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The regional dimension in the global competition for talent: Lessons from framing the European Scientific Visa and Blue Card

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ABSTRACT To examine the role of regional cooperation in the global race for top foreign talent, we study how the Lisbon Strategy's implementation contributed to these efforts. Specifically, we analyse the Scientific Visa and the Blue Card, two EU legislations for attracting the 'best-and-brightest' from abroad. Official figures tell us that the number of highly-skilled migrants recruited so far is low and, following an inductive logic, we parse out the 'value-added' of regional collaboration beyond legislative coordination. Taking as our departure point Borrás and Radaelli's concept of the Lisbon Strategy as 'governance architecture', we apply the framing approach to show how the Scientific Visa and Blue Card framed labour migration differently: as initiatives for 'mobile excellence' and 'border management' respectively. Our findings reveal that they contributed to the Lisbon Strategy's evolution as a process of 'conversion' and point to the 'value-added' of regional cooperation as a 'sense-making' exercise.

KEYWORDS Blue Card; framing; governance architectures; Lisbon Strategy; Scientific Visa; skilled migration

1. THE REGIONAL DIMENSION IN THE GLOBAL COMPETITION FOR TALENT: VALUE-ADDED?

Labour market shortages (especially in high-skilled sectors), demographic needs and growing international competition to innovate have prompted actors in the public and private sectors to engage in ‘a growing global hunt for talent’ (The Transatlantic Council on Migration 2010: 25). National developments and domestic politics have featured prominently in studies of these processes (Caviedes 2009; Freeman 2006), but we argue that the regional dimension may become increasingly important as countries seek alternative outlets to promote domestic talent migration regimes (Cerna 2013; Margheritis 2012; Smith and Favell 2006). In these instances regional collaboration may support existing schemes by contributing to consolidate talent pools in global regions known to be innovation leaders and improve the overall attractiveness of those seeking to be at the forefront (cf. Lavenex 2006).

This article examines the only European Union (EU) migration instruments transposed to date to attract the ‘best-and-brightest’ from abroad: Scientific Visa (targeting highly-educated) and the Blue Card (highly-skilled). Our research question is: What is the role of regional cooperation in the global competition for talent? At the heart of this question is the issue of ‘value-added’ of transnational cooperation. The EU is the most sophisticated regional platform in the world, with cooperation spanning multiple areas and involving international organisations and other countries. In 2000, the European leaders adopted the Lisbon Strategy, now renewed as the Europe 2020 Strategy, to better coordinate their policies for becoming the most competitive global knowledge-based economy. Attracting the ‘best-and-brightest’ is a key aspect of this strategy.

The European Commission (2007a) calculated that the EU, with 1.7 percent high-skilled migrant workers of the total employed population, is behind countries such as Australia (9.9%), Canada (7.3%), Switzerland (5.3%) and the United States (3.2%).¹ It estimated that Europe will need 384,000-700,000 ICT practitioners by 2015 and one million healthcare professionals by 2020 (Commission 2013a: 2). The Scientific Visa and the Blue Card, adopted in 2005 and 2009 respectively, were specifically formulated to expedite the entry of high-skilled migrants. The results so far indicate that they may not be as ‘value-added’ for all members² as the policymakers intended: about 7,000 Scientific Visas were issued in 2011 (Commission 2013b), which falls short of ‘one million researchers’ target. Official figures for the Blue Card are not yet available, but we know that Germany issued 4,100 Blue Cards during the first six months of transposition, with about 2,800 being allocated to those already residing there (BMI 2013). We argue that, while informative, numerical indicators tell us very little about the deeper political transformation that may be taking place through regional cooperation.

This article goes beyond official figures to explore the multiple roles that regional platforms have in the competition for foreign talent. The most common and functional role is regulatory: to effect smooth regulative coordination for governments seeking to collectively address external adaptational pressures. Yet, as Hay and Rosamond (2002) demonstrate, the precise nature of these outside pressures is not straightforward and, thus, solutions policymakers promote and prefer may differ. This observation points to the regional platform’s discursive role, which we elaborate in this article. We begin with Borrás and Radaelli’s (2011) concept of the Lisbon Strategy as ‘governance architecture’ before proceeding to the framing literature. By zooming in on the ways in which the Scientific Visa and Blue Card were initially framed and then reframed, we show how the framing approach sheds light on their

contribution to Lisbon's evolution as a process of 'conversion' (Mahoney and Thelen 2010). We conclude that the role of regional cooperation is also one of 'sense-making', which may become increasingly important as governments are only one of many actors in the global race for top talent.

2. A FRAMING APPROACH TO STUDYING THE LISBON STRATEGY AS 'GOVERNANCE ARCHITECTURE'

Borrás and Radaelli (2011: 470-472) proposed conceptualising the Lisbon Strategy as a 'governance architecture' – a 'specific form of institutional arrangement' consisting of ideational and organisational components. The ideational dimension refers to 'a set of ideational repertoires' (e.g. notions such as 'knowledge-based society') and an associated discourse ('competitiveness') while the organisational one points to the formal and informal arrangements through which decisions are taken, instruments chosen and procedural requirements stipulated. What is unique about governance architectures is that they: (1) address 'complex problems in a strategic, holistic long-term perspective'; (2) set out 'substantive output-oriented goals'; and (3) are implemented through 'combinations of old and new organizational structures' (Borrás and Radaelli 2011: 464). According to them, properties of these two dimensions – such as ideational ambiguity or highly institutionalised decision-making procedures with powerful veto players – will determine how Lisbon subsequently evolves and impacts EU and national governance along the policy, institutional, administrative and legal systemic dimensions.

