



## Migration and employment policies in the European Union

Piera Loi

This article analyses the third country nationals migration phenomenon from a EU labour law perspective. It will describe the idea that notwithstanding the lack of a comprehensive EU migration policy, the European Employment Strategy gives some hints on how to reach the ambitious EU employment rates and create an inclusive society. A brief comparative analysis of the National Reform Programs shows that in some Member states migration is seen as a resource and measures are taken in order to reduce all possible disparities of migrants in order to enhance their chances of entering the labour markets.

### 1. The labour market regulation as a component of any form of migration

Migration is a composed and multidimensional phenomenon: refugees, asylum seekers, job seekers and climate migrants move from their countries voluntarily or involuntarily looking for better conditions of life. Notwithstanding the vast array of reasons pushing people to leave their homes like wars, climate and ecological disasters, poverty or the difficulties of domestic labour markets, the migration phenomenon involve a labour law and labour market regulatory perspective, since any migrant has to deal with the necessity of finding a job. Often migration law and the strict rules governing the entrance of immigrants in host countries could produce uncontrolled effects on migrant status, reinforcing migrants' vulnerability in labour markets<sup>1</sup> and as a consequence, produce a dividing effect on labour law subjects, by introducing a migration status, a personal status, into work relations<sup>2</sup>.

\* University of Cagliari, [Loip@unica.it](mailto:Loip@unica.it). This paper has been presented, with some changes, at the ISLSSL World Congress in Turin 2018.

<sup>1</sup> S. SCIARRA – W. CHIAROMONTE: Migration Status in Labour and Social Security Law Between Inclusion and Exclusion in Italy. In C. COSTELLO – M. FREEDLAND (ed.): *Migrants at Work: Immigration and Vulnerability in Labour Law*. Oxford, OUP, 2014. 122 ff.

<sup>2</sup> COSTELLO–FREEDLAND op. cit.

From this point of view, the article would like to underline the necessity to adopt the labour law approach, as complementary to the human rights perspective or to the criminal perspectives, in the analysis of every form of migration. It should be underlined that also the traditional anti-discrimination approach cannot be abandoned, but these different approaches should nevertheless be coupled with other theoretical approaches and, in this paper, we would like to analyse how national or EU level employment policies can influence and shape the migration phenomenon and the existent structure of labour law. The chosen perspective is to verify if in a number of member states of the European Union some best practices can be highlighted as far as inclusive and successful employment policies for migrant third country nationals.

The affirmed multi-faced nature of migration means that migration employment policies should take into account this multi-faced nature and take into account all the differences, in order to adopt selected and tailored measures for migrants, seen as resources and not necessarily as problems, for national or supranational labour markets. Just think about the ambitious aims of the Europe 2020 strategy<sup>3</sup> and the target of a 75% employment rate among 20-64 year-olds. The integration of third-country nationals is certainly a factor that will help meeting this target, taking into account the share of non-EU nationals in the European labour force, and also the gap in the employment rate with host-country nationals.

Various factors are important to analyse in order to define national or supranational migrant employment policies and surely some of these factors are more relevant than others. The gender composition of migrants is one of the most important feature of the migration phenomenon. Globally, women account for about half of all international migrants. Women comprise 48% of the international migrant stock worldwide. Yet, there are considerable differences across regions. In 2013, in the North, women constituted 52% of all migrants, while in the South they accounted for 43%.

The gender factor has a great impact on the migration phenomenon and in many cases is very difficult to analyse. Even if immigrant women have often migrated for family reasons and are less likely than men to be labour migrants, but once they arrive to the host country can face gender disparities in employment and figures shows that gender gaps are wider among immigrants.<sup>4</sup>

The age of migrants and their level of education are other factors to take into account when describing the migration phenomenon and defining employment policies, or evaluating the impact of migration on national labour markets and on national social security systems.<sup>5</sup>

Refugee status is certainly another factor to take into account when describing migrant employment policies, since this special status requires a more intense activation of the State also in terms of labour

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<sup>3</sup> European Commission: *Communication from the Commission, Europe 2020. A strategy for smart, sustainable and inclusive growth*. Brussels, 3/3/2010, COM (2010) 2020., p. 3. [Hereinafter: Europe 2020]

<sup>4</sup> OECD, *Settling in*, 2018.

