



Works in Progress



ASSESSING EMPLOYMENT-BASED TEMPORARY-TO-PERMANENT IMMIGRATION SYSTEMS IN EUROPE AND NORTH AMERICA

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Introduction and Executive Summary

Since the 1990s, a significant part of the immigration reform debate has centered on if the United States should change its legal immigration system to accept more high-skilled migrants. President Donald Trump and his congressional allies have argued that the country must take cues from the Canadian and Australian merit-based systems and focus on admitting almost exclusively high-skilled migrants based on a points-based assessment of their professional and personal characteristics.

Although the actual Australian and Canadian models share little with these proposals, looking to other countries for ideas for improving the U.S. system is worthwhile. Furthermore, proponents of these more restrictive models have focused on how Australia and Canada select migrants for their economies without determining if they produce outcomes that align with a core set of goals for reforming the U.S. immigration system. This situation presents problems for immigration reform in the United States.

The relentless focus on merit-based systems overlooks how other types of immigration systems may offer ideas for improving our ability to select *and* keep temporary labor migrants who want to reside in the United States permanently and contribute to our communities. European systems offer ideas the United States could readily implement since they also require migrants to first secure a job offer to work in the country, unlike proposed points-based systems. Many merit-based proposals have focused on seemingly novel processes for selecting migrants rather than examining data to determine if these measures produce outcomes that align with a country's goals, including promoting permanent residency, filling labor gaps and providing migrants with jobs that fully utilize their skills, and limiting displacement of native-born workers. Simply selecting migrants based on an assessment of skills, as the Canadian or Australian systems show, does not necessarily meet all these outcomes.

The United States' fragmented employment-based temporary-to-permanent statusⁱ pathway is a prime target for testing these new ideas. Although the United States maintains the popular H-1B highly-skilled visa and employment-based, or EB, green card programs, transitioning from the H-1B program to the EB one is difficult because the programs use separate application processes. For instance, these workers and their employers may need to participate in

i This report uses "status" as the general term for an individual's legal status in the five case study countries. This status can be granted by a visa, green card, or temporary or permanent residence permit.

two costly labor market tests to determine if the foreign worker will displace native-born workers. These two parties also contend with two different caps on the number of available H-1B visas and EB green cards every year, creating more insecurity for workers seeking to stay in the country and employers who want to fill labor shortages or maintain their workforce. Given these challenges, ideas from other countries can point to avenues for reform, especially ones that have evidence-based studies that demonstrate positive outcomes.

This report examines temporary-to-permanent employment-based immigration systems in Canada, Denmark, Germany, Sweden, and the United States and includes assessments of their migrant integration and labor market outcomes.

Our comparison of the five systems finds the European countries exhibit significantly more integration of migrant workers and streamlined design for their temporary-to-permanent paths than their North American counterparts, a design that reflects their efforts to use these channels as the primary path for permanent residency.

In concrete terms, we found:

- The European systems used temporary-to-permanent streams as the primary path high-skilled workers can use to access permanent residency.
 - The European model allows individuals to directly apply for permanent status after entering to work on temporary status for five to eight years.
 - Germany and Sweden grant permanent residence to third-country nationalsⁱⁱ with temporary status after five years; Denmark grants permanent status after eight years.
 - These countries grant individuals permanent status if they meet certain integration, income and self-sufficiency, and security requirements.
- Canada and the United States have independent temporary and permanent programs with varying degrees of overlap between them.
 - In Canada, an individual on a work permit can apply for permanent residence through the country's points-based permanent migration system.
 - In the United States, employers can sponsor an employee on a H-1B visa for an employment-based green card.
 - However, these processes require the migrant and their employers follow additional—and separate—processes for permanent residency.

- The countries in this study require some to all non-citizens applying for temporary status to participate in a labor market test to assess if the candidate will displace existing workers.
 - The three European systems do not require non-citizens to undergo a separate labor market assessment at the permanent status stage if they work for the same employer in the same occupation.
 - The Canadian and U.S. systems often require non-citizens seeking permanent status to participate in a second test at the permanent residency stage.
- The Canadian and European systems require applicants for permanent status to participate in an assessment that includes evaluations of their integration, which range from taking language tests to showing civic engagement.
 - These models diverge significantly from the U.S. system, which has maintained integration assessments of English language fluency and knowledge of U.S. history and civics only when a green card holder applies for citizenship.

Our review of outcome studies of these five systems presents a complex view about their performance. **While temporary-to-permanent systems play a positive role in the economies of the case study countries, their design does not exempt them from dealing with challenges such as foreign workers with individualized academic and professional histories, a country's history of migration and migration levels, and a country's labor market composition.**

Our research review discovered:

- Although the models in each country address real world labor shortages, every system faces challenges dealing with labor market demand and promoting labor market integration.
 - Denmark, Germany, and Sweden struggle with low levels of employer recruitment of foreign workers, recognition of foreign qualifications, migration systems that historically serve lower-skilled migrants, and varying individual language fluency.
 - Studies show programs that allow migrants to work in Canada and the United States on a temporary and permanent basis fill labor shortages; migration to the United States also offsets the country's shrinking workforce by attracting more working-age adults.
- Immigrants generally do not displace native-born workers or lower their wages in the five countries, suggesting the content of labor market tests plays a bigger role in limiting displacement of native-born workers than the number of tests in temporary-to-permanent pathways.

- The evidence of this effect is stronger in Canada and the United States, which have studies that examine the impact of their temporary and permanent legal migration programs.
- The evidence is less clear for the European countries since the studies looked at how immigration impacted local rather than national labor markets, making them proxies for this issue.
- Although research groups such as the Migrant Integration Policy Index have praised Sweden and Denmark's efforts to open permanent status to more temporary migrants, temporary migrants in Canada and the United States convert to permanent status at high rates.
 - The large number of migrants that enter through temporary channels in Canada and the United States and later seek permanent residency drives these data, not the design of their temporary-to-permanent pathways.
 - The North American models make it harder for employers to retain temporary workers, especially in the United States.
 - The high demand for U.S. employment-based green cards, which have limited numbers every year, creates long backlogs that make it difficult for employers to retain temporary workers.
 - The integrated design of European systems may help offset these limitations, especially by limiting duplicative processes
 - Moderate integration tests such as those in Canada may not necessarily hinder the transition from temporary-to-permanent status in countries that receive large numbers of temporary high-skilled migrants that later seek permanent residence.
 - More stringent integration tests in countries like Denmark and Germany may limit the number of permanent residents, suggesting that more stringent tests could alter the composition of future flows.