The Scientific Visa and the Blue Card are EU legislative measures implementing the Lisbon Strategy; they are concrete outcomes of 'what happens' when Lisbon 'hits' the migration

sector (for an analysis of the higher education sector, see Capano and Piattoni 2011). By studying two directives embodying EU's attempt to attract talent, we approach the Lisbon governance architecture as an independent variable (cf. Loder 2011). We expect the Lisbon Strategy to exert ideational and organisational pressures on *supranational* governance as a result of its implementation. The questions then become: How and to what extent? According to Borrás and Radaelli (2011: 477), outcomes 'are fundamentally attributed to coalitional processes concerning compliance with the strategy. Specifically, coalitional politics around the (re)definition of ideational and organizational arrangements, through discourse coordination and communication involving rational and purposeful as well as non-purposeful action by different sets of actors'. We know the formulation of the Scientific Visa and Blue Card involved different, albeit overlapping, arrangements of Commission Directorates-General (DG) based on the Lisbon 'script'. Could the different arrangements affect the implementation of Lisbon? If so, to what extent and how do we investigate this? Borrás and Radaelli (2011: 477) state that the 'constellations of actors involved in the creation of a governance architecture engage in strategic and discursive interactions with the aim of defining a collective frame of reference for their action – a *référentiel*'.

'Ideas and discourses', Borrás and Radaelli (2011: 471) note, 'give shape to the overall attempt to socialise actors to a specific frame of reference that is supposed to make sense of a complex world of cross-cutting policy problems'. The framing approach is especially suitable for identifying the different frames and how they shape actors, as well as examine policymaking venues (i.e. whether it makes a difference that a DG takes precedence over a proposal and in which EU institutional arrangement it is then debated). They further emphasised that 'very little work has been done on the key political questions involved in the Lisbon Strategy, like the role of the different institutions in the "initial framing" and then the

redefinition of the main aims through time, the interplay between different modes of governance in individual policies and across policies, and the institutional effects brought about by the novelties' of Lisbon (Borrás and Radaelli 2011: 467). Our article analyses the institutions' roles in the initial framing of Lisbon in the migration sector and shows how it evolves as a result of the different institutional configurations in the agenda-setting and decision-making processes. To do so, we turn to the framing literature to discuss what we mean by 'framing', the constitutive parts of a 'frame' and how we use the framing approach in the empirical sections.

The framing literature is vast: ranging from the fields of psychology, linguistics, discourse analysis, sociology, political science, public policy to EU studies (Daviter 2007; Dudley and Richardson 1999; Geddes and Guiraudon 2004; Harcourt 1998; Mazey and Richardson 1997; Morth 2000). Our objective is to draw on its rich analytical insights to study the relationship between ideas, structure and policy as embodied in the notion of Lisbon as governance architecture. In the most general sense, the framing approach emphasises the importance of framing dynamics in accounting for the final shape of policies, politics and polities. According to Rein and Schön's (1991: 263) classic definition, framing is 'a way of selecting, organizing, interpreting, and making sense of a complex reality so as to provide guideposts for knowing, analysing, persuading, and adapting'. Similarly, Daviter (2012: 1) defines framing as a 'process of selecting and emphasising aspects of an issue according to an overriding evaluative or analytical criterion'. The argument is that, while institutionally-anchored actors take decisions over proposals, these decisions are informed by a set of basic assumptions concerning the relationship between problem identification and acceptable, legitimate policy solution. This is not a straightforward relationship: it is politicised and often contested because, as Weiss (1989: 1170) puts it, 'frames are weapons of advocacy and

consensus'. Through framing, actors can manipulate an issue's scope to better advance their positions.

Framing does not take place in a political vacuum and venue selection is significant because it signals who has jurisdiction over access points to the agenda (Daviter 2012: 9). Baumgartner and Jones (1991), for instance, explain how beliefs and values concerning a particular policy (the 'policy image') interact with the existing set of political institutions (i.e. the venue of action). Using the example of nuclear policy, they demonstrate how actors purposefully changed the policy image (by discussing in a positive or negative light) in relations to the selection of an appropriate venue. They argue that 'each venue carries with it a decisional bias', as 'the image of a policy and its venue are closely related' (ibid: 1047). In the biotechnology policy field, Daviter (2012) shows that DG Environment and DG Industry (two initial venues) framed the issue differently and how this then impacted regulation and subsequent venue choice (DG Health and Consumer Protection). Similarly, Guiraudon (2000) finds that national officials' venue-shopping as an important factor in explaining the origin and evolution of EU migration cooperation. In short, there is an interactive feedback effect: changes in venue affect frames and changes in frames facilitate changes in venues.

We use 'framing' to refer to a selection process in which actors present, debate, justify and contest aspects of an issue (e.g. venue-selection, problem-identification) following an overriding evaluative criterion known as 'frames' (defined below). While most studies applying the framing approach focus on the agenda-setting stage of policymaking or the earliest period of electoral/grassroots campaigning to show, paraphrasing Tilly (1984: 14), when framing happens affects how it happens (see Geddes and Guiraudon 2004; Harcourt 1998), we see framing as a more dynamic and sequential process. We approach framing from

the perspective of ‘moving pictures’, consisting of both framing and reframing, rather than ‘snapshots’ (Pierson 2004). For us, framing is a continuous process from agenda-setting to decision-making: it is in the *framing* and *reframing* of an issue that public policy outcomes are explained.

The notion of frames is frequently used even though its general constitutive parts are not often specified. Instead, researchers generally zoom in and define the ‘frames’ relevant to their study, for instance: collective action frames (Benford and Snow 2000); industrialist/pluralist/internal market/information society/external relations/competition frames (Harcourt 1998); and market/defence frames (Morth 2000). So, how do we know a frame when we see one? Following Entman’s (1993: 52) classic specification, we characterise frames as performing four distinct functions: define problems, diagnose causes, make moral judgments and suggest remedies. In our study, ‘frames’ are identified through these constitutive parts: an *associated discourse* conveying *problem-definition*, value-judgement or *vision*, and *policy solution*.