<sup>5</sup> EU Commission: *European Migration Network Study, Migrant access to social security and healthcare: policies and practice*. Brussels, 2014., available in [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn\\_synthesis\\_report\\_migrant\\_access\\_to\\_social\\_security\\_2014\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_synthesis_report_migrant_access_to_social_security_2014_en.pdf)

market measures. Refugees and asylum seekers represent the 10.1% of all international migrants. By the end of 2016, the total number of refugees and asylum seekers in the world was estimated at 25.9 million. The developing regions hosted the majority of these category of migrants (around 82.5% of the world's refugees and asylum seekers were hosted in 2016 by these regions). In 2016, Turkey recorded the largest refugee population, hosting approximately 3.1 million refugees and asylum seekers, the peak of entries was experienced since 2000 with the most significant increase in the refugee population (over 3,000 refugees). In 2016, the second largest country of asylum was Jordan, hosting around 2.9 million refugees, followed by the State of Palestine (2.2 million), Lebanon (1.6) and Pakistan (1.4 million). Germany (1.3 million) and Uganda (1.2 million) also hosted more than one million refugees.<sup>6</sup>

Another category in describing the migrant composition is irregular migrants, since a characteristic shared by migration flows in all countries is the high incidence of immigrants in irregular situations. Irregular migrants are more vulnerable to discrimination, abuse, extortion, kidnapping, human trafficking, sexual violence, and other crimes. Irregularity depends on the legal regulation of migrant status and on the limits imposed by national/supranational laws. In many cases the perverse effect of this legislation is that irregular migrants are *de iure* and *de facto* excluded from any possible migrant employment policies, and their only chance to get a job is the black market. One hypothesis to verify is that countries with higher rates of undeclared work and with weak labour inspection attract larger number of illegal immigrants, since paradoxically, finding an irregular work is easier in an unregulated system, but in this case, as a perverse effect, there is little space for employment policies.

One of the first questions to analyse is whether migration employment policies should be defined only at national level or also at supranational level taking into account the complexity of the phenomenon and the variety of categories. This question brings us to the analysis of the European employment strategy and migration policy.

## **2. The multifold European policy of immigrants integration in the labour market**

Migration should be analysed as a problem for host countries labour markets and social security systems and, at the same time, as a solution for host countries' labour markets and social security problems. In each regional area, migration should be analysed underlying the negative and positive effects caused by massive flows of migrants on labour markets and social security systems. Until now the European Union has adopted a double strategy towards migration and labour market regulation, somehow contradictory.

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<sup>6</sup> *UN International Migration Report 2017*. 7. available in [http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017\\_Highlights.pdf](http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf)

The first strategy is based on the use of the non-discrimination principle that constitutes also the pillar of the free movement of workers and of the construction of the internal labour market.

There is no explicit reference at EU level to a specific ground like being an immigrant from a third country, but grounds like religion, racial or ethnic origin surely are often applicable to an immigrant from a third country. Besides that art. 15, par. 3, of the Charter of Fundamental Rights of the European Union makes explicit reference to the principle that nationals of third countries, who are authorised to work in the territories of the Member States, are entitled to working conditions equivalent to those of citizens of the European Union.

The severe application of the non-discrimination principle to immigrants presupposes that any direct discrimination based on racial, religious or ethnic origin cannot be justified, whereas any indirect discrimination based on the same set of reasons is not considered a discrimination but a legitimate differentiated treatment when it is justified (art. 2 par. 2 b)i) of the Directive 2000/78/EC) and art. 2, par. 2 b) of the Directive 2000/43/EC)<sup>7</sup>. Generally speaking, an indirect discrimination can be justified when the aim is legitimate and the means are appropriate and are, at the same time, necessary to reach the aim. Employment policies can be considered among the set of justifications admitted by EU law to justify indirect discriminations and, exclusively in the case of discriminations on the ground of age, also direct discriminations. The principle of non-discrimination and the set of employment policies' justifications, nonetheless, risk to leave the implementation of a European migrant employment policy in the hands of the European Court of Justice (ECJ), since it should be the ECJ to verify that the justifications given by the Member States in case of indirect discrimination, caused by national employment policies and affecting migrant workers, are reasonable.

