualification;
- Host society and vehicular languages.

Each of the variables related to the integration of HSTCN was given a score. This score was derived from information provided by the five countries about the importance that each of these variables had for HSTCN non-integration.

The five participant countries were requested to consider whether each of these variables is an issue (obstacle to integration) or is not an issue (no obstacle to integration). This process was carried out with the two categories of immigrants: Successful and Potentially successful HSTCN.

For example, in the case of Successful HSTCN, the variable “Over-qualification” was not considered to be an issue in any of the countries, since in all cases immigrants are able to enter the highly qualified labour market. Moreover, in the case of the Potentially successful group, “over-qualification” was considered an issue by all countries.

Thus, two profiles of integration were obtained:



Source: author's elaboration on the base of data provided by partners and workshops results.

As shown in the chart, the main differences between the two categories lie in the variables ‘Entry and Residence’, ‘Recognition of titles’ and ‘Over-qualification’, for which Potentially successful HSTCN rate much lower than Successful HSTCN. This fact will undoubtedly affect their integration. However, the two groups share both the risk of discrimination and the formal-legal difficulties that can occur in access to nationality or to the exercise of political rights (the right to vote, which is closely linked to the question of nationality).

## 4.2. Challenges to integration by profiles

The results of the project have permitted the creation of a typology of HSTCN at the time of their arrival to one of the five countries analysed:

SITUATION IMMEDIATELY AFTER ENTRY	MODE OF ENTRY
SUCCESSFUL HSTCN	1) Labour
POTENTIALLY SUCCESSFUL HSTCN	1) Study 2) Asylum 3) Family reunification 4) Labour (entered country to look for work)

Source: authors' elaboration on the base of Portuguese national report completed for this project (see chapter 3) by Catarina Reis and Vera Fonseca, from the ACIDI and Gois. P. and Marques, J. C. (2007).

These HSTCN must face a number of challenges in terms of integration in the first stage, just after their arrival in the country of destination, which vary depending on the category of HSTCN in which they find themselves.

### 4.2.1. Successful HSM

In relation to this type of HSTCN the following process generally applies:

For this type of 'successful HSTCN', the first stage of integration is linked to their legal status in the country of destination and is relatively smooth as immigrants arrive with residence permits that identify them as highly-skilled migrants. It has also been shown that the five countries have specific and reduced administrative procedures for entry and residence of highly skilled migrants from third countries. Finland, the Netherlands and Spain have specific units for the personal attention of the residency applications of these immigrants. This "one stop window" significantly reduces the time resolution of the records of entry and residence of the worker, and also family members. It also allows the employer (companies, universities, research centres, etc.) to have a simplified and preferential treatment.

In terms of the next steps in their integration in the destination country, most do not encounter problems in access to the labour market, in the process of recognition of their qualifications or in situations of over-qualification. Therefore, integration within the social-economic dimension is produced without difficulty. However, it should be pointed out that these 'successful HSTCN' may face challenges of a practical-social nature, which are concerned with adapting to the functioning of practical life in the destination country: opening of bank accounts, registration in the municipality, the search for a school for their children, etc.

Continuing the process of integration for the 'successful HSTCN', aspects relating to the political environment seem to occur in a second phase. One of the challenges they face, according to the results of this project, is related to discrimination, although the situation varies from one country to another. Some of the people interviewed in the workshops say

they perceive prejudice and stereotypes in European host societies and that it is necessary to work on awareness and information to the public to prevent discriminatory and racist attitudes. It is necessary to continue to promote programmes that strengthen the diversity of European societies as a key element of leadership and development. It is important to have the media and social networks as spaces that can be used to disseminate information on procedures, processes and experiences of HSTCN in host countries. In short, make visible and give voice to the HSTCN who have chosen Europe as a destination.

Regarding aspects of political integration –access to citizenship, the right to vote and to be elected– the challenges faced by ‘successful HSTCN’ are no different from those faced by immigrants in general, as they must meet the same legal requirements determined in each country. The project results show that integration in this area is not problematic for ‘successful HSTCN’.

One of the main obstacles that HSTCN must face is the command of the official language(s) of the country of destination. Many agree that it is fundamental for upward mobility in their profession. This language barrier is relatively important in Finland and the Netherlands, though paradoxically some of the workshop participants who successfully mastered the Finnish and Dutch languages were not necessarily in jobs commensurate with their education. Language is an important element; however, it is not a determining factor in securing a job that matches the qualifications of the immigrant. It should be pointed out that in the case of Finland, a good knowledge of both official languages, Finnish and Swedish, is essential for work in the public sector. In Portugal and Spain, the command of Portuguese and Spanish is not considered as a challenge for this type of HSTCN, since the vast majority of third country immigrants come from countries where the official language is Portuguese or Spanish. However, it is possible that this is an essential element for the integration of other immigrant communities.

Language has always been recognised both academically and politically as an essential element for the integration of immigrants into a host society. We have seen that in the case of ‘successful HSTCN’ this is also true, and that language is an element that transverses the entire integration process, as it is important from arrival and in each of the dimensions of integration: in the social-economic dimension language is essential for upward mobility in their professions. Equally, it is essential for integration and interaction with the host society and their future political participation (access to citizenship, political participation, etc.).

This demonstrates that it is necessary to strengthen the teaching of language courses in countries wishing to attract HSTCN and strengthen news and information in English, in cases where it is a valid common language. In addition, several participants suggested providing basic information in the languages of the countries that are major emitters of HSTCN by country, or in English in those cases when it is a valid common language (e.g. in Finland and the Netherlands). Regarding the above on the subject of willingness or otherwise to migrate to a particular European country, and the attracting factors of the same, we can say that people who migrate voluntarily to a particular European country have basic information on the aspects that attract them (living conditions in the country, especially if travelling with

the family, higher education opportunities, such as postgraduate and Master's degree courses from certain universities, job offers, etc.). While this may not constitute comprehensive information that allows the decision to migrate from a well-informed situation, it will undoubtedly lead to an improved integration process in the selected country.

In particular, considering the two problems raised earlier (contextual differences and lack of information), this process takes different forms in the five countries.

#### 4.2.2. *Potentially successful HSTCN*

We are referring to graduates, reunited family members, refugees and HSTCN who entered the country to look for work.

Following we present the general challenges related to the integration of 'potentially successful HSTCN'. The process described refers to matters that are common to the four profiles of immigrants that are included in this group, who have entered the country of destination for the following reasons: university studies, application for asylum, family reunification or seeking employment.

Starting with integration in the first phase –relative to the time after arrival in the destination country– the 'potentially successful HSTCN' must face the challenges associated with the legal field: their permission for residence. One of the main obstacles that many HSTCN must confront when they enter the destination country is related to the procedures for approval and renewal of the residence permit. It is necessary to grade the level of difficulty in the five countries. In Spain, this seems to be more problematic than Finland or the Netherlands. Various workshop participants highlighted this difficulty. It is important to point out that those HSTCN who did not enter through the specifically established channels for the facilitation of HSTCN entry, i.e. Blue Card applicants, those hosted through the Researchers' Directive, the Dutch HSM Scheme<sup>15</sup>, residence permission for high skilled migrants in Finland, and residence permission with the exception of work authorisation in Spain, experienced relatively more difficulties in obtaining their residence permissions. The problems linked to the approval of residency and subsequent renewal are already known, for example bureaucracy and incorrect (and/or lack of) information on the part of the authorities, although immigrants acknowledge that in recent years advances have been made, especially in the Netherlands.

At this point, it should be explained that the difficulties of the profiles in this group are primarily linked to their reasons for entering the country. Those requesting asylum, students and family reunifications must first arrange their residence permits, there being a special procedure for asylum seekers due to the existence of conditions for which asylum and subsidiary protection are granted. It has not been the objective of this project to focus on the challenges of these 'potentially successful HSTCN' in this administrative area of obtaining

<sup>15</sup> To be considered as a "knowledge migrant" under the scheme, immigrants need to fulfil an income requirement and work for an employer who is allowed to profit from this requirement.



legal residence at the time of arrival in the destination country, but rather our interest is to show that these profiles of migrants may be highly qualified –although the reasons for their migration were others– whose immigration project progresses to their access to the labour market by occupying a position commensurate with their qualifications.

Continuing with integration in the social-economic dimension, this is where the greatest difficulties are found for the collective of the four profiles that are in the category of ‘potentially successful HSTCN’. In relation to access to the labour market, one of the difficulties encountered is the relative lack of experience in the destination country. It is interesting that previous experience, either in the country of origin or in another country of prior residence is not always sufficient to secure a job. Such work experience in the country of destination is especially important in countries like Spain, where the service sector is traditionally important for the economy and requires knowledge of the market. This requirement for prior experience in the destination country as an important element for access to the labour market constitutes a barrier to immigrants in general, including HSTCN, and is contrary to the legislation of some countries, and the legislation stipulated by the EU, concerning the importance of work experience when considering an immigrant as highly skilled<sup>16</sup>. The clear danger from the above is that many HSTCN, and in a broader sense, immigrants, who have not arrived through institutional channels (companies, universities or other employers), are likely to fall into a vicious circle of barriers of access to the labour market access, due to a lack of work experience in the destination country, which cannot be acquired without a job.

A barrier curiously manifested by HSTCN in the workshops performed in the three countries is linked to the qualifications themselves. One point that many participants have mentioned is the importance of the weight of the reputation of the origin university’s diploma/studies for employers. Although this does not guarantee a skilled job, as many HSTCN who choose to further their studies in the country of destination to improve their options for labour market insertion failed to find employment commensurate with their qualifications, it is an element that appears to play an important role when it comes to hiring HSTCN: the subjective perception of the employer may be decisive.

The recognition of qualification is one of the main points of great concern to the HSTCN in the three countries. Difficulties can be divided into two categories: those related to procedure, specifically the way in which each country has regulated the recognition of diplomas, and those related to the qualification itself.

Problems related to procedure are specifically connected to the lack of complete information on the recognition process given by authorities, and the long duration of the

<sup>16</sup> Consult this project’s comparative report for analysis of the variables taken into question by each country for the definition of ‘skilled migrant’ and the weight that each of them gives to professional experience. It is important to note that the EU establishes for the Blue Card Directive that “higher professional qualifications means 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”. Professional experience in the destination country is not mentioned as an element to be taken into account. See CD-ROM enclosed.

procedure and its high cost (fees, translations, costs associated with university studies that some immigrants must take to complete the academic requirements for recognition).

As for the obstacles of the qualification itself, they are closely linked to the immigrant's type of profession. The procedures for recognition of qualifications will depend on whether the immigrant wants to pursue a regulated profession or not. In both cases the bureaucracy and the duration of the resolution of accreditation frustrates the efforts that many HSTCN invest in order to meet legal and work requirements that permit their integration into the labour market. It is necessary to take into consideration that most of the analysed countries define a highly skilled immigrant based on their level of education<sup>17</sup>, without proper acknowledgment of which prevents classification as highly skilled immigrant with all the consequences that entails. Differences and difficulties are exacerbated further depending on whether or not the profession is regulated.

These obstacles, both access to the labour market and the recognition of diplomas, lead many HSTCN to find themselves in situations of over-qualification. This is because they cannot find jobs commensurate with their qualifications until they receive recognition, which is conditional on the variables previously discussed, and are forced to accept jobs below their levels of education. This is also a condition that is particularly prone to be experienced by the wives accompanying HSTCN in their movements. Such cases of over-qualification, commonly referred to as *brain waste* in the literature on skilled migration, confirm the studies that highlight difficulties in adapting immigration to the needs of the labour market. The forecasts for this are often not accurate and do not allow the accurate determination of trends. Also, current migration flows as a whole do not respond to the specific needs of the market, which needs low skilled workers, highly skilled workers, or those with very specific qualifications. The two main consequences of over-qualification are, firstly, the impact of the individual loss of skills and professional competencies, and secondly, the loss of the contributions of migrants with qualifications to the host society or country.

The economic crisis was a topic covered in the workshops and one that worries HSTCN, since it reflects a context in which over-qualification affects both natives and immigrants. On this point, it is necessary to distinguish between different work settings in the cases of the European countries analysed. While the economic crisis has affected all of Europe, the current situation presents very different characteristics. In the case of Spain, the high unemployment rate in the country is hampering HSTCN's access to the labour market and encouraging their mobility to other countries (mostly European). Another consequence is that one of the main objectives of undertaking the migration project was "progress" in the workplace, and now the situation for the majority is one of widespread discontent in this aspect. HSTCN, especially those who are in a position of over-qualification and unemployment, claim that it would be advisable to have more information on education and training and job offers.

Regarding the relationships with the host society, a number of issues were addressed in the workshops of the three countries. Firstly, the problem of discrimination is an obstacle that

17 Consult the Consolidated Report, available on the project's website. See CD-ROM enclosed.

some ‘potentially successful HSTCN’ have faced. This is a common challenge they shared with the ‘successful HSTCN’, as has been stated previously. Some of the people interviewed say they perceive prejudice and stereotypes in European host societies and that it is necessary to work on awareness and information to the public to prevent racist and discriminatory attitudes. Moreover, cultural differences with the destination society are also elements that HSTCN expressed as points to consider. The lack of information on aspects such as the procedure for the payment of taxes, for obtaining a health card, medical insurance or pension plans, are examples of other difficulties HSTCN have experienced, although it should be pointed out these problems are not unique to HSTCN, but are experienced by immigrants in general.

People who have emigrated with their families, either at the same time or through a family reunification process, put precedence on the welfare of those families in the host country when deciding whether to re-migrate. Countries with the highest quality of life and educational opportunities for children, schools, kindergartens, are key aspects to attracting and retaining the HSTCN who have opted to migrate to a European country with their families.

Finally, integration in the political dimension –notably access to nationality and the right to vote and to be elected– the challenges faced by ‘potentially successful HSTCN’ are no different to those faced by immigrants in general, as they must meet the same legal requirements determined in each country.

Another of the main obstacles that ‘potentially successful HSTCN’ must face is the command of the official language(s) of the country of destination. Many agree that it is fundamental for access to the labour market and upward mobility in their profession. This is a challenge also faced by the ‘successful HSTCN’, as was previously discussed.

In particular, considering the two problems raised earlier (contextual differences and lack of information), this process takes different forms in the five countries.

## 5. Circular migration of HSTCN

### 5.1. Theoretical background: state of the art and approaches in the EU

Throughout this project we have tried to define what is meant by HSTCN in relevant laws and regulations, in Europe as a whole and specifically in the five countries included in this project (Bulgaria, Finland, the Netherlands, Portugal and Spain), and also what HSTCN means in practice (by conducting in-depth interviews and workshops with HSTCN in Finland, the Netherlands and Spain).

This conceptual reflection on the concept of HSTCN leads us, necessarily, to pose the following questions: Are circular migrants different? Are there differences in the integration, welfare and intention to stay for those who migrate for the first time and circular migrants?

What are the differences between circular migration and return migration? What are the variables that impact upon the integration of HSTCN? What about the variables that favour circular migration of HSTCN?

As was the case with the concept of HSTCN, there are differences between the theoretical definition and implementation in practice of circular migration; for example, is circular migration considered a person from a third country who emigrates to country X in the European Union, and who migrates from country X to country Y within the European Union? Or rather, must we only consider that circular migration occurs when people return to their country of origin?

When attempting a conceptual approach to the term ‘circular migration’, we have different options. In the early 1970s, Frank Bovenkerk defined circular migration as “the to and fro movement between two places, [this movement] includes more than one return [to the place of origin]”<sup>18</sup>. Its design suggests that migrants can travel or live abroad in several countries of destination before returning once more to their country of origin. This implies that circular migration is not limited to a bilateral movement between countries of origin and a single destination country. In recent years, studies and debates at academic and institutional level have multiplied around the definition of circular migration, and more so, on the forms it should take.

An interesting focus for our project is given by the Migration Policy Institute, which distinguishes circular migration from temporary migration, “in that circular migration denotes a migrant’s continuous engagement in both home and adopted countries; it usually involves both *return* and *repetition*”<sup>19</sup>. Circular migration is therefore characterised by frequent temporary stays, whether in the country of origin or country (or countries) of destination.

It is clear that definitions<sup>20</sup> of ‘circular migration’ vary greatly, and often fuzzy boundaries exist in the differentiation of circular migration from related concepts such as temporary mobility and transnational migration<sup>21</sup>. In short, all definitions include a border crossing that is repeated. However, there is a wide divergence with respect to how many movements, in what time periods and with what duration of stay, are necessary to be considered circular migration. Furthermore, many definitions include policy objectives and are not limited to the mere facts that can be analysed by empirical sociological research.

18 F. Bovenkerk, (1974), *The sociology of return migration: a bibliographic essay*. The Hague, Martinus Nijhoff.

19 Migration Policy Institute (2008) *Learning by doing: Experiences of Circular Migration*, by K. Newland, D. Rannveig Agunias and Aaron Terrazas. MPI Insight, Program on Migrants, Migration and Development, September 2008, Washington D.C.

20 M. Braun, (2010) “¿Son diferentes los migrantes circulares? La integración, el bienestar y la intención de quedarse de los que migran por primera vez y de los migrantes circulares” (‘Are circular migrants different? Integration, wellbeing, and intention to stay of first-time and circular migrants’). *OBETS. Revista de Ciencias Sociales*. Vol. 5, N. 2 (2010), pp. 201-220, available at <http://rua.ua.es/dspace/handle/10045/16097>

21 K. Newland, (2009) “Circular Migration and Human Development”, Human Development Research Paper 2009/42, United Nations Development Programme, available at [http://hdr.undp.org/fr/rappports/mondial/rdh2009/documents/HDRP\\_2009\\_42.pdf](http://hdr.undp.org/fr/rappports/mondial/rdh2009/documents/HDRP_2009_42.pdf) (20.09.2012) and A. Triandafyllidou, (2010). ‘Towards a Better Understanding of Circular Migration’. METOIKOS Concept Paper. San Domenico di Fiesole: European University Institute, available at: <http://www.eui.eu/Projects/METOIKOS/Documents/ConceptPaper/METOIKOSConceptPaper1July2010.pdf> (20.09.2012)

Also, it should be stressed that the literature<sup>22</sup> on migration has established that return migration is considerable and highly selective. Moreover, once a move has taken place, immigrants are more prone to move again. Each move builds the momentum of a self-sustaining circular migration through the accumulation of “migration-specific capital”<sup>23</sup>, and hence, circular migration develops. However, little is known empirically about it, mainly due to the non availability of suitable longitudinal data<sup>24</sup>. Return migration might occur ex-post due to the realisation of sub-optimal decisions as a corrective mechanism or due to ex-ante predetermined and pre-planned decisions to return. Accordingly, return migration is viewed as a one-time event. Circular migration, however, while it has the appearance of an indecisive perpetual move, might be a way of optimising or re-optimising one’s economic, social, and personal situation at every period. Put differently, circular migration might be a way of taking advantage of opportunities as they appear in both the host and home country. It might be a way of minimising psychic costs due to long separations from family members. Circular migration might also denote strong preferences for frequent location changes in maximising utility.

At institutional level, the growing interest in recent years by the European Union on the issue of circular migration resulted in the 2007 Communication by the European Commission on circular migration and mobility partnerships<sup>25</sup> between the European Union and third countries. Temporary and circular migration are considered as options with a triple benefit for the three parties involved in them: the country of origin, the country of destination and the migrant. The advantages are related to the opportunity to provide labour in the destination country for a short term to cover the needs of the labour market, contribute to the development of the countries of destination, and reduce the phenomenon of ‘brain drain’<sup>26</sup>. The EU approach has focused on the promotion of cooperation agreements with the authorities of the countries of origin for the fight against illegal migration through readmissions and return. However, the latter has been narrowly conceived as the end of the migration cycle. This view is confirmed, for example, by the PIONEUR<sup>27</sup> project on internal migration in the European Union, in which circular migrants are defined as a group of migrants who had already experienced a prolonged stay in the country of residence before their permanent removal.

22 A. Constant & K.F. Zimmermann, (2003) “The Dynamics of Repeat Migration: A Markov Chain Analysis”. IZA Discussion Paper No. 885. Available at: <http://ftp.iza.org/dp2999.pdf> (22.09.2012)

23 D. S. Massey & K. Espinosa, (1997), “What’s Driving Mexico-U.S. Migration? A Theoretical, Empirical and Policy Analysis”. *American Journal of Sociology*, Vol. 102, No. 4 (January), pp. 939-999.

24 For a recent exception see A. Constant & K.F. Zimmermann, (2003) The Dynamics of Repeat Migration: A Markov Chain Analysis”. IZA Discussion Paper No. 885. Available at: <http://ftp.iza.org/dp2999.pdf> (22.09.2012)

25 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on circular migration and mobility partnerships between the European Union and third countries, COM (2007) 248 final. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0248:FIN:EN:PDF>

26 European Migration Network (2001), “Temporary and Circular Migration: empirical evidence, current policy practice and future options in EU Member States”, EMN Studies, available at: <http://www.emn.europa.eu>

27 See Pioneers of Europe’s Integration “from below”: Mobility and the emergence of European Identity among National and Foreign Citizens in the EU, Fifth Framework Programme. More information at: <http://www.obets.ua.es/pioneer/about.php> (22.09.2012)

European immigration policies have been implemented considering, almost exclusively, a focus on “receipt” of migrants, tending to their homogenisation, as well as the circumstances of the receiving countries. The perspective of the migration process itself, which does not necessarily imply a coming and going, but can take many twists and turns, not always from country X to country Y, has not been taken into account.

## 5.2. Circularity and integration of HSTCN. Determinant variables

Besides promoting initiatives that create a more flexible framework for circular migration of HSTCN, the proposal raised in this project is to show how this type of mobility is related to integration: what is the relationship between integration and circular migration?

For the purpose of this project, and in particular the Integration Itineraries Model, diversity and specific characteristics of different migration projects, including the possibility of mobility periods and circular migration, are taken into consideration. The outcomes of this project have allowed us to propose a set of variables that may favour HSTCN Circular migration and its integration in host countries. These variables are divided into the categories of institutional, educational-vocational-training, and personal:

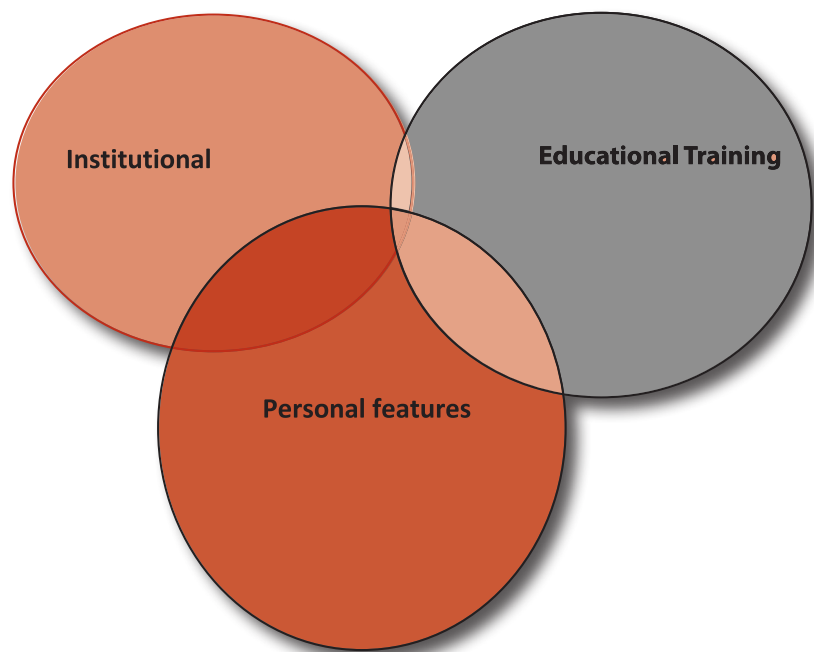
Institutional variables are those related to integration. Both countries of origin and destination should work on them, with the aim of promoting circular migration of HSTCN. For their part, Educational, vocational and personal factors become essential for the analysis of this circular mobility:

INSTITUTIONAL	
Mother tongue	Promoting and keeping mother tongue and cultural background from sending countries.
Agreements among countries	Aspects that facilitate or not geographical movement, in addition to legal administrative questions concerning the type of permit. For example an acknowledgement of the social security payments in various countries, sufficient information, etc.
Flexible residence permits	Real possibility of geographical mobility. This variable is highly linked to the type of permit held.
EDUCATIONAL/VOCATIONAL/TRAINING	
Education / Training acquired in the migration process	The host country's educational background may be key to return. Does the country of origin provide the basis for recognition of qualifications acquired abroad?
Experience gained in the host country and its impact / applicability in the home country	Is the sending country prepared to optimise immigrants' work experience acquired in the host country? It might be that sending countries are not prepared to develop the same level technologies that migrants have acquired during their migration process.

PERSONAL FEATURES	
Links with the country of origin	Links with the country of origin (travel / family / properties) may encourage return.
Children / under 16 in school	The existence of sons / daughters under 16, educated in the host country may be an obstacle to return.
Marriage to a receiving country national	This can be a deterrent to making the decision to return.
Age (at both the time of migration and upon deciding to return)	Depending on the migrant's life cycle phase, the decision to return may be favoured or not.

Source: authors' elaboration on the base of partners' contributions, different virtual plataforms created for this project.

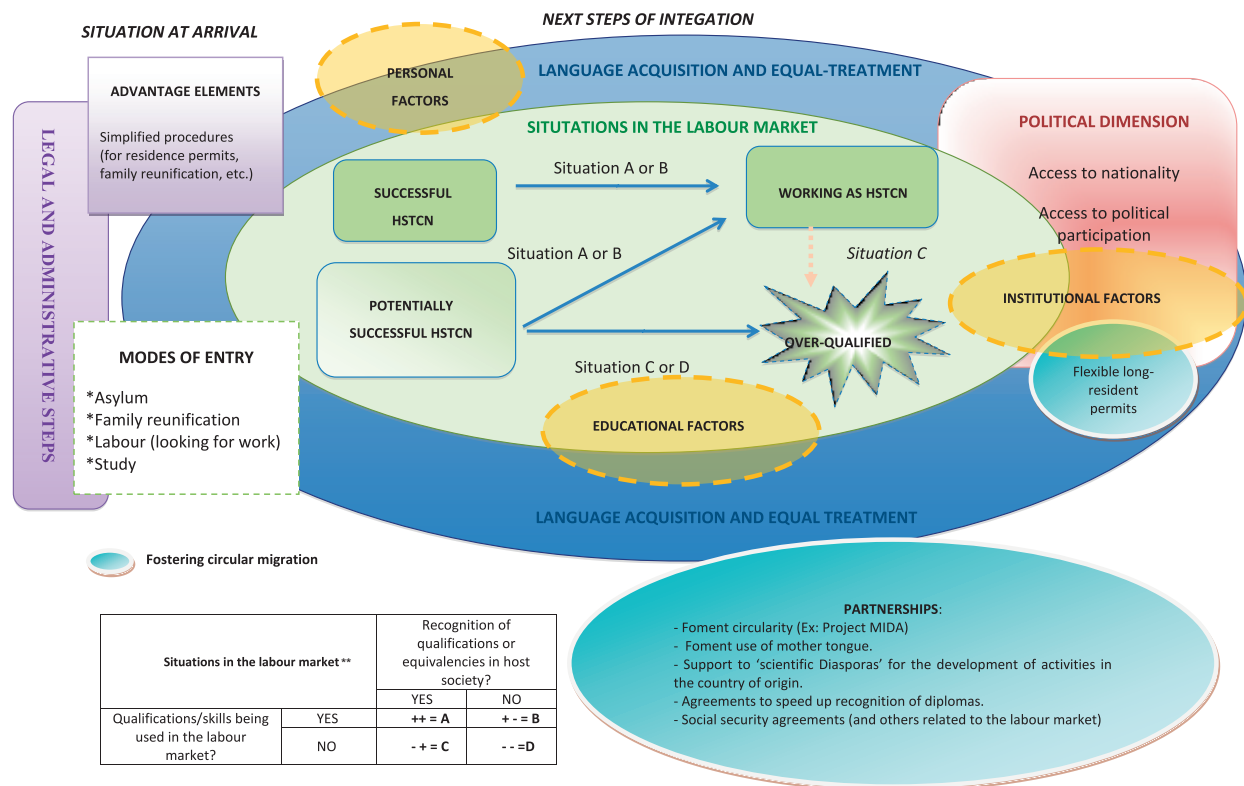
Ultimately, as discussed in the following section, the integration of skilled migrants should be analysed from a perspective of multiple factors, in which, at least, the variables provided should be considered. Thus, strictly personal factors will exist, such as those mentioned above, which cannot be influenced from the sphere of public policy; although there are two areas in which the development of institutional measures can stimulate or brake skilled migration to Europe. Ultimately, the integration process is the sum of at least all of the above factors:



In short, the intersection, that is, the integration process of HSTCN will vary depending on the weight of each variable in each particular case, and for each of the categories of HSTCN which have been identified along the process.