To sum up, we apply insights from the framing literature to parse out the impact Lisbon has on EU legislative developments to attract foreign talent (i.e. implementing the Lisbon Strategy in the migration field). Firstly, we *discuss the heuristic frames* likely to be associated with the migration, employment and research sectors – the three sectors involved in the preparation of the Scientific Visa and Blue Card (Section 3). Secondly, we *identify the policy frames* used to advance the Commission proposals for the Scientific Visa and Blue Card to the Council. In so doing, we seek to evidence the importance of ‘organisational mixes’ in the legislative process: different DGs advance their frames to promote specific aspects of an issue and the composite frame may significantly affect outcomes under certain institutional

contexts. Thirdly, we *sequence the framing-reframing process* of the Scientific Visa and Blue Card to show how venue changes and ‘timing’ affected the legislative results (Section 4).

3. EU MIGRATION DIRECTIVES FOR THE KNOWLEDGE ECONOMY: FRAMING LABOUR MIGRATION

This section identifies three heuristic frames – migration, competitiveness and excellence – present before the Commission’s proposal for the Scientific Visa and Blue Card and the respective DGs promoting them. We show how each frame offers a unique problem-definition, vision and policy solution detectable through an associated discourse. We then discuss which frame was prominent in the Commission proposals for attracting foreign talent. The data used are official EU documents (e.g. Commission proposals, Council minutes) and existing studies; we use them to construct the discursive fields associated with these two legislations and how they subsequently evolved as a result of venue change (Section 4). One interview and participant observation are used to account for frame cooperation and competition not visible ‘on paper’. We acknowledge that two cases based mostly on documentary evidence are insufficient to formulate generalisations about the role of regional platforms in the global competition for talent, but we argue that they do reveal the ‘value-added’ in the EU context, which we elaborate in the conclusions.

3.1. *Migration frame*: ‘securing an area without internal borders’

EU member states never intended to engage in supranational migration policy cooperation and only did so to achieve a core founding objective: free movement of persons. The problem-identification according to the *migration frame* is that the removal of internal border

controls against Community nationals saw ‘unwanted’ secondary movement of asylum applicants and unauthorised migration. The associated discourse has been ‘securitisation’ (Huysmans 2006) and can be detected in the 1999 Tampere conclusions setting out the initial policy programme for this sector. The European Council called for the creation of an ‘Area of Freedom, Security and Justice’ (Council 1999) – the vision of the *migration frame*. Consequently, the policy solutions have manifested in initiatives revolving around the strengthening of the external borders through, for instance, creating a common visa regime, concluding readmission agreements with third countries and the mutual recognition of asylum status (Chou 2009).

Labour migration, however, has also been included in the policy agenda. According to Section III of the Tampere conclusions, the member states acknowledged the ‘need’ to approximate ‘national legislation on the conditions for admission and residence of third country nationals, based on a shared assessment of the economic and demographic developments’ (Council 1999). Yet when in 2001 the Commission proposed a Council directive concerning admissions and residence of third-country nationals (TCNs) for work (Commission 2001), the member states rejected it outright, arguing that the EU has no competence to regulate labour migration.

Within the Commission, DG Home is the main supporter of the *migration frame* and, in 2005, it issued the Green Paper on ‘managing economic migration’ querying whether there was a need to set common rules for admitting foreign workers (Commission 2005). According to the Commission, most respondents supported an EU policy. It would, however, adopt a different approach: instead of one (horizontal) directive that would cover all forms of labour migration and accompanying rights for admitted workers, there will now be several (sectoral) directives.

In the first instance, the Commission proposed directives to regulate: (1) highly-skilled migrants (Blue Card), (2) intra-corporate transferees, and (3) seasonal workers (the latter two still under discussion at this writing). This new approach reflected the Commission's assumption, which the European Pact on Immigration and Asylum confirmed (Council 2008a), that member states preferred highly-skilled migration as an area for supranational cooperation.

The legitimate policy solution for labour migration according to the *migration frame* is thus one that focuses on recruiting high-skilled migrants (*not* mid- or low-skilled foreign workers), respects national competence on admissions criteria and volume, while upholding the importance of 'safe and secured' EU borders. For member states joining in 2004 and 2007, labour migration carries another meaning in the context of transitional measures barring their citizens from exercising free movement. For them, the importance of 'Community preference', codified in the Accession Treaties, is paramount in this context: highly-skilled foreign workers will only be recruited when there are no EU nationals to fill the positions.

3.2. *Competitiveness frame*: 'keeping up with Europe's main economic competitors'

In contrast to the *migration frame*, the *competitiveness frame* identifies the policy problem as Europe falling behind in the global economic competition and is insufficiently attractive for top talent. The vision embodied in this frame is that of a free market exemplified through the Single Market project (i.e. free movement of workers) and best articulated in the Lisbon/Europe 2020 Strategy. As Menz (2011: 3, 6) argues, migration, framed as a competitiveness issue, is linked with the liberal notion of economic growth and hence politically easier to sell. The associative discourse is one of market liberalisation, identifiable

through keywords such as competitiveness, efficiency, demographic needs and labour shortages. The *competitiveness frame* is about ensuring a market-oriented area of free movement and thus developing a regional magnet for top talent: migrants are ‘bundles of skills’ whose purpose is primarily to service the European engine of job growth.

For DG Employment, the main Commission promoter of the *competitiveness frame*, what is at stake concerning labour migration is how it contributes to ‘keeping up’ with the EU’s economic competitors; Canada and the US are frequently mentioned for highly-skilled migrants (Commission 2007a). Only when speaking with one voice, the Commission argues, could Europe compete for ‘the best and brightest’. This frame implicitly accepts the ‘shortage’ argument (i.e. insufficient numbers of high-skilled workers) and, therefore, the ‘Community preference’ and admissions volume have less relevance insofar as labour migration is concerned. The *competitiveness frame*’s legitimate policy solution for labour migration is to fill shortages and improve labour market efficiency.