The second strategy is the “selective migration policy” aiming at reducing the disadvantages and enhancing the advantages of migration. This last strategy is grounded on the “Community preference” principle that can be defined as the requirement within the single labour market of the EU that employers are required to give preference to EU nationals over third-country nationals in their recruitment policies. We can find the expression of this principle in different examples of EU secondary law but the best example is the Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (Blue Card Directive).

In this brief paper, we would like to argue first of all, that the two strategies adopted by the EU as far as migration policies are contradictory, in the sense, that the non-discrimination strategy is inclusive, whereas the selection migration policy expressed by the Blue Card Directive is exclusive.

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<sup>7</sup> For a comment on the limits of these two directives and the content of the European Proposal to amend them of 2008 see M. BELL: Advancing EU Anti-Discrimination Law: the European Commission's 2008 Proposal for a New Directive. *The Equal Rights Review*, 2009. 7.ff. available in <http://www.equalrightstrust.org/ertdocumentbank/mark%20bell.pdf>

### **3. The non-discrimination principle as a lever for migrant participation in the EU labour market**

The construction of a European labour market, where workers move freely, is one of the fundamental freedoms of the Treaties. In order to construct an EU labour market, where workers and their families have the right to move and seek employment freely throughout the common market, any possible obstacle to the freedom of movement have been gradually eliminated thanks to the European Court of Justice case law. The most important lever to guarantee the freedom of movement for workers in order to construct an European internal labour market has been considered by the Treaty the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment (art. 45, par. 2, TFEU).

Also art. 15, par. 2, of the Charter of Fundamental Rights of the European Union recognises to every citizen of the Union the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State. Art. 2, par. 3, concerns the situation of national of third countries. The non-discrimination principle is still considered the principal mean to guarantee the freedom to work in any Member State and this is confirmed by art. 15, par. 3 of the Charter, that recognises to nationals of third countries, who are authorised to work in the territories of the Member States, the right to working conditions equivalent to those of the citizens of the Union.

The link between the non-discrimination principle and the functioning of the labour market is even more explicit in the 2000 EU antidiscrimination legislation. Art. 19 TFEU confers on the EC the ability to ‘take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. On this legal basis, two directives were adopted: Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC on a general framework for equal treatment in employment and occupation. In these two directives, besides the protection of a fundamental right no to be discriminated on grounds of reasons considered by the law as offending human dignity, it easy to see another essential function of the non-discrimination principle.

That principle, as a matter of fact, can be used as a lever to guarantee the elimination of any possible obstacles to the entrance in the labour market, taking into account the ambitious targets set by the EU in the Europe 2020 strategy<sup>8</sup>, in particular to increase the labour market participation. This is clearly stated in the whereas no. 9) of the Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin. Discrimination based on racial or ethnic origin may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high

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<sup>8</sup> Europe 2020 op. cit. Europe 2020 is a 10-year strategy for setting a number of targets including: the increase the labour market participation of people aged 20 to 64 to 75% by 2020; Social inclusion and combating poverty: lift at least 20 million people out of the risk of poverty and exclusion; improving the quality and performance of education and training systems: reduce the proportion of early school leavers to 10% (from 15%), and increase the share of 30-34-year-olds having completed tertiary or equivalent education to at least 40% (instead of 31%).

level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity. The potential effects of the non-discrimination principle as defined in the Directive 2000/43/EC have been, nonetheless, limited by the Directive 2000/78/EC.

The Whereas no. 11 confirms that any discrimination on grounds of religion or belief, disability, age or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and social protection. That is why any direct or indirect discrimination based on religion or belief, disability, age or sexual orientation (defined by art. 2 of the Directive) should be prohibited throughout the Community. Notwithstanding the prohibition of discrimination should also apply to nationals of third countries (how could it be argued otherwise?), in the Whereas no. 12 it is said that the Directive 2000/78/EC does not cover differences of treatment based on nationality and is without prejudice to national provisions governing the entry and residence of third-country nationals and their access to employment and occupation.

