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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
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Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL  
Enhancing legal pathways to Europe: an indispensable part of a balanced  
and comprehensive migration policy  
*- A contribution from the European Commission to the Leaders' meeting in  
Salzburg on 19-20 September 2018*

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Delegations will find attached document COM(2018) 635 final.

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**Enhancing legal pathways to Europe: an indispensable part of a balanced and  
comprehensive migration policy**

*A contribution from the European Commission to the Leaders' meeting in  
Salzburg on 19-20 September 2018*

*“I want to promote a new European policy on legal migration. Such a policy could help us to address shortages of specific skills and attract talent to better cope with the demographic challenges of the European Union. I want Europe to become at least as attractive as the favourite migration destinations such as Australia, Canada and the USA. As a first step, I intend to review the “Blue Card” legislation and its unsatisfactory state of implementation.*

*I also believe that we need to deal more robustly with irregular migration, notably through better cooperation with third countries, including on readmission.”*

*Political guidelines for the next European Commission, Jean-Claude Juncker, Candidate for President of the European Commission, 22 October 2014*

## **1. INTRODUCTION**

Global migration and mobility already are and will continue to be inherent features of the 21st century. In this context, the EU is committed to continue taking all the necessary steps to achieve a fair and balanced EU migration policy, founded on common values, and which effectively manages both irregular and regular migration flows in a comprehensive manner. In its June 2018 conclusions, the European Council reconfirmed that a precondition for a functioning EU migration policy is a comprehensive approach, where actions both on the internal and external sides go hand in hand to ensure an effective control of the EU’s external borders, a firm return policy and a well-managed legal migration and asylum policy.

The common efforts tackling irregular migration flows have led to solid progress. The same political determination is also needed when it comes to developing legal pathways to Europe, which requires a stepping up of efforts. Controlled legal migration, whether for humanitarian reasons or based on labour market needs, is and should remain an indispensable part of a balanced and comprehensive migration policy, as also set out in the European Agenda on Migration<sup>1</sup>. This entails putting in place a more efficient legal migration policy which is able to factor in the needs of the European economy. It also entails reinforcing our cooperation with third countries, including through the ongoing need to offer safe and controlled pathways through resettlement. Last but not least, carrying legal pathways through to the end means ensuring effective integration policies for those third-country nationals staying legally in the EU.

In a steadily improving EU economy, one policy imperative must be the full activation, training and upskilling of the EU workforce. But for the EU to remain competitive in the global economy it also needs to attract qualified and talented people from around the world - while fully respecting Member States' national competences in deciding how many labour migrants coming from third countries to admit to their territories.

We therefore need to step up our work on legal pathways. We need to take forward essential measures such as the reform of the EU Blue Card proposed by the Commission, which would improve the EU’s ability to attract and retain highly skilled third-country nationals, turning this targeted migration into an opportunity and benefit for the economy and society. We need to make legal pathways a compelling part of our partnership approach with third countries. We cannot neglect this indispensable part of the comprehensive approach.

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<sup>1</sup> Commission Communication on "A European Agenda on Migration" of 13.5.2015, COM (2015)240 final.

## **2. LEGAL PATHWAYS: KEY ELEMENTS FOR BETTER MANAGED MIGRATION**

Since 2003, the EU has developed a broad range of instruments to put in place a common framework for the management of legal migration, while Member States remain competent to determine the number of labour migrants to be admitted from third countries. This framework offers a number of opportunities for third-country nationals who wish to benefit from legal migration to Europe, namely as workers, including the highly skilled ones, students or researchers, as well as through family reunification. An overall evaluation of the Union legislation on legal migration has been carried out in the last two years under a fitness check and the Commission will publish the results of this evaluation at a later stage. With this in mind, this Communication does not address all legal pathways but focuses on the humanitarian avenue of resettlement and the avenues for labour migration.

### **2.1 Labour migration and the Blue Card**

Well-managed labour migration would not only help reduce the incentives to use irregular routes but at the same time will enable the EU to attract the right mix of talent and skills and to match admissions with labour market needs, contributing to the overall prosperity of the EU.

Labour migration policy and integration strategies in Europe should be conceived and designed in full synergy with existing labour market contexts, as well as with social policies and institutions. As the world of work keeps changing, it is essential to design policies which are responsive to labour market needs and allow for a common approach across government services in the EU.