In response to these challenges, governments that want to improve their temporary-to-permanent streams could adopt proactive measures such as improving labor recruitment processes, adopting better credential recognition processes, and improving language supports to refine their system's ability to attract and retain foreign talent. However, **the U.S. system may need much broader reforms such as changing the visa cap and reducing redundancies in the H-1B and employment-based green card visa labor market tests to produce a more efficient system.**

Our study also shows **U.S. policymakers must select immigration policies from other countries based on the program's outcomes rather than their perceived benefits or novelty. They must also establish clear goals for the U.S. immigration system to guide the process of assessing and selecting**

measures from other countries. Immigration researchers can assist with this process by doing more work to examine the impact of various temporary-to-permanent systems.

While all the countries surveyed also have temporary visa programs for lesser-skilled migrants, we will focus exclusively on the higher-skilled temporary-to-permanent programs for this study because they align the most with the stated goals of increasing the skill level of entrants and the mechanisms these countries use to meet these goals. However, examining the avenues for lesser skilled migrants to also enter, work, and obtain permanent residence to fill labor market needs and provide alternatives to manage irregular migration are also worthy of examination.ⁱⁱⁱ

iii Some studies have examined this issue from the perspective of mid-to-low-skilled migrant workers. See for instance: Migration Policy Institute, *Legal Migration for Work and Training: Mobility Options to Europe for Those Not in Need of Protection*, 2019. Available at: <https://www.migrationpolicy.org/research/legal-migration-work-and-training-mobility-options-europe>.

Comparing the Design of Temporary-to-Permanent Systems

Broadly, temporary-to-permanent systems allow migrants to access a legal status permitting them to stay and work in their host country indefinitely after arriving on a temporary visa or permit. Although the pathway temporary high-skilled workers take to become permanent residents varies by country, our case studies find there are generally three common steps in this process:

1. Accessing Temporary Status: The case study countries all have a temporary visa or permit that allows high-skilled migrants to enter and work in their labor markets (Figure 1). This step usually involves an individual receiving an offer of employment from a firm in the destination country and a labor market test. The temporary work permit or visa allows individuals to access permanent status in the future, which distinguishes them from strictly temporary labor programs that meet short-term labor needs and either prohibit permanent status or severely restrict it.

Figure 1: High Skilled Temporary Status Benefit in Case Study Countries

Canada	<ul style="list-style-type: none"> • Work permit granted to non-Canadians who meet a basic set of security, labor market, and administrative requirements • Employer-specific work permits allow foreigners to work for one employer and requires the firm to complete a labor market test
Denmark	<ul style="list-style-type: none"> • Residence and work permit granted to third country nationals who meet the requirements of temporary foreign worker programs, known as “schemes” • The Pay Limit, Positive List, and Fast-Track schemes are the primary vehicles for high-skilled foreign workers to access this benefit
Germany	<ul style="list-style-type: none"> • Residence permit for the purpose of employment granted to third country nationals who receive a job offer from a German employer that meets labor market and qualifications requirements • Certain nationals must first apply for a work visa to enter Germany and then apply for the residence permit. These individuals have a job offer and prove labor market and qualifications requirements to obtain the work visa
Sweden	<ul style="list-style-type: none"> • Work permit granted to third country nationals that receive a job offer from a Swedish employer • The employer must meet certain labor market requirements to make the offer
United States	<ul style="list-style-type: none"> • Employers can sponsor non-U.S. citizens for an H-1B high-skilled visa^{iv} if the position meets minimum skill and education requirements that are related to a candidate’s academic background and the firm completes a labor condition attestation • The visas are capped at 65,000 annually with 20,000 additional visas for applicants holding a U.S. master’s degree or higher. Certain academic and research sponsors are exempt from the cap

iv In addition to the H-1B visa, employers have the option of sponsoring high-skilled immigrants through three alternative visa programs: The O visa for individuals possessing extraordinary abilities in the sciences, arts, education, business, or athletics; the P visa for athletes and artists; or the L visa for intracompany transfers of managers and executives. Congressional Research Service, *Immigration: Nonimmigrant (Temporary) Admissions to the United States*, 2019. Available at: <https://fas.org/sgp/crs/homsec/R45040.pdf>. However, this paper will focus mainly on the H-1B process since it is the most used for general work authorization of high-skilled migrants.

2. Renewing Temporary Status: The immigration systems in the European and North American countries allow high-skilled foreign workers with temporary permits or visas to renew or extend these documents if they meet certain requirements like maintaining the same employment terms and conditions during the initial temporary status period (Figure 2). Some systems allow individuals to renew their status indefinitely while others limit the number of these extensions.

Figure 2: Duration of Temporary Status Benefit and Extension Conditions	
Canada	<ul style="list-style-type: none"> • Open and employer-specific work permits allow foreign workers to work in Canada depending on the terms of employment and the Canadian government's labor market assessment of the job offer • Foreign workers can renew their work permits if they meet certain criteria for open or employer-specific work permits
Denmark	<ul style="list-style-type: none"> • A work permit allows third country nationals to work in Denmark for four years • Foreign workers with employment periods over four years must apply for an extension
Germany	<ul style="list-style-type: none"> • A residence permit allows third country nationals to work in Germany for the duration of their contract • Workers can renew their residence permit if they maintain their employment
Sweden	<ul style="list-style-type: none"> • A work permit allows third country nationals to work in Sweden for two years • These workers can renew their work permit if they meet certain labor market conditions
United States	<ul style="list-style-type: none"> • Migrant worker can renew initial three-year H-1B visa once for a maximum of six years

3. Accessing Permanent Status: These models allow temporary work permit or visa holders to apply for permanent residency after maintaining their temporary status for a given number of years (Figure 3). Applicants for permanent residency must meet a new set of requirements that can include a new labor market test or assessment of their integration into the host country's economy and culture.