How far the non-discrimination principle has been able to shape the EU labour market is not easy to judge and its regulatory effect on the labour market is rather difficult to measure. Even if we cannot deny this regulatory effect, we must admit that it can be appreciated at a very long distance, because of the highly abstract nature of the principle and because its link to judiciary and because of the scope of judicial discretion.<sup>9</sup> Nonetheless, it has to be recognised, that it has surely played a key role in expanding the EU competencies in employment policies, an area where Member States retain their competence and the EU has only coordinating competencies. As explained by Advocate General Geelhoed in the Chacon Navas case<sup>10</sup>, the prohibition of discrimination, referring in particular to discrimination on grounds of age, ‘can be used as a lever to correct, without the intervention of the authors of the Treaty or the Community legislature, the decisions made by the Member States in the exercise of the powers which they – still – retain’.<sup>11</sup>

#### **4. The selective migration policy in the Blue Card directive**

The second strategy that the EU has adopted with reference to third country nationals’ migration can be described as a ‘selective migration policy’. An example of this policy aiming at reducing the disadvantages and enhancing the advantages of migration is the Directive 2009/50 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (Blue Card Directive) designed to enhance European competitiveness by attracting highly qualified third-country nationals.

<sup>9</sup> C. O’CINNEIDE in: N. CONTOURIS – M. FREEDLAND: *Resocialising Europe in a Times of Crisis*. Cambridge University Press, 2013. 131. e ss.

<sup>10</sup> CJEU, Judgment of 11 July 2006, Case C13/05 [2006] ECR I0000.

<sup>11</sup> AG Opinion in Chacon Navas, Case C13/05 [2006] ECR I0000, point 54.

The same selective migration policy has been confirmed in 2014, when the Political Guidelines for the European Commission stated, that in the new European policy on legal migration should endeavour ‘to address shortages of specific skills and attract talent to better cope with the demographic challenges of the European Union’.<sup>12</sup> The Commission Work Programme 2015<sup>13</sup> noted that the objective of the European Agenda on Migration<sup>14</sup> is to develop a new approach on legal migration to make the EU an attractive destination for talents and skills, as well as to improve the management of migration by intensifying cooperation with third countries, fostering burden sharing and solidarity and fighting against irregular migration and smuggling. The European Agenda on Migration includes the review of the Blue Card Directive that has demonstrated many shortages. The same ideas are confirmed in the Commission Work Programme 2019, where the EU Commission affirms that: «we need to be able to address adequately labour market needs and skills shortages in the future, while pursuing the EU’s interests. It is therefore essential to agree on the revised EU Blue Card scheme, which will make it easier and more attractive for highly skilled third-country nationals to come to work in Europe and contribute to the performance of our economies »<sup>15</sup>.

Until now, in order to get an EU Blue Card, the third-country national must present:

- a valid work contract or a binding job offer for highly qualified employment of at least one year with a salary of at least 1,5 times the average gross annual salary paid in the Member State concerned;
- a valid travel document and evidence of a valid residence permit or of a national long-term visa,
- a proof of sickness insurance;
- for regulated professions, documents attesting fulfilment of the conditions set out under national law for the exercise by Union citizens of the regulated profession;
- for unregulated professions, documents attesting the relevant higher professional qualifications;
- not be considered to pose a threat to public policy, public security or public health.

The EU Blue Card is valid for a period between one and four years, but Member States can always make reference to the Community preference principle.<sup>16</sup> Chapter IV of the Blue Card Directive says, that the Directive “shall be applied without prejudice to the principle of “Community preference” as expressed in the relevant provisions of the Acts of Accession of 2003 and 2005, in particular with respect to the rights of nationals of the Member States concerned to access the labour market”.

<sup>12</sup> Political Guidelines for the next European Commission, A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Strasbourg, 15 July 2014.

<sup>13</sup> Commission Work Programme 2015. A new start. Strasbourg, 16.12.2014, COM(2014) 910 final, p. 9.

<sup>14</sup> Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions. A European Agenda On Migration. Brussels, 13.5.2015 COM(2015) 240 final.