With the Commission's proposal to establish a European Labour Authority<sup>2</sup>, the EU can go a step further in improving the cooperation and coordination between national labour market authorities, in order to facilitate the management of a more integrated European labour market. The Authority will, in the first instance, cover a number of existing tools and structures related to cross-border mobility, such as EURES (the European job mobility portal), European social security coordination and the European health insurance card. Its activities will cover third-country nationals who are legally resident in the Union, such as EU Blue Card holders, intra-corporate transferees or long-term residents and their families. The Authority will also draw on available expertise on employment trends and skills forecasting to perform labour market analyses. This will help inform on sectors and occupations where there are labour market shortfalls across Europe.

The case for enhancing legal pathways to Europe is even more valid and urgent today in the light of recent and future trends.

In recent years, thanks to efforts at all levels, Europe has benefitted from robust growth and strong job creation. Unemployment in the EU is at its lowest in a decade, and the number of people employed has reached an all-time high. While this is still not felt evenly across Europe, there are a rising number of unfilled vacancies in several Member States and evidence of structural skill shortages in some economic sectors, such as the Information and Communication Technology, or health, as well as in specific occupations<sup>3</sup>. The share of employers reporting

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<sup>2</sup> COM (2018)131 final.

<sup>3</sup> In the first quarter of 2018, there were at least 3.8 million unfilled vacancies in the EU as a whole, while the job vacancy rate (the proportion of vacant posts to total posts) has been steadily increasing since 2012, reaching 2.2% in Q1-2018, (being close or higher than 3% in Member States such as Czech Republic, Belgium, Germany, Sweden, the Netherlands and Austria). Source: Eurostat, Job vacancy statistics.

difficulties to fill jobs is on the rise, reaching on average more than 40%, and is even higher than 50% in Germany, Poland, Slovakia and Hungary<sup>4</sup>. The occupations with the most common shortages include skilled trades, engineers, technicians and IT professionals, but also occupations requiring less formal skills such as sales representatives and drivers<sup>5</sup>.

These trends will have an increasing impact in the future as the EU is facing a gradual shrinking of its working-age population (15-64). This is expected to intensify: as a result of demographic ageing, also taking into account recent migration trends, the working age population is projected to decline by around 22 million (a reduction of 7%) in the next two decades. Even if a higher participation of women and older workers in the labour market is likely to compensate for this trend in part, projections<sup>6</sup> in terms of overall labour force point in the same direction: in the near future (over the period 2015-2035), it is estimated that the labour force in the EU will decrease by 18.3 million (a reduction of 7.4%)<sup>7</sup>.

At the same time, the demand for specific skills is likely to increase and change in line with societal and technological developments. For instance, it is expected that the demand for high-level qualifications will outpace the labour supply, as 43% of jobs forecasted to be created over the period up to 2030 will require a high level of education. Job openings up to 2030 are expected to be high for occupations such as business and administration professionals, but also for occupations that are traditionally considered as medium skilled, such as sales workers, cleaners and helpers<sup>8</sup>. While a priority for the EU is to tap even better into existing talents and human capital, notably through training and upskilling of the domestic workforce, also a well-managed labour migration can help fill some current and future needs of the EU labour market.

This situation is not specific to Europe. However, at the moment the EU is not ideally placed nor presently equipped to attract the labour migrants that it needs. So far, the EU has been less competitive than other OECD countries – the EU's most obvious competitors in terms of economic profile – in attracting workers, punching well below its weight, in particular in terms of attracting highly skilled migrants. Of all migrants residing in OECD countries in 2015-16, only 25% of those with a high level of education chose an EU destination, while 75% chose a non-EU destination (mainly US, Canada, Australia), see Chart below.

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<sup>4</sup> Manpower Talent Shortage Survey (2018 Q3).