Figure 3: High Skilled Permanent Status Benefits in Case Study Countries	
Canada	<ul style="list-style-type: none"> • Permanent resident status granted to migrants who receive a high ranking after completing a points-based assessment through Express Entry, the country's merit-based permanent migration program • Foreign workers with open and employer-specific work permits can apply for permanent resident status directly through Express Entry with certain preconditions
Denmark	<ul style="list-style-type: none"> • Permanent residence permit granted to third country nationals if they maintained a temporary residence permit for eight years • Candidates must also meet a series of basic and supplementary requirements, including demonstrating cultural integration
Germany	<ul style="list-style-type: none"> • Settlement permit granted to third-country nationals who have maintained a residence permit for five years and meet certain security, cultural integration, and self-sufficiency requirements • Germany also has used the European Union's Blue Card as an alternate route for granting permanent status to highly qualified third-country nationals
Sweden	<ul style="list-style-type: none"> • Permanent residence permit granted to third-country nationals who maintained a work permit for 48 months in the last seven years
United States	<ul style="list-style-type: none"> • Employers can sponsor foreign workers, including H-1B holders, for employment-based green cards, which fall across five preference categories • Green cards capped at 140,000 annually, which the United States distributes based on the preference categories and country-specific sub-caps based on nationality of the applicant. • Employers and migrants must complete separate processes than were required for initial temporary visas

Although variations may exist in each of these individual steps, our review of temporary-to-permanent systems in Canada, Denmark, Germany, Sweden, and the United States finds three main areas of difference among the systems:

Integration between Temporary and Permanent Processes: The study found the pathways from temporary-to-permanent status exhibit different degrees of integration. The European systems integrate these statuses into a single channel since they function as the principal vehicle for foreign workers to access permanent residency after working and living in the country on a temporary visa for a set number of years. In contrast, the Canadian and U.S. models have parallel temporary and permanent systems with varying degrees of overlap, since the temporary-to-permanent pathways were basically seen

as exceptions to the existing permanent programs in these countries, even though, at least for the United States, they have become the main means by which foreign nationals access permanent residence over time.

Number of Labor Market Tests: Although the labor market tests vary significantly across the countries in this study, the number of labor market assessments distinguished these models. European systems have one major labor market test for individuals seeking a temporary visa with a review of the employment terms and conditions for renewal requests and no additional tests for permanent residency. The Canadian and U.S. systems require applicants and their employers to participate in a labor market test both at the temporary and permanent stage depending on the position's occupation.

Integration Tests at the Permanent Stage: The five countries follow different paths when it comes to requiring migrants to pass tests assessing their cultural integration when seeking permanent residency. The United States is the major outlier in this study, reserving all integration tests until individuals seek U.S. citizenship. In contrast, the other four countries administer these tests at the permanent residence stage, which can vary from language assessments to showing evidence of working with civil society groups.

The countries in this study all require the foreign employee to secure a job offer from an employer *or* participate in a merit-based assessment of their personal and professional qualifications to access temporary status. However, this study finds temporary-to-permanent pathways in Canada and the United States are similar even though their broader immigration systems use different methods to select labor migrants.

Methodology for Selected Case Studies

This report uses five countries—Canada, Denmark, Germany, Sweden, and the United States—to assess how countries allow foreigners with temporary work visas to become permanent residents. We selected these developed and migrant-receiving countries using the following guidelines:

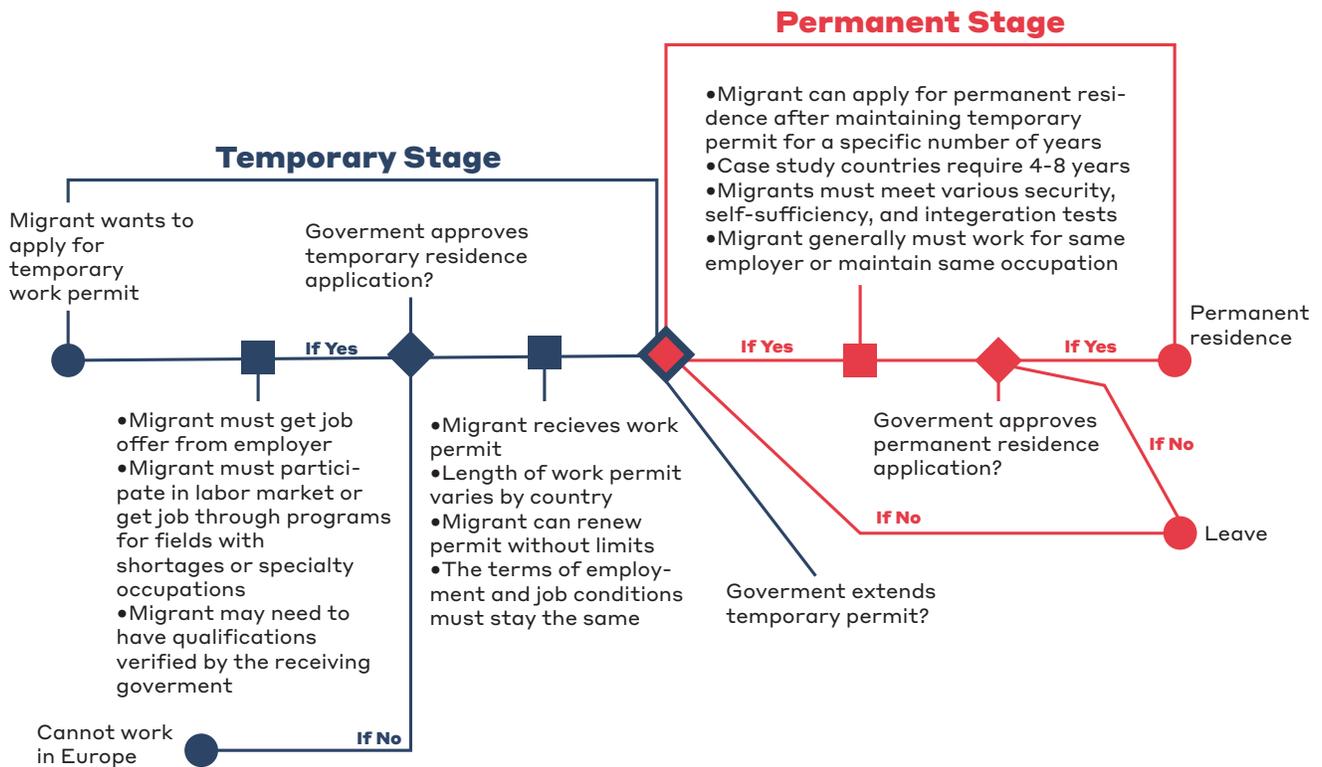
- 1) The countries needed to be located in global regions that have served as long-time destinations for employment-based migrants.
- 2) The countries needed to have viable pathways for migrant workers on temporary visas or permits to access permanent residency.
- 3) The countries needed to cover points-based or merit-based and demand-side migration models.
 - a. The models needed to show a range of labor market and integration tests and assessments for applicants seeking temporary and permanent status.
 - b. This range included systems that only include labor market tests and that require migrants to participate in extensive labor market and integration tests.