<sup>15</sup> Commission Work Programme 2019, Delivering what we promised and preparing for the future. Strasbourg, 23. 10. 2018, COM(2018) 800 final, p. 8.

<sup>16</sup> S. ROBIN-OLIVIER: The Community Preference Principle in Labour Migration Policy in the European Union. *OECD Social, Employment and Migration Working Papers*, No. 182., 2016. <http://dx.doi.org/10.1787/5jlwxbzcfqsq6-en>

The Directive offers to Member states a different scheme that does not interfere in national immigration policy. But it has first of all demonstrated to be ineffective and not to be able to attract in the EU a qualified immigrant workforce. In some countries like Germany the issue of Blue Card permits is far higher than in other countries. In 2014 Germany issued 12,108 Blue Cards (90% of the total of Blue Cards in Europe). These high numbers are due to the fact that Germany has some of the lowest minimum salary thresholds of the 25 EU member states<sup>17</sup> linked to the Blue Card Directive.

That is why the European Commission is proposing a revision designed to attract more highly qualified and talented worker. One of the proposals is to cover broader categories of workers and to lower the salary threshold. The real problem remains the fact that many Member States want to maintain their own national systems parallel to the revised Blue Card Directive and are reluctant towards any other form of harmonization.

Other countries like Sweden have issued a very limited number of Blue Cards, either because of the high salary threshold of the Directive, or because its national system is working better because it is both flexible and ambitious and covers all types of labour.<sup>18</sup> It should be noted that the European Commission's proposal does not eliminate all disadvantages, because it still addresses only migrants with higher education. To overcome these limits, a partial solution envisaged in the proposal of a new Blue Card Directive would be the extension of the scheme to highly skilled beneficiaries of international protection residing in Member States and having the right to work under EU asylum rules.

In a few words even in the proposal of a new Blue Card directive there is not a significant change in the selective migration policy of the EU and the proposal is not designed to address employers' needs, that are not only "a shortage of qualified profession", but a shortage of labour in general and also within several professions.

## **5. The European employment strategy and migration policies in the National Reform Programmes**

Often also at national level, EU Member States adopt "selective migration policies" based on quotas, with little or no attention to the quality of the immigrant labour force. It seems that until now national governments have been worried about preventing or controlling entrance mechanisms and protecting national borders, being incapable of evaluating the positive effects of immigrants on national labour markets. But not all the Member States' labour market policies on immigrants are the same, since

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<sup>17</sup> Germany's minimum 2016 job salary for the Blue Card is 49,600 euros whereas France—which issues the second-highest number of Blue Cards after Germany and precisely the 4% of the total) has a minimum 2015 salary of 53,331 euros.

<sup>18</sup> E. LUND: *Labour migration discussed in the European Parliament*. 2016. [https://www.svensktnaringsliv.se/english/labour-migration-discussed-in-the-european-parliament\\_662311.html](https://www.svensktnaringsliv.se/english/labour-migration-discussed-in-the-european-parliament_662311.html)



employment policies are a national competence and some States have caught the importance of a labour market's inclusion policy as regards to immigrants, with interesting experiences that could be transferred through the mechanisms of mutual learning in the European Employment Strategy.

How can the European Employment Strategy influence national migration employment policies? In answering this question, first of all we cannot avoid describing the difficulties faced by the European Union in building an European labour market. These difficulties are partially linked to the fact that employment policies are in principle a competence of the Member States (art. 145 TFEU). However, the EU keeps, since the 1997 Amsterdam Treaty, the competence of coordinating the national employment policies through a regulative method (OMC) that excludes the use of binding regulatory sources,<sup>19</sup> it is based on the definition of quantitative objectives, mutual observation and peer revision. This method have produced remarkable results since 1997, notwithstanding the non-binding nature of the legal sources used by the EU to recommend to Member States the adoption of specific employment policies defined through guidelines, but during the economic crisis this method has demonstrated its limits.