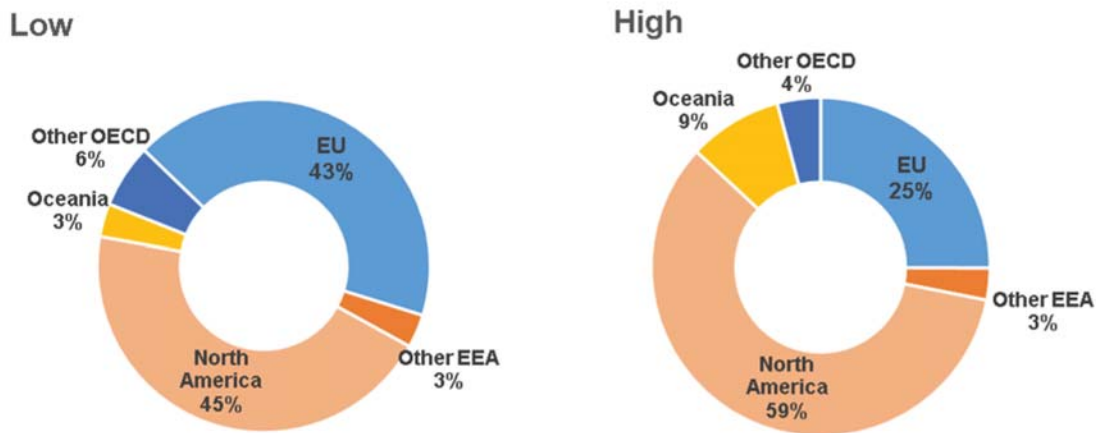
<sup>5</sup> Ibid.

<sup>6</sup> According to the CEPAM Medium (SSP2) scenario in terms of demographic behaviours and migration, European Commission (2018) Joint Research Centre, Demographic and Human Capital Scenarios for the 21st Century: 2018 assessment for 201 countries, Wolfgang Lutz, Anne Goujon, Samir KC, Marcin Stonawski, Nikolaos Stilianakis.

<sup>7</sup> While increasing participation rates among women and older workers may delay this effect, the overall labour force will inevitably decline in the long-run in EU and all its Member States. ESDE 2017, Chapter 3, Intergenerational fairness and solidarity today and challenges ahead, <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8030&furtherPubs=yes>

<sup>8</sup> According to 2018 CEDEFOP projections up to 2030. They also provide estimations by broad economic sector: while employment will continue shrinking in the primary sector and stagnating in the manufacturing sector, it will increase quickly in 'business and other services' and moderately in 'distribution and transport' sector and to some extent in 'non-marketed services'.

**Distribution of foreign-born residents with low versus high level of education,  
by OECD destination countries, 2015-16, in %**



Source: Database on Immigrants in OECD countries (DIOC), 2015-16. Note: EU refers to EU-28 without Croatia due to missing data. For Iceland, Japan, New Zealand and Turkey, data are from DIOC 2010-11. For the EU, only non-EU immigrants are included.

Over the last few years only around 50,000 workers per year have been admitted under highly-skilled schemes (Blue Card or national schemes)<sup>9</sup>, which represent 5% of all work-related permits. In relative terms, this is much less compared to other OECD countries such as the US, Canada, Australia or New Zealand. Currently, the number of third-country nationals admitted in the EU under schemes for highly-skilled workers represents around 0.01% of the EU's total population, while in Canada the 150,000 economic migrants arriving each year make up around 0.4% of the total population and the 120,000 economic migrants coming to Australia each year make up around 0.5% of the population<sup>10</sup> (in those two countries, most of long-term economic migrants are admitted under "Expression of Interest" systems)<sup>11</sup>. This shows that Europe's legal migration policies have not been particularly strategic and pro-active, nor particularly in tune with its labour market needs.

While Member States remain competent on volumes of labour migrants to admit from third countries, the EU has a single market, and it should therefore also act as a single player towards the outside world to create economies of scale and hence better compete with other major destinations for attracting skilled, and particularly highly skilled, workers. For the benefit of Europe, more should be done at European level in terms of improving job matching, recognition of foreign qualifications and facilitating labour mobility of migrants across the single market.

In the EU, special rules have been put in place to attract highly-skilled migrants. However, it is clear that the 2009 EU Blue Card scheme fails to reach its potential as the EU-wide scheme for

<sup>9</sup> This number includes around 10,000 third-country nationals admitted under national schemes in the three EU countries which are not bound by the Blue Card Directive (Denmark, Ireland and the United Kingdom).