Given these systems mostly serve high-skilled individuals, the case studies examine the primary paths they take to access permanent status after securing temporary status to work for an employer in these five countries. Although these countries have alternate paths to permanent residency for students, researchers, and other specific populations, this study omits these populations for length considerations. This report focuses on temporary-to-permanent pathways for only non-EU citizens (“third-country nationals”) in the European countries since this population has direct parallels to the migrants seeking temporary or permanent status in Canada and the United States.

EUROPE: GENERAL REQUIREMENTS FOR INTEGRATED TEMPORARY-TO-PERMANENT DEMAND-DRIVEN SYSTEMS

The European systems in this study allow third-country nationals, who are non-EU citizens present in the EU, to directly transition from temporary-to-permanent status. As Figure 4 shows, the European model requires applicants to receive a job offer from an employer and participate in a labor market test to access temporary status. After working and living in the country for a set number of years, the individual can directly apply for permanent residence status, which involves assessments of an individual's integration into their host country.

Figure 4: Temporary-to-Permanent Pathway Model in European Countries



EU member states use different types of labor market tests to grant temporary work permits, which can include employers registering in government databases for occupations with labor shortages or consulting with labor unions before offering a job to a third-country national. Third-country nationals can continuously extend their temporary status only if they meet requirements for these renewals, including having a valid passport. Finally, these states have their own requirements for allowing third-country nationals on a temporary visa to gain permanent status, which range from maintaining temporary status for four years to demonstrating significant integration in the country.

Some EU countries use the EU Blue Card program as an alternate temporary-to-permanent route for high-skilled third-country nationals. To qualify for a Blue Card, individuals must possess a job offer from an employer in the EU and have completed the first stage of tertiary education or have five years or more professional experience relevant to the position.¹ Under the EU Blue Card program, EU member states allow high-skilled third-country nationals to apply for permanent residency in an EU country after working there on a Blue Card for two to five years. Of the case study countries, Germany has integrated this program into its temporary-to-permanent system.

EU Long-Term Residents Directive

In addition to the national permanent resident programs in the European case study countries, the EU's Long-Term Residents Directive (Council Directive 2003/109/EC) establishes an alternate route to gaining permanent resident status. The directive requires migrants to reside in these countries for an uninterrupted period of five years to access permanent status. The Directive also requires the third-country national to:

- Have a stable and regular source of income
- Have health insurance for the duration of their stay
- Meet the EU country's own integration tests
- Not constitute a threat to national security

If an individual meets these requirements, they receive this status, which confers to them the same rights as EU citizens. Sweden and Germany have implemented these directives; Denmark has not since it has a special arrangement over its migration policies with the EU.²

The program has struggled with implementation. A 2011 European Commission report found lack of information led to fewer migrants accessing this benefit.³ A 2019 European Commission report on the implementation of the Directive found few migrants were accessing this status because they preferred applying for permanent residency through national programs.⁴

Sweden: Streamlined Access to Permanent Status with Strong Labor Market Tests

Among EU member states, the Swedish temporary-to-permanent system serves as an example of a process that makes it simple for third-country nationals to access permanent status after passing strong labor market tests to access a temporary work permit. The country's temporary-to-permanent system has two main components: a work permit that enables third-country nationals to work in Sweden on a temporary basis and a permanent residence permit that allows them to live in the country permanently. The system connects the two statuses as follows:

Accessing Temporary Status: Third-country nationals must receive a job offer from a Swedish employer to apply for a work permit. In order to make this offer, the employer must follow the steps in Figure 5.

Figure 5: Swedish Work Permit Requirements for Employers

- Have a relevant trade union approve the offer of employment
- Have advertised the position in the European Union and European Economic Area for at least ten days
- Offer terms of employment that mirror those in Swedish collective agreements or are normal for the occupation or industry or
 - Pay a minimum monthly salary of 13,000 Swedish kroner or \$1,367 as of January 11, 2020, before taxes; provide health, life, employment, and pension insurance

Source: Government of Sweden⁵

Third-country nationals must also possess a valid passport to receive the job offer. The process does not require applicants to meet academic or professional qualifications to apply. If the employer and third-country national meet these requirements, the employer can file an application for the work permit. If the Swedish Migration Agency approves the application, the third-country national receives a residence permit to live and work in Sweden on a temporary basis.⁶

Renewing Temporary Status: A work permit allows third-country nationals to live and work in Sweden for two years.⁷ Individuals can extend their work permits if the terms of their employment continue to mirror those in Swedish collective agreements, their salary stays at or above 13,000 Swedish kronor, and they continue to receive insurance for the permit's duration. They must also show that an employer is offering a job that meets the work permit requirements.⁸

Sweden allows foreign workers to change employers without filing a new application if they work in the same occupation, have held a work permit for 24 months, and have received an extension of their work permit. However, foreign workers must submit a new application if their new job involves a change of profession.⁹

