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European Commission  
Directorate General for Migration and Home Affairs  
Unit B1 – Legal Migration and Integration  
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**CFGIs Written Contribution to the Consultation on the EU's Legislation on the Legal Migration of Non-EU Citizens**

The Council for Global Immigration\(^1\) (CFGI) submits this written contribution to elaborate on our response to the questionnaire on legal migration to the European Union (EU). We welcome this opportunity to assess the relevance, coherence, effectiveness, efficiency, and added value of the EU's legal migration framework. Our contribution focuses on the framework’s effectiveness because this quality encapsulates the others.

As a global network of employers, CFGI recognizes how effective labour migration policies can boost growth and competitiveness. We support recent EU efforts to attract and retain highly skilled migrants and encourage the European Commission to continue to pursue this goal. Our contribution discusses the economic value and role of migration policy, identifies guiding principles for ensuring labour migration systems are effective for employers, and provides commentary on our questionnaire responses.

**About CFGI**

Founded in 1972, CFGI is a U.S.-based nonprofit trade association that advances employment-based migration of highly skilled professionals around the world. Our membership consists of over 240 leading multinational corporations, universities, and research institutions. We work closely with the professionals that are responsible for developing strategies to access global talent and for ensuring their organizations comply with migration laws. Several of our members have operations in Europe and we have developed a member working group to discuss challenges and share best practices for managing migration and compliance in the continent. We are a strategic affiliate of the Society for Human Resource Management (SHRM), the world’s largest HR professional society, representing 285,000 members in more than 165 countries. Together, CFGI and SHRM comprise an expansive global network of employers with practical knowledge of what it takes to manage migration compliance.

We have represented employers in international policy forums, including the B20, the Global Forum on Migration and Development (GFMD), the International Labour Conference, the Organisation for Economic Co-operation and Development (OECD), and the United Nations,
among others. As a member of the Commission’s Expert Group on Economic Migration, we have monitored recent policy developments in EU and have participated in several consultations related to the revision of the Blue Card Directive. Our global experience and practical knowledge endow us with a unique understanding of how migration policies impact the workplace.

**Labour Migration is Part of a Broader Skills Strategy**

Employers know the importance of effective labour migration policies. According to our latest *Employer Immigration Metrics Survey*, 74 percent of employers report that the ability to obtain work visas or permits in a timely, predictable, and flexible manner is critical to their business objectives. Migrants bring skills that mitigate gaps in the local labor market as well as introduce new ideas and perspectives. They help business compete, innovate, and expand.

We realize, however, that migration policy is one just component of a sustainable and comprehensive EU workforce strategy. Such a strategy must also include an array of programs and public-private partnerships, including: investment in education and training to prepare workers for the jobs of today and tomorrow; inclusion of groups that are currently underrepresented in the labour market; and, initiatives to encourage voluntary adoption of flexible and family-friendly work policies. When migration is part of a broader skills strategy, EU workers are better positioned to take new jobs created by business expansion. As the EU develops migration policies, it is necessary to explain to skeptical publics how migration plays an important, but complementary, role in bolstering economic competitiveness and growth for all.

**CFGI’s Principles for Labour Migration Policy**

CFGI’s global advocacy is informed by our *Principles for Reform*, which outline the migration policies employers need to compete. They call for a migration system that is:

- **Fair**, by adopting policies that protect and develop the local workforce;
- **Innovative**, by providing solutions that increase system effectiveness and predictability; and,
- **Competitive**, by creating and boosting economic growth and innovation.

Though developed for the U.S. context, our *Principles* are applicable to all countries around the world and closely align with recent migration policy recommendations developed by the global business community. An EU framework for labour migration that ensures fair, innovative, and competitive policies will be effective for employers.

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2 CFGI is an active participant in the **GFMD Business Mechanism** – a group of businesses and associations that engages with governments on global migration policy – and leads its working group on the cross-border movement of workers. In June, the Business Mechanism recommended **areas for action** for governments to consider as they negotiate a **global compact for safe, orderly, and regular migration**. Three of these recommendations, which were informed by a survey of over 210 global organisations as well as consultations with employers and associations, are particularly relevant to this consultation:

1. Migration policies should be timely and flexible to accommodate new and longstanding business models, but also predictable and transparent so that employers can effectively manage compliance.