## 6. Model on HSTCN integration and circular migration

The following diagram summarises the model of integration itineraries for both categories of HSTCN, as well as those elements that would foster their circular migration:



\*\* This proposal of a typology of highly skilled immigrants and their different levels of vulnerability has been developed by Catarina Reis Oliveira and Vera Fonseca, from the ACIDI, in the Portuguese national report completed for this project (see chapters 3 and 6).

### 6.1. Promoting HSTCN integration

The previous picture is intended to be a snapshot of the different 'patterns of HSTCN integration' and some key elements required to foster circular migration of HSTCN.

Firstly, we can see elements characteristic of the three dimensions of integration as described above and which intervene in the whole process of HSTCN integration:

- If we take the category of 'successful HSTCN', at the time of arrival they should face administrative procedures for legal residency in the country of destination. If this type of HSTCN comes with a special residence permit that accredits them as qualified - Blue Card, the Researchers Directive, or another permit legally established by the legislation of the country concerned, for example, the HSTCN Scheme in the



Netherlands, it is implied that these workers will enjoy a variety of facilities for their installation: ‘fast-track procedures’ to process the residence permit or apply for family reunification. The following steps of their integration are associated with their access to the labour market. These successful HSTCN end up working as HSTCN as they constitute those immigrants who are using their skills in the labour market (situations A and B), whether their qualifications are officially acknowledged or not. It should be pointed out that there is a possibility that successful HSTCN are in danger of falling into a situation of ‘over-qualification’, if, for example, they lose their highly qualified jobs and only find work in jobs not commensurate with their background (situation C).

- We focus next on the other category, the ‘potentially successful HSTCN’, which brings together a variety of migrant profiles, the category contains those people who have arrived without the main purpose of working as HSTCN, although they have the capacity to become functionally recognised HSTCN, i.e. graduates, reunited family members and refugees. These people have to face challenges related to administrative procedures for legal residency in the country of destination at the time of their arrival. Once beyond this stage, they do not benefit from the existing administrative facilities for ‘successful HSTCN’, their entry into the labour market that has a varied range of situations:
  - In the best of cases, these ‘potentially successful HSTCN’ can move on to find a job commensurate with their qualifications (situations A and B), whether they are officially recognised or not. In these situations, these migrants will work as HSTCN.
  - The most vulnerable situation (D) constitutes those ‘potentially successful HSTCN’ who, despite having a higher education, are not using their qualifications in the labour market or who have not been officially recognised. The problems and challenges of this situation are mainly associated with the long application process for the recognition of diplomas, associated costs, etc.
  - Another possible situation (C) is linked to the ‘potentially successful HSTCN’ who have gone through the process of recognition of qualifications, and yet these qualifications are not used in the labour market. Several reasons explain this situation: ‘protectionism’ of professional associations, rigidity of the labour market, etc.

The essential elements of integration are language and the relationship with the host society, as these elements are relevant across the entire integration process of both categories of HSTCN, being present in all aspects, spaces and times of the incorporation process for HSTCN.

In terms of the political-legal environment, the participation of migrants in the political system (with rights and duties), and access to nationality are important elements for the integration of HSTCN.

## 6.2. Fostering circular migration of HSTCN

Circular migration should be seen as an element of integration. The diagram represents elements to consider for enhancing circular migration, where the authorities of the countries of origin and destination of migrants must play a fundamental role.

The three orange/yellow variables are those that are considered key in enhancing the circular migration of HSTCN from third countries:

If we understand as circular migration solely the departure from and return to the country of origin, then we must necessarily take into account the relationships between sending and receiving states (if it is desirable to promote talent circulation). As discussed by Cassarino<sup>28</sup>, “one of the key conditions to optimally develop circular migration schemes is that countries of destination and origin should promote *ad hoc* measures aimed at rewarding the contribution of circular migrants to development. Circular migration, if properly regulated and managed, requires the promotion and adoption of such measures as well as the existence of a return-friendly institutional environment in host and origin countries”.

- On one hand, relating to the legal and administrative aspects of the residence of HSTCN, the receiving state must establish flexible long-residence permits that allow mobility, meaning temporary exits to return to the country of origin, and allow HSTCN to have the ease and motivation to engage in activities that promote the development of their country. Also, the enablement of dual nationality may promote long-term circulation, as this could allow permanent migrants to preserve personal and political links to the countries of both origin and destination.
- On the other hand, it would be necessary to promote “partnerships” between places of origin and destination in terms of:
  - Promotion of circularity: encourage returns home to spread the talent acquired (e.g. the MIDA programme). Here the role of countries of origin and their policies for the encouragement of this type of initiative is crucial. Support to scientific Diasporas is essential.
  - Bilateral agreements for the recognition of qualifications so that the process is less complex. Here universities could play an important role<sup>29</sup>.
  - Bilateral agreements on issues relating to the labour market: social security, unemployment...
  - Agreements for the promotion of the language of the country of origin to encourage an ‘integrated circularity’.

<sup>28</sup> J-P. Cassarino (2008), “Patterns of Circular Migration in the Euro-Mediterranean Area: Implications for Policy-Making”, CARIM AS Circular Migration Series, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2008.

<sup>29</sup> The method of collaboration between universities and host countries could be a way for the countries of origin to identify highly qualified migrants, allowing them to build relationships in the future with the aim of migrants temporarily returning to their home countries to participate in development projects (for example, doctors who return to participate in training programmes in their home countries or in research projects).

Initiatives on this point have already been undertaken by several countries<sup>30</sup>, but require that destination countries are also involved with the aim of promoting circular migration opportunities.

## 7. Some reflections

The main challenge encountered by this project has been to draw general conclusions from the challenges faced by HSTCN in their integration process in five different European countries.

To jointly represent these challenges, a map of itineraries of integration has been designed, which shows the peculiarities that HSTCN present on their entry into the country, as well as the routes that their integration processes take in order to achieve a specific situation at a specific point in time. To create these itineraries a series of 10 integration variables were taken into account, resulting from a classification of HSTCN into two main categories, successful and potentially successful, depending on their prior behaviour.

In addition to the future of the integration process, the issue of circularity is simultaneously raised, this factor establishing itself as a catalyst of integration and also as a source of inspiration in the design of public policies that promote the circulation of talent. In this sense, both the work of partners from different countries and the contributions made by experts on different virtual platforms (forum, twitter, facebook), have allowed us to incorporate different variables into the map that help to reconcile the seemingly conflicting concepts of integration and circularity.

The above variables are of three types: institutional, educational-vocational-training, and personal: Institutional variables are those related to integration. Both countries of origin and destination should work on them, with the aim of promoting the circular migration of HSTCN. For their part, Educational, vocational and personal factors become essential in the analysis of Circular mobility. This whole process has culminated in the design of the model on HSTCN and integration and circular migration.

If the basic idea of circular migration in the EU is a triple-benefit situation, for the country of origin, destination and the immigrant, in the case of highly skilled migration the question that should be asked is if the facilitation of immigrant integration in the host country in all dimensions is a key element in the promotion of circular migration. In other words, until HSTCN are integrated into the labour market, are taking advantage of their qualifications, and can take refuge in a flexible legal residence framework, which includes the acquisition of nationality, circularity will be strongly conditional. Therefore, it is essential

30 J-B. Meyer (2001), "Network Approach versus Brain Drain: Lessons from the Diaspora," *International Migration*, 39 (5): 91-110.

that countries of destination make their residence regimes flexible, and that HSTCN can spend periods of time in their home countries, without thereby losing their residence permit.

Similarly, the collaboration partnerships that may arise between the different actors involved in the phenomenon of HSTCN migration are essential. Firstly, the agreements between countries of origin and destination to create channels through which HSTCN can revert their human capital to their country of origin. On this last point, the possibility of possessing dual-nationality is essential.

Likewise, it is essential that the authorities in the country of origin want to develop ties with the scientific Diasporas that are found in the destination countries. Another important element of cooperation between countries of origin and destination is linked to the recognition of qualifications. It would be interesting to explore bilateral initiatives between countries in order to expedite these procedures, which, as we have seen in this project, constitute one of the challenges for the integration of HSTCN in the labour markets of destination countries.



*Part Two*

Contextual background and  
empirical results

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## 1. Introduction

This second section aims to describe the contextual background where HSTCN integration patterns take place. The potential relationships between admission policies, integration of highly skilled third country nationals in EU countries and circular talent management have been explored. Moreover, a comparative analysis has been performed of the situation encountered by HSTCN in the five participant countries, which present different socio-economic peculiarities and have different states of maturity in terms of being countries receiving (highly skilled) immigrants.

This part has been split into an introductory section plus seven additional sections: Methodology, Definition, Statistical data, Legislative review, highly skilled migrants and circularity, Programmes and political initiatives, Conclusions and Challenges for integration.

The first two sections, *Methodology* and *Definitions* describe the comparative analysis performed of the situation encountered by HSTCN in the five nations, and try to reach a consensus about the definition of highly skilled migration.

The *Statistics* section presents some general data on each country and then offers a comparative overview and deals with the highly skilled labour market, considering both present labour market situation (immigrant stock) and its evolution (migration inflows). Additionally it addresses the over-qualification issue.

The section regarding *Legislative review on migration policies* analyses how each country has reflected the transposition of Directives related to the management of highly skilled migration from third countries according to their national contexts. Also, it shows how each country has managed the entry and residence of such migration and its integration.

The *Circularity* subsection tackles specific programmes regarding brain-drain reduction, talent circulation, bilateral agreements and PSO (Personnel Cooperation in Developing Countries) associations. Finally, reference is made to bilateral agreements signed with different countries of origin to establish a cooperation and favour synergies between migration and development.

The analysis of the *Programmes and political initiatives for the integration of skilled migration* is divided into two blocks. Firstly, the initiatives and programmes that are present in several European countries are gathered together. Next, the initiatives undertaken in the five countries studied are comparatively reviewed together with other specific examples of exportable experiences.

A conclusions section has been included at the end of this chapter.



## 2. Methodology and sources

This section aims to define the integration process adapted to different highly skilled (third country nationals) immigration patterns and the socio-economical needs of European countries, on the basis of a multidisciplinary discussion/thinking on the relationship between admission policies, integration of highly skilled third country nationals in EU countries and circular talent management.

In order to satisfy this objective a comparative analysis has been performed of the situation encountered by HSTCN in five European nations that present different socio-economic peculiarities and that have different states of maturity in terms of being countries receiving (highly skilled) immigrants. These countries are Bulgaria, Finland, the Netherlands, Portugal and Spain.

### 2.1. Scheme of work

The work methodology used has been as follows:

#### 2.1.1. *Variables for Analysis*

As a prelude to the analysis those factors that were decisive for the satisfaction of the objectives of the investigation were identified. Three major areas of analysis were identified in this process: the existing legal framework and its relation to HSTCN, the existing programmes and policy initiatives in relation to HSTCN, and the circular talent management of HSTCN.

### 2.2. Study of the particular situation of each country

Having identified these variables a common work schedule for the five partners involved in the project was agreed. Additionally, the extension of this work was defined, in order to achieve, as far as possible, the same depth in the treatment of the subject.

The result was a collection of five case/national reports, one per country, with the following scheme:

<b>INTRODUCTION</b>	Seeks to define who are considered at each national context, "highly skilled immigrants".
<b>NATIONAL CONTEXT</b>	Socio-demographic and migration context of the country. Context applied to highly skilled migrants.
<b>LEGISLATIVE REVIEW OF IMMIGRATION POLICIES</b>	Brief description of the implemented national immigration policies bearing in mind the specific case of highly skilled migrants.
<b>DESCRIPTION OF NATIONAL POLICIES OF INTEGRATION PROCESSES ADAPTED TO HIGHLY SKILLED MIGRANTS</b>	Concise review of integration policies in each country that specifically affect highly skilled migrants (plans, strategies, programmes, actions). Policies of attraction, promotion and retention made in the education system or in the labour market that might affect highly skilled migrants in each national context.
<b>THE CHALLENGE OF CIRCULAR TALENT MANAGEMENT OF HIGHLY SKILLED MIGRANTS</b>	Describe the processes/itineraries of socio-economic integration.
<b>CONCLUSIONS</b>	

### 2.3. Consolidated report

The different national reports were jointly analysed from three perspectives. First we tried to extract common performance standards, in order to be able to describe, as far as possible, the European course of management of highly skilled migration. Secondly, the particular elements of each of the countries studied were highlighted; this has allowed knowledge of the different responses that different environments provide to the challenge of highly skilled migration and the circular management of talent. Finally, emerging from the analysis described in the two preceding paragraphs, a series of conclusions and recommendations are made.

The process described in the previous paragraph was carried out following the scheme of national reports. As such, an analysis was performed concerning the national contexts, legislative frameworks, migration policies and management of circular migration.

### 2.4. Difficulties encountered

The main difficulty found in carrying out this report is precisely the element that gives to it its greatest value: the disparity in the situations under comparison. This disparity is found mainly in three aspects: one, the contextual differences between countries, two different ways of looking at highly skilled migration and three, disparity and quality of the data sources provided.

### 2.4.1. *Different situations between the countries*

This part compares five EU27 countries which are at very different stages in the process of both economic development and the role played in the reception of (highly skilled) migrants.

In fact, while Bulgaria is the last country in the EU27 in terms of macroeconomic indicators, the Netherlands is one of the most developed. The number of migrants is very different, corresponding with Spain, which is first in terms of percentage of foreign population. The representation of migrants from third countries is also very different, with Spain and the Netherlands having a higher percentage of inhabitants from those countries.

### 2.4.2. *Different ways of considering skilled migration*

There is no consensus among the states in defining what is meant by skilled migrant. Thus, while some countries focus on salary, others consider academic qualifications and/or work experience or the nature of the job being performed. Moreover, although the countries surveyed are aware of the relevance and the need to facilitate the admission of skilled migrants (and have transposed European legislation or are in the process of doing so), not all have developed schemes to facilitate the entry of talent in equal measures.

### 2.4.3 *Disparity and quality of sources*

Ultimately, the lack of specific statistical information on skilled migration in all countries is highlighted. In fact, the different data sources offer, in the best of cases, partial information about this group, thus marking the need for relevant *ad hoc* data for analysing this phenomenon more rigorously.

Different countries have used different sources. In some cases (the Netherlands) flow variables have mainly been analysed, while in others the stock variable have been used (Portugal and Spain) or other statistics (Finland, Portugal, Spain). This has greatly hindered the comparison.

The following table illustrates these disparities.

	STATISTICAL DATA	LEGISLATIVE REVIEW OF IMMIGRATION POLICIES	POLICIES AND PROGRAMMES
<b>BULGARIA</b>	National Statistical Institute (NSI) - 2011 Census; Migration Directorate at the Ministry of the Interior.	Law on Foreign Nationals in the Republic of Bulgaria; Law on Employment Promotion.	Information Centres for Immigrants. The National Strategies on migration and integration adopted by the Government in 2008 and 2011.
<b>FINLAND</b>	The Finnish Migration Service: Ministry of the Interior, Ministry of Employment and the Economy, INTO – Finland service. Statistics Finland.	Aliens Act 2004 Act on the Promotion of Immigrant Integration 2011.	Integration Plan <sup>31</sup> Migration Policy Programmes: * Government Policy Programme for Employment <sup>32</sup> . * Action Plan for Labour Migration. * The Future of migration in 2020 – strategy. * The integration monitoring system <sup>33</sup> . * Forms of cooperation with countries of origin for encouraging labour migration project. * Made ALPO and MATTO projects. * AFRO project. INSITE support project.
<b>THE NETHERLANDS</b>	CBS (Central Bureau for Statistics) IND (Immigration and Naturalisation Service)	Act on 'Modern Migration Policy' <sup>34</sup> Labour Act for Aliens Aliens Act <sup>35</sup> Integration Act Integration Abroad Act	HSM scheme Highly Educated Migrants Scheme Self-Employed Migrants Scheme

31 According to the Act on the Promotion of Immigrant Integration, an integration plan is then being drawn up in case the initial assessment appears to require one. It is the municipalities and the Employment and Economic Development Office who draw up the integration plan.

32 Active immigration policy on the other hand is included as a means to promote employment in this Programme.

33 The integration monitoring system in Finland is based on indicators on living conditions, on inquiries of provision of services made by municipalities and Employment and Economic Development Offices and on barometers on immigrants.

34 Amending the current Aliens Act adopted in summer 2010. The new Act was supposed to come into force in 2011, but has not yet because the new IND computer system was not fully operational.

35 The Aliens Act has been elaborated in, successively, the Aliens Decree, the Aliens regulations, and the Aliens Act Implementation Guidelines. The Labour Act for Aliens has been elaborated in inter alia, the Implementation Decision of the Labour Act for Aliens.

	STATISTICAL DATA	LEGISLATIVE REVIEW OF IMMIGRATION POLICIES	POLICIES AND PROGRAMMES
<b>PORTUGAL</b>	SEF Census Data INE IEFP for unemployment figures Employee charts for employed population Ministry of External Affairs of Portugal Directorate General of Higher Education – MCTES GPEAR GEP/MTSS ACIDI Ministry of Health	Immigration Act of 2007 (23/2007) Regulatory Law (84/2007) Bilateral Agreements with various countries Law (341/2007) for the recognition of academic titles. Regulating Law (29/2008) Law 401/2007 concerning transfers and changes to the course of study.	National Action Plans for Immigrant Integration National Health Plan National Recognition Information Centre (NARIC) ACIDI's Office for the Support of Academic and Skills Recognition Qualified Immigrants Support Office Doctors/Nurses Programme Project for the Support of Qualified Immigrants (PAIQ)
<b>SPAIN</b>	INE (National Statistics Institute)	Organic Law of Aliens (LOEX) <sup>36</sup> Royal Decree on the Organic Law of Aliens (RELOEX) <sup>37</sup>	Strategic Plan for Citizenship and Immigration (SPCI) 2011-2014.
<b>COMMON SOURCES</b>	EUROSTAT European Migration Network (EMN)	Blue Card Office Investigator's Office	Opencities MIPEX (Migration Integration Policy Index) <sup>38</sup>

<sup>36</sup> Organic Law 4/2000 of January 11th on the rights and liberties of foreigners in Spain and their social integration, modified by Law 2/2009 of December 11th (onwards, LOEX).

<sup>37</sup> Royal Decree 557/2011, of April 20th, which approves the rules of the Organic Law 4/2000, on the rights and liberties of foreigners in Spain and their social integration, after its reform of Organic Law 2/2009, BOE number 103 of April 30th 2011 (onwards, RELOEX).

<sup>38</sup> MIPEX is a fully interactive tool and reference guide to assess, compare and improve integration policy produced by the British Council and Migration Policy Group. <http://www.mipex.eu>

### 3. Defining highly skilled migration

#### 3.1. Highly skilled migrants....

The concept of “skilled migrant” still does not attract a unanimous definition if we consider the vast production of scientific research, academic papers and official statements. According to Alaminos and Santacreu<sup>39</sup>, the concept still conserves an “excessive operative plasticity” and that plasticity, in which educational level is often used as a substitute for “qualified”, is justified by the aim of using the concept of “qualified” for statistical purposes. Other authors, such as Liebig and Souza-Poza<sup>40</sup>, define “qualified” as someone who has a university degree or vocational qualification. Sabour<sup>41</sup>, cited by Alaminos and Santacreu, consider a “skilled migrant” to be a person who has a minimum educational level of bachelor’s degree in a particular scientific or intellectual field, with several years of work experience. Another aspect that may define a skilled migrant, beyond the variable of higher university studies, is the recognition of diplomas and qualifications in all EU Member States, which is a condition of great importance<sup>42</sup>.

The European Union has also expressed the need to define and promote policies on the integration of skilled migrants. The Green Paper of January 11<sup>th</sup> 2005 on an EU approach to managing economic migration [COM (2004) 811<sup>43</sup> states that ‘*to meet the needs of specific skills, the Commission proposes a European system of selection (for example, according to criteria of experience, education, language skills, job offers). An alternative could be the existence of multiple systems, for example, a system for low skilled workers and another for quite or very skilled.*’

At the European Ministerial Conference on Integration (Zaragoza, 15<sup>th</sup> and 16<sup>th</sup> April 2010)<sup>44</sup> it was concluded that there was a need to ‘*develop the concept of “human capital”, ensuring a cross-sectorial approach that includes, among others, education, employment and continuing education. This approach would help control the impact of national reform programmes, while guaranteeing access to quality education, including language learning, promoting gender issues, finding new ways to recognise qualifications, training or professional skills and work experience of immigrants, and promoting equity in the labour market to avoid segmentation*’.

39 A. Alaminos & O. Santacreu (2010) “La emigración cualificada española en Francia y Alemania” (The skilled Spanish emigration to France and Germany), *Papers: revista de sociología*, Nº 95, 2010, pp. 201-211. Available at: <http://ddd.uab.cat/pub/papers/02102862v95n1/02102862v95n1p201.pdf>

40 Liebig, & A. Sousa-Poza, (2005) “Taxation, ethnic ties and the location choice of highly skilled immigrants”, OECD Social Employment and Migration Working Papers, 24. OECD Publishing, available at: <http://dx.doi.org/10.1787/523567425558> (15.01.2012)

41 M. Sabour, (1997) “The North African intellectual diaspora in the nordic countries. The socio-political factors of expatriation”, in M. Sabour & K. Vikor, *Ethnic encounter and culture change. Papers from the Third Nordic Conference on Middle Eastern Studies*. London: Hurst & Co Publishers.

42 A. Alaminos & O. Santacreu (2010) “La emigración cualificada española en Francia y Alemania” (The skilled Spanish emigration to France and Germany), *Papers: revista de sociología*, Nº 95, 2010, pp. 201-211. Available at: <http://ddd.uab.cat/pub/papers/02102862v95n1/02102862v95n1p201.pdf>

43 Green paper - On an EU approach to managing economic migration presented by the Commission, COM(2004) 811 final, available at: [http://europa.eu/legislation\\_summaries/other/c11331\\_en.htm](http://europa.eu/legislation_summaries/other/c11331_en.htm)

44 “Commission announces a new EU strategy and presents the third ‘Handbook’ at the Zaragoza Ministerial Conference”, MEMO/10/127, available at: [http://europa.eu/rapid/press-release\\_MEMO-10-127\\_en.htm](http://europa.eu/rapid/press-release_MEMO-10-127_en.htm) (15.01.2012)

How to define a “highly skilled” individual is a key issue. To be allowed into the EU as a highly qualified or skilled worker (and so be granted an EU Blue Card) the applicant shall meet admission criteria like: for regulated professions, documents establishing that she or he meets the legal requirements, and for unregulated professions, the documents establishing the relevant higher professional qualifications<sup>45</sup> and a work contract or binding job offer with a salary of at least 1,5 times the average gross annual salary paid in the Member State concerned (Member States may lower the salary threshold to 1.2 for certain professions where there is a particular need for third country workers)<sup>46</sup>.

In summary it can be said that there are four criteria defining a highly skilled migrant: their training, work experience, the type of job performed and the salary of that job. This quadruple possibility is conjugated differently in the five countries analysed:

DEFINITION	COUNTRY
DEGREE (3 YEARS)	Bulgaria, Finland, Portugal and Spain
EXPERIENCE (5 YEARS)	Portugal and Spain
OCCUPATION (MANAGERIAL/TECHNICAL)	Finland, Portugal and Spain
SALARY	Finland, Bulgaria, the Netherlands, Portugal and Spain

Source: National Legislation: Bulgaria, Finland, Portugal, the Netherlands and Spain, and the blue card directive<sup>47</sup>.

Regardless of the objective requirements provided in the different definitions, we consider it relevant to address a situation that appears in at least three of the five countries examined. We are referring to the so-called ‘potentially highly skilled’, that is to say, situations of over-qualification. This issue will be analysed in subsection 5.3.

While it is clear that each country follows its own discretion in defining who highly-skilled migrants are:

*Finnish law does not make a difference between a skilled or highly skilled migrant and a precise definition of highly skilled migrants cannot be found directly. The Finnish law talks about people who work in expert duties in the middle or top management of a company or in expert duties that require special expertise. It is these who are, in the Finnish context, considered skilled and highly skilled immigrants<sup>48</sup>.*

45 ‘Higher professional qualifications’ means 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. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0050:EN:NOT>

46 A third country national who applies for an EU Blue Card under the terms of the Directive shall also present a valid travel document and a valid residence permit or a national long-term visa and a proof of sickness insurance.

47 For more details see Annex I Definitions table and see CD-ROM enclosed.

48 Finnish National Report “Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management”(14.03.2012). See CD-ROM enclosed.

*Bulgarian<sup>49</sup> law did not provide a definition for a (highly) skilled immigrant worker until as late as June 2011 when the EU Blue Card Directive<sup>50</sup> was transposed. No specific regime for the employment of highly qualified third country nationals existed until then. They fell within the general work permit regime for immigrants. With regard to the current definition, Bulgarian law envisages only 'higher education qualification' and excludes 'professional experience' when it comes to the element of proven 'higher professional qualifications' within the meaning of 'highly qualified employment'.*

*In the Dutch<sup>51</sup> legal definition, highly skilled migrants, i.e. those who can profit from the HSM Scheme, are those immigrants who receive a certain income, equalling about one and a half times the average wage in the Netherlands<sup>52</sup>. The Dutch government at the time had chosen the salary criterion as the criterion for admission, since this criterion, in the government's eyes, was objective. Choosing the salary criterion as the core criterion on which the decision on admission is based however also reflects that the contribution the immigrant is supposed to make to the Dutch economy is primarily derived from the level of the income which will be gained, instead of the level of skills or knowledge (De Lange 2007: 333).*

Additionally, there is the difficulty that each country has different programmes/types of authorisations or residence permits for different categories of HSTCN, i.e. for the EU Blue Card approach it is the salary that prevails in some or almost all countries; however, in the case of researchers, qualification/skills comes before the criteria of salary.

As can be seen in detail in Annex 1, a static approach can be applied, i.e. using a definition of what is and is not a highly skilled migrant, and another approach is to take into account a perspective of a process under construction of who is or who is not a highly skilled migrant. Thus, in the case of Portugal three possible scenarios have been reflected: at entrance, acknowledged after and potentially.

### 3.2. ...and their integration

Among this project's objectives are the following:

- Conduct a diagnostic of the current models of integration of skilled immigrants and circular migration in different European countries.
- Discuss and reflect on the different migratory patterns and projects related to the integration and management of migratory returns.

Through this section we will advance on both issues, these advances have been supplemented by conducting workshops<sup>53</sup> in which first-hand information have been obtained concerning

49 Bulgarian National Report "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management" (20.02.2012). See CD-ROM enclosed.

50 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

51 The Netherlands National Report "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management" (09.03.2012). See CD-ROM enclosed.

52 Special income requirements apply for those aged below 30, as well as scientific researchers and doctors studying to become specialists.

53 The project anticipates the realisation of three workshops in June 2012, in Finland, the Netherlands and Spain.



the needs and difficulties that different types of HSTCN have experienced in different European contexts. The final product of these workshops, expected by October 2012, has been the creation of a map with insertion routes that reflect the above scenarios or patterns of integration.

The definition of highly skilled migrant and the policy and legislative framework for countries analysed in this section determine policies of integration.