Accessing Permanent Status: The Swedish Migration Agency determines if a third-country national is eligible for permanent residence permit when they renew their work permit. The Agency typically grants long-term status to individuals who successfully maintained a work permit for 48 months in the last seven years. The employee must have worked for the same employer and occupation in their temporary permit to gain permanent status.¹⁰

Denmark: The Integrationist Model for Accessing Permanent Status

The Danish temporary-to-permanent system requires individuals who want to access permanent status to participate in a test that assesses if they have integrated into Danish society. The country's system has two main components: a residence and work permit that enables third-country nationals to work in Denmark and a permanent residence permit that allows them to live in the country permanently. The system connects the two statuses as follows:

Accessing Temporary Status: Third-country nationals can apply for a work permit through 1 of 17 foreign employment schemes. The Pay Limit Scheme, Positive List, and Fast-Track Scheme are the Danish migration system's main temporary work programs that allow foreign workers to eventually access permanent status.

The Pay Limit Scheme: This program allows any third-country national to apply for a work and residence permit with an offer of employment at a high salary level, which is adjusted by the government every year on January 1. In 2019, employers needed to pay their employees at least 426,985.06 Danish krone, which is \$63,541.33 as of January 11, 2020. The salary and employment terms must be higher than Danish standards for the profession and the employee must work for at least 30 hours every week. The scheme does not require the migrants to possess specific educational backgrounds or an employment offer in specific field.¹¹

The Positive List: This program allows third-country nationals to apply for a work and residence permit if they receive a job offer for an occupation on the Positive List—a list of professions with shortages of qualified workers in Denmark. Applicants must possess the educational background necessary to perform the job and receive a salary and terms of employment that match or exceed the standards for the field. The government updates the list twice a year on January 1 and July 1.¹² The program does not have a labor market test.

Fast-Track Scheme: This program allows certain employers to quickly recruit third-country nationals if they complete a certification process from the Danish Agency for International Recruitment and Integration. In addition to assessing a firm's salary and terms of employment for foreign workers, this process must verify that the employer has at least 20 full-time employees and has followed Danish migration and labor law.¹³ Once an employer receives the certification,

they can recruit third-country nationals through the Fast-Track program. The position must have a salary level and employment conditions that meet or exceed the standards for its professional field. After the Danish government approves the application, the third-country national can start within 10 days.¹⁴

Renewing Temporary Status: The work permit obtained through these three schemes allows the foreign employee to work in Denmark for up to four years. Individuals with employment periods more than four years must apply for an extension of their residence and work permit. If the employment period is less than four years, the employee can apply for an extension of their residence and work permit to find another position. The Danish government grants these candidates a job-seeking permit that lasts six months. If the job seeker finds a new job, they must submit a new application through one of the schemes and can begin working that day.¹⁵

Accessing Permanent Status: Most third-country nationals can receive a permanent residence permit if they have maintained a temporary residence permit for eight years. The requirements for gaining a permanent residence permit fall into two categories: basic requirements and supplementary requirements. In order to gain permanent status, a candidate must meet all basic requirements and two out of the four supplementary requirements.¹⁶ If the individual meets all four supplementary requirements, they can apply for permanent status after four years of legal residence.

As Figure 6 shows, these requirements are extensive, requiring individuals to demonstrate significant levels of self-sufficiency and integration:

Figure 6: Requirements to Access Permanent Status in Denmark	
Basic Requirements	Supplementary Requirements (2 out 4)
<ul style="list-style-type: none"> • Be over 18 years of age • Meet the requirements of current residence permit, including maintaining legal residence for eight years • Not convicted of certain crimes • Not have overdue public debts • Not received certain forms of social benefits within four years of applying for permanent status • Complete a declaration of residence and self-support • Have current employment • Have been employed for at least three years and six months • Not have worked against the establishment of their identity (e.g., using false identification documents) • Pass the Danish language test 2 	<ul style="list-style-type: none"> • Pass the Danish language test 3 • Employed for at least four years • Pass the active citizen exam about Danish government, culture, and history or displayed active citizenship for one year (e.g., participating in an organization or board that supports Denmark's fundamental democratic values and legal principals) <ul style="list-style-type: none"> ◦ Individuals can also participate in alternate activities like serving on a parents' committee or school board, working for children or young people, or play an active role in managing a non-profit organization • Maintained an annual income above a specific amount set by the Danish government for the two years before permanent resident decision <ul style="list-style-type: none"> ◦ In 2019, the amount is 286,526.16 Danish kroner or \$42,639.09 as of January 11, 2020

Source: Danish Immigration Service¹⁷

Germany: Two Routes for Accessing Permanent Status

The German temporary-to-permanent model is an example of a country that has adopted two distinct routes for high-skilled workers to gain permanent status. The first route is the country's own temporary-to-permanent status that allows individuals to enter the country on a residence permit to work in the country before applying for a settlement permit for permanent residence. The other route is via the EU's Blue Card Program.¹⁸

The German Temporary-to-Permanent System: Labor Market Tests, Qualification Verifications, and Integration Assessments Regulating Skilled Migration

Germany's own temporary-to-permanent system places heavy emphasis on using labor market tests, qualification verifications, and integration requirements to select third-country nationals for temporary and permanent status. All third-country nationals who obtain a residence permit for the purpose of employment^v must verify their academic credentials and have their employers pass a labor market test to make a job offer. Applicants who are migrating from most non-EU countries must take this step when applying for a work visa to enter the country and obtain the residence permit. Applicants for the settlement permit, the country's permanent status, must show some level of integration, albeit not to the same extent as the Danish model.

Accessing Temporary Status: German migration regulations establishes several classes of highly-skilled third-country nationals who can access a residence permit to work in Germany on a temporary basis.¹⁹ Some of these classes are:

- Third-country nationals whose work falls in the German government's shortage occupation list and whose salary is at least 52% of the annual contribution ceiling for the German government's statutory pension fund.
- Third-country nationals with a recognized foreign university degree or one that is comparable to a German university degree.
- Third-country nationals who have acquired professional vocational training in Germany in a government-recognized profession or a profession with comparable regulation.²⁰

These workers must follow an application process that includes one or two steps depending on the candidate's location and nationality when seeking to work in Germany on a temporary basis:

v This report will use the English term "residence permit" in lieu of the German name of this benefit, *Aufenthaltstitel*.