It is important to underline the fact, that Member States adopt their employment policies following the common priorities and targets for employment policies defined by the European Commission and the European Council, through guidelines for the employment policies. The guidelines for the employment policies of the Member States are linked with the guidelines for the economic policies of the Member States and of the EU. Together, they form the integrated guidelines that underpin from 2010 the Europe 2020 strategy for smart, sustainable and inclusive growth. The integrated guidelines include four broad economic policy guidelines (nos. 1 to 4) and four employment guidelines (nos. 5 to 8) which are as follows

- Guideline 5: Boosting demand for labour;
- Guideline 6: Enhancing labour supply, skills and competences;
- Guideline 7: Enhancing the functioning of labour markets;
- Guideline 8: Fostering social inclusion, combatting poverty and promoting equal opportunities.

Since 2005, the employment guidelines have been integrated into the broad economic policy guidelines (BEPG), and Member States present their National Reform Programme to the Commission, where they describe their specific policies that they will implement to boost jobs and growth and prevent or correct imbalances, and their concrete plans to comply with the EU's Country Specific Recommendations.

The National Reform Programmes contain, which labour market policies Member states have adopted for the immigrants target, often as a reaction to the Country Specific Recommendations on the issue. If we analyse the recent National Reform Plans, we can find different national models as far as immigrant employment policies. In their National Reforms Plans some countries consider immigration as a problem, but at the same time also as a richness for their national labour markets.

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<sup>19</sup> J. ZEITLIN – P. POCHET (eds.): *Building Social Europe through the Open Method of Coordination*. Peter Lang, 2005.

Other countries do not even consider immigrants as a relevant issue in national labour market regulation.

In Austria, the Government Programme envisages the development of an overall policy for qualified migration. This includes making a clear distinction between different forms of immigration such as, for instance, qualified labour migration, EU mobility and asylum. The following measures will help to orientate legal migration increasingly towards the needs of Austria:

- reorientation of the Red-White-Red-Card taking into account the needs of the Austrian economy;
- regional revision of the list of skilled workers in shortage (Mangelberufsliste);
- setting up of an establishment permit for the purpose of vocational training;
- recasting and further development of the existing law on Employment of Foreign Nationals (Ausländerbeschäftigungsgesetz);
- restrictions for third-country nationals in the case of increased unemployment; and
- taking more account of German skills and cultural knowledge.<sup>20</sup>

At the same time, in order to raise women's employment rate, one of the country specific recommendations by the Council is that Austria should improve the educational achievements of disadvantaged young people, in particular those from a migrant background<sup>21</sup>.

The Belgian National Reform Programme seems to be oriented towards a more inclusive attitude regarding immigrants. First of all, in order to adopt specific employment policies towards immigrants, it is fundamental to have a precise knowledge of the phenomenon. It is significant that in 2014, European foreigners had an employment rate of 63,5% in Belgium, whereas the employment rate of third-country immigrants was 38,0%, and the unemployment rate of third-country immigrants was three times higher than of nationals. Between the reasons of this, immigrants' exclusion from the labour market the Belgian NRP indicates the fact that the Belgian economy requires high qualified jobs and in many cases immigrants have difficulties in having their diplomas or other academic titles recognised. Other exclusion factors are discrimination on the grounds of nationality, race or religion and the language barriers.

Belgium has been recommended by the Council in the Country Specific Recommendations for 2017 and 2018<sup>22</sup> to adopt measures in order to facilitate the entrance of the most disadvantaged groups in the labour market, including people with migrant background, in order to have equal access to quality education, vocational training, and the labour market and to remove disincentives to work and

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<sup>20</sup> Austria National Reform Programme, 2018., 17

<sup>21</sup> Country Specific REcommendation n. 2. In: Austria National Reform Programme, 2018., 7

<sup>22</sup> Recommendation for a COUNCIL RECOMMENDATION on the 2017 National Reform Programme of Belgium and delivering a Council opinion on the 2017 Stability Programme of Belgium Brussels, Brussels, 22.5.2017 COM(2017) 501 final; Recommendation for a COUNCIL RECOMMENDATION on the 2018 National Reform Programme of Belgium and delivering a Council opinion on the 2018 Stability Programme of Belgium Brussels, Brussels 23.5.2018 COM(2018) 401 final

strengthen the effectiveness of active labour market policies, notably for the low-skilled people with a migrant background and older workers.

