



MIGRATORY ROUTES LINKED TO THE ECONOMY

Economic migrants as a necessity

Encouraging and making Spain attractive to international talent will only improve Spanish companies' competitiveness, productivity, and internationalization. And in this objective, migration policy has a crucial role, which is clearly an element of competitiveness between some countries and others.

The growth of jobs providing non-automatable services, value-added jobs, high qualifications, and some other figure that the pandemic has left us makes it essential to have migratory routes linked to the economy. Undoubtedly, economic migrants contribute to the economic development of the receiving countries, but we must not go to macro data to realize that in Spain, but also Europe, there is a shortage of infinite profiles necessary for our productive fabric and our companies. ¹

In our country, the number of authorizations linked to the economy is scarce; we have mainly the permission of highly qualified professionals of law 14/2013 and perhaps the residence for practices that introduced the transposition into the Spanish legal system of the community directive 2016/801/EU. In the latter case, for much more "junior" profiles but very useful in many sectors. Unfortunately, the blue card is not worth mentioning since its application in Spain is almost nil. In 2019, 79 were issued versus the 28,858 granted by Germany during the same period. Although not to miss the truth, saved the German case and some other countries, the number of blue cards granted in the European Union is very modest. In the Spanish Agenda 2050, it is estimated that, in the most conservative position, we need a net migratory balance of at least 191,000 people. Still, surely the welfare state and demographic fall will increase this need estimating that the annual migratory balance is of the order of 255,000 people. We clearly need to expand the ways to attract economic migrants to our country. Currently, our migration policy is totally disconnected from business needs and professional profiles with a clear shortage in the Spanish labor market and in key economic sectors. ²³

The reform of the Blue Card

For years there has been a broad European consensus on the need to improve, and indeed expand, the channels of skilled regular migration as well as to increase Europe's capacity

¹ OECD/ILO (2018), How Immigrants Contribute to Developing Countries' Economies, OECD Publishing, Paris

² https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Residence_permits_%E2%80%93_statistics_on_authorisations_to_reside_and_work

³ <https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2021/200521-sanchez-espana2050.aspx>



to attract and retain talent in an increasingly globalized market in which other OECD countries, such as Canada, Australia or the United States, it has much better ratios.⁴

The excessive rigidity of the previous Blue Card directive in the definition of a highly qualified professional, salary and professional qualifications, the prevalence and promotion of the national talent attraction regimes themselves, and the transposition that many countries, including Spain, have made linking it to the national employment situation has led to a symbolic use of this migratory route, so after long years of European negotiation on October 28, 2021, the OJ L publishes Directive EU 2021/1883 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment. Among the novelties of the Blue, Card reform are less restrictive criteria for workers and companies in terms of wages, professional qualifications, change of employer, duration of the employment contract, more rights for beneficiaries and their families, and relaxed conditions for qualified refugees who have applied for asylum. In the approved text, it is expressly mentioned that many member states have prioritized the authorizations of national law versus the blue card and that this will have to change (we will see the impact on our national law). I think it is an opportunity to delink the blue card from the national employment situation and/or adapt the catalog of difficult occupations to cover. Because this catalog, wholly useless and disconnected from the needs of the productive and business fabric and our national law, is one of the reasons for the almost non-existent use of the blue card route in Spain. There must be a comprehensive reform of this catalog so that companies can attract staff with the qualifications and experience they need.⁵⁶

The reform allows the Member States to maintain national schemes targeting highly skilled workers in parallel with the Blue Card scheme. In our case, it is the authorization of the residence and work of highly qualified personnel regulated in Law 14 of September 27, 2013.

Our national law: the authorizations of law 14/2013

At present, it is the most agile route to attract qualified talent to Spain since it does not depend on the national employment situation, among other reasons. Since 2013, the requirements established by law have been qualified by the same performance of the unit that resolves the files, the technical criteria, and the courts. It is obvious that there is a wide range of highly qualified professionals. Still, we currently work with a single definition "managerial or highly qualified personnel and graduates and postgraduates from universities and schools of recognized prestige for the development of a work or professional activity." In practice, we will have to prove that the job requires high

⁴ Senne, J.-N. and David, A., 'General Context and Contribution of Labour Migration in Europe', OECD 2016

⁵ Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC

⁶ https://boe.es/diario_boe/txt.php?id=BOE-A-2021-20244



qualifications and keep in mind the objective and spirit pursued by the law in preparing the files.

Choosing the migratory route well is key

As an alternative to the authorization for highly qualified professionals, we have as the residence for internships for more junior profiles but perhaps also with fewer requirements and with the same objective to attract qualified talent to Spain. Between the two options, I detect that there is room to establish two levels that allow us to address different categories of highly qualified workers with varying levels of skills, perhaps the transposition of the new blue card and the maintenance of our national law we can count on that other migratory route linked to the economy.

At the moment, the choice of the migratory route in which we can best accredit the requirements and good preparation of the case will be critical.

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