- Third-country nationals located abroad must apply first for a work visa at a German embassy or consulate to enter Germany. They must subsequently apply for a residence permit to work in the country beyond the 90-day period granted by the visa.²¹
- Nationals from Australia, Israel, Japan, Canada, New Zealand, South Korea, and the United States do not need a work visa. However, they must apply for a residence permit to work in Germany within three months of arrival.²²
- Third-country nationals who already reside in Germany and want to work there must go to their local immigration authorities to apply for a residence permit.²³

This class of migrants and their employers must participate in a labor market test and qualifications verification to allow work in Germany on a temporary basis. If a third-country national is applying for a work visa^{vi} to enter Germany and secure a residence permit, they must present the embassy or consulate officials with a signed work contract from their employer.²⁴ Their employer must receive a labor market consent from the German Federal Employment Agency to hire the applicant. The agency grants the consent after it reviews the following:

- The priority check, which determines if Germans, nationals of EU and European Economic Area countries, and Swiss nationals are available for the position.
- The check of employment conditions, which evaluates if the wages, working hours, and other terms of employment align with standards in industries with collective bargaining agreements or the agency’s review of the standards in the position’s industry if no union contract exists in the economic sector.²⁵

Applicants who will work in regulated professions such as medicine must also receive approval from the German government^{vii} that their professional and academic qualifications are equivalent to the ones required for the position

vi The applicant also must fulfill basic requirements for a visa to Germany, including having health insurance and proof of accommodations in Germany. Federal Office for Migration and Refugees, “Entry regulations for Germany,” 2019. Available at: <https://www.bamf.de/EN/Themen/MigrationAufenthalt/ZuwandererDrittstaaten/Migrathek/Einreisebestimmungen/einreisebestimmungen-node.html>.

vii An applicant’s profession determines which laws and government bodies oversee the recognition of qualifications. Most regulated professions such as medicine require recognition through the Federal Recognition Act since the German federal government regulates these fields. However, some professions such as architects and teachers require recognition through laws passed by each Länder (e.g., regional governments akin to U.S. states) since these governments regulate these industries. In these instances, the applicant would need to seek these recognitions in their destined Länder. Make It in Germany, “Recognition of foreign qualifications,” 2019. Available at: <https://www.make-it-in-germany.com/en/looking-for-foreign-professionals/targeted-recruitment/acknowledgement-of-recognition-of-qualifications/recognition/>.

in Germany.^{viii} Nationals from visa-exempt countries and applicants living in Germany generally follow the same steps, but submit these documents to their local immigration officer when applying for a residence permit.²⁶

All applicants for a residence permit, including those who arrived with a work visa, must show their local immigration officers they have a job offer from a German employer.²⁷ Applicants must also meet basic residence permit requirements such as possessing a valid visa and passport, proof of means to sustain themselves financially, and having no reason for expulsion from Germany.²⁸

Renewing Temporary Status: Third-country nationals maintain their residence permit for the duration of the work contract. Individuals can renew the permit if they maintain their employment status.²⁹

Accessing Permanent Status: Third-country nationals who have maintained a residence permit for five years can apply for a settlement permit for permanent residence. The system counts professional work as full hours towards the five-year period and research and training hours as half hours towards this goal.³⁰

The applicant must also meet the following requirements:

Figure 7: Requirements for German Settlement Permit

- Can support themselves without needing public funds
- Have made mandatory contributions to the German statutory pension fund for at least 60 months
- Can demonstrate sufficient command over the German language
- Have a basic knowledge of German society, law, and culture
- Have a work permit and can receive employment in Germany
- Do not pose a threat to public safety and national security
- Have enough living space for themselves and their family members

Source: German Federal Office for Migration and Refugees³¹

viii In the case of non-regulated positions, applicants can have their credentials evaluated by the German government to help German firms understand their background as the candidate conducts their job search. Make It in Germany, “Foreign professional qualifications,” 2019. Available at: <https://www.make-it-in-germany.com/en/jobs/recognition/professional-qualifications/>.

Impending Reforms of Germany's Temporary-to-Permanent System

In March 2020, the German government will implement the Skilled Immigration Act—a new law that aims to improve the country's capacity to attract and retain highly-qualified migrants. The law will overhaul the country's temporary-to-permanent system in the following ways:

- The law will establish a formal definition of qualified professionals, which includes individuals with a tertiary education degree or a vocational training qualification stemming from training courses that lasted at least two years. These professionals will need to apply to the German government to recognize their vocations to work in Germany.
- The qualified professional needs an employment contract or specific job offer and a recognized qualification. However, the Federal Employment Agency will no longer include priority checks of the labor market when deciding to provide consent to a firm hiring these qualified professionals. The Agency will continue with the checks on employment conditions.
- Qualified professionals who are third-country nationals with vocational training can find work beyond occupations experiencing a skills shortage. If the German government recognizes their vocational training, this class of qualified professionals can use their residence permits to work in all occupations covered by their qualification in addition to their specified occupation.
- Employers have the chance to request an expedited procedure for issuing visas to qualified professionals. The employer, highly-qualified professional, and the German Foreigners Registration Office first enter into an agreement that outlines the procedures and deadlines. Employers and the German government subsequently work together to complete the qualifications recognition and consent processes. If the employer completes this process, the Foreigners Registration Office issues an advance approval to jumpstart the visa process.

Source: German Federal Office for Migration and Refugees, Library of Congress³²

The EU Blue Card Path in Germany

Germany has increasingly used the EU's Blue Card Program that allows “highly-qualified” third-country nationals to work in the EU to recruit foreign skilled workers. The program emerged from the EU Blue Card directive (Council Directive 2009/50/EC), which the EU adopted in 2009 to establish a migration channel to attract high-skilled professionals from countries outside the EU.³³ Germany adopted the Blue Card in April 2012³⁴ after the EU began requiring member states to incorporate the program into their migration systems in 2011.^{ix} This process does not involve a labor market test for the worker or their employer.

ix Although 25 Member States adopted the program, three EU Member States – Denmark, Ireland, and the United Kingdom – opted out. EUBlueCard.com, “EU Countries issuing the EU Blue Card,” 2019. Available at: <http://www.eubluecard.com/>.