<sup>10</sup> Source: EPSC Brief (2018, *forthcoming*) "Towards a new paradigm of legal labour migration". For Canada: this refers in large majority to foreign workers admitted via point system for skilled migrants; for Australia: mostly under point system or employer sponsored. These figures also include accompanying family members.

<sup>11</sup> These models to manage labour migration ensure a pre-selection by creating a pool of pre-screened migration candidates, allowing for better job matching. A study has been carried out by the OECD on these schemes, also assessing to what extent they, or some of their elements, could be appropriate in the EU context.



attracting talented and highly-skilled third-country nationals it was meant to be<sup>12</sup>. The admission conditions agreed in 2009 are overly restrictive, the Directive provides for little coherence and harmonisation, and more importantly intra-EU mobility for the EU Blue Card holders is very limited. Essentially, there is no single EU Blue Card scheme, as a variety of national schemes for the highly-skilled exists in parallel with the EU Blue Card, creating a fragmented framework with many different applicable rules and procedures.

That is why, already more than two years ago, the Commission put on the table a proposal – the reform of the EU Blue Card Directive<sup>13</sup> – to improve the rules on attracting highly-skilled migrants. The overall aim is to make the EU Blue Card more attractive by providing for a single EU-wide scheme with more flexible admission conditions, and improving and facilitating the admission procedures. In particular, the proposal enhances intra-EU mobility by facilitating the procedures for both short-term (short business trips of up to 90 days between Member States) and long-term mobility; it lowers the salary threshold by creating a flexible range within which Member States can adjust the threshold to their labour market contexts; and it foresees better conditions for recent third-country national graduates and workers in areas with a labour shortage. Furthermore, the proposal strengthens the rights of both the Blue Card holders (allowing for quicker access to long-term residence status, immediate and more flexible labour market access) and their family members (ensuring they can join the EU Blue Card holder simultaneously), which should make the EU a more attractive destination for the highly-skilled employees which our economy needs. In addition, under the new Blue Card scheme, highly-skilled beneficiaries of international protection would also be able to apply for a Blue Card.

However, the inter-institutional negotiations on the reformed Blue Card proposal are presently stalled. Whilst the European Parliament has embraced the objectives and the approach set out in the Commission's proposal, in the Council the position of the Member States has been divided and so far it has not been possible to reach common ground in a way that would bring meaningful added-value to the present unsatisfactory framework.

The Commission calls on the Council to swiftly agree on a position realising a real added-value compared with the current Blue Card in line with the objectives set in the Commission's proposal. This will permit the resumption of negotiations with a view to reaching an ambitious agreement with the European Parliament so as to ensure the **adoption** of the **Commission's proposal reforming the EU Blue Card Directive before the European Parliament elections**.

## 2.2 Resettlement

Resettlement of third-country nationals or stateless persons is an important humanitarian avenue that can be offered to displaced persons in need of international protection to allow them to enter the European Union legally and safely. It is an integral part of the wider objective of ensuring that protection can be offered to those in need through safe and legal channels instead of by taking irregular and dangerous journeys. Those safe and legal channels also undermine the business model of smuggling networks and contribute to the reduction of irregular migration. Resettlement is also a tool of international solidarity and responsibility sharing with third countries to which large numbers of persons in need of international protection have been displaced.

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<sup>12</sup> In 2017, it is estimated that the 25 EU Member States where the EU Blue Card Directive applies issued around 11,500 Blue Cards (as first permits, i.e. excluding status changers already residing in the EU before), compared to around 28,500 permits issued under national schemes for highly skilled workers. Overall, the number of permits issued to highly skilled workers by EU Member States remains limited.

<sup>13</sup> COM(2016) 378 final.

EU resettlement initiatives taken collectively with Member States over the past few years have yielded good results and contributed to strengthening the Union's partnerships and solidarity with third countries. Since 2015, the EU resettlement programmes have helped 38 000 of the most vulnerable find shelter in the EU. Moreover, Member States made the largest commitment on resettlement the EU has ever seen through the new resettlement scheme put in place at the EU level in September 2017. This will benefit more than 50 000 people, and is supported by EUR 500 million from the EU budget. The first eight months in the implementation of the scheme have shown good results, with over 13 200 persons already resettled from priority regions. It is important to continue and further reinforce Member States' political commitments and turn them swiftly into reality.