***The Netherlands:** No governmental integration policies are specifically targeted at highly educated and highly skilled migrants. The point of view of the government has always been that these immigrants do not constitute a risk with regards to the integration issue. The knowledge migrants, as well as their family members, are exempt from the requirement to pass the integration abroad examination prior to arrival, because they are expected to be very well capable of preparing for their arrival to the Netherlands. They are also exempt from the integration duty under the Integration Act, which regulates the integration of foreigners after arrival<sup>54</sup>. Highly skilled or highly educated immigrants who are not knowledge migrants (i.e. who have not acquired their residence permit under the HSM Scheme) are also exempt from the integration obligation under the Integration Abroad Act, and in most cases also from the integration obligation under the Integration Act.<sup>55</sup> Their family members will however need to pass the integration abroad exam prior to coming to the Netherlands and will also face an integration obligation once they are in the country<sup>56</sup>.*

***Portugal:** The process of integration can be facilitated through national policies and programmes that target immigrants' needs and vulnerabilities. It is not enough to declare that a country is now receptive to immigrants, it is crucial to create the conditions for a successful integration. In the case of Portugal, and particularly with regards to the policies aimed at highly skilled migrants, alterations in the immigration and recognition of qualifications and academic title laws, as well as the National Plans –the two National Plans for Immigrant Integration and the National Health Plan– and specific programmes aimed at highly skilled migrants, have helped shape a much more flexible, transparent and less bureaucratic process, particularly since 2007<sup>57</sup>.*

54 They are exempted from the obligation to pass the integration abroad exam of the Integration Abroad Act and the obligation to pass the integration examination in the country of the Integration Act because, by law, the residence of these migrants is defined as 'temporary'.

55 Only immigrants who come to the Netherlands or are staying in the Netherlands for a non-temporary purpose of stay are obliged to integrate. This means that most labour migrants are exempt. So-called 'oldcomers' (*oudkomers*), i.e. those migrants who came to the Netherlands prior to the entry into force of the Act, are however subjected to an integration duty under the Integration Act. A proposal of law has however been prepared to abolish the integration duty of the *oudkomers* (TK 33086).

56 This obligation does not apply to those family members who originate from a country which is exempt from the visa requirement (such as the USA, South-Korea, Japan, Australia, and Canada). The integration abroad requirement entails that the family member has to pass the integration abroad test, which comprises a Dutch language test, testing speaking, listening, and, since 1 April 2011, reading skills, as well as a test on Dutch society. The level of the test is A1 of the European Council's Common Framework for Reference (CEF) ([http://www.coe.int/t/DG4/Portfolio/?L=E&M=/main\\_pages/levels.html](http://www.coe.int/t/DG4/Portfolio/?L=E&M=/main_pages/levels.html), site accessed 14 February 2012). The test costs €350, and can be taken at Dutch embassies or consulates.

The integration obligation under the Integration Act, which regulates the integration of the immigrants once they arrived in the country, requires that the immigrant needs to pass an integration examination within three years after arrival. The integration examination is taken at level A2 of the CEF and comprises of a test of Dutch language skills (listening, speaking, reading, writing and conversation skills) and a knowledge of Dutch society test, as well as a practice exam, where the immigrant is required to show he or she has used the Dutch language in practice (by filling a portfolio, or taking part in assessments).

57 Portugal National Report "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management"(22.09.2012). See CD-ROM enclosed.

These are just a few examples of how concepts and practices are different depending on what is understood by highly skilled migrant.

The first premise concerns, therefore, how the integration of HSTCN is understood. For the purposes of this project we believe that “Integration *is a process that starts on the ground and integration policies should be developed with a genuine ‘bottom-up’ approach, close to the local level. Such policies include actions such as support for language learning, introductory measures, access to employment, education and vocational training and the fight against discrimination, which all aim at increasing migrants’ participation in society. Integration requires the engagement by the receiving society in accommodating the migrants, respecting their rights and cultures and informing them about their obligations. At the same time, migrants need to show the willingness to integrate and to respect the rules and values of the society in which they live*”<sup>58</sup>.

If we apply this concept of integration to the previous definitions of highly skilled migrant, we see that in all of the analysed cases, when we speak of “integration of HSTCN” there has been mainly an economic approach for managing this type of migration. Access to the labour market is seen as an essential part of the integration of HSTCN, and for migrants in general. Nevertheless, integration of HSTCN can not only be considered from an economic perspective, i.e. “access to employment”, as it has to look at more “ingredients”: those previously quoted from the European Agenda for Integration.

As part of this project we have established a preliminary<sup>59</sup> typology of HSTCN that provides three possible scenarios<sup>60</sup>:

1. HSTCN at entrance (successful).
2. Immigrants acknowledged as highly skilled after a process of equivalences and/or recognition of qualifications or after achieving a higher education in the receiving countries.
3. Potential highly skilled migrants, who still are not able to use their qualifications in the receiving country’s labour market are analysed. In other words, situations of over-qualification in the country’s labour market.

As such, thinking only about the integration of HSTCN as economic integration limits and conditions the scope of policies and activities carried out by recipient countries, as types 2 and 3 are excluded from highly skilled migrant.

<sup>58</sup> European Commission (2011) European Agenda for the Integration of Third-Country Nationals, COM(2011) 455 final. [http://ec.europa.eu/home-affairs/news/intro/docs/110720/1\\_EN\\_ACT\\_part1\\_v10.pdf](http://ec.europa.eu/home-affairs/news/intro/docs/110720/1_EN_ACT_part1_v10.pdf)

<sup>59</sup> It should be clear that this classification of three types of HSTCN is a first typology that was then adjusted after several working sessions with partners. The final one adopted was presented and explained in the first part of this report (see 3.2).

<sup>60</sup> Here it has been taken into account the typology proposed and developed by Catarina Reis Oliveira and Vera Fonseca, from the ACIDI, in the Portuguese national report completed for this project (see chapter 3). Additionally, please consult the study made by Pedro Góis and José Carlos Marques in their study on highly skilled immigration in Portugal. Gois. P. & Marques, J.C. [2007] *Estudo prospectivo sobre imigrantes qualificados em Portugal*, ACIDI, Lisboa, p.172. [http://www.oi.acidi.gov.pt/docs/Revista\\_2/migracoes2\\_art3.pdf](http://www.oi.acidi.gov.pt/docs/Revista_2/migracoes2_art3.pdf) In English: [http://cream.conference-services.net/resources/952/2371/pdf/MECSC2011\\_0075\\_paper.pdf](http://cream.conference-services.net/resources/952/2371/pdf/MECSC2011_0075_paper.pdf)

It should be clear that this classification of three types of HSTCN is a first typology that was then adjusted after several working sessions with partners. The final one adopted was presented and explained in the first part of this report (see 3.2).

This provides another contrast if we return to the various criteria established by the countries to define what is and what is not a highly skilled migrant:

Degree (3 years)
Experience (5 years)
Occupation (Managerial/Technical)
Salary

Source: authors' elaboration on the base of national reports elaborated for this project. See CD-ROM enclosed.

As can be seen these criteria affect the three types of HSTCN in a different manner, and therefore condition their effective integration into the labour market. All these issues will be taken into account throughout the project to develop a map of routes for the integration of HSTCN. In the table below we can see the different options which should be explored:

Defining variables	Types of highly skilled migrants <sup>61</sup>		
	HSTCN at entrance	Acknowledged ex post	Potential
Degree	✓	✓	NO
Experience	YES/NO	YES/NO	NO
Occupation	✓	NO	NO
Salary	YES/NO	NO	NO

Source: authors' elaboration on the base of national reports elaborated for this project. See CD-ROM enclosed.

Finally, the reality of the labour market specific to each context analysed is worth noting in order to determine and correlate, according to the law of supply and demand, the actual employment of HSTCN. This shows us whether the definitions that countries are using to determine who is and who is not a highly skilled migrant fit the market reality.

Although there could exist a more or less consensual definition across all states, which is not uniquely identifiable with labour insertion, reality and market circumstances demonstrate otherwise. The criteria (roughly) defining *objectives* of skilled migration in each country determine the *de facto* integration (labour) of these immigrants.

61 More detailed descriptions of the three types of highly skilled migrants are:

1. HSTCN at entrance (successful).
2. Immigrants acknowledged as highly skilled after a process of equivalences and/or recognition of qualifications or after achieving a higher education in the receiving countries.
3. Potential highly skilled migrants, who still are not able to use their qualifications in the receiving country's labour market. In other words, situations of over-qualification in the country's labour market.

## 4. Statistical data on highly-skilled migration

This section has been structured into three parts: the first part presents some general data on each country and then offers a comparative overview. For comparison purposes we have taken data from Eurostat, the statistics from 2009 being the most recent and common to the five countries.

The second subsection deals with the highly skilled labour market, considering both the present labour market situation (immigrant stock) and its evolution (migration inflows).

The third section addresses the over-qualification issue.

### 4.1. Country snapshots

#### 4.1.1 *Short stories*

##### 4.1.1.1. Bulgaria

Is the poorest country in the EU27. The significant difference in income between Bulgaria and old Member States is a strong driving factor for emigration from Bulgaria. Free movement of workers in the European Union has been favourable in this regard. At the same time, however, Bulgaria is becoming attractive for immigration as well. Opportunities in the country have increased with EU membership and democratic stability. There has been an irrevocable trend of gradual increase in the presence of third country nationals in Bulgaria coming from a less developed socio-economic background. Admittedly, being an external border of the European Union, Bulgaria is also a transit stop towards other Member States.

##### 4.1.1.2. Finland

Finland has performed well in many international comparisons and measures of well-being, transparency and prosperity. The Better Life Index has ranked Finland among the top countries in a large number of areas. In particular, Finland has scored highly for its performance in education, work-life balance and life satisfaction<sup>62</sup>. In 2011 Finland was ranked seventh in the Legatum Prosperity Index and was ranked third in entrepreneurship, opportunity, and in education<sup>63</sup>. Transparency international at the same time ranked Finland the fourth most corrupt-free country in the world in 2010<sup>64</sup>. In 2010 the EU Innovation Union Scoreboard saw that Sweden, Denmark, Finland and Germany are the leaders in innovation in Europe<sup>65</sup>.

62 OECD-Better Life Initiative <http://oecdbetterlifeindex.org/countries/finland/> (27.2.2012)

63 The Legatum Prosperity Index <http://www.prosperity.com/rankings.aspx> (27.2.2012)

64 Transparency International [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results) (27.2.2012)

65 Teknologian ja innovaation kehittämiskeskus, TEKES [The Finnish Funding Agency for Technology and Innovation] [http://www.tekes.fi/fi/community/Tulokset\\_ja\\_vaikutukset/336/Tilastoja\\_ja\\_vertailuja/642](http://www.tekes.fi/fi/community/Tulokset_ja_vaikutukset/336/Tilastoja_ja_vertailuja/642) (27.2.2012)

A report on the Lisbon objectives saw Finland as the third most competitive market in Europe<sup>66</sup>. Finland came top in research, development, innovation, business operational environment and sustainable development. Finland was also at the top when compared to development in productivity and in human capital dimensions. In 2011, the World Economic Forum kept Finland as the fourth most competitive country in the world<sup>67</sup>.

Finland has an aging population and the need for highly skilled immigrants in Finland will rise in the future. The barrier most frequently encountered by foreigners is speaking Finland's official languages.

#### 4.1.1.3. Portugal

From a negative net migration for decades, Portugal shifted to an immigration country at the end of the 20th century. The first immigration flows were dominated by unqualified workers, mainly coming from the African Portuguese Speaking countries (PALOP) that were former colonies. There are reports of some highly skilled immigrants who arrived in the 1990s, mainly of Brazilian and EU origin. The first time Portugal truly started to face the challenge of receiving immigrants with higher education who were over-qualified for the activities they were performing in the labour market was in the beginning of the 21st century with the arrival of Eastern Europeans.

In Portugal there are currently three different groups of highly skilled immigrants: the highly qualified immigrants at entrance to Portugal; immigrants acknowledged as highly skilled after a process of equivalences and/or recognition of qualifications; and those potential highly skilled immigrants.

#### 4.1.1.4. The Netherlands

The Netherlands is well-known as one of the former economic immigrant receiving countries in Europe. This fact highlights the traditional importance of family migration to the Netherlands, as family migrants have arrived to the country following their family members. However, since the first half of the first decade of the 21<sup>st</sup> century, labour migration has again become the most relevant source of immigration to the country. This fact can probably be explained by the introduction of the Highly Skilled Migrants Scheme (HSM Scheme) in 2004, which intends to make the policy for highly skilled immigrants as attractive and enabling as possible. This scheme appears to have attracted a new group of labour migrants, many of them in their twenties and thirties, in which men are highly over-represented.

<sup>66</sup> Teknologian ja innovaation kehittämiskeskus, TEKES [The Finnish Funding Agency for Technology and Innovation] [http://www.tekes.fi/fi/community/Tulokset\\_ja\\_vaikutukset/336/Tilastoja\\_ja\\_vertailuja/642](http://www.tekes.fi/fi/community/Tulokset_ja_vaikutukset/336/Tilastoja_ja_vertailuja/642) (27.2.2012)

<sup>67</sup> Ibid

#### 4.1.1.5. Spain

Previously one of the most important European immigrant senders, Spain has become a receiving country over the last 15 years. Spain started receiving immigrants at the beginning of the 1990s and the unexpected and long lasting economic boom means that nowadays Spain's immigrant population is 12 per cent. Most of these immigrants have entered the Spanish secondary labour market, that is to say they have come to occupy those jobs that were not covered by Spanish workers. The current economic downturn has led immigrant workers to the underground economy rather than making them go back to their countries of origin. In fact, return figures are really low. Regarding highly skilled migration, both the sector structure of the Spanish labour market and its segmentation have caused over-qualification situations.

#### 4.1.2. Comparative data

The table provides some data on the five countries that are analysed in this study. Apart from giving information related to population, we have considered it relevant to study Purchasing Power Standards<sup>68</sup>. This variable allows us to examine the remaining differences among countries and, hence, the various situations they are encountering in relation to migration issues. In fact, Bulgaria is currently the poorest country in the EU, while the Netherlands is one of the wealthiest. The Spanish position represents the average, being Finland and Portugal respectively above and below.

#### SOME DATA RELATIVE TO POPULATION

2009	GDP pc in PPS Index EU=100*	Total population**	%foreign population**	%TCN/total population**	%TCN/Total foreign**
<b>BULGARIA</b>	44	7,606,551	0.3%	0.3%	85.2%
<b>FINLAND</b>	115	5,326,314	2.7%	1.7%	63.5%
<b>NETHERLANDS</b>	132	16,485,787	3.86%	2.1%	54.4%
<b>PORTUGAL</b>	80	10,627,250	4.17%	3.4%	80.9%
<b>SPAIN</b>	103	45,828,172	12.33%	7.4%	59.8%

Sources:

\* Eurostat: Purchasing Power Parities.

\*\*Eurostat. Population by sex, age group and citizenship [migr\_pop1ctz]

<sup>68</sup> Gross domestic product (GDP) is a measure of economic activity. It is defined as the value of all goods and services produced less the value of any goods or services used in their creation. The volume index of GDP per capita in Purchasing Power Standards (PPS) is expressed in relation to the European Union (EU-27) average set to equal 100. If the index of a country is higher than 100, this country's level of GDP per head is higher than the EU average and vice versa. The index, calculated from PPS figures and expressed with respect to EU27 = 100, is intended for cross-country comparisons.

The number of inhabitants differs greatly from one country to another, ranging from Finland (with hardly 5.5 million citizens) to Spain (with nearly 46 million). Regarding the percentage of foreign population, Spain holds the first position, with 12 per cent, Bulgaria being last with only 0.3 per cent of foreign citizens. Figures of foreign population stand between three and four per cent for the three remaining countries.

As far as third country nationals are concerned, we can find significant numbers mainly for Spain (amounting to 7.4 per cent of total population) and Portugal (reaching 3.4 per cent). These people represent approximately two per cent of Finnish and Dutch resident population and a tiny 0.3 per cent in Bulgaria.

### SOME FEATURES OF RESIDENT POPULATIONS: SEX, WORKING-AGED AND UNEMPLOYED, SEGMENTED BY BROAD NATIONALITY GROUPS

2009	% Female*			% Aged 16-64*			Unemployment rate**		
	Nationals	EU27	TCN	Nationals	EU27	TCN	Nationals	EU27	TCN
<b>BULGARIA</b>	52%	50%	60%	69%	88%	88%	8,0%	n.a.	n.a.
<b>FINLAND</b>	51%	44%	50%	66%	82%	80%	8,1%	14,1%	20,7%
<b>NETHERLANDS</b>	51%	50%	53%	67%	84%	81%	3,6%	5,7%	10,3%
<b>PORTUGAL</b>	52%	46%	48%	66%	81%	86%	10,4%	n.a.	16,1%
<b>SPAIN</b>	51%	47%	48%	67%	79%	82%	16,9%	24,1%	32,2%

Sources:

\* Eurostat. Population by sex, age group and citizenship [migr\_pop1ctz].

\*\* Unemployment rates by sex, age groups and nationality (%) [lfsq\_urban]

The table above gives us some hints about countries' populations. In fact, we find some common denominators for the five partners: the percentage of working-aged citizens is significantly lower for the autochthonous population (from 65 to 70 per cent of total residents) than for foreigners (from 80 to 90 per cent for both EU27 and third country nationals). These figures confirm that migration to these countries is targeted to the labour market. In this sense, unemployment rates are remarkably higher for foreign (especially those from non-European countries) than for native workers.

With respect to the sex variable, significant differences arise among countries: feminisation of immigrant citizens is relatively visible for the Netherlands and high in Bulgaria, while masculinisation rates are especially relevant in Portugal and Spain.

Main nationalities of origin are shown in the table below.

## PRINCIPAL NATIONALITIES OF ORIGIN (THIRD COUNTRY NATIONALS)

<b>BULGARIA</b>	Rest of Europe
<b>FINLAND</b>	Rest of Europe, Asia, Africa
<b>NETHERLANDS</b>	Asia
<b>PORTUGAL</b>	Brazil, Eastern Europeans and PALOP
<b>SPAIN</b>	South America and Africa

Source: Countries reports. See CD-ROM enclosed.

Sending areas broadly differ among the five countries, remembering the colonial past of some of them. In this sense, Spain receives people from Latin America (mainly Ecuador, Colombia and Bolivia) and Africa. Portugal's main nationalities are from the Ukraine, Cape Verde and Brazil. The Netherlands receives labour migration particularly from Asia (China, India) and Russians are the most represented group among third country nationals in Finland, where Somalis, Iraqis, Chinese and Thai are also relevant. Finally, European third country nationals (Russians, Ukrainians, Macedonians and Moldavians) make up the main nationalities that are established in Bulgaria.

## 4.2. Highly skilled labour market

### 4.2.1. Third country national labour force distribution by skill level

In order to standardise the definition of highly skilled migrant we will take into consideration the ISCO tool that splits workers' qualification into three major groups: Highly skilled, skilled and Low skilled. These categories are detailed in the following table:

## INTERNATIONAL STANDARD CLASSIFICATION OF OCCUPATIONS (ISCO-88). MAJOR GROUPS

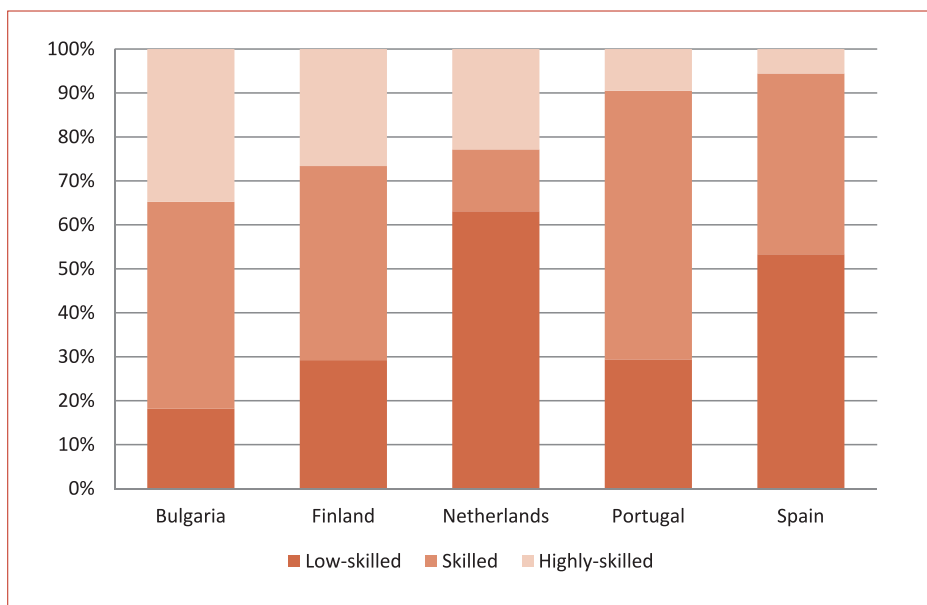
<b>Highly skilled workers – major groups 1, 2 and 3.</b>	Major Group 1. Legislators, senior officials and managers Major Group 2. Professionals Major Group 3. Technicians and associate professionals
<b>Skilled workers – major groups 4-8</b>	Major Group 4. Clerks Major Group 5. Service Workers and Shop and Market Sales Workers Major Group 6. Skilled Agricultural and Fishery Workers Major Group 7. Craft and Related Trades Workers Major Group 8. Plant and Machine Operators and Assemblers
<b>Low skilled workers – major group 9</b>	Major Group 9. Elementary Occupations

Source: International Labour Organization, <http://www.ilo.org/public/english/bureau/stat/isco/>



The figure below shows, comparatively for the five reported countries, the stock of non EU-27 workers. Data has been split by skill level. ISCO-88 major group classification has been used in compiling the data:

### THIRD COUNTRY NATIONAL LABOUR FORCE DISTRIBUTION BY SKILL LEVEL



Sources: Finnish country report, page 14 (data 2007). The Netherlands: Dutch country report table 1 (data 2009). Portugal: Portuguese country report table 2 (data 2009). Spain: Spanish workers affiliated to the Social Security System by nationality and skill level (EMN 2010) (data 2009). See CD-ROM enclosed.

The highly skilled third country national labour force represents 34.7 per cent for Bulgaria's third country national labour force, 26.6 in Finland, 22.8 for the Netherlands and 9.5 and 5.6 in Portugal and Spain respectively.

#### 4.2.1.1. Bulgaria

In Bulgaria the national Strategy for Migration and integration fosters highly skilled specialist migration. In this sense, the profile of immigrants who enter the Bulgarian labour market through obtaining work permits fulfils these requirements from 2004 to 2008. Nevertheless, in recent years Bulgaria has not been able to attract the same number of third country nationals because major efforts are focused on addressing national unemployment.

Foreign nationals are employed mainly in large-scale investment reconstruction and modernisation projects or projects in the field of telecommunications and high technologies. Over the years, Turkey invariably occupies first place as a country of origin for work permit holders in Bulgaria. Turkish nationals are employed mainly in energy production and in the national road network. There has also been a stable interest by citizens from Ukraine and Macedonia. The case of Russia is similar; its citizens are mainly in management positions. Vietnam has been one of the top three countries and employment of its representatives has

been mainly in metal works as welders. USA citizens are involved mainly in the big projects of foreign investors.

#### 4.2.1.2. Finland

In Finland there are only statistics of the education level of those third country nationals who have looked for a job in Finnish job agencies. According to those figures around 17.4 per cent of job seekers possess a higher degree. The best educated seem to be Chinese, Russian Americans and Japanese (with 20-30 per cent of higher degrees) and the worst, Turkish, Thai and Vietnamese (five per cent or less of higher degrees).

Most of the skilled experts that come to Finland are IT experts. Other represented professions are engineers, doctors, researchers and the highest leaders of companies. In general, highly skilled immigrants come to Finland for jobs that last less than a year. The biggest single expert group is Indian IT experts and approximately around 800-850 of them arrive in Finland annually. Most get a temporary residence permit which is valid for less than a year. The second biggest single group is Chinese IT experts who receive around 200 to 250 residence permits a year to Finland. Similarly, the jobs mainly last less than a year.

#### 4.2.1.3. The Netherlands

With more than a fifth of highly skilled workers among the labour force, the Netherlands provides aggregate data split by sex highlighting the importance of male workers. In fact, men represent about 60 per cent of the total labour force of third country nationals. An equal subdivision applies to the categories of highly skilled, skilled, and low skilled persons. The difference between the men-women relationship in the category of scientific researchers is, however, generally rather small.

According to recent research the majority of the highly skilled migrants pursue specific careers, especially those from Asia. The careers that were followed most were engineering (33 per cent), economy, law and administration (21 per cent) and mathematics and IT (18 per cent). Regarding the economic sector, most knowledge migrants (33 per cent) worked in the financial and business service sector, followed by industry and public service corporations (21 per cent) and education and research (17 per cent).

#### 4.2.1.4. Portugal

Until 1991 third country nationals (mainly Europeans, North Americans and Brazilians) had a higher percentage of managers and professionals than the Portuguese. For example, in the case of Brazilians, important flows of dentists, marketing professionals, IT experts, journalists, etc, were reported.

The increase in the life standards and higher social expectations of Portuguese workers stimulated the development of an ethnic segmented labour market, with the foreign workers

in a more vulnerable position. Currently only 9.5 per cent of foreign workers registered in Portugal are considered as highly skilled, while nearly 30 per cent belong to the low skilled category<sup>69</sup>. A higher concentration of third-country nationals (especially from PALOP and Eastern Europe) is reported in elementary occupations and/or in this low professional group.

Moreover, income differences are also biased by nationality. With the exception of USA citizens, third country nationals inserted in the highly skilled group tend to receive almost the same as the Portuguese (in the case of Angolans and Brazilians) or around 25 per cent less (Indians and Chinese) or even less (PALOP and Eastern Europeans).

Regarding educational level, seven per cent of foreign workers have received higher education compared to 14.9 per cent of the Portuguese workers.

#### 4.2.1.5. Spain

Similarly, third country nationals in Spain show a higher representation in low skilled jobs (53.3 per cent), Moroccans, Bolivians and Dominicans exhibiting the largest shares. Among the highly skilled (which represent 5.6 per cent of the labour force), Argentina has the maximum percentage of workers (13.2 per cent), followed by Brazil (8.1 per cent) and Colombia (6.4 per cent). According to sex, the share of women employed in highly skilled occupations (56.5 per cent) is higher than that of men.

Nearly a fifth of third country nationals have higher education, the rate being higher in the case of women. By geographic area of origin, the better educated group is that from North America and the worst educated group is from Africa. In any case, the sex distribution of skilled migrants differs according to nationality.

There is a relationship between educational level and type of sector of insertion, being that the administration/education/health and intermediary services sectors are key to migrants with higher levels of education. This fact is related to occupational qualification: in the above areas a significant percentage of the jobs performed are highly qualified. In 2009, eleven per cent of highly skilled third country nationals were managers or professionals in business organisations, nine per cent were working as doctors, two per cent were registered as teaching personnel and one per cent worked in the nursing sector.

### 4.2.2. Highly skilled at entrance

#### 4.2.2.1. Bulgaria

During the pre-crisis period the number of work permits issued by Bulgaria had doubled, while after 2008 they decreased substantially. The slight decrease in the number of work permits in 2007 is due to Bulgaria's accession to the European Union, following which

<sup>69</sup> These figures only refer to category 9 of the ISCO tool. If we take into consideration headings 7 and 8, this percentage rises to 57 per cent.

EU citizens are no longer in need of work permits as they have free access to the Bulgarian labour market. The profile of immigrants who enter the Bulgarian labour market through obtaining work permits reflects the desired migration to the closest degree: the majority are skilled (2488 work permits for the period 2004-2009) and highly skilled immigrants (1835 work permits for the period 2004-2009). The low skilled are just one fifth of the total number (959 work permits for the period 2004-2009). For the one year period since the transposition of the EU Blue Card Directive (i.e. from June 2011 till June 2012) Bulgaria has issued Blue Cards to a total of eight third country nationals.

In order to be admitted for the purposes of highly qualified employment in Bulgaria, a third country national has to go through three steps: firstly, his/her employer in Bulgaria should obtain a work permit from the Employment Agency; secondly, he/she should receive a long-term visa from the Bulgarian consulate in the country of origin, and, thirdly, he/she should get a single permit for residence and work (the Blue Card) from the Ministry of the Interior. The first step is the most difficult one as Bulgaria applies a strict labour market test before granting the work permit.

#### 4.2.2.2. Finland

Before 2011 specific and exact data was not collected for highly skilled experts resident permit applications, but the Finnish Immigration Service estimates that in 2010 skilled experts were given around 2400 resident permits. In 2011, from January to September 682 permits were given to highly skilled experts. Most of the skilled experts come from India and China. The Finnish Immigration Service has speculated that the number of skilled experts coming to Finland is decreasing, maybe due to the economic decline.