Accessing the Blue Card in Germany: Third-country nationals can apply for a Blue Card to work in Germany if they meet the following conditions:

Figure 8: Requirements to Apply for a Blue Card in Germany

EU Blue Card Requirements Adopted for Germany's Migration System	Additional EU Blue Card Requirements
<ul style="list-style-type: none"> • Have non-EU citizenship • Possess a higher education degree from a German institution, recognized foreign institution, or comparable program • Have an employment contract or a binding job offer lasting at least one year • Receive a minimum annual salary of 41,808 euros for doctors, engineers, IT specialists, mathematicians, and scientists and 53,600 euros for other professions 	<ul style="list-style-type: none"> • Submit a written declaration from the employer stating reasons of employment and benefits of contracting the third-country national • Complete application form filed by the applicant or employer • Possess required certificates or licenses for regulated professions • Have a valid travel document • Pose no security or health threat to host country

Source: German Federal Office for Migration and Refugees, EU³⁵

Like Germany's own temporary-to-permanent system, the application process for a Blue Card depends on the applicant's location and migration status. Applicants who live outside Germany must apply for a work visa like they normally would when accessing the country's own temporary-to-permanent system. Nationals from Australia, Israel, Japan, Canada, New Zealand, South Korea, and the United States remain exempt from this step and must apply for a residence permit after entering Germany. If the applicant already has a residence permit in Germany, they can submit their application for the Blue Card to their local immigration office.³⁶

Renewing the Blue Card in Germany: The Blue Card allows the foreign employee to work in Germany in terms lasting one to four years, depending on the duration of their work contract.³⁷ Foreign employees can renew their Blue Cards for another term if their work contract is longer than four years and they submit their first Blue Card.³⁸ A Blue Card can be renewed multiple times.³⁹

Accessing Permanent Status in Germany with the Blue Card: Third-country nationals with a Blue Card can access a settlement permit if they meet the following requirements:

- Maintained employment as a highly-qualified person for more than 33 months.
- Prove they obtained and made contributions to insurance benefits comparable to ones made to the country’s statutory pensions insurance.
- Met the other prerequisites for accessing a settlement permit mentioned above.⁴⁰

Germany allows Blue Card holders to access a settlement permit after 21 months if they meet these requirements and prove they have sufficient German language abilities. Candidates can prove these abilities by taking tests administered by a range of non-governmental organizations in Germany.⁴¹

NORTH AMERICA: PARALLEL TEMPORARY AND PERMANENT SYSTEMS WITH SOME EXCEPTIONS

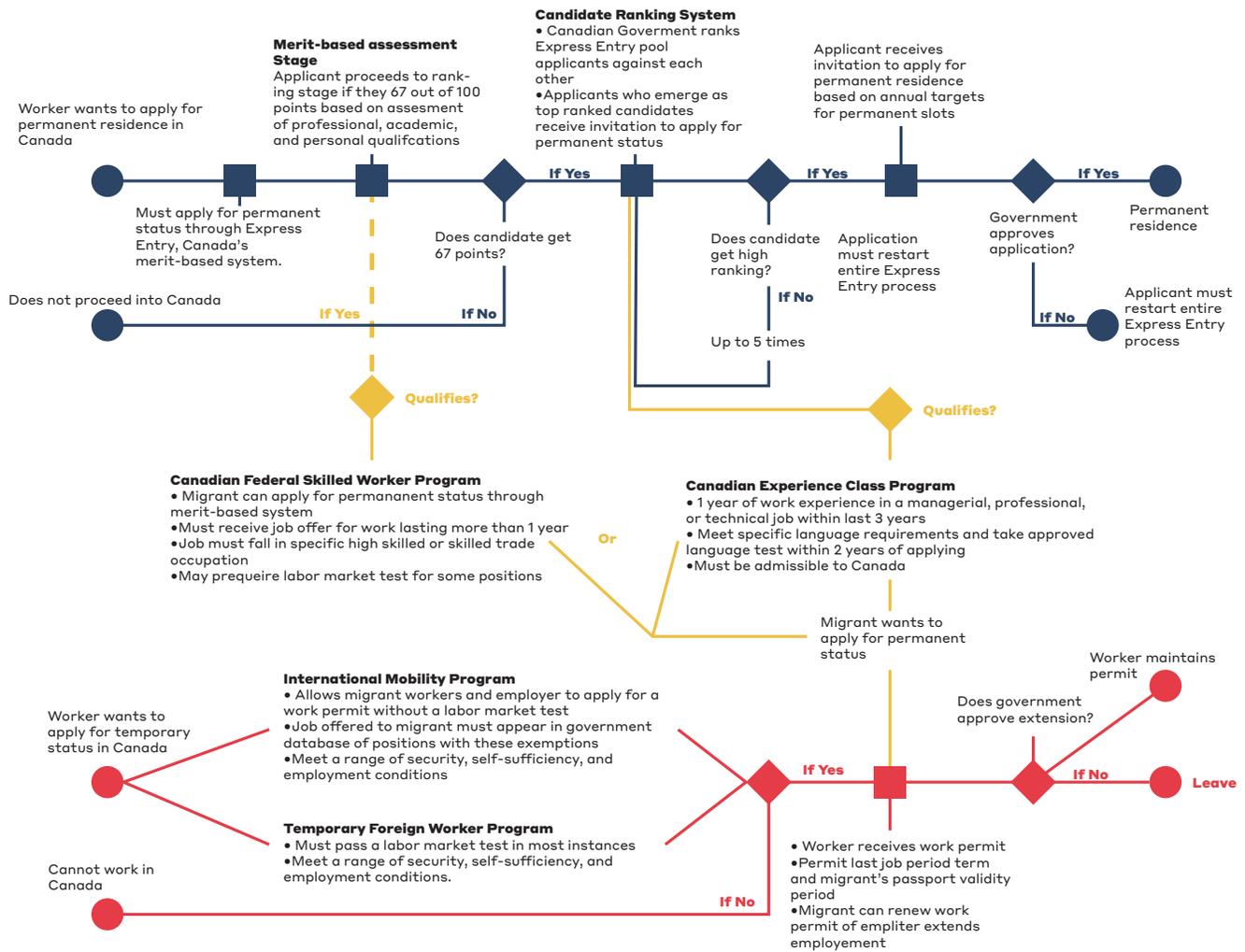
North America’s two major immigration systems—Canada and the United States—have parallel temporary and permanent tracks that have varying levels of integration. In the Canadian system, foreign workers with a temporary work visa can apply for permanent residence through its famed merit-based points system. However, this step involves a separate assessment process that may require some applicants to receive a valid job offer and participate in a second labor market test if they want to stay with their current employer. The U.S. pathway has even less integration, requiring employers to undergo two separate processes to sponsor high-skilled foreign workers for a temporary work visa and to separately sponsor them for an employment-based green card.