3.3. *Excellence frame*: ‘constructing the Europe of Knowledge’

The *excellence frame* is about strengthening European research and improving its innovation capacity by reducing fragmentation. The problem identified here is that European research is merely the sum of all national activities and EU funding through the framework programmes (the now ‘27+1’ problem) (Commission 2000). The European Research Area initiative launched in January 2000 best describes the vision for the *excellence frame*: if Europe seeks to ‘keep up’ with its main innovation competitors, similar to the *competitiveness frame*’s argument, it needs to create an ‘internal market for innovation and research’ where knowledge would circulate freely – i.e. the *fifth* freedom (Chou 2012). The ‘technology gap’ discourse

drives efforts towards the ‘Europe of Knowledge’; for Europe to close this ‘gap’, it needs to at least achieve the Barcelona target of 3% GDP. Translated into the numbers of researchers needed for an innovative European Research Area, the policy solution embodied within the *excellence frame* is a clean-cut figure of 700,000 – now one million.

DG Research is the main Commission supporter of the *excellence frame* and, concerning the labour migration issue, is interested in the recruitment and retention of sufficient numbers of highly-qualified foreign workers who will move freely within the Union to share and generate knowledge. Through this, the *excellence frame* evokes imageries of mobile scientific excellence servicing the European knowledge economy – the foundation for global competitiveness. It highlights the clear value-added of foreign knowledge-carriers for European innovation. In this way, the *excellence frame* could not be more different from the *migration frame*, with its emphasis on national prerogative in border control, admissions volume and ‘Community preference’. We discuss and explain below which of these three frames are visible in the Commission *framing* of the Scientific Visa and Blue Card.

3.4. *Framing* EU talent migration legislation: Commission proposals for the Scientific Visa and Blue Card

Jointly prepared by DGs Home and Research, the Scientific Visa embodied the *excellence frame*’s perspective concerning labour migration. According to the proposal, this directive aimed to structure European Research Area and explicitly stated the target of 700,000 researchers as the *raison d’être*. It marked the first, and successful, collaboration between these two DGs. According to a DG Research interviewee, the two Commission departments’ interests converged: DG Research wanted to meet foreign researchers’ frequent concerns and

DG Home sought to replicate the ‘ad hoc approach’ started with the student directive that was then being favourably received in the Council (interview 21.09.2009). Both DGs agreed ‘to adopt in a relatively short timeframe a good text able to ease admission procedures’ (interview 21.09.2009). Commenting further, this interviewee said that ‘DG RTD [Research] and JLS [Home] worked very well together through both informal exchange of drafts and informal co-operation before and during the negotiations in the Council...JLS was always supportive’ (interview 21.09.2009).

By contrast, the Blue Card directive was framed as a *migration* measure for completing the Area of Freedom, Security and Justice even though DGs Home and Employment collaborated on its preparation. The common features associated with the *migration frame* were present in the Blue Card proposal (e.g. admissions volume and ‘Community preference’). This approach was justified on the grounds that EU countries have different priorities, labour market needs and reception capacities. Why did DG Employment’s *competitiveness frame* take a backseat to the *migration frame* in this proposal when the Scientific Visa proposal embraced DG Research’s *excellence frame*? This is especially puzzling when the *competitiveness* and *excellence frames* share many features. The likely reason for this, as one of the authors observed in a 2011 workshop DG Employment hosted for a forthcoming Green Paper³ addressing labour shortage via migration, may be classic turf-battle. This workshop presented studies funded by DG Employment on how selected national migration and employment policies addressed labour shortages. Just a year earlier DG Home had funded a very similar set of studies through the European Migration Network. These Commission studies are generally used as the basis for forthcoming legislative proposals. We believe their replication within a very short timeframe indicates that these DGs were interested in their ‘own’ studies for supporting their sectoral perspectives.

Framing the Scientific Visa as an *excellence* measure and the Blue Card as a *migration* measure did not affect venue selection; both legislations were discussed, as we show in the next section, in the Justice and Home Affairs (JHA) Council. Indeed, our DG Research interviewee confirmed that venue choice was not a concern at all: ‘It is an admission instrument, thus migration, thus JLS’ (interview 21.09.2009). Yet we argue, and will elaborate further below, that these frames did affect their *reception* in the Council venue. This is because the *migration frame* suggests a more *permanent* stay – even though the distinction between permanent and temporary migration is fluid – and is frequently associated with migrant integration difficulties. By contrast, the *excellence frame* emphasises ‘mobility’ and the concrete ceiling of no more than 700,000 researchers obviated the ‘volume debate’ at the very start. Indeed, the DG Research officer who prepared the Scientific Visa explained that it was a ‘brain circulation’ scheme designed ‘to attract talent’ (interview 21.09.2009). Here, mobility carries a positive connotation as it implies a *temporary* stay of researchers, who will contribute to the host EU country and then move on to another. The Scientific Visa, framed in this way, thus involves fewer concerns about permanent residence and issues of social cohesion commonly associated with migration. While ‘framing’ affects reception, it is in the *reframing* of these legislations that we may account for their actual contents.

4. REFRAMING EU TALENT MIGRATION LEGISLATION IN THE COUNCIL

The adopted Scientific Visa and Blue Card directives are very similar: they both introduce a fast-track admissions procedure for high-skilled migrants (see Table 1). In the Scientific Visa’s case, possessing a ‘hosting agreement’ is the key to entry; Blue Card holders rely on a contract valid for at least a year. These measures also stipulated the rights to which successful

applicants are entitled. We show below how the national migration officials negotiated the Commission proposals through their *migration frame*. This *reframing* exercise is manifested as reducing member states' liability, watering-down migrant rights provisions and tightening-up admissions criteria. What differentiated them is that the Scientific Visa was discussed in record time, which we attribute to legislative timing.

[Table 1 about here]

4.1. Strengthening the *migration frame*: negotiating the Scientific Visa and Blue Card

The Commission presented the Scientific Visa proposal on 1-2 April 2004 to the Council Working Party (WP) on Migration and Expulsion, which completed second reading on 14 April. From the third reading onwards new members joined the negotiations; they voiced similar concerns, but also questioned the directive's premise. For example, the Czech, Hungarian and Polish delegates stressed that, in their national legislation, migrant researchers required separate work and residence permits (Council 2004e: 9, footnote 2). This concern disappeared in subsequent readings. By the time the WP finished its eleventh reading in October 2004 (Council 2004d), most issues were resolved except two: financial obligation and family members of researchers.