In parallel, a structured EU framework for resettlement should be put in place. That is why, as part of the overall reform of the Common European Asylum System, in July 2016 the Commission proposed a Union Resettlement Framework Regulation. This would for the first time put in place a permanent framework to pool European resettlement efforts more systematically and facilitate delivery of resettlement commitments, based on common standards. It is essential that negotiations be concluded swiftly by the European Parliament and the Council so that this instrument can be adopted soon.

Resettlement efforts can be further enhanced by the development of other legal pathways. In this respect, private sponsorship schemes in particular could complement the existing safe channels for admission to the EU of those in need of international protection and ensure better social integration. The outcome of a study on the feasibility of such schemes<sup>14</sup> confirms that they can contribute to meeting the goal of promoting safe and legal channels of admission, while actively involving civil society and local communities and thus increasing the public engagement in the area of international protection and integration. Moreover, private sponsorship also has the potential to facilitate the integration of beneficiaries by providing additional resources at individual and community level.

The Commission will consider ways in which Member States could be best supported in establishing and/or expanding private sponsorship schemes. This could be achieved, for example, by promoting soft measures such as training programmes, capacity building, toolkits and operational guidance, and peer-learning activities and/or by targeted funding possibilities.

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| <ul style="list-style-type: none"><li>• The Commission calls on Member States to step up their efforts to implement the 50 000 pledges under the <b>current EU resettlement scheme</b>.</li><li>• Following the significant progress that has been achieved in the trilogue discussions with the European Parliament and the Council, these discussions need now to be concluded and <b>the Union Resettlement Framework Regulation should be swiftly adopted</b>.</li></ul> |
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### 2.3 Cooperation with third countries

Legal pathways are equally an important element for the EU to strengthen its cooperation with third countries and they should contribute to a coordinated, holistic and structured approach to migration, maximising the synergies and applying the necessary incentives and leverages. Acting jointly, the EU can have a stronger position vis-à-vis third countries in cooperation on migration management. In line with the Partnership Framework approach developed by the EU in the past years, legal migration should be fully integrated into the EU external dimension. Enhanced and tailored cooperation on legal migration with third countries of origin and transit

<sup>14</sup> See the European Commission's Study on the Feasibility and Added Value of Sponsorship Schemes as a Possible Pathway to Safe Channels for Admission to the EU, Including Resettlement (2018).



of migrants will help reduce irregular migration by offering safe and legal alternatives for persons wishing to migrate; it will contribute to bridging gaps in certain sectors of Member States' labour markets; and will be an incentive to facilitate cooperation on issues such as prevention of irregular migration, readmission and return of irregular migrants. Enhancing legal pathways is also an important complement to the *Commission Communication on a new Africa-Europe Alliance for Sustainable Investment and Jobs: taking our partnership for investment and jobs to the next level*.<sup>15</sup>

In this context in the last few years, the EU has actively promoted the legal migration components of the external migration policy complementing its broader external and development engagement. This has been in particular with - but not limited to - African countries: first in the context of the Joint Valletta Action Plan<sup>16</sup> and, more recently, by coordinating the development by Member States of pilot projects with selected African countries, promoting legal migration schemes for labour or traineeship purposes, with EU financial support. However, there have been challenges in this process, mainly due to Member States' reticence to fully implement the agreed concept and launch concrete projects.

The link between migration and mobility policies, on the one hand, and trade policies, on the other hand, is also important, particularly in the services sector, whereby individuals invest and provide services on the other party's territory. Facilitating their mobility is key to reaching meaningful trade deals with third-countries in the area of services, based on reciprocity, where the EU increasingly has a competitive advantage.

The Commission will continue to strengthen synergies between these different policies, in particular regarding service providers, by both facilitating the issuance of short-stay and long-stay visas.

The Commission calls upon Member States to **fully engage and cooperate** on developing **pilot projects on legal migration with specific African countries**, as well as with other third-countries in the future, with the aim of launching the first projects by the end of the year. The Commission will continue to support Member States in this endeavour, through funding and practical coordination, as an important incentive for cooperation on overall migration management, including on return and readmission.