2. Employers can be a valuable partner in identifying skills needs and establishing frameworks for assessing foreign qualifications. Policies should avoid rigid qualification requirements and skills definitions, trusting employers to identify the most-qualified candidate.

3. Migration policies should foster family unity by creating accessible pathways for accompanying family to obtain work authorization.

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Commentary on Section 10: The EU’s Attractiveness and Migration Policy Context

The first four questions of section ten address attracting select labour migrants and the appeal of the EU as a destination for global talent. With the largest economy in the world, the EU’s single market is inherently attractive to migrants of all backgrounds and professional aspirations. However, the EU cannot rely solely on its economy to attract migrants. Labour migration policy is one lever for the EU to do more to attract highly skilled workers, researchers, students, and entrepreneurs.³

The next eight questions ask what policy actions the EU can take to better attract highly skilled migrants. There is not a single policy solution to this question; rather, there is a complementary set of actions. Here, employer experiences and perspectives are instructive because employment is one of the most salient factors in attracting migrants.

Developing Labour Migration Rules at the EU level

We understand the challenge of balancing labour migration policymaking between the EU- and national-levels – an issue at the heart of the Blue Card Directive revision. Employers benefit from EU-level legislation when it promotes harmonized policies across Member States. By unifying application procedures, validity periods, and other elements, EU policies can create a more transparent and predictable system for employers and simplify compliance. Parallel policies at the national-level, however, can give employers more options and flexibility to manage their talent needs. To achieve an optimal balance, the EU should permit parallel national schemes, but it should also promote EU schemes by pursing policies that maximize their competitive advantage, such as harmonization.⁴

Recognizing and Assessing Foreign Qualifications

Ideally, migration systems should defer to employer assessments of qualifications. When hiring, employers rigorously evaluate a pool of candidates and are best equipped to determine who is most qualified for a position. The process of recruiting and hiring an employee can also be expensive; survey data from SHRM shows that the average cost per hire is $4,129 in the United States. Add this to the cost of complying with migration laws and employers have a strong incentive to hire the most qualified candidate regardless of nationality. EU-level action in this area should advance policies with flexible qualifications or skills requirements, trusting employers to hire qualified candidates.

Improving Application Processes and Migration Administration

Employers frequently report challenges with time-consuming and cumbersome application processes. We support recent EU actions to reduce processing times and introduce “trusted employer” programs that streamline and expedite migration processes for compliant employers,

³ There are other policy levers to attract these groups of migrants that are outside the scope of this consultation, such as tax and enterprise policies.
⁴ We also advanced this approach in a joint letter with the Trans-Atlantic Business Council to committees of the European Parliament about the revision of the EU Blue Card Directive.
conserving administrative resources for other Member State priorities. Initiatives to increase the availability of information about migration processes would also be helpful. Further EU action in this area should ensure that Member States administer timely, predictable, and transparent migration systems.

The next six questions in section ten relate to the rights and equal treatment of migrants. CFGI strongly believes that labour migrants and EU-nationals must receive equal treatment. This is a necessary precondition to building public trust in migration systems and countering stereotypes about migration. That said, the efficacy of EU legislation in this area and extent to which such rights are being protected throughout the EU is beyond our current expertise.

Creating additional pathways for regular migration – the matter of the final question in this section – can not only help reduce irregular migration, but also promote safe and humane migration.

**Commentary on Section 11: New Categories of Migrants for Common EU Rules**

Assuming common EU rules can foster effective policies, new labour migration categories would benefit employers by creating a more competitive system. New modes of work are permeating the workplace and an expansion of categories can help the EU prepare for the future of work. As noted previously, the development of new categories can also help reduce irregular migration.

If the EU elects to develop new categories, it will need to determine which it pursues first. A pragmatic approach to prioritizing the development of categories would be to address the least politically sensitive issues first and build public trust in the system. This approach would need to be balanced with the reality that some categories, however politically sensitive, may require urgent action.