The issue of financial obligation revolved around whether host research organisations should be held responsible if foreign researcher overstayed. Different national positions came to light through detailed provisions; such as stipulating when research organisations must inform national authorities of the permanent departure of migrant researchers (Council 2004f: 6). Member states did not want to bear any financial costs that could arise. The Strategic

Committee on Immigration, Frontiers and Asylum consisting of national senior migration officials reached a political agreement on this issue during its second reading (Council 2004b: 5).

The debate concerning the status of researchers' family members is more revealing of member states' *migration frame* as it challenges national competence on admissions volume (researcher + family). While the French delegate mentioned this issue at the WP-level during the second reading (Council 2004h: 9, footnote 1), it only became contentious when a new article, which stated that researchers' families could be granted a residence permit, was added to the text at the sixth reading in July 2004 (Council 2004g: 10, footnote 11). Subsequent negotiations indicated that Belgium proposed that family members could also apply for residence permits while in the host EU country – a position that the German, Greek, Spanish and Austrian representatives adamantly opposed (Council 2004c: 11, footnote 12). Family reunification is depicted as an attractiveness issue as highly-skilled workers (researchers and professionals alike) will only move with their whole family.

In October, the Dutch Presidency suggested adding to the recital of the Scientific Visa a provision on the mobility of family members. The majority supported this, but the Belgian delegate had insisted on inserting the provision into the main text (Council 2004f: 11, footnote 11). Whereas the provision in the recital is guiding, it is binding in the text. Hence, it is hardly surprising that the Belgian proposal met strong resistance. It was unresolved until the Permanent Representatives met in November: the migration ministers agreed that the Dutch Presidency proposal would be the final text (Council 2004a). A similar, albeit more difficult, negotiation process can be observed for the Blue Card.

The Commission (2007b) presented the Blue Card proposal to the Council WP on Migration and Expulsion in October 2007 and the Permanent Representatives reached an agreement on the text in October 2008. There was considerable disagreement among the member states from the outset. To start, several delegates (German, Austrian, Danish, Irish, British and the Dutch) rejected the proposal on grounds of ‘sovereignty’ (Angenendt and Parkes 2010). The second objection came from the Czech Republic and Slovakia, which could not support the recruitment of TCNs when transitional measures restricting access to the labour markets were still in place for their citizens (Meyer 2010).

The third set of objections was specific to the conditions of the Blue Card. Given the lack of a universal definition for high-skilled migration (Lowell 2008), disagreements revolved around whether to treat professional experience and higher education qualifications interchangeably (Meyer 2010: 21). In subsequent readings, changes were introduced, but professional experience besides education were retained (Council 2008b). Blue Card applicants also need to demonstrate that the new job will earn at least 1.5 times the average gross annual salary in the host member state, or at least 1.2 times for shortage occupations (Article 5).

The fourth contested aspect concerned the derogation for young professionals. In the original proposal, the Commission suggested special conditions for professionals under 30-years old (Article 6). This article was deleted at the third reading following suggestions from the Commission and Portugal since it evoked considerable controversy (Meyer 2010: 23). The fifth contentious point is about migrant rights. Concerning labour market access, the delegates had different preferences regarding the flexibility of Blue Card holders to change jobs (Council 2008c). By the fourth reading, the compromise was a waiting period of 18 months.

To sum up, negotiated through the *migration frame* in the Council, the Scientific Visa acquired more stringent measures associated with this frame while the Blue Card was made even more restrictive. For those familiar with EU migration cooperation, this is hardly surprising. What is interesting is how quickly the Scientific Visa was adopted following initial proposal. Depending on how one calculates this duration, it is approximately twice as fast as the Blue Card – a comparable measure completed within ‘normal’ EU migration legislative timeframe. Next, we explain how ‘framing’ and ‘timing’ interacted to make this possible.

4.2. Framing, timing and the Scientific Visa

The Scientific Visa can be considered a first-generation EU labour migration instrument since it was adopted as part of the Tampere programme, whereas the Blue Card was finalised under the Hague Programme. As a first-generation EU migration measure, its comparatively generous provisions for admissions and migrant rights, such as immediate free movement for research purposes, are even more surprising. We have discussed in Section 3.4 how the Commission framed the legislations differently: through the *excellence* and *migration frames*. The *excellence frame*, with its ‘halo’ of top mobile scientists, does not directly challenge the *migration frame* of white-collar foreign workers competing for EU jobs with the natives. This is important; the *excellence frame* does not threaten whereas the *competitiveness frame* does. While ‘framing’ may account for the Council’s reception of the Scientific Visa, it does not explain how and why it was adopted so quickly. For this, we need to consider the ‘timing’ of the Scientific Visa proposal.

The Commission tabled the Scientific Visa a month prior to the official scheduled completion of the Tampere programme (May 2004). The member states set this deadline, meant to

coincide with Eastern Enlargement, when they signed the Amsterdam Treaty in 1997. Specific to the migration sector, a more important issue was the anticipated decision-making change from consultation to co-decision (now ordinary procedure). This would make the European Parliament a co-legislator in this sector and it strongly pressured the Council to introduce co-decision during the Scientific Visa's negotiations (Parliament 2004). At that time, the Parliament, then commonly perceived to hold opposing, more liberal, views on migration, was unable to legislate *any* asylum and migration measures since they became areas of common interests. If the Council failed to adopt the Scientific Visa, it was likely that any EU directive on high-skilled labour migrants would require Parliament's unequivocal agreement. These institutional conditions did not apply in the Blue Card's case: by then, the member states had codified the 'volume provision' in the Hague programme and co-legislative rights were extended to Parliament on most asylum and some migration issues.