In 2011 skilled experts and scientific researchers represented seven per cent of all the residence applications made. Students were the biggest group with a percentage of 26.

#### 4.2.2.3. The Netherlands

In the years 2008 to 2010, for the category of labour migration by third country nationals, most permits have been granted to knowledge migrants under the HSM Scheme, even though in 2009 the economic crisis caused a considerable lowering in the number of applications and grants. It is expected that in the future, the number of highly skilled immigrants coming to the Netherlands will continue to rise due in part to the growing familiarity with the Scheme among employers and the increasing demand of the technological industry. Knowledge migrants are often young adults, aged between 25 and 29 years old (35 per cent in 2010), who are more often male (78 per cent) than female (22 per cent in 2010). With respect to nationality, Indians profited from the scheme the most often, followed by US, Chinese, Japanese and Turkish nationals. An explanation for the dominance of Indian nationals can be sought in the fact that India has a large supply of IT specialists who speak English.

Additionally, the number of residence permits granted to researchers has, since 2005, only been rising. The two underlying reasons are the implementation of Directive 2005/71/EC, which simplifies the admission of researchers and the policy applied following the Lisbon strategy which entails intensification with respect to Research & development (R&D). The most common nationalities in the last two years are Chinese, Iranian, Indonesian, American and Brazilian. The Chinese nationality continues to rise because Chinese top talent is directly targeted in policies aiming to attract top talent to come to the Netherlands.

#### 4.2.2.4. Portugal

From 2007, when Portugal defined a special legal status for highly qualified immigrants, the number of visas conceded to those citizens has steadily increased. In 2009, highly qualified foreign citizens that entered Portugal represented 3.2 per cent of the total residence visas holders and 15 per cent of the total temporary visas holders. Three third country nationalities appeared overrepresented, Brazil, China and India. This highly qualified flow has been mainly male oriented.

Moreover, the demand for health professionals, essential for the performance of the Portuguese health system, justified in the past couple of years the definition of special programmes aiming to recruit third country nationals with the right skills. These professionals, considered highly skilled immigrants, are recruited by Portugal directly in the countries of origin. Several special administrative agreements have been signed with Uruguay, Cuba, Colombia and Costa Rica. In 2011, 65.7 per cent of the Colombians that arrived to Portugal with the residence visa were inserted in the Portuguese labour market in a highly qualified activity.

Finally, a third group of skilled immigrants should be mentioned, the foreign professionals that arrive directly to the staff of multinational companies or international institutions. These professionals do not see Portugal as an immigrant or final destination, but mainly are installed in the country to develop their professional career under the company that they belong to.

#### 4.2.2.5. Spain

Although low skilled occupations continue to account for the largest share of new immigrant inflows, from 2005 to 2009 there was a remarkable increase in the percentage of highly skilled workers in the total number of immigrant workers joining the Spanish labour market. This fact could be explained by the economic crisis and the subsequent reduction of the demand for foreign workers in low skilled occupations.

This trend is also valid for third country nationals (traditionally inserted in the lowest sectors of the Spanish labour market): while in 2005, only two per cent of total work permit applicants had been granted as highly skilled, this rate had risen to 19 per cent in 2009. With regards to nationality, 13 per cent of the highly skilled residence and work permits from 2005 to 2009 were granted to Colombians, 10 per cent to Argentineans and seven per cent

to Peruvians. 62 per cent of highly skilled workers' permits were granted to men; this rate decreased to 60 per cent for research permits.

It is also remarkable how the percentage of some specific highly skilled occupations has increased significantly. Nearly 40 per cent of work permits granted to (highly skilled) third country nationals between 2005 and 2009 corresponded to Technicians, other professional and technical support positions, medical doctors, managers and other occupations associated with a first degree.

In 2007, the Unit of Large Enterprises-Strategic Collectives (ULE-SC) was created to give a quick answer to the needs of companies and agencies that hired highly skilled third country nationals. Since the beginning of the unit in 2007 a total of 8,137 permits have been requested, 85 per cent for highly qualified workers.

### 4.2.3. Potentially highly skilled: situations of over-qualification

It has been taken into account that migrants, even those most qualified, are more vulnerable than their native peers.

#### 4.2.3.1. Bulgaria

Even after the transposition of the EU Blue Card Directive, Bulgaria applies a strict 'labour market test' for highly qualified immigrants as well. This means that access to the Bulgarian labour market is granted to third country nationals, only if their prospective employer proves that no other Bulgarian or EU national or other permanent status holder living in Bulgaria is able to perform the job. Thus highly qualified immigrants who find themselves on the territory of Bulgaria in principle do not have free access to the Bulgarian labour market. Few exceptions are envisaged for third country national family members of Bulgarian and EU citizens, as well as for refugee and subsidiary status holders. Because of the above stated restrictions on access to the labour market, the predominant work profile of the immigrant in Bulgaria is one of people who run a small family business or are concerned with direct foreign investments. This status quo has been a breeding ground for 'brain waste' in the country.

For the last eight years only two work permits were issued to self-employed immigrants. Experts explain this with the fact that all foreign nationals register companies under the Act on Commerce and hence, operate as Bulgarian employers. Foreign nationals invest mainly in small and micro enterprises. Individual investors come mainly from Turkey, Russia, Macedonia, Greece, China, Syria, and Armenia.

#### 4.2.3.2. Finland

In Finland there is a relatively higher amount of over-qualified immigrants in comparison to the Finnish population. 19-22 per cent of immigrants are working in a profession that

does not match their education level whereas the figure is around 14-16 per cent among native Finns. The ratio is around 1.3 and is better than the general ratio among OECD-countries. On the other hand, unemployment rates are much higher: over 15 per cent of highly educated immigrants are unemployed. This information is taken from the employment office in Finland, which only considers those who have gone to the unemployment office to look for work.

#### 4.2.3.3. The Netherlands

The over-qualification rate for foreign citizens aged between 25 and 54 in the Netherlands was 24 per cent, compared to twelve per cent for nationals (Eurostat 2011a: 105). The situation in the Netherlands equals the situation in the EU-27 (Eurostat 2011a: 102). The gap, which indicates a potential misuse of migrants' skills and qualifications, in the Netherlands, as in the EU in general, was particularly acute for third country nationals. The over-qualification rate however appears to diminish with length of residence.

#### 4.2.3.4. Portugal

The higher concentration of the foreign population in the unqualified and manual activities of the Portuguese labour market does not reflect, however, the skills of the workers nor their past professional experience. In Portugal the share of third country nationals with a tertiary education working in a low or medium skilled job is 44 per cent (being 20 per cent in the case of Portuguese workers and 14 per cent for EU27). This gap indicates that immigrants encounter difficulties in having educational qualifications and skills recognised in Portugal and/or the segmentation of the labour market impinges more demanding activities on immigrants, namely those activities that Portuguese workers do not want to perform.

These situations of *over-qualification* and/or of highly qualified immigrants inserted in precarious and manual activities of the Portuguese labour market can underline situations of frustration, lack of work experience in the activities that they are performing, or even unawareness of security rules in the development of certain activities.

However, the duration of residence has an impact on over-qualification, and settled immigrants have a lower rate of over-qualification than the recent arrivals (according to EUROSTAT, in Portugal the immigrants' duration of residence represents a decrease of eight per cent in over-qualification situations).

#### 4.2.3.5. Spain

Quite similar to the Portuguese situation, in Spain there is significant over-qualification, in which 62 per cent of individuals with higher education are encountered performing medium or low skilled jobs. By sex, professional devaluation is much higher in women and by nationality it is the non-community Europeans and Africans who experience a more

precarious situation. There is a relationship between the level of training and the quality of the occupation; it being the higher educated who have a lower rate of over-qualification.

The sectors in which skilled migrants work are diverse, although the majority of those sectors are part of the service sector. Males present a more versatile profile and are more evenly present in all sectors of employment. The statistics by nationality highlight the presence of African and non-EU Europeans in agriculture, industry and construction, sectors with a typical insertion of unskilled migration.

## 5. Legislative review on immigration policies

The policy context in the five countries concerning the management and integration of highly skilled migration from third countries is marked by the guidelines adopted from the European Union. However, it should be noted that although the European Union has jurisdiction in the matter, the determination of volumes of admission of immigrants for the purposes of employment or self-employment remains the exclusive competence of Member States (Article 79.5 TFEU)<sup>70</sup>. Thus, the design of migration policies is marked by the needs of the respective labour markets.

This section analyses how each country has reflected the transposition of Directives relating to the management of skilled migration from third countries in their national standards. Also, it shows how each country has managed the entry and residence of such migration and its integration.

### 5.1. General framework

This section is primarily concerned with the policies that shape the regulatory framework of skilled migration in the European Union (Blue Card and researchers). We will then tackle national experiences regarding the management of highly skilled nationals of third countries. Secondly, the question of integration is addressed.

#### 5.1.1. EU directives on HSTCN

One of the main legal instruments for managing the entry and residence of highly skilled migrants from third countries in the European Union is the Blue Card Directive. On 25<sup>th</sup> May 2009 the Council of the European Union adopted the Directive<sup>71</sup>, which allows highly qualified nationals of third countries to work in a member country of the European Union

<sup>70</sup> Treaty on the Functioning of the European Union designation replaces the European Community Treaty from the entry in force of the Treaty of Lisbon, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:FULL:EN:PDF>

<sup>71</sup> Council Directive 2009/50/EC (25.05.2009) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, Official Journal of the European Union L 155/17 (18.06.2009), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>



for a maximum of four years, provided they have an offer of work. This Blue Card entitles the worker mobility to another EU country for over 18 months, allows for family reunification and a work permit is granted to the spouse. The regulations on the number and conditions of entry for highly skilled workers are the sole responsibility of the Member States, as discussed below.

Similarly, previously the European Union adopted Council Directive 2005/71/EC<sup>72</sup> on a specific procedure for admitting third country nationals for research purposes, commonly known as the Directive of researchers.

### 5.1.2. Integration policies affecting highly skilled migration

The integration of skilled immigrants from third countries is part of the common integration policy of the European Union.

In November 2004 the European Council adopted the Common Basic Principles for the Integration Policy in the EU (Council document 16054/04)<sup>73</sup>. Meanwhile, concerning the integration of immigrants, the Committee on Migration of the Council of Europe has stated that the integration of immigrants and their families is essential for Europe and Member States should develop comprehensive integration policies to give migrants the opportunity to participate and contribute to the life of the host society.

With regards to EU law on immigration (which begins to take shape after the entry into force of the Treaty of Amsterdam in 1999) two important directives relate to that question:

- The Directive on long-term residents or Council Directive 2003/109/EC<sup>74</sup> in its Article 5.2 states “*Member States may require that third country nationals comply with integration measures in accordance with national law*”.

With regards to the freedom to move to another Member State, Article 15.3 states that “*Member States may require third country nationals to comply with integration measures in accordance with national legislation. This condition does not apply where it is required for nationals of the third countries concerned to comply with integration measures to grant them the status of long-term resident, in accordance with paragraph 2 of Article 5. Notwithstanding the provisions of the second paragraph, it may be required of the persons concerned to attend language courses*”.

<sup>72</sup> Council Directive 2005/71/EC (12. 10. 2005) on a specific procedure for admitting third-country nationals for the purposes of scientific research, Official Journal of the European Union L 289/15 (3.11.2005), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:289:0015:0022:EN:PDF>

<sup>73</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 1 September 2005 – A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union, COM(2005) 389 final, available at: [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/l14502\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l14502_en.htm)

<sup>74</sup> Council Directive 2003/109/EC (25.11.2003) concerning the status of third-country nationals who are long-term residents, Official Journal of the European Union L 16/44 (23.1.2004), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:016:0044:0053:en:pdf>

- The Directive on family reunification (Directive 2003/86/EC of 22<sup>nd</sup> September 2003)<sup>75</sup>, in its Article 7.2 explains that Member States may require third country nationals to comply with integration measures when they present the application for family reunification.

As we see, the two directives refer to the fact that States “may” add those requirements, and are in no way encouraged or invited to do so.

More recently, two European documents stress the importance of the integration of immigrants: the *European Pact on immigration and asylum* of October 2008 and the *Inter-ministerial European Conference on Integration* held in Vichy in November 2008. These documents do not openly invite States to carry out integration contracts; however, references to the goodness of measures to promote language learning and culture are numerous.

Also, for this project and for the design of integration policies, indicators of integration in the policy areas of interest, such as access to employment and education, should be considered. Employment is a crucial part of the integration process, and efforts made in education are critical to help immigrants participate more successfully and more actively in society.

To ensure the effectiveness of the process, the use of indicators should be supplemented with a context analysis at national and EU levels. For the evaluation of access to employment, basic indicators which have been presented earlier in this report for the countries involved in this project should be taken into account, such as the rate of employment, the rate of unemployment and activity rates. Also, in the field of education, the highest level of educational attainment (percentage of the population with tertiary, secondary and primary or below primary levels of education), the percentage of people between 30 and 34 years of age who have achieved a tertiary level of education, and the percentage of early leavers from education and training.

It should be noted that legal rules can be an essential tool to make a success of the integration of immigrants into the host society. This has been understood by the arrangements of many of the EU Member States. Therefore, it corresponds to study the extent to which current regulations (or in preparation) the five states of this report (Bulgaria, Finland, the Netherlands, Portugal and Spain) have incorporated in their different regulations on immigration measures through which the government, central or decentralised, have put at the disposal of highly skilled migrants from third countries, useful tools that facilitate:

- Their entry and installation in the host country, elements that facilitate rapid integration;
- Their learning or perfection of the language of the recipient European state;
- The reunification of their families;
- Their knowledge (and understanding) of the core values of the host society, including: the intrinsic equality of all human beings, with special attention to equality between women and men, and the superior interests of the child with special attention to their compulsory schooling;

<sup>75</sup> Council Directive 2003/86/EC (22.09.2003) on the right to family reunification, Official Journal of the European Union L 251/12 (3.10.2003), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:EN:PDF>

Therefore, in this part of the comparative report, a study will be made of how many measures have adopted internal legislation of the States of reference for highly skilled migrants from third countries to meet conditions for integration into the host society.

## 5.2. Specific framework

### 5.2.1. Transposition of directives and management of the entry of HSTCN

#### 5.2.1.1. Directives

With regard to Council Directive 2005/71/EC of 12th October 2005, relating to a specific procedure for admitting third country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15 / 22), hereafter known as the researchers' Directive, Finland, the Netherlands, Portugal and Spain have formally transposed this into domestic law, with Bulgaria being the only country that has partially transposed this Directive.

In respect of the transposition of the Council's Blue Card Directive 2009/50/EC of 25<sup>th</sup> May 2009, concerning the conditions of entry and residence of third country nationals for the purposes of highly qualified employment, (OJ L 155, 18.6.2009, p. 17/29) hereafter the Blue Card Directive, all countries have adapted the provisions of the Directive to their respective domestic laws. Following is a summarised table of those transpositions in each country.

RESEARCHERS' DIRECTIVE <sup>76</sup>					
	Spain	Bulgaria	Finland	Netherlands	Portugal
Formal	X	X	X	X	X
BLUE CARD DIRECTIVE <sup>77</sup>					
	Spain	Bulgaria	Finland	Netherlands	Portugal
Formal	X	X	X	X	X
Others					
Without transposition					

Source: authors' elaboration on the base of national reports elaborated for this project. See CD-ROM enclosed.

We address below the way each country has adapted the different aspects of these Directives in their legislation, in order to compare the different paths they have taken to manage the entry and residence of skilled migrants from third countries.

<sup>76</sup> Researchers' Directive. Council Directive 2005/71/EC of 12th October 2005 relating to a specific procedure for admitting third-country nationals to carry out scientific investigation (OJ L 289, 3.11.2005, p. 15/22).

<sup>77</sup> Council Blue Card Directive 2009/50/EC of the 25th May 2009 on the conditions of entry and residence of third country nationals for purposes of highly qualified employment. (OJ L 155, 18.6.2009, p. 17/29).

### 5.3. Management of the entry and residence of highly skilled migrants

To analyse the regulatory framework of policies that the five countries have adopted to manage the entry and residence of highly skilled migrants from third countries, it is interesting to identify the measures that the governments of Finland, Bulgaria, the Netherlands, Portugal and Spain have used to facilitate the arrival of this group. Following Papademetriou<sup>78</sup>, these strategies can be classified into four types of migration policy: 1) employment-based admissions: each immigrant is nominated by an employer to fill a specific job opening (fast-track Programmes), 2) labour market testing: government agencies identify sectors with labour shortages, thus a labour demand approach is key to the admission of highly skilled migration; 3) talent accrual approach or points systems; 4) “filtration systems”: admits immigrants ‘temporarily’ for work usually to fill a specific, high-skill vacancy.

#### 5.3.1. *Employment-based admissions*

In this case, the employer is interested in hiring highly skilled foreign workers for a specific job under certain conditions determined by the laws of each country (salary, contract, recognition of qualifications, criminal records, etc.). In some cases, this requires the employer to demonstrate that there is no worker or EU national available for the job offered.

The five countries in this report have implemented migration policies where the employer nominates a highly qualified immigrant in order to fill a specific job. The main requirement is the establishment of an employment contract, invitation or arrangement with the employer. Finland, Bulgaria, the Netherlands and Spain (only for researchers) allow exemption from the obligation for authorisation or work permit for certain categories of highly skilled immigrant professionals. Thus, the employer has no need to show the government that the labour market has no local or EU workers available for the job. Portugal has no established obligation to process work permits for the two types of entry for highly skilled workers from third countries. In this way, it is not required that employers demonstrate a lack of a national or EU worker for the job offered.

In contrast, Bulgaria provides state controls in the case of skilled workers who are candidates for the Blue Card (the employer must obtain a work permit from the Agency for Employment). Also, in the case of Spain, the employer seeking to hire a highly skilled immigrant from a third country (Blue Card) or for research purposes should apply for a residence and work permit to the immigration authorities. Thus, the national situation of employment is taken into account for recruiting highly skilled migrants (EU Blue card). However, there are some exemptions to this obligation, inter alia, in cases of temporary authorisation of residence and work for researchers. It is also important to highlight that according to Spanish legislation, and related to highly skilled migrants, the national situation of employment doesn't apply for recruiting workers at source when there are reasons of

<sup>78</sup> Papademetriou, Demetrios G. (2003) "Innovation in the Selection of Highly Skilled Immigrants", AMPI Policy Brief, Washington. Available: [http://www.migrationpolicy.org/pubs/European\\_Resources.php](http://www.migrationpolicy.org/pubs/European_Resources.php) (15.02.2012).

economic, social, labour or cultural interest. These authorisations are managed by the Unit of Large Enterprises and Strategic Collectives. See Annex II Table “Employment-based”.

### 5.3.2. *Labour market testing*

In this case, governments have identified productive sectors with deficiencies of skilled occupations, which are difficult to fill with national or EU workers. Similarly, this type of immigration policy can be used by the authorities of a country to strengthen or enhance a particular economic sector with skilled foreign professionals.

Only one of five countries, Spain, applies this type of immigration policy. In this country, the government draws up a Hard-to-fill Job Catalogue<sup>79</sup>, which includes a list of jobs that are difficult to fill and provides a breakdown by province of the occupations for which foreigners workers can be hired for the different positions available, showing since 2007 a trend of increasing demand for skilled workers, especially in the health sector. Thus, it is interesting to note that in 2011 the demands have focused primarily on the following professions: doctors, engineers, technicians and workers in various fields and professions related to sport and the Merchant Navy<sup>80</sup>. Only forty categories are retrieved, while in 2005 more than one thousand categories were registered<sup>81</sup>.

See Annex II table “Labour market-testing”.

### 5.3.3. *Talent accrual approach*

Policies that are based in an approximation of talent put particular emphasis on the different features that the skilled worker can bring to the country. The factors taken into account are usually: schooling, qualifications, experience, language skills, etc. In this approach a system of points awarded to those characteristics of the worker is adopted. Of the five countries, only the Netherlands has implemented programmes with bases to grant entry and residence that relapse to the evaluation of a particular type of skilled worker characteristics. Both programmes (Self-Employment Migrants and Highly-Educated Migrants Scheme) run through a points system. See Annex III table “Talent accrual approach”

### 5.3.4. *“Filtration systems”*

These are programmes implemented in order to have access to residence permits for highly skilled workers (whether the Blue Card, a residence for researchers or any other specific programme for skilled migrants).

<sup>79</sup> See more information at: [http://www.sepe.es/contenido/empleo\\_formacion/catalogo\\_ocupaciones\\_dc/af04.html](http://www.sepe.es/contenido/empleo_formacion/catalogo_ocupaciones_dc/af04.html)

<sup>80</sup> 2011: BOE No 13 of January 25, 2011, BOE No 93 of April 19, 2011, BOE No 171 of July 18, 2011 and BOE No 253 of October 20, 2011.

<sup>81</sup> <http://www.icam.es/web3/grupos/verInformacion.jsp?id=200507010003&canal=ex&ca=1092&subCat=1464&subHij=1469&pagina=4&princ=&num=1>

In this case, Finland, the Netherlands Portugal and Spain, provide for such situations in their laws.

In Finland third country graduates from a Finnish education system have the right to unrestricted employment with a residence permit for employed persons without taking into consideration the labour market demands required for other residence permit applications of employed or self-employed people<sup>82</sup>.

In Spain, it is possible for those foreigners who have a student residence with a continuous stay in Spain of at least three years, to request the change of this situation to a residence permit and work of highly skilled professionals for research or residence with the exception of work authorisation<sup>83</sup>. In Portugal, university students from third countries who go to study in the country can also access the labour market, once they finish their studies. Several of these student flows are coming in fact from countries with which Portugal established cooperation agreements to facilitate the integration of certain students (e.g. PALOP) in higher education.

In case of the Netherlands, the government applies two types of “filtration system”. The first one is a pilot for short term residence of knowledge migrants that started on 1<sup>st</sup> January 2012. The goal of this pilot project is to facilitate and accelerate the procedure to acquire a work permit for those knowledge migrants who will stay in the Netherlands for a period not exceeding three out of six months<sup>84</sup>.

The second is the Highly Educated Migrants Scheme, introduced on 1<sup>st</sup> January 2009 and described above as a point system, serving as a “filtration system” for university students because it requires those who have completed a masters degree or doctoral research to be awarded a residence permit for at most one year to find a job as a knowledge migrant or to start an innovative company. Foreign nationals can apply for this so-called orientation year during the period of up to three years after completion of the masters’ degree or the doctorate process. See Annex II table “Filtration system”.

#### 5.4. Integration policies: Rights and Benefits for HSTCN

Having explained the various migration options that each country uses to allow the entry of highly skilled workers from third countries, we will now analyse the rights and benefits existing in the five countries studied.

82 *ibid*, s 79 ss4.

83 Organic Law 4/2000 of 11<sup>th</sup> January on the rights and freedoms of foreigners in Spain and their social integration (art. 36 and 38) and Regulation of the Organic Law 4/2000, approved by Royal Decree 557/2011 of April 20<sup>th</sup> (Article 199).

84 In case the immigrants can profit from the new regulation, the employment market test does not apply, the vacancy does not need to be notified, and the visa, CV, and diploma do not need to be submitted.

### 5.4.1. Family Reunification

Family reunification is possible for the families of highly skilled immigrants in all of the five countries. Bulgaria and Spain request highly skilled immigrants to prove they have sufficient means to benefit from family reunification. In case of Finland, there are no requirements. In general, the requirement is to have a sufficient means of income but in the case of highly skilled workers this is not an issue, because an immigrant cannot be considered as highly skilled if he/she doesn't have the sufficient means of support, i.e. salary requirements are imposed by the Finnish migration service to be considered as highly skilled.

The criteria for family reunification in the Netherlands are:

- The sponsor needs to independently dispose of stable and sufficient resources, which in the case of immigrants under the HSM Scheme is assumed;
- The sponsor will need an employment contract for at least one year from the date of application or, alternatively, an employment record of three years.
- Normally, family members would need to fulfil a pre-entry integration condition (i.e. pass the integration abroad exam in a Dutch embassy or consulate), but family members of immigrants in the HSM scheme have been exempt from this requirement.

Portugal has a very generous family reunification policy overall, for example, the absence of a residency time requirement and the possibility of family reunification for first level ascendants as well as descendants, and does not distinguish between highly skilled migrants and the rest. The policy only differs with regards to third country migrants versus migrants from member states, being more beneficial in the rights given to the family members of member states' migrants while the requirements are precisely the same (sufficient means of income, housing, etc). These benefits derive from the type or residency the family member is entitled to, which mirrors the residency status of the applicant, and in the case of family members of member states it implies more flexibility.

In the Spanish case, it is noteworthy that the holders of an EU Blue Card, or beneficiaries of the special researchers' regime, may submit an application for authorisation for their families without being subject to the requirement of having resided legally in Spain for a prior period of one year. Therefore, the highly skilled immigrant who is owner of an EU Blue Card and researchers can apply for family reunification simultaneously with the filing of the application for a temporary residence and work permit.

Concerning the possibility of access to the labour market, more liberal practices are found in Finland, the Netherlands, Portugal and Spain. In those four countries, families able to regroup are allowed to work and have free access to the labour market<sup>85</sup>. Furthermore, in Finland families are entitled to the full integration measures stated in the Integration Act.

Regarding the integration conditions of obligatory and prior compliance to the issuance of certain residence permits, these should be analysed carefully. It is clear that both the

<sup>85</sup> In the case of Spain it should be clarified that once the temporary residence permit for family reunification is granted, the regrouped members have automatic access to the labour market.

Directive on family reunification and the Directive on long-term residents refer to those conditions. However, states must transpose the directives making interpretations that follow the interpretive textual approach, contextual and, especially, teleological. The ECJ recently held that the rules must always be interpreted without hindering their object and purpose.<sup>86</sup> In the case of the countries of this report, only the Netherlands demands mandatory integration conditions both for those who plan to reside permanently in the country, and their families.

However, in the case of those who enter as “knowledge migrants”, and their families, they are exempt from the mandatory requirements of integration in the country of origin and destination, i.e. the Netherlands. This has been referred to as the application of a double standard: one group is required to adapt socially and culturally, for which they have to pay themselves, but another group is not<sup>87</sup>. Nevertheless, complications appear when they want to apply for a permanent residence permit or naturalisation, because the Aliens Act obliges them to pass the integration examination for those two situations.

Finally, the Netherlands and Spain have established a preferential treatment for the processing of applications for family reunification on behalf of the highly skilled migrant (a Special Unit that expedites the procedure)<sup>88</sup>.

#### *5.4.2. Simplified procedures and reduced bureaucratic requirements: special counter*

The five countries have specific and reduced administrative procedures for entry and residence of highly skilled migrants from third countries. Spain and the Netherlands have specific units for the personal attention of the residency applications of these immigrants. This “one stop window” significantly reduces the time resolution of the records of entry and residence of the worker, and also family members. It also allows the employer (companies, universities, research centres, etc.) to have a simplified and preferential treatment. See annex III “Facilities for the admission and residence of HSTCN”.

<sup>86</sup> Case C-578/08 Chakroun (interpretation of the Directive on family regrouping). ECJ, 4th March 2010.

<sup>87</sup> Aniek Smit, ‘De kansrijke migrant bestaat niet’, in De Volkskrant 25 October 2011. The price of the integration abroad exam, which family members of ‘ordinary’ labour migrants, as well as refugees, are required to pass, is €350. Costs for the preparation for the exam are not funded either. The integration examination the family migrants of labour migrants have to pass in the country, as well as the preparatory courses, are currently paid by the municipalities. A proposal of law formulated by the centre-right Government of prime Minister Rutte (Conservative Liberals) however aims to end this practice (TK 33086). In the future, immigrants will hence need to pay for the integration courses and examination themselves.

<sup>88</sup> In the case of Spain, it should be clarified that the Unit of Large Enterprises and Strategic Collectives only processes the authorisations that fall within its scope, in other cases (for example a highly skilled worker who processes his/her entry by the normal procedure), foreign offices are charged with processing applications. Thus, taking into account the art. 19.1 of the Organic Law of Aliens 4/2000 and arts. 58.4, 83 and 94 of the Regulation on the Organic Law of Aliens, the application process for the work permit authorisation is easy when it is related to the highly skilled and investigator’s family reunifications.



## 6. HSTCN and circularity

This chapter outlines a number of issues that need to be considered by the EU and its Members with regards to circular migration.