In Denmark some labour market measures are directed specifically to refugees. Between the initiatives for persons on the margin of the labour market one is specifically directed to refugees in order to promote their labour market participation. In the spring of 2016, the Danish Government signed two agreements with Local Government Denmark (KL) and the social partners to achieve this aim by reinforcing local authorities' enterprise programmes and deploying them earlier in order to obtain faster integration of refugees through the labour market. Besides that a basic integration training programme (IGU) was introduced, by which over a period of two years a practical work experience and upskilling is offered to refugees whose qualifications are too low to sustain a job on ordinary Danish pay and employment conditions. Furthermore, the municipalities are enabled to take on local integration and employment ambassadors, who will help match refugees and companies, ensuring a better understanding of the employers' requirements.<sup>23</sup>

Sweden seems to be the European Member State, which has succeeded more (together with Germany) in attracting highly educated migrants not through the EU Blue Card scheme (only eight Blue Cards have been issued in Sweden between 2009-2016) and this is apparently due to the fact that the Swedish labour migration system is designed to address employers' needs and is based on wage and employment conditions being determined through collective bargaining<sup>24</sup>.

The Swedish National Reform Programme 2018 reports important challenges for the Swedish economy regarding establishing newly arrived immigrants in the labour market that it has taken up to ten years for half of newly arrived immigrants to become established in the labour market. According to the latest annual official statistics, things are now moving faster, since almost half (48.5 %) of immigrants arriving in 2011 had jobs after five years.

The Swedish Government is focusing on strengthening initiatives in the labour market for newly arrived immigrants by combining economic incentives for employers and training for immigrants. The number of types of subsidised employment has been slimmed down, simplified and made stronger, and new regulations had come into effect on 1 May 2018. There have been four forms of subsidised employment instead of five – Introduction jobs. Introduction jobs target people who are long-term unemployed or newly arrived immigrants. They can be flexibly combined with education and training, both to empower the individual, and to meet the skill requirements of employers.<sup>25</sup>

The Government and some of the social partners agree that entry 'agreements' should be introduced. Entry agreements are to enable newly arrived immigrants and the long-term unemployed to gain employment from an employer covered by a collective agreement on entry agreements.

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<sup>23</sup> Denmark's national reform Programme, 2018., 28.

<sup>24</sup> LUND op. cit.

<sup>25</sup> Sweden National Reform Programme, 2018. available in <https://ec.europa.eu/info/sites/info/files/2018-european-semester-national-reform-programme-sweden-en.pdf>, p. 21.

Entry agreements are based on a proposal from the social partners and entail an entirely new model for getting newly arrived immigrants and the long-term unemployed into work. The purpose is to integrate more people in the labour market, and to ease future skills supply for employers<sup>26</sup>.

Among the Government's initiatives to encourage more unemployed people to make the transition to education and training we have to highlight the introduction of an education and training obligation, which came into force on 1 January 2018. Under this obligation, all newly arrived immigrants who benefit from the Public Employment Service's Introduction Programme, and who are considered to be in need of education or training to get a job, can be referred to apply for, and undergo, education and training<sup>27</sup>.

Another measure is the 'Vocational introduction employment' that is based on collective agreements signed independently between the social partners. The target group for the agreements comprises certain young people, the long-term unemployed and recently arrived immigrants. At present, many of the existing agreements cover only certain young people, but it is likely that more agreements will be extended to cover the long-term unemployed and recently arrived immigrants<sup>28</sup>.

Among the examples of different migrant employment policies inside Europe, Sweden, in particular, is an example of how flexible employment policies for immigrants can meet employer's need, instead of general selective migration policy. The key factor is combining training initiatives (education and training obligation), Public Employment Service's and the involvement of social partners, who sign collective agreements defining entry conditions as far as wages, in order to avoid at the same time dumping practises and the expansion of black labour markets and to guarantee a full integration of migrant workers.

As a concluding remark we would like to underline that the functioning of the European employment strategy and the mechanisms of mutual observation should help the best practises described in this paper to spread throughout Europe, notwithstanding the fierce opposition of some Member States, and show a different way to cope with the migration phenomenon, shaping its dimensions.

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<sup>26</sup> Ibid. p. 22.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid. p. 47.