## 2.4 Integration

Finally, better migration management can only be achieved if the EU and its Member States also enhance efforts on the integration of third-country nationals staying legally in the EU, engaging all relevant levels of government and civil society. In the proposed Multiannual Financial Framework, the Commission aims to increase financial support for integration measures and to strengthen the involvement of a number of stakeholders including economic and social actors at all levels.

Whilst responsibility for integration lies primarily with the Member States, in the 2016 Action Plan on Integration the EU included measures to support Member States in further developing and implementing effective actions, across all relevant policy areas, to improve integration<sup>17</sup>. The implementation of the EU Action Plan on Integration has already delivered results on many fronts. For instance, the Commission has launched concrete initiatives to specifically promote labour market integration, involving employers as well as economic and social partners.

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<sup>15</sup> COM(2018) 643 final.

<sup>16</sup> [https://www.consilium.europa.eu/media/21839/action\\_plan\\_en.pdf](https://www.consilium.europa.eu/media/21839/action_plan_en.pdf)

<sup>17</sup> COM(2016) 377 final.

In particular, in May 2017, the Commission launched the 'Employers for integration' initiative to promote employers' efforts aimed at fostering integration of third-country nationals in the labour market<sup>18</sup>. The Commission has also established a European Partnership for Integration with social and economic partners at European level to work more closely together to promote a faster and more effective integration of refugees in the European labour market<sup>19</sup>. In addition, there is increased support to local and regional authorities, in particular, through the Urban Agenda Partnership on the Inclusion of Migrants and Refugees. In this context, a successful pilot on the Urban Academy on integration was launched in April this year to train local practitioners on a number of integration aspects and policies at local level. Finally, additional financial support has been recently made available to further support concrete actions by the Member States in this area. The Commission has also launched a Skills Profile Tool<sup>20</sup> to support Member States in the early profiling of skills and qualifications of non-EU nationals, which helps identify individuals' specific needs for integration in the labour market and simplify the process of matching job-seekers to vacancies.

Integration remains crucial to ensure social cohesion as well as economic performance, by promoting and respecting the EU fundamental values, and by avoiding that skills and competences are wasted or under-used. In this regard, eliminating the current employment gap between third-country nationals and EU nationals could improve fiscal balances in several Member States<sup>21</sup>.

The Commission calls upon Member States to **continue investing in integration policies** targeting all legally staying migrants, with increased, better targeted and more coordinated **EU financial support** as proposed in the next Multiannual Financial Framework, which needs to be adopted swiftly, as well as with the involvement of all relevant stakeholders at all levels, including economic and social actors.

### 3. WAY FORWARD

A comprehensive approach to migration is essential for replacing irregular and unsafe pathways with legal, orderly and safe channels for those in need of protection and attractive and efficient channels for those needed on our labour markets. The EU needs to act swiftly, effectively and collectively to make this a reality. The Commission is committed to fully play its part in the implementation of this comprehensive approach.

The Commission calls in particular on the Council and the Member States to deliver on three key elements to enhance legal pathways in the short term:

- Agree on a position that achieves an attractive and efficient EU Blue Card scheme;
- Deliver on the 50 000 resettlement pledges and agree on the Union Resettlement Framework;
- Swiftly develop and launch pilot projects on legal migration with countries from Africa and other partner countries which show a commitment to partnership in migration management, including in relation to readmission of irregular migrants.

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<sup>18</sup> [https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/european-dialogue-skills-and-migration/integration-pact\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/european-dialogue-skills-and-migration/integration-pact_en)

<sup>19</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220\\_european\\_partnership\\_for\\_integration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220_european_partnership_for_integration_en.pdf)

<sup>20</sup> <https://ec.europa.eu/migrantskills/#/>

<sup>21</sup> OECD (2013) International Migration Outlook.

In addition, the Commission calls upon the European Parliament and the Council to adopt the reformed Blue Card Directive and the Union Resettlement Framework before the European Parliament elections of 2019.

Looking further ahead, work also needs to continue on fully modernising and adapting the EU's legal migration policy to the current and future needs of the European Union. To that end, the Commission will launch a high-level consultation process with all stakeholders based on the findings of the "fitness check".