The COM (2007) 248 final “On circular migration and mobility partnerships between the European Union and third countries”<sup>89</sup>, in order to explore the most beneficial ways to facilitate circular migration, states the following: *First, a common definition of the concept of circular migration is needed. The different forms of circular migration that could be most relevant to the European Union and its Member States also need to be identified. A distinction could be drawn between, on the one hand, putting in place the legislative framework that would facilitate circular migration and, on the other, the possibility of developing circular migration schemes. Such schemes would enable migrants to enter the EU to work, study or perform other activities for a set period of time. Finally, it is important to define the conditions and safeguards that must be put in place to ensure that migration really is circular.*

### 6.1 General framework

One of the commitments of the European Pact on Immigration and Asylum concerning legal migration is to prevent the brain drain by encouraging circular migration. In general, the measures taken by the five countries on circular migration have been more focused on unskilled migrants: seasonal agricultural campaigns are a clear example<sup>90</sup>. Some of the five countries mention the need to promote circular migration, as international mobility allows three-way benefits: for the host country, the country of origin and for the skilled immigrant. In the following discussion we will address the different measures being used in the five countries to strengthen this circularity.

### 6.2. Specific framework

#### 6.2.1. Panoramic situation

If we study the joint position of the five countries concerning their interest in the circularity of migration, we find a mixed picture.

Bulgaria lacks any specific interest in circular migration; the issue does not appear among the priorities of either the 2008 Strategy, or the 2011 Strategy. This Strategy promotes an understanding of immigration as being dependent on the dynamics of the labour market. Nevertheless, the idea of temporary and circular migration is present in the positions of

<sup>89</sup> Detailed information on these concepts is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0248:FIN:EN:PDF>

<sup>90</sup> Workers are employed in the home country to perform seasonal or campaign work and should return to their country of origin once the campaign ends. However, if they meet the commitment to return, they will benefit from preferential treatment for participation in successive contracts through registered offers.

employers' organisations and trade unions. Most often, it is not explicitly formulated, but can be detected in the approach to immigration<sup>91</sup>. Most active in this regard appear to be the *Confederation of Employers and Trade Unions in Bulgaria* and the *Association of the Industrial Capital in Bulgaria*.

Finland has no one definition of circular migration in its legislation, but one is given by the Swedish Committee for Circular Migration and Development and the government has seen the dialogue between the authorities and different immigrant groups as increasingly important and emphasised the commitment to being responsible for an ethically based recruitment where both country of origin and the recipient country benefit from the situation<sup>92</sup>. The Swedish Committee for Circular Migration and Development is of the view that it is spontaneous circular migration, in contrast to the managed form, that takes place within specific programmes and projects. Spontaneous circular migration takes place when there is an enabling legislative framework which facilitates mobility<sup>93</sup>. Furthermore, it has to be taken into account that among the migration policy programmes that Finland has adopted, it has been able to count on a project called “Forms of cooperation with countries of origin for encouraging labour migration” set up in 2008. This is an interesting public initiative in order to encourage circular migration.

Spain has stressed since the beginning that the promotion of circular mobility of foreign workers is one of the elements for the management of migratory flows towards Spain, and this has been evidenced through the Spanish laws on the entry, residence and employment of aliens. Similarly, Portugal and the Netherlands have launched initiatives concerning the circularity of highly skilled immigrants, which are detailed below. These three countries have taken into account circularity when defining their respective immigration policies, and have assumed a situation of triple benefit (triple-win-situation).

### 6.2.1.1. Combating the brain drain

In Spain, the fight against the brain drain has been linked in recent years to recruitment at source for seasonal or campaign jobs, since it involves a commitment for migrant workers to return to their country of origin. The returnees were exempt from the selection process for hiring the next year, which allows the provision of incentives for circular migration and the combat against the loss of human capital in the countries of origin. However, temporary and circular migration in Spain has been carried out by immigrants with low skill levels and/or jobs that do not require high skills.

Similarly, LOEX introduces a clause to prevent against the possible effect of brain drain, in the case of highly qualified applicants for a Blue Card. The application for authorisation may be refused where the contracting sectors that affect the worker's home country are short of

91 EMN (2011) *Temporary and Circular Migration in Bulgaria*, available at: [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=F2C9760359143072BDDA8C059A0AE477?entryTitle=12\\_Temporary%20and%20CIRCULAR%20MIGRATION:%20empirical%20evidence,%20current%20policy%20practice%20and%20future%20options](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=F2C9760359143072BDDA8C059A0AE477?entryTitle=12_Temporary%20and%20CIRCULAR%20MIGRATION:%20empirical%20evidence,%20current%20policy%20practice%20and%20future%20options)

92 R. Asa and H. Muurinen, *Maahanmuutto työvoiman tarpeen täyttäjänä?*, Helsinki 2010 European Migration Network, p.21

93 Sweden/Sweden's Committee for Circular Migration and Development, Fact sheet (2010)

labour<sup>94</sup>. It should also be stressed that Spain, in contrast with Portugal, has not implemented the Code of Practice on international recruitment of health personnel, which was adopted in the framework of the World Health Organisation in May 2010<sup>95</sup>. Although article 90 of the Regulation of the Aliens Act establishes the signing of international agreements on the subject as an action framework, for the moment none have been concluded.

In the Netherlands, Dutch politics and society, ethical concerns, i.e. the risk of brain drain, have been expressed in particular in relation to employing medical staff from developing countries which experience a shortage of such staff. To prevent and combat brain drain, a Governance Code for socially responsible business practices and a Quality Mark for Intermediary Agencies for Foreign Workers have been developed<sup>96</sup>. Furthermore, the Dutch Government makes efforts for the global acceptance of the WHO's code of conduct to recruit medical staff in an ethically responsible way, something which the EU in general also strives for<sup>97</sup>. However, whereas the Dutch Government claims to exercise a high level of restraint when it comes to employing medical staff from third countries which experience shortages<sup>98</sup>, several hospitals appear to have actively recruited staff from India, a country which indeed experiences shortages of such staff.

Similar to the Netherlands, Portugal also recruits health workers<sup>99</sup> from third countries following the Code of Practice on international recruitment of health personnel of the World Health Organisation (WHO). These contracts are established through the signing of bilateral agreements with third countries, which are discussed in detail below.

Finland has also committed to and implemented the WHO Global Code of Practice on the International Recruitment of Health Personnel. It has even gone beyond because the National Institute for Health and Welfare (*Terveysten ja hyvinvoinnin laitos*) has implemented a pilot project to research the recruitment of health care professionals from abroad. This has to be considered as an interesting initiative because it had the objective of quantifying the number of people working in health care in different EU countries, and of developing an ethical model for recruitment<sup>100</sup>.

For its part, Bulgaria seems to have focused efforts on the emigration of Bulgarians who have left the country in search of better job opportunities, instead of combating the brain drain which could enhance its migration policies.

94 Article 38.ter.3 de la LO 4/2000 y Article 90,1 f).of Regulation (RD 557/2011)

95 WHO (2010) *Global Code of Practice on the International Recruitment of Health Personnel*, available at: [http://apps.who.int/gb/ebwha/pdf\\_files/WHA63/A63\\_R16-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R16-en.pdf)

96 A separate Governance Code, developed by the Care Sector Organisation, applies for the Care Sector since 1 January 2006. See EMN Netherlands (2010a), *Temporary and Circular Migration; Empirical Evidence, Current Policy Practice and Future Options in the Netherlands*. Rijswijk: IND

97 TK 2009-2010, 29282, no. 96, p. 2.

98 TK 2009-2010 Appendix to proceedings 424, answer to questions 3 to 6.

99 Here, health care professionals are taken as a wider group. It is important to underline that health care workers are not all HSM. Please see the International Standard Classification of Occupations for more information on health care professions that are considered as highly-skilled.

100 National Institute for Health and Welfare: Simo Mannila and Ulla Parviainen; *Terveystenhuollon osaajien liikkuvuuden edistäminen 1.11.2008 – 31.12.2010* <http://www.thl.fi/thl-client/pdfs/c542a578-9a22-4291-a191-87d46ba03e2c>

### 6.2.1.2. Temporary special programmes for HSTCN and bilateral agreements

In terms of temporary programmes for highly skilled migrants with the aim of circulation, the Netherlands is the state that has taken more steps in that direction.

Firstly, the Netherlands implemented on 1<sup>st</sup> January 2012, a pilot for short-term residence of knowledge migrants. The goal of this pilot project is to facilitate and accelerate the procedure for acquiring a work permit for those knowledge migrants who will stay in the Netherlands for a period not exceeding three out of six months<sup>101</sup>. The new regulation will apply until December 2013, and will subsequently be evaluated.

Such HSTCN temporary migration initiatives are particularly interesting as they enhance the circularity of highly skilled workers and the consequent transfer of knowledge to the country of origin once the practitioner returns to his/her country. Consistent with this idea, three projects are highlighted, which the Dutch government, together with the IOM, has led to promote the transfer of knowledge and technology. These projects are:

- *MIDA Ghana Health*

The project was launched by the IOM in 2003 in close cooperation with the Ministry of Health of Ghana, the Dutch embassy in Accra and the Ghanaian Diaspora in Europe. The objective of the project is to contribute to the development of, and improvement in, the health sector in Ghana by simultaneously enabling Ghanaian migrants in EU countries to transfer knowledge, skills and experience through temporary assignments in Ghana and giving health workers in Ghana the opportunity to do specialised training at health care institutions in the Netherlands. Rather than aiming to end the exodus of medical staff from Ghana, assignments in the project relate to capacity building, which will in turn contribute to improving enabling conditions for medical staff in Ghana, as a result of which it will become more attractive to work in Ghana.

- *Temporary Return of Qualified Nationals II (TRQN II)*

This project, financed by the Dutch Ministry for Foreign Affairs, aims at the reconstruction and development of Afghanistan, Bosnia and Herzegovina, Ethiopia, Georgia, Sierra Leone and Sudan. This is being realised by the temporary assignment to these countries of highly skilled migrants who live in the Netherlands or another EU country and who originate from one of these countries. The objective of the assignments is to contribute to the capacity building of local institutions by means of a 'train the trainer' approach<sup>102</sup>. Virtual assignments intended for online transfer of knowledge have also been facilitated.

<sup>101</sup> In case the immigrants can profit from the new regulation, the employment market test does not apply, the vacancy does not need to be notified, and the visa, CV, and diploma do not need to be submitted.

<sup>102</sup> In this formula, one employee is trained and he/she is subsequently assigned the task of training other employees.

### 6.2.1.3. PSO Association

PSO (Personnel Cooperation in Developing Countries) is an association that consists of nearly 60 Dutch development organisations, which has the objective of facilitating the dispatching of professionals in the framework of development cooperation<sup>103</sup>. In 2006, PSO set up a stimulation fund named 'Cross Over', for the secondment of highly skilled and second-generation migrants to their 'countries of origin'. The fund provides for possible supplementary courses, allowances as supplements to local salaries as well as allowances for the costs of family reunification, housing, and supplementary insurance. In 2008, four projects were completed successfully, and there were thirteen secondments.

## 6.3 Fostering circular migration of HSTCN

As for the empowerment of HSTCN circular migration, some countries (Bulgaria, Portugal and Spain) have signed bilateral agreements with different countries of origin to establish a global cooperation and favour synergies between migration and development.

In Portugal, the circulation of highly qualified workers is still also contextualised by Bilateral Cooperation Agreements between Portugal and other States (mostly concerning studies, research and training) and/or administrative Agreements (mostly concerning specific highly qualified work, namely to respond to the health sector needs) between public entities from Portugal and other States. The Bilateral Cooperation Agreements that Portugal established have been established with a great variety of countries, such as with countries having Portuguese as an official language (Angola, Brazil, Cape Verde, Guinea-Bissau, East Timor, Mozambique and São Tomé and Príncipe), Angola, Jordan, Libya Philippines, Tunisia, etc., mostly relating to the exchange of students, teachers, training, research and experts.

Moreover, the Administrative Agreements are often more specific, established between two administrative bodies from each of the countries, aiming at fulfilling an activity area with benefits for both sides. One example of this is the Health sector agreements previously described, administrative agreements with Colombia, Costa Rica, Cuba and Uruguay, formulated regarding the circulation of highly qualified health care professionals. The agreements originated from the necessities felt in the health service in Portugal and the offer of qualified doctors in these countries, following supply and demand logic. Once these agreements are established, the qualified workers must follow all the legal steps outlined in national law regarding the recognition of academic titles and/or professional qualifications, when and if these are required.

In the case of Spain, international cooperation has been used in recent years as a key tool in immigration policy. The Spanish government has signed numerous bilateral agreements with countries of origin and transit for managing migration and promoting temporary and circular mobility. Spanish law provides that the job offers included in the collective

103 [www.pso.nl](http://www.pso.nl), site accessed on 25 January 2012.

management of hiring from origin are preferentially geared to the countries with which Spain has signed agreements on the regulation and management of migratory flows<sup>104</sup>. As discussed above, contracting in origin has focused on low-skilled labour and/or jobs requiring low qualifications. Spain has not signed bilateral agreements specifically focused on the recruitment of skilled migration or in its regulation (case of the health sector).

In Bulgaria, bilateral agreements may serve to recruit skilled migrants in origin, if the government deems it necessary for the contracting workforce. The *National Council on Labour Migration* (NCLM) within the Ministry of Labour and Social Policy has competence to define annual quotas for workers from third countries for the purpose of circular migration on the basis of an analysis of labour deficit. When a deficit of certain specialists is defined for the labour market, it recommends recruitment from third countries, including those recruited within the framework of bilateral agreements and within the framework of a determined annual quota. NCLM was established on 18<sup>th</sup> December 2008<sup>105</sup>.

Finland seems not to have signed bilateral agreements for the promotion of the circularity of HSTCN directly, which could be explained by the assumption described above which shows that this country is more focused on providing the facilities for spontaneous circular migration, providing a legislative framework for this type of migration, than in the control of migration through specific programmes and projects.

## 7. Programmes and political initiatives for the integration of skilled migration: best practices

This section is divided into two blocks. Firstly, the initiatives and programmes present in several European countries are gathered together. These programmes are general in character, and in some way contemplate HSTCN but are not specific measures driven by the corresponding country in particular. This type of specific programme is included in the second section, which will comparatively review both the initiatives undertaken in the five countries studied (Bulgaria, Finland, the Netherlands, Portugal and Spain) and will also gather other specific examples of exportable experiences, that is, performed by a particular country and possibly transferable to other contexts.

104 European Migration Network (2010), "Migración temporal y circular: evidencia empírica, políticas actuales y opciones futuras en España" (Circular and temporary migration: empirical evidence, actual policies and future options in Spain), Ministry of Work and Employment, p.34

105 Further information is available at the web site of the NCLM (in Bulgarian) at [http://www.saveti.government.bg/web/cc\\_53/1](http://www.saveti.government.bg/web/cc_53/1) (20.02.2012)

## 7.1. General framework: European projects<sup>106</sup>

Most of the five countries surveyed have general experience, of which two schemes are highlighted. Firstly, project OPENCities<sup>107</sup> and secondly the Migration Integration Policy Index (MIPEX)<sup>108</sup>.

### 7.1.1. OPENCities

OPENCities was originally developed as a concept by the British Council to identify what makes a city open and attractive to international migrants. The project considers how cities can develop more proactive policies in order to be ‘open’ to better attract or retain international workers and to foster a local climate that recognises and welcomes diversities<sup>109</sup>. The OPENCities project includes nine partner cities across Europe – the cities of Belfast (UK), Bilbao (ES), Cardiff (UK), Madrid (ES), Dublin (IE), Dusseldorf (DE), Nitra (SK), Poznan (PL), Sofia (BG) and Vienna (AT).

The Opencities project contemplates eight factors to measure whether or not a city is open:

- Economic factors,
- Legal/legislative aspects,
- Cultural aspects,
- Public services,
- Connectivity and accessibility of the city,
- Factors of internationalisation,
- Risk factors,
- Leadership.

One of the main results of the project that was completed in 2011 has been the engagement of the Municipalities in the drafting and implementation of a Local Action Plan. The cities of Sofia (Bulgaria) and Bilbao (Spain) performed their respective local plans<sup>110</sup>, within which measures that may favour the integration of highly skilled migrants are highlighted, for example: “*being a Foreign Student in Sofia: promote a positive image of Sofia and the country for foreign university students and professors who are mediators between their countries and Bulgaria. Discuss ideas about the more active inclusion of this intercultural highly-qualified potential in the Sofia City Council activities*” (LAP’s Sofia, Opencities, 2011).

### 7.1.2 Migration Integration Policy Index (MIPEX)<sup>111</sup>

MIPEX is a fully interactive tool and reference guide to assess, compare and improve integration policy produced by the British Council and Migration Policy Group.

106 For more details about national evaluations see Nationals Reports for each country. See CD-ROM enclosed.

107 See: <http://opencities.britishcouncil.org>

108 See: <http://www.mipex.eu/>

109 Source: OPENCities, <http://urbact.eu/en/projects/human-capital-entrepreneurship/open-cities/our-project/> (19.02.2012)

110 <http://urbact.eu/en/header-main/documents-and-resources/documents/?project=134>

111 See: <http://www.mipex.eu/>

MIPEX measures integration policies in all European Union Member States plus Norway, Switzerland, Canada and the USA up to 31 May 2010. Using 148 policy indicators MIPEX creates a rich, multi-dimensional picture of migrants' opportunities to participate in society by assessing governments' commitment to integration. By measuring policies and their implementation it reveals whether all residents are guaranteed equal rights, responsibilities and opportunities.

With MIPEX you could:

- Analyse seven policy areas which shape a legally resident third country national's journey to full citizenship.
- Examine how policies compare against the standard of equal rights and responsibilities for migrants.
- Find out how your country's policies rank compared with other countries.
- Track if policies are getting better or worse over time.
- Dig into real examples of how to improve policies.
- Use it to design and assess new laws and proposals on an on-going basis.

There are 148 policy indicators on migrant integration in MIPEX. These have been designed to benchmark current laws and policies against the highest standards through consultations with top scholars and institutions using and conducting comparative research in their area of expertise. For each of the 7 policy areas: labour market mobility, family reunion, education, political participation, long-term residence, access to nationality and anti-discrimination, MIPEX identifies the highest European or international standards aimed at achieving equal rights, responsibilities and opportunities for all residents.

Of the 148 indicators, three have a distinct relationship to HSTCN:

INDICATOR	100	50	0
8 Recognition of academic and professional qualifications acquired outside the EU.	Same procedures as for EU/EEA nationals.	Different procedure as for EU/EEA nationals.	No recognition of titles or possible down-grading of qualifications.
43 Access and support to access and participate in higher education. All categories of migrants have same access in law as nationals, regardless of their residence status (includes undocumented); b. Targeted measures to increase acceptance and successful participation of migrant pupils, e.g. admission targets, additional targeted language support, mentoring, campaigns, measures to address drop-outs. Note: This indicator does not include international students migrating specifically for higher education.	Both of these	One of these	Neither. Restrictions in law on access for some categories of migrants AND Migrants only benefit from general support. If there is targeted support for migrants, it is only through non-governmental initiatives.
93 Recognition of academic and professional qualifications.	Same procedures as for EEA nationals	Different procedure to EEA nationals	No recognition of titles.

Source: MIPEX, authors' elaboration.



The result for these three indicators for the five countries analysed is as follows:

COUNTRY	INDICATOR N°8	INDICATOR N°43	INDICATOR N°93
BULGARIA	0	0	50
FINLAND	50	100	50
NETHERLANDS	50	100	50
PORTUGAL	100	100	100
SPAIN	100	50	100

Source MIPEX, authors' elaboration.

As can be seen indicator No. 8, 'Recognition of academic and professional qualifications acquired outside the EU', is the weakest point, while the other two indicators are more or less the same.

## 7.2. Specific framework

What are the axes on which the countries studied have developed programmes and policy initiatives to integrate skilled migration? What experiences could be exportable and transferable to other contexts? What are the weakest points of the experiences that are underway?

### 7.2.1. Axes by country

In the following table are gathered, through similar axes, the experiences of the five countries analysed. The purpose of the table is to perform a comparative analysis to see in which aspects actions are being performed, and which will need to be strengthened.

*In Finland<sup>112</sup>, on 1.9.2011 a new act on integration *Laki kotoutumisen edistämisestä* [Act on the Promotion of Immigrant Integration] (from now on *Integration Act*) come to force. The variety of reasons for moving to Finland has been recognised and the new act was drafted to address the changes in immigration over the past twenty years.*

*In Bulgaria<sup>113</sup> the 2011 Strategy speaks of integration as a priority in the migration policy. Regarding best practices so far that serve as an example for possible future initiatives, the Strategy enumerates two municipal initiatives. It is not by accident that no central level practices or plans are mentioned. There have been none until now.*

<sup>112</sup> Finnish National Report "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management" (14.03.2012). See CD-ROM enclosed.

<sup>113</sup> Bulgarian National Report "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management" (20.02.2012). See CD-ROM enclosed.

ACTION	BULGARIA	FINLAND	NETHERLANDS	PORTUGAL	SPAIN
National Plans for Immigrant Integration targeting HSTCN.	✓	✓		✓	✓
National Health Plan.		✓		✓	
Informative websites and centres on all the procedures for higher education recognition of academic titles or equivalence, and applicable national and Europe legislation.	✓			✓	✓
Specific actions on recognition of immigrant qualifications and academic titles (information, insertion in the labour market, promotes access to courses,).		✓		✓	
Actions with Labour Market for HSTCN (a training path for those who wish to enter or have already entered the labour market).		✓			
Monitoring and develop of indicators of HSTCN.		✓			
Forms of cooperation with countries of origin.		✓	✓	✓	✓
Exemptions and benefits for HSTCN (taxes, visas, integration abroad examination).	✓	✓	✓	✓	
Action to attract HSTCN for private companies.			✓		
Europe 2020 Strategy-National Programmes (HSTCN).		✓			✓

Source: authors' elaboration on the base of national reports elaborated for this project. See CD-ROM enclosed.

### 7.2.2. Exportable experiences by country

The table below shows, in summary form, the actions being carried out by the different countries analysed in this project, and which are noted for their innovation and their potential to be transferable to other countries:

ACTION	OBJETIVE	COUNTRY
1. Creation of a database on highly qualified immigrants <sup>114</sup> .	1.1. Appropriately integrate qualified immigrants in the labour market. 1.2. Identify the qualifications and/or areas of skills available and underused in the labour market.	Portugal
2. Osallisena Suomessa, [Participative Integration in Finland] <sup>115</sup> . Finnish INTO service. The new Integration Act 2011 in Finland which makes it mandatory to have basic information on Finland and how to integrate and live in Finland.	2. To create a coherent model for integration training in Finland.	Finland

<sup>114</sup> See Portuguese National Plan for Immigrant Integration (2010-2014), measure 19. Available at: [http://www.acidi.gov.pt/\\_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ing%C3%AAs](http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ing%C3%AAs). See CD-ROM enclosed.

<sup>115</sup> Finland/Sisäasiainministeriö, Fact Sheet on "New Act on the Promotion of Integration to come into force in September 2011: initial guidance for immigrants to be improved"

ACTION	OBJETIVE	COUNTRY
3. The integration monitoring system in Finland <sup>116</sup> .	3. Is based on indicators on living conditions, on inquires of provision of services made by municipalities and Employment and Economic Development Offices and on barometers on immigrants.	Finland
4. Information Centre for Integration of Immigrants (Bulgaria). 5. National Recognition Information Centre (NARIC <sup>117</sup> ) (Portugal). 6. ACIDI Office for the Support of Academic and Skills Recognition (Portugal).	4.1. The set aim was to enhance the knowledge of third country nationals on their rights and obligations in Bulgaria, to assist their orientation in the local environment and to support their access to services with regard to their effective social, economic and cultural integration and improved intercultural dialogue. 4.2. To facilitate the sharing of relevant and adequate information. 5.1. The office, incorporated in 2004, the Lisbon National Immigrant Support Centre (CNAI – the One-Stop-Shop approach <sup>118</sup> ), as one of the easily accessible resources for immigrants to consult and request information and services. This Office was organised to give an integrated answer to immigrants seeking its services, in collaboration with the competent entities.	Bulgaria Portugal
7. Services the companies offer their highly skilled workers, they will generally hire companies specialised in offering so-called 'relocation assistance'	7.1. Different companies can be hired for different tasks. For instance, when it comes to moving house, several companies have special 'relocation departments' specialised in moving expats. There are also companies who pick up the immigrants from the airport, if required, in a car with special children's seats, and take things further from there (e.g. show the expats around the Netherlands, register the children in a school, show where the GP is, etc.).	Netherlands

116 Sisäasiainministeriö, (2010) *Kotouttamisen ja etnisten suhteiden seuranta ja indikaattorit-raportti*.

117 For further information consult NARIC's website: <http://www.dges.mctes.pt/DGES/pt/Reconhecimento/NARICENIC/>

118 The National Immigrant Support Centres (the One-Stop-Shops) provide under the same roof 6 different ministries' services and 8 support offices targeting different spheres to better answer immigrant integration needs. The support offices are managed by ACIDI, which is the service provided by intercultural mediators coming from immigrant associations and that are trained by ACIDI. The One-Stop-Shop service is a policy that approaches integration from the perspective of the adaptation of the receiving society and the services that it provides, combined with a consultative and cooperative process working with immigrants to further the integration of both immigrants and the receiving society. For further details on the One-Stop-Shop approach see Oliveira et al (2009) or visit the website [www.oss.inti.acidi.gov.pt](http://www.oss.inti.acidi.gov.pt)

ACTION	OBJETIVE	COUNTRY
<p>8. Support Fund for the reception and integration of migrants and their educational endeavours<sup>119</sup>.</p> <p>9. Unit of Large Enterprises-Strategic Collectives (ULE-SC)<sup>120</sup>.</p>	<p>8.1. Aims to promote and strengthen public policies in three areas (reception and integration, educational support, and care for unaccompanied foreign minors displaced from the Canary Islands and other Autonomous Communities).</p> <p>9.1. Was created to give a quick answer to the needs expressed by companies and agencies that need to bring highly qualified non-community personnel to Spain, while providing expert guidance on the possibilities of existing legislation and procedures. The scope of responsibility of the unit is the management of residence permits (non-profit, family reunification), temporary residence and work permits (paid employment, limited duration, Blue Card, researchers' regime, transnational provision of services) that are required for managers, highly skilled technical, scientific, university professors and artists of international renown, whose recruitment involves matters of economic, scientific, social, work, or cultural interest.</p>	Spain

Source: authors' elaboration on the base of national reports elaborated for this project. See CD-ROM enclosed.

## 8. Conclusions

### 8.1. About methodology

A common work schedule for the five partners was agreed, revolving around the three major areas of analysis related to HSTCN: the legal framework; the existing programmes; and the policy initiatives.

Materials extracted from the national reports were jointly analysed in relation to national contexts, legislative frameworks, migration policies and the management of circular migration. An iterative process was followed in order to allow the partners to give feedback on the report.

The main difficulties encountered in the five countries were: first, the different stages in the process of both economic development and the role played in the reception of (skilled) migrants; second, the different ways of considering skilled migration; third, the disparity and quality of sources.

119 OBS March 24th 2009 and OBS June 30th 2009.

120 See website: <http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/> and brochure in English: <http://extranjeros.empleo.gob.es/es/InformacionInteres/FolletosInformativos/archivos/Triptico-UGE2012-ing.pdf>.

## 8.2. On the definition

The concept of “skilled migrant” still does not attract a unanimous definition. However, the analysis performed in this report allows us to extract four criteria to define what a highly skilled migrant is: Their training, work experience, the type of job performed and the salary of that job.

According to the definition provided by the EU, integration of HSTCN includes actions aimed at increasing migrants’ participation in society: *support for language learning, introductory measures, access to employment, education and vocational training and the fight against discrimination.*

Thus, although there could exist a more or less consensual definition of HSTCN integration across all states, which is not uniquely identifiable with labour insertion, reality and market circumstances demonstrate otherwise. The criteria (roughly) defining *objectives* of skilled migration in each country determine the *de facto* integration (labour) of these immigrants.

These facts have allowed us to establish a preliminary typology of HSTCN that provides three possible scenarios<sup>121</sup>:

1. HSTCN at entrance (successful).
2. Immigrants acknowledged *ex post*.
3. Potential highly-skilled migrants, that is to say situations of over-qualification in the country’s labour market.

