

The EU legal migration package - Towards a rights-based approach to attracting skills and talent to the EU¹

ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, assesses the European Commission's 2022 legal migration package on effectiveness, efficiency, legal and practical coherence, and fundamental rights compliance. The study finds that a more coherent and ambitious rights-based legal migration agenda is warranted. In the EU struggle for skilled and talented third-country national workers, social obligations, climate change, and sustainable growth cannot be disregarded.

Background

The European Commission's *Legal migration package: Attracting skills and talent to the EU* of April 2022 is a next step in the road map on legal migration into the EU and the object of this study. The package consists of three pillars: first, a legislative pillar presenting recasts of two Directives: the Single Permit Directive and the Long-Term Residence Directive. The aim is to simplify migration procedures and to improve migrant workers' rights. Secondly, there is an operational pillar for supporting better matching of skills and needs for the EU and partner countries, which develops Talent Partnerships with countries of origin and an EU Talent Pool, to better match EU employers and third-country national (TCN) workers. Thirdly, the package presents a forward-looking pillar with so-called key priority areas of exploring potential avenues for legal migration in the medium to long term. These avenues concern labour migration for care, of youth and for innovation.

Aims of the Study

The aim of this study is to map and assess the European Commission's proposals as to their effectiveness, efficiency, legal and practical coherence, and fundamental rights compliance. Furthermore, the aim is to identify missing legal and policy options and present alternative choices closely related to the proposals.

Key Findings

The Commission's Legal Migration Package is an important step in improving the legal migration acquis. Yet, our in-depth analysis of the Package as to the proposals' effectiveness, efficiency, legal and practical coherence, and fundamental rights compliance leaves room for improvement.

¹ Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/739031/IPOL_STU\(2022\)739031_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/739031/IPOL_STU(2022)739031_EN.pdf)



A clear narrative on sustainable rights-based migration policy is missing

The European Commission makes a strong case for labour migration for demographic, political, and economic reasons. A socially sustainable policy would need to draw from intersecting policy fields relating to a wider societal well-being in the EU Member States as well as countries of origin, today as well as taking into account the needs of future generations. **Sustainability for TCN migrants needs to be defined in terms of rights and prospects.** We see improvement in respect of the rights and prospects, but more can be offered. Were the improvements to be deleted during the inter-institutional negotiations, we would strongly question the social sustainability agenda of the European legislature.

Coherence at all levels can be improved

Coherence **within the legal migration acquis** can be improved. Especially the recently adopted revised Blue Card Directive has much more to offer in respect of efficient procedures, proportionality and individual assessments, migrant rights' including rights of family members and rights to remain in the EU. Coherence within the package is missing as, for instance, the Talent Partnerships are not integrated in a coherent way in the Single Permit Directive.

A coherent and rights-based **intersection of legal migration pathways and international protection is missing.** Beneficiaries of international protection and beneficiaries of temporary protection remain excluded from the scope of the Single Permit Directive, which makes the system incoherent, inefficient, and not as rights-based as it claims to be. We also see opportunities for more coherence in offering forcibly displaced TCNs access to the Talent Pool and developing Partnerships targeting such populations. The efforts of the European Commission to pilot the Talent Pool with Ukrainian displaced persons in a few EU Member States is to be praised. Yet, we have pointed out that **measures are needed to secure the legal employment of Ukrainians** in case the temporary protection status ends by a Council Decision or expiration of the three-year protection. The successful inclusion of many forcibly displaced Ukrainians on the European labour market would come to an end were the Reception Conditions Directive to apply unchanged, it could put their right to access the labour market on hold.

A coherent **intersection with other fields of EU law, such as the social pillar of rights**, can be improved. In terminology, in awareness of the social rights of (irregularly staying) TCN migrant workers, as well as in the enforcement of these rights, the Employer Sanctions Directive and the Seasonal Workers Directive have more to offer than the proposed Single Permit Directive. Aligning the legal migration acquis with the social rights, such as the Directive on transparent and predictable working conditions and the recently adopted Minimum Wage Directive would improve efficiency and effectiveness of enforcement of the social rights and the protection of migrant workers against abusive working relations.

Benefit from (long-term) care workers already present in the EU territory

We also brought forward the **need to benefit from (long-term) care workers** already present in the EU territory, yet without legal residence. This can be done by, for instance, allowing applications from within the EU territory for (long-term) care work or other shortage occupations. Many so-called 'undocumented' irregularly staying migrants offer care services to families and elderly people in need in the EU. And although some of the social rights directives apply to them, there is little awareness of their rights nor is their security of residence, opportunity to reunite with their family, or to build-up rights towards more permanent residence in the EU guaranteed. They have sought-after care skills and their endeavour to care for Europeans, in jobs Europeans prefer not to perform, should be rewarded with legal residence.

Ways forward to improve enforcement

The European Commission could have initiated infringement procedures to enforce Member State compliance and it could recast the two Directives to this end. It has chosen the latter, for now. We recommend expanding the reporting obligations of the Member States in the two recast proposals towards better monitoring and, if needed, better enforcement using the tool of infringement procedures in the future.

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This document is available on the internet at: www.europarl.europa.eu/supporting-analyses

PE 739.031

IP/C/LIBE/FWC/2018-086/LOT 2/C2

Print ISBN 978-92-848-0252-4| doi: 10.2861/717| QA-07-23-109-EN-C

PDF ISBN 978-92-848-0250-0| doi: 10.2861/716725| QA-07-23-109-EN-N