**Commentary on Section 12 and 13: Intra-EU Mobility**

We have previously argued that the EU should pursue labour migration policies that maximize its competitive advantage. Developing schemes with intra-EU mobility is a key area where the EU holds a competitive advantage over national schemes. The intra-EU mobility provisions of the intra-corporate transfer Directive and the Commission proposal to revise the Blue Card Directive should serve as a model, if not baseline, for future policy development. Intra-EU mobility allows employers to approach the EU as a unified labor market and more efficiently manage compliance. It also fosters a more timely and predictable migration system.

**Commentary on Section 14: Family Reunification**

Managing family reunification is an important factor in developing an EU migration framework that attracts highly skilled migrants. By extension, policy actions in this area can foster a more competitive migration system.

In determining which types of family members are entitled to family reunification, the EU should...
assess the nature of the relationship. Registered or other long-term partners are not materially
different from spouses and should certainly be entitled to reunification. All dependent family
members should be also entitled to reunification for humanitarian reasons. As a practical matter,
the EU would need to clearly define the concept of dependency and evaluate applications on a
case-by-case basis.

Partner Work Authorization

The inability of a partner or spouse to work is a major obstacle employers face when professionals
move internationally for work. Brookfield Global Relocation Service’s 2016 Global Mobility Trends
survey found that the two most common reasons for refusing an international assignment were
family concerns and a partner’s career. Moreover, the Permits Foundation’s International Mobility
and Dual Career Survey of International Employers found that 51% percent of respondents had
employees reject an international assignment due to a partner’s career or employment concerns
and 21% had employees end an assignment prematurely for these reasons. Actions to ensure, or
at least promote, the ability of partners of non-EU citizens to work will increase the attractiveness
of the EU for highly skilled workers.

Regarding the questions on integration requirements, we understand the importance and
challenge of integrating migrants into a host community, but such requirements should not
impose a barrier to family reunification. One effective approach to promoting family integration is
by allowing them to work. Employment provides a platform through which migrants develop
lasting and productive relationships with local nationals and contribute to their communities.

Commentary on Sections 103, 104, and 105: Application of EU Migration Rules and Challenges

Our written contribution has previously discussed the value of policy actions to further facilitate
highly skilled migration, harmonize processes across the EU, and promote intra-EU mobility. One
area that we have yet to expand upon is the necessity of accessible and transparent information
about migration processes. This allows employers to efficiently and inexpensively manage
compliance. An effective migration system is one where a migration professional can look at a
government’s website and determine the eligibility requirements and application processes for a
migration program without relying on external expertise, such as legal counsel.

CFGI has collected data on the specific challenges employers face when managing migration
compliance in the United States, but we lack data for the EU. Accordingly, our responses on the
differences between migration rules across the EU (Section 104) and the main migration
challenges in the EU (Section 105) reflect information we have gathered from speaking with
members about their experiences in the EU.

Commentary on Section 106: Treatment of Non-EU Workers

As we have noted previously, CFGI believes that non-EU workers must have the same rights and
treatment as EU nationals. However, the extent to which non-EU workers are treated differently
than EU-nationals – outside of the migration policy context – is beyond our current expertise.
Engaging the Employer Community

We appreciate the Commission’s effort to consult stakeholders as part of its evaluation. Stakeholder engagement, particularly with employers that regularly navigate migration rules, is vital to the formulation and refinement of effective migration policy. Should the Commission want further detail on employer experiences in the EU, CFGI can work to facilitate meetings or other informational exchanges of with our members.

It is clear from recent policy actions that the Commission is diligently working to attract and retain highly skilled migrants. We urge the Commission to maintain this approach as it evaluates the current labour migration framework and considers new policy actions. Effective policies are essential to ensuring that everyone – governments, citizens, and employers – benefits from labour migration and trusts the system.

Thank you for considering our written contribution and please feel free to contact us for any additional information.

Sincerely,

Lynn Shotwell
Executive Director