As such, thinking only about the integration of HSTCN as economic integration limits and conditions the scope of policies and activities carried out by recipient countries, as types 2 and 3 are excluded from highly-skilled migration.

## 8.3. Statistics

With respect to the highly skilled labour market, the report shows the existence of different internal structures of qualification of the labour force in different countries, although the available comparative data is outdated (the most modern being from 2009). Prior to the lengthening of the economic downturn, overall inflows of skilled migrants seemed to be growing, as opposed to unskilled workers; this might give a clue to current needs (even in crisis) and a future labour market that would possibly continue to be especially attractive for skilled migrants. In some cases, HSTCNs face situations of higher vulnerability, or worse working conditions than natives with the same qualifications.

Regarding potentially skilled migrants, the issue of over-qualification is clearly shown in some countries and can be guessed in others. We emphasise the inability of the current system to address this situation. It is partly a problem of approval of titles, but also of structural issues in the labour market itself. In any case, the issue of over-qualification places HSTCN in a more vulnerable situation.

<sup>121</sup> It should be clear that this classification of three types of HSTCN is a first typology that was then adjusted after several working sessions with partners. The final one adopted was presented and explained in the first part of this report (see 3.2.).

#### 8.4. On the legislation and policy review

The five countries have transposed the Directive concerning researchers and the Blue Card Directive have adopted an admissions system, called “employment-based”, where HSTCN enter the country to live and work filling a particular highly qualified position. In this system it should be noted that in all five countries, except Bulgaria for the case of Blue Card applicants, it is not required that employers demonstrate a lack of a national or EU worker for the job offer. It should also be clarified that in Spain the national employment situation is taken into account when hiring HSTCN.

With regard to the policies implemented to facilitate integration, the five countries allow family reunification for HSTCN, except for investigators in the case of Bulgaria. Reunited family members of HSTCN have free access to the labour market. Only the Netherlands require integration conditions for the reunited family.

#### 8.5. On circularity

The five countries mention the need to promote circular migration, as international mobility allows three-way benefits: for the host country, the country of origin and for the skilled immigrant. Additionally, all attempt to combat brain drain, although the initiatives are disparate among the five countries.

In terms of temporary programmes for highly skilled migrants with the aim of circulation, the Netherlands is the state that has taken more steps in that direction. As for the empowerment of HSTCN circular migration, three of the partners have signed bilateral agreements with different countries of origin to establish a global cooperation and favour synergies between migration and development.

#### 8.6. Programmes and political initiatives for the integration of skilled migration

The programmes and political initiatives for the integration of HSTCN migration rotate around three axes: Commissioning of services aimed at providing information to HSTCN, measures that provide analysis and diagnosis, and measures that recognise certain types of benefits to the HSTCN.

There are specific measures, along general lines, in the different countries, but we are far from able to talk about an articulated and coordinated model of HSTCN integration, which has been provided with a specific budget, in the European Union. By way of example, measures that attract HSTCN to countries are being implemented, but measures for their integration are not being clearly defined or developed among these Member States, and in many cases an assessment of the measures developed does not exist, so it is difficult to improve and make services adequate in the absence of such information.



*Part Three*

**Workshops - activities  
with HSTCN**

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In order to accomplish one of the main objectives of this project, three workshops were celebrated in Finland, the Netherlands and Spain, with the direct participation of highly skilled third country nationals, and with the aim of analysing migration projects and identifying different patterns on highly skilled immigration. The results of the workshop reports were generated by the discussion, which took place in the workshop in which third country nationals took part, and secondly, by a questionnaire which was filled out individually by the workshop participants. Three reports have been made in order to attain a comparative study on their conclusions and identify at least three different patterns on high-skilled immigration. In this section we will present the main conclusions of each workshop.

The three workshop reports aimed to identify different migration projects of highly skilled third country nationals. The workshops aimed to consider diversity and the specificity of different migration projects and also include the existence of circular mobility periods. The workshops have specially taken into consideration migration projects of highly skilled immigrant women. This is because the project sees women, who are third country nationals in many cases, as occupying less qualified positions than their studies or competences would make them suitable for.

The common methodology applied to the three workshops as well as the guideline for the questionnaires to be answered by the participants can be found in Annex IV.

The following part is composed of some extracts of the workshops' reports completed by the Finnish Ministry of the Interior, the Centre for Migration Law – CMR, Radboud University Nijmegen (the Netherlands) and the *Asociación por la Integración de Profesionales Inmigrantes* – INPROIN (Spain). The reports could be found in the CD-ROM enclosed.

## 1. Finland

The Finnish Ministry of the Interior was the responsible for organising the workshop in Finland.

WORKSHOP – CHARACTERISTICS	
<b>FINLAND</b>	<ul style="list-style-type: none"> <li>• Date: 8 June 2012.</li> <li>• Place: Tervasaari in Helsinki, Finland.</li> <li>• Nationalities: 12 were third country nationals; four had dual citizenship of which one had Finnish nationality and three possessed Finnish citizenship. Among the respondents there were three Indians, three Russians of which two had dual citizenship, two Chinese and two Japanese. The rest came from Pakistan, the USA, Taiwan, Australia, Canada, Kosovo, Kenya and Somalia.</li> <li>• The gender division between the respondents was relatively equal, as 10 of the respondents were women and 11 were men. The respondents were between 28 and 46 years of age.</li> <li>• Participants were interviewed collectively and divided into two groups (A and B): group A counted with 11 participants and was held in Finnish. Group B counted with 9 participants and was held in English.</li> <li>• Prior to the workshop all participants were requested to fill out a questionnaire.</li> <li>• The workshop discussions were divided into three different topics:             <ul style="list-style-type: none"> <li>– Moving to Finland;</li> <li>– Challenges to integration in Finland and;</li> <li>– Recommendations for how to improve integration of highly skilled third country nationals and circular migration.</li> </ul> </li> <li>• Main requirement for participating:             <ul style="list-style-type: none"> <li>– Holder of a university degree that did not need to be equated in Finland.</li> <li>– It allowed all reasons of entry into Finland, whether this was for reasons of asylum, work, family reunion or study</li> <li>– It also allowed those who had already gained Finnish citizenship to enter the workshop.</li> <li>– University students with no prior higher degree(s) were not considered eligible for the workshop.</li> </ul> <p>The main criteria, in other words, was the capability in theory to be highly skilled and that the country of origin was outside the EU.</p> </li> <li>• Respondents were contacted through colleagues and acquaintances as well as via Human resources departments of multinational companies. Nokia's Human Resources department in particular helped enormously in finding and contacting Highly Skilled Migrants in their office to participate in the workshop.</li> </ul>

Source: authors' elaboration on the base of workshops' reports elaborated for this project. See CD-ROM enclosed.

## Patterns of highly-skilled immigration

The Finnish workshop detected five different patterns of high-skilled immigration:

1. Has come to Finland with a residence permit of highly skilled immigrant.
2. Has come to Finland with a normal employed persons residence permit but has a higher degree.
3. Has come to Finland because of family reasons but holds a higher degree and job experience from his/her field of expertise.
4. Has come to Finland to study and gained a higher degree in Finland.
5. Asylum seekers often with Finnish nationality and possessing a higher degree.

The five patterns above are taken from looking at the different routes and reasons of entry into Finland. Another possible sixth pattern could be detected from what employment sector people are working in, i.e. the private or the public sector. The employment sector in Finland can be seen as determining people's experiences and integration in Finland.

## Main results

The majority of the respondents held master's degrees but some only had a bachelor's degree and a significant proportion of the respondents had graduated in Finland. Just over half of the respondents said that they had not pursued any further study in Finland, most of them being men. Women on the other hand had pursued further study in Finland more actively. Study, and especially family reasons, remained important reasons in the decision made to move to Finland but no longer represented the primary and most important reasons. Equally important was career development, where 8 respondents considered this as a reason to move to Finland. Other important reasons turned out to be the chance for a new experience, better life conditions and better pay, difficulties in the home country, and to improve professional skills.

From the answers given it was noticeable that a great majority of those who had moved to Finland for family reasons were women, five out of seven for those who arrived due to family reasons. At the same time however, career development turned out to be a reason for moving to Finland for a greater amount of women than men, five women but only two men put this as their reason for coming. Noticeable was that all of those who stated career development as a reason to move, worked in the private sector.

In the workshop there were a few participants who had had problems with residence permits. Getting a residence permit was not considered a problem at first if a person had a job, but getting their residence permits renewed had not always turned out to be as smooth as they had expected. Those who had problems in renewing their residence permits found this affecting them getting employment.

As for job experience in Finland, over-qualification was considered as an important element to look at among highly educated third country nationals in the workshop.

When respondents were asked whether their professions have qualification standards in Finland a clear majority answered “yes”. Many also thought that equivalence of their degrees has been an important factor in getting them a job which matches their level of degree.

Interestingly, employment did not seem to have been any easier even if their education was performed in Finland or abroad. Third country nationals who had graduated abroad had had difficulties in equating their degrees but those who had done their university education in Finland did not seem to be in a greatly more beneficial or advantageous situation either. Some who had studied in Finland had gained employment whereas others had not been so lucky. Common among all the participants was that work was rarely permanent, but rather given on a contract basis.

Challenges for getting employment were faced mainly by those who had actively searched for employment in Finland. The main obstacle and difficulty people faced was that international job experience did not seem to guarantee employment in Finland. Also, it seems the profession dictates the possibilities of getting employment in Finland as people who had worked in IT and trade related businesses had had no serious problems in finding employment. All the participants in the workshop had felt that their foreign name had stopped the recruitment process regardless of the colour of their skin.

Regarding the integration and knowledge of Finland, a great majority of the respondents to the questionnaire were not aware of the collective employment agreements and working conditions in Finland. This was truer for men than for women, who tended to know a little more about employment agreements and working conditions. The majority of the respondents also said they had not taken part in different information sessions about Finland as part of their integration process. Support for integration was mostly found from educational organisations and friends. Close behind these areas of support was the support of their own families, and among privately employed respondents, their own employer stood out as an important support in the process of their integration.

The most satisfied were those who had come to Finland directly to work in the private sector. Big companies had provided their employees the information needed for living in Finland, and for example, provided internet websites in many different languages. The companies often also provided them with housing or had at least given them help in finding a home. Help had also been received in finding a school for their children and with payment for Finnish language classes.

A few respondents also said that they had found support from integration measures provided by the Finnish state and societies, as well as various projects.

Female participants in the workshop brought into the discussion the work life balance in the Finnish workplace. It was widely viewed that work life for a woman with a family in Finland was a lot more feasible than in some other countries, and day care for children was flexible enough to accommodate the needs of families. The equality of men and women in the workplace was considered to be in better shape than in most other countries.

Regarding preconceptions, racism and feeling of exclusion in Finland, a general view among the participants was that Finland was not a particularly racist country. However, most people had experienced discrimination and prejudice. In the discussions, prejudices were thought to arrive from a rather homogenous Finnish society, unaccustomed to a multicultural society.

Regarding the Finnish language, this arose as a definite problem for HSMs in getting employment and progressing in their careers. Swedish, the second official language in Finland, divided the answers more clearly and a division could be seen between the private and public sector. Private sector employees had had no difficulties in getting a job or progressing in it due to a lack of Swedish language skills. The situation was however different in the public sector, where seven out of the ten public sector employees mentioned that they had problems with both or either in getting employment and/or progressing in their career.

At the end of the workshop, the participants formulated some recommendations in order to foster circular migration. According to them, the main obstacles for circular migration are the problems related to residence permits. This concerns both mobility within the EU and to external countries. Bureaucratic problems also occur when moving back to Finland.

To conclude this summary of the results of the workshop in Finland, the biggest obstacle for the integration of highly-skilled migrants from third countries is discrimination and stereotypic attitudes, which have an impact on finding employment, building social networks and the feeling of belongingness.

The main recommendations given by the participants were:

- Information sharing in different languages and through diverse channels at the beginning of the integration process.
- Opinion-building and promotion of the acceptance of diversity.
- The role of media in the promotion of positive atmosphere e.g. by increasing ethnic diversity within the media staff.

The positive factors identified by the participants in Finland were: gender equality, high standard of public services and social security, peace and quiet of the natural environment.

## 2. The Netherlands

The Centre for Migration Law - CMR, Radboud University Nijmegen was responsible for organising the workshop in the Netherlands.

### WORKSHOP – CHARACTERISTICS

#### THE NETHERLANDS

- Date: 15 August 2012 and a week later (2<sup>nd</sup> focus group).
- Place: Radboud University Nijmegen and Rabobank office in Utrecht.
- 19 persons have been interviewed.
- The respondents have either been interviewed 'collectively', i.e. in the framework of a focus group, or individually.
- In total, 15 respondents were interviewed in the framework of a focus group, and four respondents were interviewed individually.
- The interviews with individual immigrants were conducted in Dutch, whereas the language spoken during the focus groups was English.
- The workshop discussions were divided into three different topics:
  - Moving to the Netherlands;
  - Challenges to integration in the Netherlands and;
  - Recommendations on how to improve integration of highly skilled third country nationals.
- Respondents were contacted on the basis of a mailing list containing email addresses of all foreign employees of the Radboud University Nijmegen, via the Foundation for Refugee Students (UAF), via the HR departments of multinational companies, or indirectly, via colleagues or acquaintances of the drafters of the report.
- Respondents had to meet the following criteria:
  - Be highly skilled, i.e. have completed higher education in the country of origin or in the Netherlands;
  - Be a third country national;
  - Be between 25 to 45 years of age.
- The respondents were aged between 29 and 49 years old.
- Among the respondents were ten men and nine women.
- Nationalities: Four respondents had US nationality, and four were Turkish citizens. Two respondents had Zimbabwean nationality, and two had Chinese nationality. One of the respondents had Armenian nationality, one was an Australian citizen, and one respondent had Indian nationality. Lastly, among the respondents, four had obtained Dutch nationality. These respondents originally were Sudanese, Russian, Azerbaijani and Iraqi nationals.

Source: authors' elaboration on the base of workshops' reports elaborated for this project. See CD-ROM enclosed.

To qualify as a participant in the research, it was not required that the respondent was actually employed as a knowledge migrant under the Dutch Highly Skilled Migrant (HSM) Scheme. To be qualified as a knowledge migrant under the Scheme, immigrants need to fulfil an income requirement and work for an employer who is allowed to profit from the Scheme<sup>122</sup>. Knowledge migrants under the HSM Scheme do not have to fulfil an education requirement. Allowing only immigrants qualifying as knowledge migrants under the HSM Scheme to participate in the research would therefore create the risk of excluding highly skilled migrants who were working below their level of education, i.e. those in a situation of over-qualification, whereas interviewing immigrants in such situations was one of the aims of the qualitative part of the research. Respondents were hence not required to conduct work matching their level of education, or even to be employed at all. Furthermore, to be able to participate in the research, respondents were not required to have entered the Netherlands for the sole purpose of conducting highly skilled labour. Highly skilled migrants who entered the Netherlands for another reason, for example as students, family migrants or refugees, were equally encouraged to participate, as the expectation was that immigrants in situations of over-qualification could mainly be found among immigrants who entered the Netherlands along these modes of entry. As we will see below, the majority of the respondents can be ranged in the first category, i.e. highly skilled immigrants who performed work matching their level of education. The reason why relatively few (i.e. five) highly skilled migrants from the second category, i.e. those in a situation of over-qualification, were interviewed, is that the organisations focusing (inter alia) on immigrants in situations of over-qualification did not co-operate, or came up with possible candidates that turned out not to belong to the target group<sup>123</sup>.

### Patterns of highly-skilled immigration

Most of the interviewed immigrants for the workshop did not make a conscious choice to migrate to the Netherlands, based either on individual circumstances or on external circumstances regarding Dutch policies on residence, access to the labour market and the acknowledgement of diplomas. This however does not mean that no patterns can be drawn up. In fact, three different patterns can be discerned. These patterns concern three different categories of highly skilled immigrants, divided along the different modes of entry:

- 1) Immigrants who did not make a voluntary choice to come to the Netherlands.
- 2) Immigrants who have been recruited abroad to perform highly skilled labour in the Netherlands, or who entered as students.
- 3) Immigrants who came to the Netherlands with the purpose of looking for a job matching their level of education.

<sup>122</sup> The salary criterion singles out three different categories: immigrants aged under 30, who, as of 1 January 2012, need to earn at least €37.575, those aged over 30, who need to earn at least €51.239, and immigrants who graduated from a Dutch University or higher professional education institute. Immigrants in the latter category need to have found employment within less than one year after having completed their studies, and need to gain a gross annual salary which is at least equal to the income requirement applicable to recently graduated students who will qualify for residence as a Highly Educated Migrant (€26.931). Scientific researchers and doctors who are studying to become specialists are exempt from the salary criterion.

<sup>123</sup> An exception is the UAF, via whom we approached two respondents.



## Main Results

Immigrants in the first category either came to the Netherlands as refugees, or in order to be able to join their partners. Immigrants in the second and third categories came on a voluntary basis: to look for highly skilled work (category three), or to start studying or working as a highly skilled migrant (category two). In the second category, immigrants who have been recruited abroad and who have entered the Netherlands under the HSM Scheme can be found. Interestingly enough, these immigrants do not appear to have taken this policy, under which they receive a (much) more beneficial treatment than 'ordinary' third country national labour migrants, into account when making their decision to come to the Netherlands. Only immigrants in the third category appear to have consciously taken policies related to, inter alia, residence, access to the labour market, and the acknowledgement of diplomas, into account when making the decision to settle in the Netherlands. Among the respondents, one can be placed in the third category. Ironically enough, this respondent did not profit from a privileged treatment under the HSM scheme. Apparently, the policy applying to 'ordinary' third country national labour migrants did not lead this respondent to refraining to come to the Netherlands.

Even though immigrants in the second category have not taken policies into account when making their choice to come to the Netherlands, these policies do appear to play an important role at a second level. If the policies regarding highly skilled migrants and students were not as lenient and enabling as they are, employers would not bother recruiting in foreign countries, immigrants would not be triggered to come to the Netherlands, and students would not consider following education in the Netherlands.

Regarding over-qualification, only immigrants in the first and third categories appear to run the risk of being employed at a level which is not (at all) matching their level of education. Over-qualification appears to be connected to problems related to the acknowledgement of diplomas obtained abroad. An explanation for the fact that immigrants in the second category are less likely to find themselves in a situation of over-qualification is that they were either not required to have their diplomas acknowledged, or did not experience problems when they were.

Lastly, compared to highly skilled immigrants in the first and third categories, those in the second category are less likely to speak Dutch and to have obtained Dutch nationality. The reason why immigrants in the second category of highly skilled immigrants generally have low Dutch language skills is that they are well able to speak English at work. The fact that lacking Dutch language skills can be a problem in practice and might stand in the way of a feeling of 'connectedness' to the Dutch society does not appear to form an incentive for these immigrants to start learning Dutch.

Apart from those respondents whose primary reason to come to the Netherlands was to reunite with their partners, the immigrants in categories one and three generally spoke good Dutch. The reason is that they needed Dutch language skills in order to find a job matching their level of education. They have however not yet managed to find such jobs as they still did not master Dutch at a high enough level, especially in writing, and because their diplomas were not fully acknowledged.

Compared to immigrants in the second category and those in the first category who came to the Netherlands to reunite with their partners, immigrants in the first and third categories all appeared to have acquired Dutch nationality. Does this fact, combined with the fact that immigrants in these categories master the Dutch language at a higher level than those in the second category, say anything about their inclination to settle in the Netherlands? Judging from the answers respondents gave to the question related to their plans for the future this does not appear the case. Among the four immigrants who indicated they wanted to stay in the Netherlands permanently, two found themselves in the second category. At the same time, two of the immigrants who had obtained Dutch nationality and who spoke fluent Dutch, indicated an intention to leave the Netherlands.

### 3. Spain

The *Asociación por la Integración de Profesionales Inmigrantes - INPROIN* was the responsible for organising the workshop in Spain.

WORKSHOP – CHARACTERISTICS	
<b>SPAIN</b>	<ul style="list-style-type: none"> <li>• Date: 6 July 2012.</li> <li>• Place: Madrid, Spain.</li> <li>• The number and profiles of the individuals who attended the workshop met the workshop guidelines and planning: 16 people, 50% men and 50% women. Length of residence in Spain was between five and ten years.               <ul style="list-style-type: none"> <li>– By sex: 8 women and 8 men</li> <li>– By nationality: Argentina 1, Colombia 6, Peru 3, Ecuador 2, Venezuela 1, Mexico 2, and Morocco 1.</li> </ul> </li> <li>• The number of participants in the Project study was increased by 28 people through the use of the closed-questionnaire (all available for consultation):               <ul style="list-style-type: none"> <li>– By sex: 12 men and 16 women.</li> <li>– By nationality: Argentina, Colombia, Peru, Ecuador, Venezuela, Bolivia, Paraguay, Morocco, and Mexico.</li> </ul> </li> </ul>

Source: authors' elaboration on the base of workshops' reports elaborated for this project. See CD-ROM enclosed.

#### Patterns of highly-skilled immigration

The Spanish workshop detected three different patterns of highly-skilled immigration:

1. Has come to Spain to study and gained a higher degree in Spain. Once graduated, the decision to live in Spain and what was needed to realise this strategy was in the hands of the individual, and his/her use of contacts and networking (friends, family, migrant associations and businesses). Receiving a job offer was crucial to staying in Spain, or indeed to leaving and re-entering Spain. One of the main issues for this group (students) is the possibility to switch their student visas to work permits.

2. Has come to Spain because of family reasons but holds a higher degree and job experience from their field of expertise.
3. Has come to Spain with a residence permit for work purposes (hired in country of origin). Here there are two categories:
  - (i) Individuals hired in their country of origin by companies/universities. These are usually highly-skilled migrants and enter the country with a residence permit for a highly skilled immigrant/researcher or with a residence authorisation with the work permit exemption.
  - (ii) Individuals who received a job offer, in their country of origin, personally directed at them (i.e. not hired by a company, rather, hired by a private employer). This includes jobs in the construction sector, and social and personal services. In this case, usually the migrant enters with a normal work residence permit but holds a higher degree.

The main modes of entry in Spain by the participants in the workshop can be grouped into two categories: technology disciplines, where there is a high rate of men, and healthcare and social sciences, with a high rate of women.

## Main Results

First of all, regarding the access to the labour market, the recognition of qualifications was highlighted as a crucial issue. All participants agreed that “*on one hand the procedure is very expensive*”, and on the other hand, the information given by the Ministry of Education “*is biased*” or “*poorly organised*”, leading to delays and additional expenses, because “*they are always asking for additional missing documents*”. The levels of complexity and/or barriers *do* affect professional migrants. All participants stated that the procedures have an impact at the start of the application process, and throughout the whole procedure. Furthermore, they expressed awareness that their efforts “*might not bring professional improvements*”. Among regulated professions, participating in the Spanish healthcare system as a healthcare professional can be, in itself, considered a success. It is even more so when these professionals in medicine, nursing, dentistry and so forth, are migrants. However, the qualification recognition process for university degrees and medical specialities is a rather more complicated issue.

One of the main obstacles expressed by the participants was the one related to over-qualification in Spain. The experiences provided by professional migrants in the workshop clearly highlighted two impacts of over-qualification. Those impacts are: a) the individual’s loss of professional skills and competencies; and b) the loss of the high-skilled migrant population’s contribution to society or the host country.

Concerning the strategies immigrants have used in order to better integrate themselves into the Spanish labour market and into the society, they have highlighted the importance of the Spanish associations and NGOs related to immigration. While the existing spaces to socialise in Spanish associations are very fragile, this space is in itself a social ground for professional recognition and an environment where self-esteem, empowerment and similar

elements can be nurtured, leading to a perception of success, which is often denied or missing in work settings. These strategies have been widely used in the last few years by professional migrants, above all by women.

During the workshop, the participants discussed circular migration. Only one (five per cent of female participants), out of all participating female immigrants stated that she would stay in Spain. It can be inferred that the reason for her decision to stay concerns her family. The remaining 95 per cent stated that they would not stay in Spain. However, there were variations in the destinations after leaving Spain. Only one participant (who studied dentistry) stated that she would go to another EU country, the rest stating they would return to their home countries. What remains unknown is when they will leave Spain.

The main recommendations given by the participants were:

- A high percentage of participants stated the need to improve information concerning qualification recognition, emphasising the complex, lengthy and expensive procedures related to this process. Specifically, such comments were made by healthcare professions.
- Other themes raised were: social networking; participation in associations; legislation (changes to immigration regulations); and information about Spanish culture. It is important to note that all of these themes are integral to improving professional integration.
- Only one participant mentioned memberships in official professional associations, more specifically the improvement of information on how to become a member.



## *Part Four*

# Main conclusions and final recommendations

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The following conclusions and recommendations are made at a general level for the European Commission, and secondly, for the national governments of each of the five countries that participated in the project (Bulgaria, Finland, the Netherlands, Portugal and Spain). In accordance with the project's objectives, these conclusions and recommendations have been split into two categories: Integration of HSTCN and Circular Migration. Thus, these conclusions and recommendations are the product of the entirety of the debate and reflexion by the partners and participants in the workshops, as well as the contributions made via the virtual tool and the final conference.

## 1. Main findings

### 1.1. On integration of HSTCN

#### 1.1.1. To the European Commission

- The programmes and political initiatives for the integration of HSTCN skilled migration rotate around **three axes**: Commissioning of services aimed at providing information to HSTCN, measures that provide analysis and diagnosis, and measures that recognise certain types of benefits for the highly skilled migrants.
- The **main difficulties** encountered in the five countries were: first, the different stages in the process of both economic development and the role played in the reception of (skilled) migrants; second, the different ways of considering skilled migration, third, the disparity and quality of (statistical and other information) sources.
- The **five countries have transposed the Directive** concerning researchers and the Blue Card Directive, and have adopted an admissions system, called “employment-based”, where HSTCN enter the country to live and work filling a particular highly qualified position. In this system it should be noted that in all five countries, except Bulgaria for the case of Blue Card applicants, it is not required that employers demonstrate a lack of a national or EU worker for the job offer. It should also be clarified that in Spain the national employment situation is taken into account when hiring HSTCN.
- Although there could exist a more or less consensual **definition** of HSTCN integration across all states which is not uniquely identifiable with labour insertion, reality and **market circumstances** demonstrate otherwise. The criteria (roughly) defining *objectives* of skilled migration in each country determine the *de facto* integration (labour) of these immigrants.



### 1.1.2. To National Governments

#### 1.1.2.1. Bulgaria

- The first year of implementation of the Blue Card Directive (June 2011- June 2012) has revealed that the new procedure on admission of highly skilled migrants has not been used. The **expectations** that following the transposition of the Blue Card Directive the ‘usual’ work permits will move within the more facilitated regime of the Blue Card have **not become a reality**.
- Even after the transposition of the EU Blue Card Directive, Bulgaria applies a **strict ‘labour market test’** for highly qualified immigrants as well. This means that access to the Bulgarian labour market is granted to third country nationals, only if their prospective employer proves that no other Bulgarian or EU national or other permanent status holder living in Bulgaria is able to perform the job. Thus highly skilled immigrants who find themselves on Bulgarian territory in principle do not have free access to the Bulgarian labour market. Few exceptions are envisaged for third-country-national family members of Bulgarian and EU citizens, as well as for refugee and subsidiary status holders. This status-quo has been a breeding ground for ‘brain waste’ in the country.
- Thus the **legal procedure** in order to be admitted for the purpose of highly skilled employment in Bulgaria is quite **cumbersome** as the third country national has to go through three steps: firstly, his/her employer in Bulgaria should obtain a work permit from the Employment Agency; secondly, he/she should receive a long-term visa from the Bulgarian consulate in the country of origin, and, thirdly, he/she should get a single permit for residence and work (the Blue Card) from the Ministry of the Interior.

#### 1.1.2.2. Finland

- The **main problems** encountered by immigrants when entering the Finnish labour market are the employers’ attitudes, the lack of social networks, the lack of language skills and the lack of work experience. Attitudes influence the possibilities to integrate, and on the newcomers’ motivation to immigrate (country imago) and stay in the country. Good relations have an impact on the immigration and integration processes of highly-skilled immigrants
- As far as **recognition of qualifications** is concerned, a system for the recognition of qualifications is in place (National Board of Education). Some issues - e.g. those related to missing documents- could be improved.
- Regarding the **labour market**, when the employer is from the private sector no equivalence of degree is necessary. The equivalence of degrees mainly becomes important once a highly skilled immigrant is looking for work when unemployed in Finland. In those cases, situations of over-qualification can arise.
- On the topic of **language**, three questions appear:
  - Education: lack of linguistic abilities (in Finland’s official languages) could become a barrier to access for the professionally qualified, especially in the public sector.