Situated in its temporal context, the Scientific Visa's speedy adoption brings us back to framing's impact on policy results. Our findings show that frames could also disarm potential challengers and rally their support in an unlikely situation. Indeed, as Schmidt (2008: 313) states, 'Discourses succeed when speakers address their remarks to the right audiences...at the right times in the right ways'. Arguably, 'right' conditions are difficult to control, but this formula specifies the individual components essential to an issue's outcome. Framing is merely one – albeit significant in the Scientific Visa's case – component. In the next section, we reflect on what these two cases reveal about the Lisbon Strategy's evolution and the role of regional cooperation in the global race for the 'best-and-brightest'.

5. LESSONS FROM FRAMING THE SCIENTIFIC VISA AND BLUE CARD

This article set out to investigate the role of regional cooperation in the race for the ‘best-and-brightest’. To do so, we situated our study within the research agenda on the Lisbon Strategy as ‘governance architecture’. The *first lesson* we offer is that examining EU legislations for recruiting foreign talent reveals how policy actors interpreted and reinterpreted the labour migration issue through their distinct sectoral and institutional frames. This lends support to Borrás and Radaelli’s (2011: 477) hypothesis that the evolution of the Lisbon Strategy may be one of ‘conversion’, which ‘occurs when rules remain formally the same but are interpreted and enacted in new ways’ (Mahoney and Thelen 2010: 10). Our cases show that this happens as a result of Lisbon ‘hitting’ an established policy domain – migration – with its own unique legacies in European integration and deeply-entrenched domestic interests concerning borders and preservation of national ‘identities’.

The ‘conversion’ change pattern suggests that there is also a strategic learning aspect implicit in this process. It indicates that actors adapt to rapid environmental changes and exploit ambiguities in policy design for their own means. In the Scientific Visa’s case, DGs Home and Research saw the legislative ‘opening’ and joined forces. Mahoney and Thelen (2010: 26-27) call these reformers ‘opportunists’ because they ‘exploit’ the ‘ambiguities in the interpretation or implementation of existing rules...to redeploy these rules in ways unanticipated by their designers’. The Scientific Visa has indeed contributed to altering this sector’s known features as being primarily interested in upholding strict border control. Our findings indicate that *timing* mattered in its adoption, and the recast of the Scientific Visa, now under discussion in the Council and Parliament (Commission 2013c), suggests that *sequencing* may be crucial in the continuation of the liberal policy pathway charted. The

proposed Scientific Visa's recast contains provisions seeking to allow researchers to remain in the EU for up to 12-months after project completion (Article 24). *Second lesson:* Lisbon Strategy's ambiguous formulation enables new partnership between DGs (organisational mix) leading to the adoption of a path-*shifting* measure due to legislative timing that, although difficult to replicate, has implications for the continuation of the new policy pathway.

Stepping back, the strategic learning aspect of the 'conversion' change process also points to the broader role of regional cooperation as a 'sense-making' exercise in the global race for foreign talent. Here, Lisbon's implementation saw two distinct 'learning' processes: *unintended* learning through deliberation and learning through 'policy failure'. Unlike the Blue Card, the original Scientific Visa was not the result of a coordinated impact assessment – it emerged from inter-service consultation (interview 21.09.2009). The deliberative effects are, however, the same as Radaelli and Meuwese (2010: 147) found for 'doing IA [impact assessment]': it breaks down the silo thinking often associated with the Commission, an institution organised by sectors.⁴ This highlights deliberation's impact through the mechanism of 'argument-based learning' (Riddervold 2011) and should be further researched. *Third lesson:* policy actors may approach regulatory activities at the transnational-level through deliberation to grapple with possible alternative Pareto-efficient policy solutions.

EU talent migration legislations, as noted at the outset, have yet to succeed in recruiting the desired number of high-skilled foreigners and can be seen as 'policy failures' at this time. As the Scientific Visa's recast shows, lessons acquired from its implementation are used in its revision; we anticipate the same for the Blue Card. The assessment of the Scientific Visa's implementation highlights several shortcomings pointing to the very complexity of multilevel governance on a multi-dimensional issue such as (high-skilled) labour migration. The many

‘moveable parts’ of transnational governance brings us to the *final lesson* from framing the Scientific Visa and Blue Card: learning through policy failure is an important added-value of regional cooperation. It assists European governments in making sense of the rapidly changing external environment that seemingly outpaces any regulatory actions. As the Home Affairs Commissioner, Malström (2012), comments: ‘The problem in the area of labour migration on a European level...is how to compete on a global market’. This remark points to the many actors involved in the international race for the ‘best-and-brightest’; European governments are merely one. As other governments turn to their regional platforms (e.g. ASEAN and MERCOSUR), they are looking to the EU while differentiating their ‘way’.⁵ Having already adopted two talent migration legislations, however imperfect, the EU has been making sense of these developments through hands-on experience and is at least one regulatory step ahead.

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NOTES

¹ However, it is not clear how these numbers were determined.

² Ireland is an exception (see report Euraxess Ireland 2013).

³ It aims to provide a comprehensive approach to (low- and high-skilled) labour migration.

⁴ We thank one of the reviewers for pointing this out.

⁵ According to the ASEAN Secretary-General, Pitsuwan, the Asian Economic Community would encourage the free movement of skilled labour instead of EU's free movement of people; see <http://www.bangkokpost.com/learning/learning-from-news/296709/asean-2015-free-movement-of-labour> (accessed 11.06.2013).