- Acquisition of nationality: can be obtained after four years of unbroken stay in Finland or six years of intermittent stay. A language test has to be passed.
- A lack of suitable language courses (evening courses, writing courses etc.) has been highlighted.
- **Family reunion:** Family reunion is seen as important for the integration of immigrants. HSTCNs, who are not refugees, have income requirements. Even highly-skilled HSTCNs are not always able to fulfil the precondition of the sufficient income. Another problem is that concerning HSTCNs, the definition of a family member is more limited than concerning EU-citizens (nuclear family).

### 1.1.2.3. The Netherlands

- The Dutch **legal framework** relating to highly skilled migrants ('knowledge migrants') is one of the most integration **enabling** frameworks in Europe. The Highly Skilled Migrants Scheme allows these people to work in the Netherlands without a work permit, and provides for speedy procedures and tax exemptions. They are not defined according to their skills or level of education, but according to their salary. In addition, their family members profit from the speedy procedures, and have free access to the labour market. The lack of accessible information on the right to work for family members has however been reported as a problem.
- **Highly skilled** migrants who do not meet the salary criterion need to enter the Netherlands using the **regular procedure** for labour migrants (no speedy procedures, need for work permits). Similar to the 'knowledge migrants', these people do not need to comply with the integration obligations under Dutch law. Family members of 'knowledge migrants' are also exempt from integration obligations, but family members of other labour migrants are not. Moreover, they need to pay for the integration courses and the integration examination that are legally required.
- The fact that knowledge migrants and their family members (for those under the HSM scheme) are exempt from the integration obligations will, in the short run, positively influence their decision to come to the Netherlands. However, highly skilled migrants, under the HSM scheme or not, do experience **integration problems**, which are mainly due to the fact that they do not speak fluent Dutch. Furthermore, it is necessary to pass the integration examination as a condition for permanent residence and naturalisation. This matter can hinder the knowledge migrants' more permanent orientation to the Netherlands.
- **Policies** aimed at the better integration of highly skilled immigrants exist **at the municipal and private levels**. Nevertheless, research has shown that highly skilled migrants are often not aware of the initiatives deployed under the municipal hospitality policy.
- As regards the issue of '**brain waste**', it can be derived from statistics that a large number of third-country national labour migrants are performing work which is below their qualifications. Over-qualification appears to be connected to problems related to the acknowledgement of diplomas obtained abroad.

#### 1.1.2.4. Portugal

- **Recognition of qualifications** is one of the hottest issues in Portugal as, when targeting HSTCN, the lack of recognition of qualifications may lead to brain waste and deskilling. In this regard, requirements can become too bureaucratic and/or expensive, i.e. translations. In the scope of professional orders and associations, important obstacles in the recognition of the qualifications of foreign HSTCN can be encountered.
- **Over-qualification** arises when immigrant workers have qualifications that do not match their work, with the subsequent brain waste and deskilling. In the Portuguese informal labour market, a number of employers take advantage of the more vulnerable position of immigrants

#### 1.1.2.5. Spain

- The **gender variable** is crucial in several aspects of the behaviour of these skilled migrants: namely, university studies are preferred by women while professional training is more popular among men. Moreover, the experience acquired in the country of origin is also different, showing men have a more versatile profile. In the destination country over-qualification affects far more women than men.
- **Nationality** is also a relevant factor in establishing differences. Thus, the level of training, and consequently the quality of the insertion, is not the same for all groups. Those with a lower level of education, and therefore a greater impairment in the Spanish labour market, are non-community Europeans and Africans.
- We observe a positive relationship between **educational level and quality of post** that skilled migrants occupied in their places of origin. The same phenomenon occurs in Spain as the receiving environment, although, as mentioned, to a much lesser extent.
- In Spain, the procedures for the **approval and recognition of qualifications** (university or non-university) are based on objective criteria which favour transparency. The Spanish process is the cheapest in Europe and in some cases very efficient (3 months); however, it is necessary to improve and unify all of the processes, as some (according to studies) are still delayed for years with the consequences that such delays entail.

### 1.2. On circular migration of HSTCN

#### 1.2.1. To the European Commission

- The outcomes of this project have allowed us to propose a **set of variables** that may **favour HSTCN's circular migration** and its integration in host countries. These variables are divided into three categories: institutional, educational-vocational-training, and personal.
- The five countries mention the need to promote circular migration, as international mobility allows **three-way benefits**: for the host country, the country of origin and for the skilled immigrant.

## 1.2.2 To National Governments

### 1.2.2.1. Bulgaria

- Bulgarian policy has two major characteristics which, at first glance, might seem to oppose each other. The first is the lack of any specific interest in circular migration; the issue does not appear among the priorities of either the 2008 Strategy or the 2011 Strategy. At the same time, the attitude towards it is positive and in the various papers it is being ‘promoted’ and ‘encouraged’. So far Bulgaria gives **priority** to circular or temporary **emigration of Bulgarian** nationals as they are expected to return. At the same time 75 per cent of temporary migrant workers in Bulgaria are high-skilled and skilled.
- **Flexibility** of residence permits in Bulgaria is **prevented** by the short duration (one year) of residence permits of highly skilled migrants.

### 1.2.2.2. Finland

- The main obstacles for circular migration are related to **residence permits**. This concerns both, mobility within the EU and to external countries. Bureaucratic problems occur also when moving back to Finland.
  - The **benefits** of circular migration are many for the **host country**:
  - Skilled labour force to respond to the challenges of ageing population.
  - Better innovation gained by the diversity of experience, skills and networks.
  - Savings in educational costs.
- For the **country of origin**, **benefits** are realised when emigrants return with new skills, experiences and networks but mutual benefits can also be achieved through the cooperation of international networks.

### 1.2.2.3. The Netherlands

- In the Netherlands **policy plans** and recommendations for temporary and circular migration particularly target labour migrants in the **middle and bottom segments** (medium educated and low educated migrants).
- Nevertheless there are some **programmes** devoted to the **transfer of knowledge of highly skilled migrants**, chiefly to the temporary return of migrants to their countries of origin for the purpose of strengthening capacity. In the context of these projects, immigrants are seen as ‘agents of exchange’, who will have little difficulty in assimilating, and are able to effectively work together with local organisations.

### 1.2.2.4. Portugal

- The main (negative) consequence of circularity is the possibility of **brain drain** in the country of origin.
- It is important to keep in mind that the tendency to **over regulate circularity** might impose rules that are not in accordance with the will and right of the HSTCN to reside and work in their country of choice.

### 1.2.2.5. Spain

- In Spain there has been more development of measures to promote the **circularity of unskilled migration** pathways than those devoted to the enhancement of the circularity of highly skilled migration.

## 2. Final Recommendations

### 2.1. On integration of HSTCN

#### 2.1.1. To the European Commission

- It is necessary to highlight the lack of specific budgets for the integration of skilled migrants.
- Create an **online resource centre** for skilled migrants, in which could be placed all the available information about the different procedures and processes, in a way that would centralise the information and make it available to the general public. This action would involve coordination between administrations and active dialogue with companies and other organisations, as suggested in the above recommendation.
- One of the main problems to be repeated in the five countries is related to the difficulties in the process of **recognition of qualifications** –with some variation between countries–. It is important to work on a common procedure for the European Union as a whole so that procedures are more efficient. Here, other actors, such as universities, could play an important role, when participating in the recognition process<sup>124</sup>. It would also be interesting to establish a dialogue between the European Union and countries of HSTCN origin in order to design bilateral agreements or tools to facilitate the recognition of qualifications between origin and destination (and vice versa).
- Conduct a periodic (annual) **evaluation of results** that permits a reorientation of policies and actions designed for the integration of skilled migrants. We propose the development of indicators of integration of skilled migrants (along the lines of the integration indicators being developed by Eurostat) to conduct longitudinal studies that may influence a better policy direction. For example, indicators such as mean time to resolution of the records of approval and recognition, employment rates of skilled migrants, the evolution of the rate of over-qualification, immigrants' average stay in different member countries, etc.

<sup>124</sup> Today, with globalisation and the Bologna “process” – the objective of which is convergence at university level in various countries of Europe - Universities in Europe are prepared to also assess the diplomas coming from other foreign universities. In fact with the internationalisation of universities, they are already adopting internal measures to recognise the credits of foreign diplomas when admitting foreign students. Hence, they can play an important role in contributing to the process of recognition of HSTCN qualifications.

- Qualitative and quantitative **studies** are proposed to identify determining factors in the better integration of skilled migrants. We believe that this is fundamental to advance our understanding of the needs of employers who employ skilled migrants.
- The issue of over-qualification is clearly shown in some countries and can be guessed in others. We emphasise the inability of the current system to address this situation. It is partly a problem of approval of titles, but also of structural issues in the labour market itself. In any case, the issue of over-qualification places HSTCN in a more vulnerable situation. We recommend the performance of **further research** that allows the identification of existing barriers in the labour market that prevent HSTCN from being fully integrated.

## 2.1.2. To National Governments

### 2.1.2.1. Bulgaria

- The problems of implementation of the EU Blue Card Directive needs to be addressed. The authorities shall firstly assess and analyse the current situation; secondly, inform both state officials and migrants of the new Blue Card procedure for HSTCN and, thirdly, take concrete measures to attract and integrate HSTCN in Bulgaria.
- **Abolition of the labour market test.** Introduction of a possibility to apply for an EU Blue Card from the territory of Bulgaria without a need to go back to the country of origin to obtain a long-term visa.
- Making processes **more flexible:** Introduction of a possibility to apply for an EU Blue Card from the territory of Bulgaria without a need to go back to the country of origin to obtain a long-term visa.

### 2.1.2.2. Finland

- Improve **diversity management** and promote good relations. Good relations can be evaluated e.g. from the perspectives of attitudes, relations with others, personal security, participation and influence. These are the fields that should be explored, 'relations with others' being particularly noteworthy, insofar as the majority of working opportunities are filled through networks.
- Adopt simultaneous measures to support both **language learning and professional qualification.** Provide further and complementary training, offer and an increase of the variety of language learning opportunities.

### 2.1.2.3. The Netherlands

- The provision of **information** on the right to **work** (i.e. no work permit is required) for family members needs to be stepped up.

- The **double standard** for both types of migrants' family members should be removed –equal treatment - or mitigated– by not making them pay for achieving the integration requirements.
- **Research** should be conducted on two issues:
  - To what extent highly skilled migrants, under the HSM Scheme or not, experience the obligation to pass the integration examination as a barrier for applying for permanent residence or naturalisation.
  - The potential link between an improved level of integration and the duty to pass the integration examination.
- With regards to existing **local-level** integration policies targeted to HSTCN integration, a better provision of **information** appears to be required.
- In order to **combat brain waste, activities** should be deployed to get more out of the potential of the third country national labour force in the Netherlands (e.g. help immigrants to pass the language test).

#### 2.1.2.4. Portugal

- **Title recognitions:**
  - Simplification of process by having just one institution responsible.
  - Harmonisation of procedures with the involvement of all interested parties (Ministry of Science and Higher Education; Universities; Immigrant associations/community).
  - State regulation on the recognition process that includes the Professional orders.
  - EU Blue card directive. This should be a cooperative and transparent process between the State and the Professional orders, so as to best respond to the necessity of the labour market and of the HSTCN.
- Better **qualification recognition** services:
  - More information on labour rights directed at the immigrant community. Awareness raising of the employers on the level of expertise available in the immigrant labour market.
  - Information directed at the immigrant community on rights and duties in the labour market.

#### 2.1.2.5. Spain

- Necessity for **specific measures:** The overall vision and broad Spanish policy objectives are clearly defined; however, there is no specific global strategic programme for the integration of skilled migrants, which gathers detailed courses of action.
- One of the aspects that should be strengthened is the **evaluation** of the results obtained by the **policies** developed. The lack of documents that provide results in a systematic and comprehensive manner of strategic programmes aimed at skilled migration, and their assessment in reference to the objectives, is here highlighted.
- **Coordination of all agencies** and public bodies that manage, in some way or another, the formalities of skilled migrants (whether for recognition or certification of degrees,

residence permits or work for skilled migrants). This will make gains in efficiency and effectiveness by optimising public resources for this purpose. Coordination should involve the different levels of government (state, regional and local) in the process of integration of skilled migrants. It is necessary to commence dialogue and institutional coordination as a means of improving the effectiveness of integration policies.

- Provide **specific budgets**, which should reflect the various measures to be taken, and the actions to be implemented for the integration of skilled migrants.
- Besides the actions that the Spanish government is taking for the integration of skilled migrants from third party countries through the approval or **recognition of qualifications**, it is necessary to adopt additional measures in order to shorten the process.

## 2.2. On circular migration of HSTCN

### 2.2.1. To the European Commission

- Relating to the **legal and administrative aspects** of the residence of HSTCN, the following measures would ease circularity:
  - Establish flexible long-residence permits that allow mobility, and motivate HSTCN to engage in activities that promote the development of their countries.
  - The enablement of dual nationality, as this could allow permanent migrants to preserve personal and political links to the countries of both origin and destination.
- Promote **“partnerships”** between places of origin and destination in terms of:
  - Promotion of circularity: encourage returns home to spread the talent acquired (e.g. the MIDA programme). Here the role of countries of origin and their policies for the encouragement of this type of initiative is crucial. Support to scientific Diasporas is essential.
  - Foster bilateral agreements for the recognition of qualifications. Here universities could play an important role.

### 2.2.2. To National Governments

#### 2.2.2.1. Bulgaria

- Bulgaria needs to **articulate** an **explicit policy** programme with regard to circularity of immigrants to Bulgaria as currently it lacks one.
- **Flexibility of residence** permits in Bulgaria will be facilitated by increasing their duration towards the upper threshold envisaged in the Blue Card Directive (four years).

#### 2.2.2.2. Finland

- Establish **flexible long-residence permits** that allow mobility, and motivate HSTCN to engage in activities that promote the development of their countries.
- Promote measures to enhance the benefits of circular migration, for both origin and destination countries, especially stressing the **cooperation of international networks**.



### 2.2.2.3. The Netherlands

- In order to **combat brain waste** activities should be deployed to get more out of the potential of the third country national labour force in the Netherlands (e.g. help immigrants to pass the language test).
- As circularity will only occur in cases where immigrants can rely on the possibilities of return to the home and host countries, and profit from pensions built up in the host country. The **promotion of incentives to circularity** needs to be addressed.

### 2.2.2.4. Portugal

- Foster **bilateral agreements** (for title recognition, nationality, social security agreements) that allow circularity, prevent over-qualification and control brain drain.

### 2.2.2.5. Spain

- **Further research and analysis** on possible ways of promoting circular **migration of HSTCN** are required.
- In order to make the circularity processes more dynamic, it would be useful to **follow suggestions** from international organisations, such as the WHO Global Code of Practice on the International Recruitment of Health Personnel.

# Annex I.

## Definitions

COUNTRY	DEFINITION
SPAIN	<p>With regard to qualifications, for the purposes of this report, those who are in possession of a higher education university title, who have performed Superior Professional Training, have passed a minimum of three years of study or who have at least five years of professional experience in a given area will be qualified<sup>125</sup>.</p> <p>With regards to the classification of skilled migrants by their occupations, we refer to people with managerial or technical abilities, as well as scientists and artists.</p>
FINLAND	<p>The Finnish law does not define or make a difference between a skilled or highly skilled migrant and a real definition of high or skilled migrants cannot be found. Rather, the people Finnish law considers skilled and highly skilled experts are identified through a residence permit exception whereby people who work in expert duties in the middle or top management of a company or in expert duties that require special expertise do not need a residence permit to be employed.</p> <p>There is no real guide of how to measure a person who is employed in middle or top management of a company or in expert duties that require special expertise. However, in practice the Finnish Maahanmuuttovirasto [Finnish Immigration Service], which issues residence permits, has developed a custom concerning who is considered to belong to that category. The Finnish Migration Service requires a higher degree and takes into consideration the salary, including fringe benefits, and job duties when classifying someone as a skilled expert. To be a skilled expert the Finnish Migration Service requires a salary no smaller than 26,376 Euros/annually.</p> <p>In Finland there seems to be a stronger emphasis on education rather than the type of job where highly skilled immigrants are concerned. Secondary research studies mainly concentrate on highly educated people and even the Finnish Immigration Service, as seen above, considers it necessary.</p>
BULGARIA	<p>Bulgarian law did not provide a definition for a (high) skilled immigrant worker until as late as June 2011 when the EU Blue Card Directive<sup>126</sup> was transposed. No specific regime for the employment of highly qualified third country nationals existed until then. They fell within the general work permit regime for immigrants. With regards to the current definition, Bulgarian law envisages only 'higher education qualification' and excludes 'professional experience' when it comes to the element of proven 'higher professional qualifications' within the meaning of 'highly qualified employment' under Article 2 (g) (h) (i) of the EU Blue Card Directive. That is, only evidence of higher education qualification that lasts for at least three years is accepted in order to prove existence of higher professional qualifications. Evidence of professional experience is insufficient by itself.</p>

125 As stated in the EU Blue Card Directive. More information: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0050:EN:NOT>

126 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.

COUNTRY	DEFINITION
<p><b>THE NETHERLANDS</b></p>	<p>In the Dutch legal definition, highly skilled migrants, i.e. those who can profit from the HSM Scheme, are those immigrants who receive a certain income, equalling about one and a half times the average wage in the Netherlands<sup>127</sup>. The Dutch government at the time had chosen the salary criterion as the criterion for admission, since this criterion, in the government's eyes, is objective. However, choosing the salary criterion as the core criterion on which the decision on admission is based also reflects the fact that the contribution the immigrant is supposed to make to the Dutch economy is primarily derived from the level of the income which will be gained, instead of the level of skills or knowledge (De Lange 2007: 333).</p>
<p><b>PORTUGAL</b></p>	<p>Three different groups of highly skilled immigrants:</p> <ol style="list-style-type: none"> <li>(1) highly qualified immigrants at entrance to Portugal;</li> <li>(2) immigrants acknowledged as highly skilled after a process of equivalences and/or recognition of qualifications or after achieving a higher education in the Portuguese education system;</li> <li>(3) potentially highly skilled immigrants.</li> </ol> <p>In the first group three situations are underlined: (a) of those highly qualified immigrants that are directly incorporated into companies and/or multinationals having their qualifications recognised privately in the labour market and/or not going through an official process of recognition of qualifications; (b) highly skilled immigrants who are recruited by Portugal directly in the countries of origin (e.g. health professionals); and (c) of immigrants that enter Portugal with a permit to work in a highly qualified activity by their own initiative.</p> <p>Under the 2007 Immigration Act, Article 3 clarifies the relevant definitions to be framed by the document, defining two important categories related to this report:</p> <ul style="list-style-type: none"> <li>• a highly qualified activity is defined as an activity that "requires specialised technical competences or exceptional competences to which a specific suitable qualification is needed, namely of a higher education level".</li> <li>• a third country national researcher is defined as someone who holds "a suitable qualification of a higher education level and who is admitted by a research centre to do a research project that requires his/her qualification".</li> </ul> <p>The second group integrates those who received a degree (or other qualifications beyond that level) elsewhere and when they came to Portugal, were not inserted in the labour market exercising their qualifications, but after a process of recognition of qualifications were able to perform according to their academic record. This group also incorporates immigrants that completed their higher education in Portugal and because of that their qualifications were automatically acknowledged.</p> <p>Finally, in the third group potential highly skilled migrants, who still are not able to use their qualifications in the Portuguese labour market are analysed. In other words, situations of over-qualification in the Portuguese labour market are reported and characterised in this third group.</p> <p>In sum, for the purposes of this report, in the category of highly skilled immigrants, we consider all third country nationals legally residing in Portugal, holders of higher education (degree, master or PhD), whether those qualifications are being used or not in the labour market, and/or are officially recognised or not.</p>

127 Special income requirements apply for those aged below 30, as well as scientific researchers and doctors studying to become specialists.

# Annex II

## Management of the entry and residence of highly skilled migrants

### EMPLOYMENT BASED

	HSM POLICY	RESEARCHERS
<b>BULGARIA</b>		
<b>General Description</b>		Admission for research purposes.
<b>Main Requirements</b>		<ul style="list-style-type: none"> <li>* Hosting agreement with legitimate research organisation.</li> <li>* Exempt from the requirement to have work permit.</li> <li>* Sufficient means of support.</li> <li>* Do not apply salary criterion.</li> </ul>
<b>Availability of domestic workers or from the EU as grounds for refusal</b>		No
<b>Length of stay</b>		Up to 1 year

HSM POLICY		BLUE CARD	RESEARCHERS	RESIDENCE PERMIT FOR HIGH SKILLED EXPERT
<b>General Description</b>	Purposes of highly qualified employment.	Admission for working in the fields of science, culture and art and also for those invited visiting teachers, lecturers, instructors, consultants or researchers regardless of whether the person has studied lower or higher university degree.	* Residence permit for special experts, consultants, trainers, teachers or members of corporate middle or senior management. A special expert is a person who has been hired to work in duties requiring special expertise.	
<b>Main Requirements</b>	<ul style="list-style-type: none"> <li>* Minimum a one year employment contract.</li> <li>* Salary criterion: at least 1.5 times the national gross income per person.</li> <li>* Proof of qualification: Yes (higher education degree).</li> </ul>	<ul style="list-style-type: none"> <li>* Salary criterion: no salary requirement.</li> <li>* Proof of qualification/experience: optional.</li> </ul>	<ul style="list-style-type: none"> <li>* Job agreement.</li> <li>* Sufficient means of support<sup>128</sup>.</li> <li>* Salary criterion: Yes.</li> <li>* Proof of qualification/experience: optional.</li> </ul>	
<b>Availability of domestic workers or from the EU as grounds for refusal</b>	No	No	No <sup>129</sup>	
<b>Length of stay</b>	Blue Card granted for a max. of 2 years at a time.	Temporary residence permit can be extended to a continuous and then a permanent permit <sup>130</sup> .	Temporary residence permit can be extended to a continuous and then a permanent permit.	

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128 Self-employed persons also have this exception if they work professionally in the mass media or do market research, prepare for a company's establishment in Finland, negotiate and acquire customer orders or supervise the fulfilment of orders or have other similar duties.

129 The Finnish Employment and Economic office does not make an evaluation of the labour market.

130 There are also two different types of fixed term permits: temporary and continuous residence permit. The first residence permit given in Finland is always a fixed-term residence permit to those whose purpose of stay is work. A person can get a permanent residence permit once he/she has been in Finland for four years on a continuous residence permit.

PORTUGAL	HSM POLICY	TEMPORARY VIS FOR ACADEMIC RESEARCH AND/OR HIGHLY QUALIFIED ACTIVITY	RESIDENCE PERMIT FOR ACADEMIC RESEARCH AND/OR HIGHLY QUALIFIED ACTIVITY
<b>General Description</b>	For third country nationals that aim to develop a research activity, teach in a university or develop a highly qualified activity for a period of less than 1 year.	For third country nationals that aim to develop a research activity, teach in a university or develop a highly qualified activity.	
<b>Main Requirements</b>	<ul style="list-style-type: none"> <li>* Labour contract, a contract proposal or a research scholarship to work in a recognised research centre.</li> <li>* It is mandatory to have a previous and official evaluation from the Ministry of Education concerning the highly qualified activity requirements whenever there are doubts regarding the applicant's competences.</li> <li>* Income requirements.</li> </ul>	<ul style="list-style-type: none"> <li>* Labour contract, a contract proposal or a research scholarship to work in a recognised research centre.</li> <li>* It is mandatory to have a previous and official evaluation from the Ministry of Education concerning the highly qualified activity requirements whenever there are doubts regarding the applicant competences.</li> <li>* Income requirements (including housing).</li> <li>* Proof of qualification for the job/activity according to the national law that frames the activity.</li> </ul>	
<b>Availability of domestic workers or from the EU as grounds for refusal</b>	No. The labour market acknowledges their qualifications and the need to contract those professionals, regardless of their nationalities. The recruitment policies regarding highly qualified workers are not yet regulated by quotas and contingencies in Portugal, although the transposition of the EU Blue Card Directive might change that.	No. The labour market acknowledges their qualifications and the need to contract those professionals, regardless of their nationalities. The recruitment policies regarding highly qualified workers are not yet regulated by quotas and contingencies in Portugal, although the transposition of the EU Blue Card Directive might change that.	
<b>Length of stay</b>	Maximum stay of 1 year (but can be extended as long as the contract or scholarship is maintained).	Valid for 1 year and renewable for periods of 2 years. After a period of 5 years, an application can be filed for a permanent residence permit with no expiration but subject to renewal every 5 years.	

HSM POLICY		TEMPORARY VIS FOR ACADEMIC RESEARCH AND/OR HIGHLY QUALIFIED ACTIVITY	RESIDENCE PERMIT FOR ACADEMIC RESEARCH AND/OR HIGHLY QUALIFIED ACTIVITY
<b>General Description</b>	<p>* Exemption from the requirement to have a work permit for specific workers:</p> <p>Technicians and scientists; teachers, investigators invited or contracted by the state, Autonomous Communities, universities, and local entities having the promotion and development of investigation as an objective; directive personnel; civil or military functionaries of foreign administrations; correspondents of communications media; members of scientific missions; artists; religious ministers; foreigners forming part of organisms of representation, government and administration of syndicates and business organisations<sup>131</sup>.</p>	<p>Title IX of the Regulatory framework of the Immigration Law establishes a regulation especially beneficial for authorising the entry, residence and work in Spain of foreigners whose professional activity involves matters of economic, social or work interest or relates to works of research and investigation, development, teaching, that require high qualification, or performance arts of special cultural interest.</p>	
<b>Main Requirements</b>	<p>*Each circumstance must provide accredited documentation supporting the exemption from work authorisation.</p>		
<b>Availability of domestic workers or from the EU as grounds for refusal</b>	No	No <sup>132</sup>	
<b>Length of stay</b>	Duration of the labour contract.		

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<sup>131</sup> Also included are foreign minors of working age taught by an entity for the protection of minors, for activities that, as proposed by the entity, encourage their social integration.

<sup>132</sup> Among the cases in which the national employment situation allows the hiring of foreign citizens not resident in Spain are included: positions of trust and company directors, highly skilled professionals, including technicians and scientists, employed by public bodies, universities or centres of research, development and innovation dependent on companies, and artists of prestigious renown.

THE NETHERLANDS		HSM POLICY	BLUE CARD	HIGHLY SKILLED MIGRANTS SCHEME	PILOT PROJECT FOR SHORT-TERM KNOWLEDGE MIGRANTS
	<b>General Description</b>	Residence permit for highly qualified employment	<ul style="list-style-type: none"> <li>* Exempt from the work permit requirement.</li> <li>* This Scheme meets the requirements of the Directive of Researchers (Directive 2005/71/EC).</li> </ul>	<ul style="list-style-type: none"> <li>* Work permit for those knowledge migrants who will stay for a period not exceeding three out of six months. Application until December 2013</li> </ul>	
	<b>Main Requirements</b>	<ul style="list-style-type: none"> <li>* A valid work contract or binding job offer.</li> <li>* Salary criterion: annual gross salary of EUR 60,000.</li> <li>* Proof of qualification: migrants wanting to exercise a non-regulated profession need to have the required higher professional qualifications. Those wanting to exercise a regulated profession need to fulfil the supplementary requirements to have recognised professional qualifications.</li> </ul>	<ul style="list-style-type: none"> <li>* Work agreement: For scientific researchers and doctors: need to be associated to an acknowledged research institution.</li> <li>* Salary criterion: fixed according to age (except: scientific researchers and doctors).</li> <li>* No proof of qualification (unless football player or religious servant).</li> </ul>	<ul style="list-style-type: none"> <li>* The employer needs to be registered at IND as a user of the HSM scheme.</li> <li>* The work permit needs to be requested at the The Hague office of the agency issuing work permits (UWVWerkbedrijf).</li> <li>* The post justifies a yearly salary in conformity with the salary criterion for knowledge workers older than 30 (€51,239), which is also effectively paid.</li> <li>* The employer needs to be able to submit proof of payment of the salary.</li> </ul> <p>The work permit has a validity of 90 days at most.</p>	
	<b>Availability of domestic workers or from the EU as grounds for refusal</b>	No	No	<ul style="list-style-type: none"> <li>* Restriction: market conformity test: evaluation if the agreed wage is 'market conform'.</li> </ul>	No
	<b>Length of stay</b>		Duration of the contract.		Maximum period of three out of six months.