REFERENCES

- Angenendt, S. and Parkes, R. (2010) 'Blue Card impasse: three options for EU policy on highly qualified immigrants', http://www.swp-berlin.org/fileadmin/contents/products/comments/2010C14_adt_pks_ks.pdf (accessed 19.11.2012).
- Baumgartner, F. and Jones, B. (1991) 'Agenda Dynamics and Policy Subsystems', *The Journal of Politics*, 53(4): 1044-1074.
- Benford, R.D. and Snow, D.A. (2000) 'Framing Processes and Social Movements: An Overview and Assessment', *Annual Review of Sociology*, 26: 611-639.
- BMI (2013) 'Bundesinnenminister Friedrich zieht nach sechs Monaten Blaue Karte eine positive Bilanz (18 February)', BMI Press release.
- Borrás, S. and Radaelli, C.M. (2011) 'The politics of governance architectures: creation, change and effects of the EU Lisbon Strategy', *Journal of European Public Policy*, 18(4): 463-484.
- Capano, G. and Piattoni, S. (2011) 'From Bologna to Lisbon: the political uses of the Lisbon 'script' in European higher education policy', *Journal of European Public Policy*, 18(4): 584-606.
- Caviedes, A. (2009) *Prying Open Fortress Europe: The Turn to Sectoral Labor Migration*, New York: Lexington Books.
- Cerna, L. (2013) 'Understanding the diversity of EU migration policy in practice: the implementation of the Blue Card initiative', *Policy Studies*, 34(2): 180-200.
- Chou, M.-H. (2009) 'The European Security Agenda and the 'External Dimension' of EU Asylum and Migration Cooperation', *Perspectives on European Politics and Society*, 10(4): 541-559.

- Chou, M.-H. (2012) 'Constructing an Internal Market for Research through Sectoral and Lateral Strategies: Layering, the European Commission and the Fifth Freedom', *Journal of European Public Policy*, 19(7): 1052-1070.
- Commission (2000) 'Towards a European research area, COM(2000) 6 final'.
- Commission (2001) 'Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, COM(2001) 386 final'.
- Commission (2005) 'Green Paper on an EU approach to managing economic migration, COM(2005) 811 final'.
- Commission (2007a) 'Attractive conditions for the admission and residence of highly qualified immigrants (Memo 07/423)'.
- Commission (2007b) 'Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, COM(2007) 637 final'.
- Commission (2013a) 'Clearer and more consistent rules for non-EU nationals coming to the EU for studies, scientific research and other exchanges (Memo/13/281)'.
- Commission (2013b) 'Press release: Making the EU more attractive for foreign students and researchers (IP/13/275)'.
- Commission (2013c) 'Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing, COM(2013) 151 final'.
- Council (1999) 'Tampere European Council Conclusions, 15-16 October 1999'.

Council (2004a) 'Note from the Presidency to the Council, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 18.11.2004', Council Document 14473/04.

Council (2004b) 'Note from the Presidency to the Permanent Representatives Committee, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 10.11.2004', Council Document 14415/04.

Council (2004c) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 11.10.2004', Council Document 13135/04.

Council (2004d) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 15.10.2004', Council Document 13574/04.

Council (2004e) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 20.09.2004', Council Document 12259/04.

Council (2004f) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 25.10.2004', Council Document 13701/04.

Council (2004g) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 26.11.2004', Council Document 11547/04.

Council (2004h) 'Outcome of Proceedings, Proposal for a Council directive on a specific procedure for admitting third-country nationals for purposes of scientific research, 30.04.2004', Council Document 8838/04.

- Council (2008a) 'European Pact on Immigration and Asylum', Council Document 13440/08.
- Council (2008b) 'Outcome of Proceedings Working Party on Migration and Expulsion', Council Document 14490/07 MIGR104 SOC413.
- Council (2008c) 'Outcome of Proceedings Working Party on Migration and Expulsion, 24.07.2008', Council Document 11512/08 MIGR52 SOC408.
- Daviter, F. (2007) 'Policy Framing in the European Union', *Journal of European Public Policy*, 14(4): 654-666.
- Daviter, F. (2012) 'Framing Biotechnology Policy in the European Union (No. 5, June 2012)', ARENA Working Paper, ARENA, Oslo.
- Dudley, G. and Richardson, J. (1999) 'Competing advocacy coalitions and the process of 'frame reflection': a longitudinal analysis of EU steel policy', *Journal of European Public Policy*, 6(2): 225-248.
- Entman, R.M. (1993) 'Framing: Toward Clarification of a Fractured Paradigm', *Journal of Communication*, 43(4): 51-58.
- Euraxess Ireland (2013) 'Attracting Researchers to Ireland: the Impact of the Scientific Visa', <http://horizon-magazine.eu/sites/default/files/Attracting%20Researchers%20to%20Ireland%20-%20The%20Impact%20of%20the%20Scientific%20Visa%20May%202013.pdf> (accessed 6.6.2013).
- Freeman, G.P. (2006) 'National models, policy types and the politics of immigration in liberal democracies', *West European Politics*, 29(2): 227-247.
- Geddes, A. and Guiraudon, V. (2004) 'Britain, France, and EU Anti-Discrimination Policy: The Emergence of an EU Policy Paradigm', *West European Politics*, 27(2): 334-353.
- Guiraudon, V. (2000) 'European Integration and Migration Policy: Vertical Policy-Making as Venue Shopping', *Journal of Common Market Studies*, 38(2): 251-271.

- Harcourt, A.J. (1998) 'EU Media Ownership Regulation: Conflict over the Definition of Alternatives', *Journal of Common Market Studies*, 36(3): 369-389.
- Hay, C. and Rosamond, B. (2002) 'Globalization, European integration and the discursive construction of economic imperatives', *Journal of European Public Policy*, 9(2): 147-167.
- Huysmans, J. (2006) *The Politics of Insecurity*, London: Routledge.
- Lavenex, S. (2006) 'The Competition State', in M.P. Smith and A. Favell (eds), *The Human Face of Global Mobility: International Highly Skilled Migration in Europe, North America and the Asia-Pacific*, New Brunswick: Transaction Publishers.
- Loder, J. (2011) 'The Lisbon Strategy and the politicization of EU policy-making: the case of the Services Directive', *Journal of European Public Policy*, 18(4): 566-583.
- Lowell, B.L. (2008) 'Chapter 2: Highly skilled migration ', in IOM, *World Migration Report*, Geneva: IOM.
- Mahoney, J. and Thelen, K. (2010) 'A Theory of Gradual Institutional Change', in J. Mahoney and K. Thelen (eds), *Explaining Institutional Change*, Cambridge: Cambridge University Press.
- Malmström, C. (2012) 'Why labour migration is an important issue for the EU', SPEECH/12/167.
- Margheritis, A. (2012) 'Piecemeal regional integration in the post-neoliberal era: Negotiating migration policies within Mercosur', *Review of International Political Economy*, iFirst(1-35).
- Mazey, S. and Richardson, J. (1997) 'Policy framing: Interest groups and the lead up to 1996 inter-governmental conference', *West European Politics*, 20(3): 111-133.
- Menz, G. (2011) 'Framing competitiveness: the advocacy of articulating migration as a human resource strategy', in *European Union Studies Association*. Boston, USA.

- Meyer, N.Y. (2010) 'The European Union Blue Card Directive: What were the main reasons to introduce the EU Blue Card directive and what was the final result after two years of political debate?', in. Twente: University of Twente.
- Morth, U. (2000) 'Competing frames in the European Commission - the case of the defence industry and equipment issue', *Journal of European Public Policy*, 7(2): 173-189.
- Parliament (2004) 'Recommendation concerning the Future of the Area of Freedom, Security and Justice, (2004/2175 (INI)), P6_TA(2004)0022'.
- Pierson, P. (2004) *Politics in Time: History, Institutions, and Social Analysis*, New Jersey: Princeton University Press.
- Radaelli, C.M. and Meuwese, A.C.M. (2010) 'Hard Questions, Hard Solutions: Proceduralisation through Impact Assessment in the EU', *West European Politics*, 33(1): 136-153.
- Rein, M. and Schön, D. (1991) 'Frame-reflective policy discourse', in P. Wagner, C.H. Weiss, B. Wittrock and H. Wollman (eds), *Social Sciences and Modern States: National Experiences and Theoretical Crossroads*, Cambridge: CUP, pp. 262-289.
- Riddervold, M. (2011) 'From reason-giving to collective action: Argument-based learning and European integration', *Cooperation and Conflict*, 46(4): 563-580.
- Schmidt, V.A. (2008) 'Discursive Institutionalism: The Explanatory Power of Ideas and Discourse', *Annual Review of Political Science*, 11 303-326.
- Smith, M.P. and Favell, A., (eds) (2006). *The Human Face of Global Mobility: International Highly Skilled Migration in Europe, North-America and the Asia Pacific*, New Brunswick: Transaction Publishers.
- The Transatlantic Council on Migration (2010) 'Talent, Competitiveness and Migration', Bertelsmann Stiftung, Migration Policy Institute.

Tilly, C. (1984) *Big Structures, Large Processes, Huge Comparisons*, New York: Russell Sage Foundation.

Weiss, J. (1989) 'The powers of problem definition: the case of government paperwork', *Policy Sciences*, 22(2): 97-121.

Table 1: Comparing the Scientific Visa and Blue Card

Framing	European Research Area		Area of Freedom, Security and Justice
Frames	Excellence	Migration	Competitiveness
Problem-definition	Europe is falling behind the innovation race and has insufficient top researchers to be globally competitive	Removing internal borders has led to challenges associated with criminal activities (e.g. trafficking, irregular migration and asylum fraud)	Europe is falling behind in the competitiveness race and is not attractive enough for top talent
Vision	Creating the European Research Area, the Single Market of Innovation and Knowledge	Secured borders, migrant integration, control, Area of Freedom, Security and Justice	Market liberalisation, free movement, Single Market
Policy solution	To attract researchers and encourage mobility; enough knowledge workers	To recruit high-skilled immigration, control borders and mobility, member states' competence and ensure Community preference	To fill labour shortages, improve labour market efficiency, encourage free movement of workers and be competitive vis-à-vis other countries
Associated discourse and key words	Researcher mobility, Single Market of Knowledge or Europe of Knowledge, fifth freedom, free movement of knowledge, excellence, technology gap	Control, competence of member states, Community preference, without prejudice to the right of member states, borders, securitisation	Competitiveness, efficiency, demographic needs, labour shortages, free market
Main actors within the Commission	DG Research	DG Home	DG Employment
Instrument	Scientific Visa for (highly-educated) knowledge migrant		Blue Card for (highly-skilled) economic migrant
Directive	Council directive 2005/71/EC of 12 October 2005		Council directive 2009/50/EC of 25 May 2009
Main objectives	<ul style="list-style-type: none"> - structure the European Research Area - attract sufficient number of foreign researchers to fulfil the 700,000 target (now one million) 		<ul style="list-style-type: none"> -create a single application procedure for foreign workers to reside and work within the EU -establish a common set of rights for workers in member state -fill labour shortages -respond to demographic needs

		-compete internationally
Main points	<ul style="list-style-type: none"> - research organisation is key - hosting agreement is the main document necessary to enter - foreign researchers could exercise free movement once admitted - family members may join researchers 	<ul style="list-style-type: none"> -applicant needs recognised diploma or have at least 5 years of professional experience -migrant obtains permit for 18 months for one member state -must reapply in another member state -total duration: 1-4 years -family reunification and work permit
Decision-making procedure	Consultation	Consultation
Main EU actors	Commission (DGs JLS & RTD) and JHA Council (EP consulted)	Commission (DGs JLS & EMPL) and JHA Council (EP consulted)
Preparation and Council negotiations	2003 (joint-DG preparation) to 2005 adoption = 2 years	2005 (Green Paper) to 2009 adoption (directive) = 4 years
Controversial points	- financial obligation on host organization, free movement of family members	-sovereignty, national labour market reserves, duration of work permit, salary level, young professionals, rights of labour migrants
Member states' opt-outs	Denmark, UK	Denmark, Ireland, UK
Major limitation	<ul style="list-style-type: none"> -decision-making remains with member states -specific numbers of TCNs admitted 	-decision-making remains with member states
Legal Base	Article 63 (3a&4) TEC	Article 63 (3a&4) TEC

Source: Compilation by authors.

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