**LABOUR MARKET TESTING**

HSM POLICY		BLUE CARD
<b>General Description</b>	Admission for the purposes of highly qualified employment.	
<b>Main Requirements</b>	* Employer must apply for work permit. * Salary criterion: The gross salary should be at least 1.5 times the average gross annual salary in the country. * Proof of qualification applied during the labour market test in the procedure for obtaining the work permit by the employer.	
<b>Labour market-testing</b>	Yes	
<b>Length of stay</b>	Duration of the labour contract.	

**BULGARIA**

HSM POLICY		BLUE CARD	RESEARCHERS	TEMPORARY RESIDENCE AND EMPLOYED WORK
<b>General Description</b>	Admission for the development of a work activity requiring superior education, or exceptionally, five years of professional experience.		Admission for the performance of investigation projects.	* Admission to cover a highly skilled occupation: - which appears in the Catalogue of occupations with difficult coverage, - for which the Public Employment Service certifies an insufficiency of job seekers.
<b>Main Requirements</b>	<p>* Employer must apply for work and residence authorisation.</p> <p>* Salary criterion: (in general, the salary specified in the contract of employment must be 1.5 times the average gross annual salary. However, there is a threshold of 1.2 times the average gross annual salary for those occupations where there is a particular need for workers from third countries belonging to groups 1 and 2 of the ISCO).</p> <p>* Proof of qualification: that the alien has the training and, where appropriate, professional qualifications legally required for the exercise of the profession.</p> <p>* Proof of qualification: that the foreigner has the capacity, and where applicable, the legally demanded professional qualification for performance of the profession.</p>		<p>* Hosting agreement with legitimate research organisation.</p> <p>* The organism of investigation should solicit the authorisation of residence and work for investigation.</p> <p>* Not apply salary criterion.</p> <p>* Proof of qualification: that the foreigner has the capacity, and where applicable, the legally demanded professional qualification for performance of the profession.</p>	* The same requirements as applicants for employed work, including: Proof of qualification: has the capacity, and where applicable, the legally demanded professional qualification for performance of the profession.
<b>Labour market-testing</b>	Yes <sup>133</sup>		No	Yes
<b>Length of stay</b>	Duration of the labour contract		Min. 3 months up to 5 years.	Duration of the labour contract

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<sup>133</sup> The Aliens Act provides that the granting of permits for highly skilled professionals can take into account the national employment situation. The Regulations of the Aliens Act establish that an employer may submit a certificate from the Public Employment Service advising of an insufficiency of job seekers to fill the position (art. 88.f).

**TALENT ACCRUAL APPROACH**

THE NETHERLANDS	HSM POLICY	SELF-EMPLOYMENT MIGRANTS SCHEME	HIGHLY EDUCATED MIGRANTS SCHEME
		<p>*Highly skilled migrants who want to start their own company.</p> <p>* Points System focused on personal characteristics, the business plan and added value for the Netherlands.</p>	<p>*Created to facilitate foreign top talents</p> <p>* Entails that those who have completed a master's degree or doctoral research will be awarded a residence permit for at most one year to find a job as a knowledge migrant or to start an innovative company.</p> <p>*It also applies to those who graduated from a University ranking in the top 150 of two internationally acknowledged rankings.</p> <p>*Points System: test of a number of issues such as the level of the education followed, age and issues related to the success in the Netherlands.</p> <p>*Exempt from the requirement of needing to prove that they will be employed in the Netherlands.</p> <p>*Once the highly educated immigrant has found a job as a knowledge migrant or self-employed person he or she is exempt from the work permit requirement.</p>
	<b>General Description</b>		
	<b>Main Requirements</b>	Application of a points system	Application of a points system
	<b>Length of stay</b>	1 year	1 year

## FILTRATION SYSTEM

FINLAND	HSM POLICY	DEGREE FROM A FINNISH UNIVERSITY
	General Description	<ul style="list-style-type: none"> <li>* Those who have studied and completed a degree or other qualifications in Finland, may apply for a new residence permit.</li> <li>* Right to unrestricted employment with a residence permit for employed persons without taking into consideration the labour market demands<sup>134</sup>.</li> <li>* No limit has been set for the time that may lapse between the date you complete a degree and the date you apply for a permit on the grounds of a job.</li> </ul>
	Main Requirements	For a graduate to get a Blue Card or HSM permit the requirements are the same as for everyone else. However, they have the above mentioned ease in getting a basic employed person's residence permit.
SPAIN	HSM POLICY	Modification of stay for study, research, training or internship: 1) to work and residence of highly qualified professionals, 2) to residence with exception of work permit, 3) to live and work for research, 4) to live and work employed by others
	General Description	Foreigners who are in Spain for study, research, training or practice can access the status of residence and work without visa requirement when the employer files an application for approval and certain requirements laid down in Regulation Aliens Act are met.
	Main Requirements	<p>Requirements common to all types of authorisations that may apply (i.e., cases 1, 2, 3 or 4):</p> <ul style="list-style-type: none"> <li>* The alien has been in Spain for at least 3 years as owner of a residence permit.</li> <li>* Has completed studies or finished research work, training or approved practices.</li> <li>* There have not been grants or subsidies from public or private programmes within programmes of cooperation or from Spanish development in the country of origin.</li> </ul> <p>Specific requirements:</p> <ul style="list-style-type: none"> <li>* The alien must meet the work requirements for obtaining the corresponding type of authorisation (authorisation of residence and self-employment, residence and research work, or work and residence of highly skilled professionals). If he/she requests a residence permit with the exception of the work authorisation, he/she must comply with the provisions established for access to this type of authorisation.</li> </ul>
	Availability of domestic workers or from the EU as grounds for refusal	Depends on the type of authorisation requested.

<sup>134</sup> A foreign graduate from a Finnish university can apply for a residence permit but so can everyone else. The difference for these graduates is that they can get an employed persons residence permit without Finnish authorities checking first the labour situation in Finland. Therefore they get the same exception as HSM in this respect.

THE NETHERLANDS	HSM POLICY	HIGHLY EDUCATED MIGRANTS SCHEME	PILOT PROJECT FOR SHORT TERM KNOWLEDGE MIGRANTS
	<p><b>General Description</b></p> <ul style="list-style-type: none"> <li>*Created to facilitate foreign 'top-talents'</li> <li>* It entails that those who have completed a master's degree or doctoral research will be awarded a residence permit for at most one year to find a job as a knowledge migrant or to start an innovative company.</li> <li>*It also applies to those who graduated from a University ranking in the top 150 of two internationally acknowledged rankings.</li> <li>*Points System: test of a number of issues such as the level of the education completed, age and issues related to success in the Netherlands.</li> <li>*Exempt from the requirement of needing to prove that they will be employed in the Netherlands.</li> <li>*Once the highly educated immigrant has found a job as a knowledge migrant or self-employed person he or she is exempt from the work permit requirement.</li> </ul>		<ul style="list-style-type: none"> <li>*Work permit for those knowledge migrants who will stay for a period not exceeding three out of six months.</li> <li>Application until December 2013</li> </ul>
	<p><b>Main Requirements</b></p>	<p>Application of a points system</p>	<ul style="list-style-type: none"> <li>* The employer needs to be registered at IND as a user of the HSM scheme.</li> <li>*The work permit needs to be requested at the The Hague office of the agency issuing work permits (UWW/Werkbedrijf).</li> <li>*The post justifies a yearly salary in conformity with the salary criterion for knowledge workers older than 30 (€51,239), which is also effectively paid.</li> <li>*The employer needs to be able to submit proof of payment of the salary.</li> <li>*The work permit has a validity of 90 days at most.</li> </ul>

# Annex III.

## Integration policies: rights and benefits for HSM

### FAMILY REUNIFICATION

	GENERAL DESCRIPTION	PROOF OF SUBSISTENCE MEANS	SPOUSE WORK VISA	INTEGRATION CONDITIONS	OTHER
<b>BULGARIA</b>	<b>Blue Card holders</b>	Family members of Blue Card holders can obtain a residence permit under the same conditions as provided in the general regime for foreign nationals.	Yes. Family members are not explicitly exempted from the work permit requirement.	No	There hasn't been an explicit transposition of all paragraphs of Article 15 of the EU Blue Card Directive, but at this point there are no obvious contradictions in national law
	<b>Researchers</b>	No right to family reunification <sup>135</sup>	-	-	-
<b>SPAIN</b>	<b>Blue Card</b>	The members of the family will be reunited without the worker having to complete the one year of prior residency generally required for that purpose.	Yes <sup>136</sup>  (Same requirements as provided in the general regime for foreign nationals).	Do not exist	Simplified procedure: application processed through the Unit of Large Enterprises and Strategic Collectives  The application for the relatives may be submitted by the research organisation requesting principal authorisation, as for the highly skilled foreign worker.

<sup>135</sup> The current draft law for amendments in the Law on Foreign Nationals, which was approved at first reading in the Bulgarian parliament on 30 November 2011, aims to address some of the gaps in the first transposition process. In the first place, it provides for the right to residence of family members of researchers.

<sup>136</sup> Article 59 of RELOEX provides that the spouse or partner may be reunited to obtain authorisation to reside and work independently, if he/she meets these requirements and has no debts to the tax office or social security: a) Has sufficient financial means for the granting of a temporary non-profit residence permit, b) Has one or more contracts of work, of a minimum duration of one year from the time of application, and from which a salary arises that is not less than the monthly full-time minimum wage of fourteen payments c) Complies with the applicable requirements facing the granting of a temporary residence and work permit on his/her own.

	GENERAL DESCRIPTION	PROOF OF SUBSISTENCE MEANS	SPOUSE WORK/VISA	INTEGRATION CONDITIONS	OTHER
<b>Researchers</b>	The members of the family will be reunited without the worker having to complete the one year of prior residency generally required for that purpose.	Yes (Same requirements as provided in the general regime for foreign nationals).	Yes <sup>137</sup>	Do not exist	Simplified procedure: application processed through the Unit of Large Enterprises and Strategic Collectives  The application for the relatives may be submitted by the research organisation requesting principal authorisation, as for the highly skilled foreign worker.
<b>Other</b>	Temporary residence with exception from work authorisation	Yes (Same requirements as provided in the general regime for foreign nationals).	Yes <sup>138</sup>	Do not exist	
	Professional activity that is conducive with reasons of economic, social or work interest, or the objective of which is the performance of investigation or teacher development work requiring high qualification, or of artistic activities of special cultural interest.	Yes (Same requirements as provided in the general regime for foreign nationals).	Yes <sup>139</sup>	Do not exist	Simplified procedure: application processed through the Unit of Large Enterprises and Strategic Collectives
	Temporary residence and employed work (Catalogue of occupations with difficult coverage)	Yes (Same requirements as provided in the general regime for foreign nationals).	Yes <sup>140</sup>	Do not exist	

137 *Ibid.*  
138 *Ibid.*  
139 *Ibid.*  
140 *Ibid.*

	GENERAL DESCRIPTION	PROOF OF SUBSISTENCE MEANS	SPOUSE WORKVISA	INTEGRATION CONDITIONS	OTHER
FINLAND	<b>High skilled experts</b>	Family members of High skilled experts Yes. Salary requirement.	Yes. Foreigners who have a residence permit on the grounds of family ties have similarly the right to unrestricted employment without evaluation from the Finnish Employment and Economic Development Office.	No	-
	<b>HSM Scheme</b>	Family members of knowledge migrants No	Yes. Family members have unrestricted access to the employment market	No	Beneficial treatment Duration: one year, then may be extended for a period of at most 5 years.
THE NETHERLANDS	<b>Blue Card</b>	Family members of Blue Card holders	Yes. Family members have unrestricted access to the employment market		Residence permit for the same duration of validity of the residence permits issued to BC holders
	<b>Researchers</b>	Family members of Researchers (Here apply the same conditions as for HSM Scheme)	Yes. Family members have unrestricted access to the employment market	No	-



		GENERAL DESCRIPTION	PROOF OF SUBSISTENCE MEANS	SPOUSE WORK/VISA	INTEGRATION CONDITIONS	OTHER
<b>PORTUGAL</b>	<b>Temporary visas</b>	For third country nationals that aim to develop a research activity, teach in a university or develop a highly qualified activity for a period of less than 1 year	Yes. Same as in the general procedure for other foreign nationals.	Yes. Spouses have unrestricted access to the labour market	No	Maximum of 1 year stay (but can be extended as long as the contract or scholarship is maintained)
	<b>Residence permit</b>	For third country nationals that aim to develop a research activity, teach in a university or develop a highly qualified activity	Yes. Same as in the general procedure for other foreign nationals.	Yes. Spouses have unrestricted access to the labour market	No	Valid for 1 year and renewable for periods of 2 years. After a period of 5 years, an application for a permanent residence permit can be filed with no expiration but subject to renewal every 5 years.

## FACILITIES FOR THE ADMISSION AND RESIDENCE OF HSM

	SIMPLIFIED APPLICATION PROCESS	SPECIAL COUNTER FOR RESIDENCE PROCEDURES	INTEGRATION ABROAD TEST	OTHER BENEFITS
<b>BULGARIA</b>	Yes	No	No	Waiver of the obligation to prove sufficient means of subsistence, accommodation and transport.
<b>SPAIN</b>	Yes	Yes (Unit of Large Enterprise-Strategic Collectives Unit)	Does not exist	-
<b>FINLAND</b>	Yes	INTO Finland service and the Finnish Migration Service	No	Social security benefits Taxation
<b>THE NETHERLANDS</b>	Yes	Yes (Knowledge and Labour Migration)	No	30% tax benefit. No labour market test applied. Family members also profit from accelerated procedures and have free access to the labour market.
<b>PORTUGAL</b>	Yes	No	No	Equal rights to natives, namely with respect to education, work, training or access to other qualifications, health, social security, fiscal benefits, trade unions affiliations and diplomas recognition.



# Annex IV.

## Workshop questionnaire

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### METHODOLOGY

#### PROFILES OF PARTICIPANTS

The workshop will take a group of between 16-20 people with higher education at the university level or equivalent, with profiles that are defined as follows:

- **Profiles**
  - ✓ Half men and half women (if possible, but at least 20-25 per cent),
  - ✓ Age: from 25 years onwards.
  - ✓ By country of origin and their representativeness in relation to the number of skilled migrants residing in host country.
  - ✓ According to the regulated professions<sup>141</sup> and unregulated, and the area of knowledge<sup>142</sup>.
  - ✓ According to the *mode of entry* into the host country.
  - ✓ According on the individual situation for participation in the labour market: without work permits and, work permits for their different models.

#### CHARACTERISTICS OF PARTICIPANT GROUPS

- ***HSM who needed the recognition of their diploma***
  - o According to individual and institutional processes, accreditation of qualifications and accreditation of university education cycles.
  - o According to the scope and/or dimension of recognition of professional qualifications.
- ***Successful experiences***
  - o According to the professional experience prior to the start of the migration project, including social and professional individual skills, participation in societies and professional networks, research projects, specialised studies.
  - o According to the individual goals of interaction and/or participation in the labour market of the host country.
  - o According to the project or professional entrepreneur, with previous experience and his subsequent experience according to the possibilities offered by the host country.

141 The Directive 2005/36/EC on the recognition of professional qualifications.

142 We suggest taking the structured model in Spain: Social Sciences, Engineering, Health, Humanities, Arts.

- o According to *achieved professional success*<sup>143</sup> –understood from the objectives and/or individual resources; or from the institutions<sup>144</sup>.
- **Over-qualification:**
  - o Depending on *how to participate* in the segmented labour market in relation to levels of education –sectors of high, medium<sup>145</sup>, low or no qualifications<sup>146</sup>.
  - o According to professional *diversification options*: individual or institutional, offered as job training<sup>147</sup>.
  - o Unemployed highly-skilled migrants.
- **Other cases:**
  - o Asylum seekers as a possibility.

## QUESTIONNAIRE FOR PARTICIPANTS

- Find in attachment, this questionnaire as a tool for experiences of moving.
- The use of the questionnaire before the workshop will allow a) optimising resources for the workshop, b) obtainment of the necessary information and no other, c) systematisation of information.
- Identification of participants in relation to the expressed criteria.

## WORKSHOP ORGANISATION

### PHASE 1:

- 1.1 Identification of participants in relation to the expressed criteria
- 1.2 Invitation and awareness for participation in the workshop by presenting the objectives, and sending a “motivating” questionnaire of the various individual experiences of a migration project in the context of this workshop.
- 1.3 Monitoring by e-mail, individual reading and reflection on the themes proposed in the questionnaire to identify less visible representations, experiences and various contexts in which these experiences occurred –for example identification of individual time, factors and agents which affect the decision-making process, etc.
- 1.4 Clarification of concepts, if applicable, or the issues concerning the professional migration project as part of this workshop.

143 The professional intercultural approach used as a strategy for professional integration usually is little or very little developed from professional societies and/or administration.

144 Regulated professions, such as health, consider career success. This is not easy to access and success is not assured. There are individual migrant professional projects that do not run parallel with the complexity of procedures for recognition of diplomas, required by and from the health system.

145 In the case of Spain, there is a special situation in relation to different economic cycles. For example, cases of recruitment source for skilled migrant *quota*.

146 Special attention to professional women migrants working as domestics, whose option for this sector is a single and long-term migration project strategy. The only route offered by or from migration policies.

147 Some examples of courses and modules offered through plans and projects for the integration of migrants, do not take into account the basic schooling of the migrant population. This job training usually leads to horizontal diversification in the same sector. For example: personal services or nursing-care.

**PHASE 2:**

- 2.1 Searching for information in relation to new and more relevant issues identified and emailed by the participants to the workshop and systematisation of this new information.
- 2.2 Develop data collection instruments and tools for information processing.
- 2.3 Choosing the site for the workshop and materials for development and technical resources for the further processing of information, video recording, voice recording etc.

**PHASE3:**

- 3.1 Workshop development. Term: three hours.
- 3.2 Three blocks of work:
  - a. Migration experience: presentation of participants and brief description of their professional migration projects;
  - b. Integration problems: identifying processes of recognition of diplomas or recognition of professional qualifications; description of participation in the labour market, identification of problems;
  - c. Recommendations.
- 3.3 Processing of the information and report writing. Each country must have its own report.

**PHASE 4:**

- 4.1 Preparation of the final report, to be discussed in the Helsinki meeting (october 2012).

## QUESTIONNAIRE FOR WORKSHOPS

### Profile and integration of highly skilled third country nationals

#### *Background information at present*

Country of Origin \_\_\_\_\_

Nationality

\_\_\_\_\_ (Finnish, Spanish or Dutch)

Other \_\_\_\_\_

Age:

Sex:  Male  Female

Marital status/family situation \_\_\_\_\_

Type of residence permit if not (Finnish, Spanish or Dutch) national

Residence permit of highly skilled immigrant

Residence permit of an employed person

Residence permit based on family reunion

Student

Other. What? \_\_\_\_\_

Length of the residence permit if not (Finnish, Spanish or Dutch) national:

Temporary

If temporary please specify:

– The permit was issued on:

– The permit is valid until:

– Has the permit been renewed? Yes/No

Permanent

How long have you been living in (Finland, the Netherlands, Spain)? \_\_\_\_\_

Has your legal situation changed in the time you have been in (Finland, the Netherlands, Spain)?

Yes  No

If yes, please explain \_\_\_\_\_

Did you require a work permit in order to be able to work in (Finland, the Netherlands, Spain)?

Yes  No

## Education

What university degrees (please make a difference between bachelor, master and doctorate levels) do you have and where have you gained them?

How many years did/does your education last? \_\_\_\_\_

Have you taken up further study (Finland, the Netherlands, Spain)?

- Yes       No       I am in further study at the moment  
 Not applicable: N/A

If yes, what further studies have you taken/are you taking up? Why?

\_\_\_\_\_

If no, do you have plans to take up further study?

- Yes     No     N/A

Has your degree been equated/validated/acknowledged in (Finland, the Netherlands, Spain)?

- Yes       No  
 I have graduated in (Finland, the Netherlands, Spain)  
 N/A

If yes or no, please mention any problems you (possibly) encountered

\_\_\_\_\_

If you had your degree equated/validated/acknowledged, were there any costs involved?

- Yes (please specify amount):  
 No

What did these costs consist of (getting documents legalised, translated, etc.)? \_\_\_\_\_

\_\_\_\_\_

## Living abroad

In how many countries have you lived prior to your move to (Finland, the Netherlands, Spain)?

\_\_\_\_\_

If you have lived elsewhere prior to moving to (Finland, the Netherlands, Spain), please indicate where:

- Other EU-country, namely:  
 A country outside the EU, namely:

What were the reasons previously for your move? Was it, for example, studies or work?

\_\_\_\_\_



This time, did you come to (Finland, the Netherlands, Spain) specifically for employment purposes?

- Yes
- No

If no, please specify briefly for which reasons you originally came to (Finland, the Netherlands, Spain) (e.g. seeking asylum, living with family):

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If you came to (Finland, the Netherlands, Spain) to work, please specify what motivated you to migrate:

- New experience
- Career development
- Improve professional skills
- Better living conditions and/or better pay
- Difficulties getting employment in home country

### *Employment before and after the move to (Finland, the Netherlands, Spain)*

How many years of job experience did you have before your move to (Finland, the Netherlands, Spain) ? \_\_\_\_\_

What was your profession (job title) before moving to (Finland, the Netherlands, Spain)?

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What is your job title now in (Finland, the Netherlands, Spain)?

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In what sector do you work?

- Public sector
- Third sector (societies and associations)
- Private sector

What is your professional field?

- Government sector
- Council
- Business and trade
- Social and health care sector
- Education and teaching
- University or Research
- Technology industry
- Other industry (e.g. lumber or metal industry)

- Something else, What?\_\_\_\_\_
- N/A

What is your employment situation compared to your education?

- I have a job entirely matching my level of education
- I have a job that somewhat matches my level of education
- My job does not match at all my level of education
- N/A

Please explain briefly

\_\_\_\_\_

Is equivalence of degrees important for you to get employment matching your level of education/has equivalence of degrees been important to get employment matching your level of education?

- Yes       No, because\_\_\_\_\_
- N/A, because\_\_\_\_\_

Does your profession have professional qualification standards (Finland, the Netherlands, Spain)?\*

- Yes       No
- Yes, for some fields in my profession but not in the field I am in.
- N/A

\* Professional qualification standards apply in cases of regulated professions (for example nurse, doctor, teacher, lawyer (advocate)). In order to practise a regulated profession, a competent authority needs to equate the professional qualifications.

Would/Did you need to equate your professional qualifications in order to get employment matching your professional qualifications?

- Yes       No
- N/A

Have you progressed in your career while in (Finland, the Netherlands, Spain)?

- Yes       No
- N/A

Is progress in your career possible given the qualifications and experience you currently possess? If no, please explain why not.\_\_\_\_\_

Have you been in professional training related to your job while in (Finland, the Netherlands, Spain)?

- Yes       No  
 N/A

Please explain what kind of training and why: \_\_\_\_\_

Do you have plans for further professional training while in (Finland, the Netherlands, Spain)?

- Yes       No       N/A

Have you thought of a career change?

- Yes       No  
 I have already changed my profession       N/A

Is a career change possible with the qualifications and experience you currently possess?

- Yes       No

### *Integration and awareness*

Were you aware of the conditions for working and staying in (Finland, the Netherlands, Spain) (obtaining work and residence permits, skills and qualifications required to conduct your profession) prior to moving to (Finland, the Netherlands, Spain)?

- Yes, both  
 Partially  
 No  
 N/A

Please explain briefly \_\_\_\_\_

If yes, have the conditions for working and staying in (Finland, the Netherlands, Spain) affected your decision to move to (Finland, the Netherlands, Spain)?

- Yes  
 No  
 N/A

Please explain: \_\_\_\_\_

Have you taken part in information sessions and/or actively gathered information on how to start your (professional) life in (Finland, the Netherlands, Spain)?

- Yes       No

If yes, what kind of information did you obtain/gather? \_\_\_\_\_

From whom did you get support for integrating into (Finland, the Netherlands, Spain)?

- Educational organisations such as Universities
- Societies and different projects, namely:
- Initiatives funded by the (Finnish, Spain, Dutch state), namely:
- I took the integration abroad examination
- Trade Unions
- Your employer
- Own family
- Friends
- Others? Whom? \_\_\_\_\_
- No-one

Have you had problems in getting or obtaining the following things?

- Equivalence of your degree
- Equivalence of your professional qualifications
- Residence permit
- Health insurance
- Work permit
- Registering for residence in a certain municipality
- Opening a bank account
- Day care/a school for child(ren)
- Residence permit for spouse/partner
- Work permit for spouse/partner
- Problems with something else, what? \_\_\_\_\_
- No problems

Please explain: \_\_\_\_\_

Have these problems hampered your professional integration (i.e. getting a job matching the level of your education, moving forward in your career)?

\_\_\_\_\_

Have these problems influenced your plans for the future? If yes, in what way?

\_\_\_\_\_

Has the (Finnish, Spanish, Dutch) language been a problem to you in getting a job or moving forward in your career?

- Yes, both situations
- Only in moving forward in my career

- Only in getting a job
- No problems
- N/A

Have you experienced discrimination in (Finland, the Netherlands, Spain)?

- Yes
- No

If yes, where did you experience discrimination?

- At work place
- In services
- As general atmosphere

Please explain:

### *Future plans*

Are you planning to stay in (Finland, the Netherlands, Spain)?

- Yes, permanently
- Yes, but only for the period of my current residence permit (if not a permanent residence permit)
- Yes, but only for the period of my current employment contract (if not permanently employed)
- No, my plans are to move from (Finland, the Netherlands, Spain)

someday but I am not sure about when

- I do not know
- My plans are to leave in \_\_\_\_\_ time

If you plan to move away from (Finland, the Netherlands, Spain) at some point, have you planned to move/would you like to move:

- To another EU country
- Outside EU but not home country/country of origin
- Back to home country/country of origin

### *Final questions and recommendations*

Overall, how would you evaluate your professional integration in (Finland, the Netherlands, Spain)? Did you have problems realising your (work-related) aims for migrating? \_\_\_\_\_

How would you evaluate your social integration (contacts with Finnish, Spanish, Dutch people (structural contacts and casual encounters), membership in associations, contacts with neighbours, etc.)?

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What recommendations would you like to make, based on your own experiences, to improve the overall 'migration experience' of highly skilled immigrants?

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MINISTRY OF THE INTERIOR



Alto Comissariado para a Imigração e Diálogo Intercultural, I. P.



ASOCIACIÓN POR LA INTEGRACIÓN DE  
PROFESIONALES INMIGRANTES



MINISTERIO  
DE EMPLEO  
Y SEGURIDAD SOCIAL

SECRETARÍA GENERAL  
DE INMIGRACIÓN  
Y EMIGRACIÓN

The project "Integration of Highly Skilled Third Country Nationals in Europe: A New Proposal for Circular Talent Management" HOME/2010/EIFX/CA/1832 co-funded by the European Integration Fund was coordinated by the Comillas Pontifical University - IUEM (Spain) together with the Legal Clinic for Refugees and Immigrants – LCRI (Bulgaria), the Ministry of the Interior (Finland), the Centre for Migration Law - CMR, Radboud University Nijmegen (the Netherlands), the High Commission for Immigration and Intercultural Dialogue – ACIDI (Portugal), the Asociación por la integración de profesionales inmigrantes - INPROIN (Spain) and the General Secretary of Immigration and Emigration - Ministry of Employment and Social Security (Spain).

The main aim of this project was to define integration processes adapted to different highly skilled immigration patterns and the socio-economical needs of European countries, on the basis of a multidisciplinary discussion/thinking on the relationships between admission policies, integration of highly skilled third country nationals in EU countries and circular talent management.

This publication includes the results of all activities conducted and is a unique opportunity to better understand this issue and to help improve policies on the admission, integration and circular migration of this type of migrant. The Comillas Pontifical University – IUEM and its partners hope to give a useful contribution to that debate.