Canada: Bridges between Parallel Temporary and Permanent Migration Systems

Canada’s temporary-to-permanent path does not consist of an integrated single stream. Instead, high-skilled foreign workers who secure a temporary work visa can directly—but separately—apply for permanent residence through the “Federal Skilled Worker” class^x or the Canadian “Express Class”⁴² programs that exist as part of “Express Entry,” Canada’s points-based permanent migration system.

x Although Canada has other avenues for high-skilled workers to access permanent residence, this analysis will focus on Federal Skilled Worker and the Canadian Experience Class programs since they serve as the main routes for permanent residence for this population of migrants.

Figure 9: Temporary-to-Permanent Pathway in the Canadian Immigration System



As Figure 9 shows, an immigrant must pass the country's point-based assessment to apply for permanent residence, which includes some integration assessments. Individuals with temporary visas who want to stay with their current employer need the firm to issue a job offer and participate in a new labor market test in most cases. However, these applicants gain points for securing a job offer, improving the chances of passing the points threshold to gain permanent status.

Accessing Temporary Status: Non-citizens who want to work in Canada on a temporary basis usually must apply for a work permit. Applicants can apply for an open work permit that allows them to work for any Canadian employer with minor exceptions.⁴³ They can also apply for an employer-specific work permit, which enables them to work at an organization's work site for a specific period.

Both work permits have a set of basic requirements:

Figure 10: Basic Requirements to Access Canadian Work Permit

- Prove to an immigration officer the non-citizen will leave Canada when the work permit expires
- Show the non-citizen has enough funds to take care of themselves and their families while in Canada and be able to return to their home country
- Obey the law and have no criminal record
- Do not pose a danger to Canada's security
- Be in good health and participate in a medical exam, if required
- Will not work for an organization with an "ineligible" status on the list of employers that failed to comply with the requirements of the Temporary Foreign Worker Program or International Mobility Program
- Will not work in certain adult industries
- Give the officer any other documents requested to prove the non-citizen can enter the country

Source: Government of Canada⁴⁴

In addition to these basic requirements, the Canadian system has additional requirements for both permit classes. Individuals who apply for an open permit must fall into specific categories of applicants based on their personal, professional, or legal status or circumstances. Examples include: a candidate who applied for permanent residence in Canada, a dependent family member of a permanent resident applicant, or a migrant who has received refugee status in Canada can apply for this permit.⁴⁵

Applicants for the employer-specific work permit must have their employer complete a Labour Market Impact Assessment, or LMIA, through the Temporary Foreign Worker Program.⁴⁶ The LMIA, which requires an employer to provide the applicant with a job offer letter and contract, determines if the Canadian labor market needs a temporary foreign worker and no Canadians can fill the opening.⁴⁷ The labor market test offers different assessments depending on the applicant's field of work, including high- or low-wage work.⁴⁸ The process offers some exemptions for certain professions;^{xi} there are different processes in Quebec.^{xii}

xi Canadian employers do not need to file if they contract the applicant through the International Mobility Program, which establishes a list of professions that do not require the assessment. Immigration, Refugees and Citizenship Canada, "Hiring through the International Mobility Program: About the process," 2019. Available at: <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/hire-foreign-worker/temporary/international-mobility-program.html>.

xii The province of Québec has its own migration program and requires employers to submit a LMIA form in French to the Canadian government and the Quebec Ministère de l'Immigration, de la Diversité et de l'Inclusion (MIDI). MIDI also establishes its own set of exemptions for employers who do not need to submit a LMIA form. Immigration, Refugees and Citizenship Canada, "Hiring in the province of Quebec," 2019. Available at: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/quebec.html>.

The system establishes different processes depending on an individual's location. If an individual is outside of Canada, they must submit an online or paper application and submit biometric data to begin the process. Nationals of specific countries may need to take additional steps.⁴⁹ Although the Canadian government allows applicants to submit their forms in Canada, eligibility is limited to certain groups such as applicants who already have a valid study or work permit, the spouse of a current permit holder, or a graduate of certain Canadian educational institutions.⁵⁰

In addition to the Temporary Foreign Worker Program, certain Canadian employers can hire a foreign worker without a LMIA or a work permit through the International Mobility Program. In these instances, an employer must review if the position or the foreign candidate falls under a government database of positions that do not require one of these authorizations.⁵¹ If the position does not require them, the employer must submit an offer of employment through an online employer portal. Once the employer completes this step, the foreign worker must complete the work permit application process detailed in this section without needing to go through the LMIA process.⁵²

Renewing Temporary Status: A work permit's duration depends on the job offer, length of employment listed in the LMIA, and the duration of the worker's passport.⁵³ Employees in Canada can extend their job permits if their employer extends the job's duration; individuals with open work permits can extend it if they remain eligible for the permit.⁵⁴ These measures—enacted in December 2016—replaced past policies that limited work permits to four years and required the worker to leave Canada for four years to become eligible to work in the country again on a temporary basis.⁵⁵

Accessing Permanent Status: The Canadian system allows high-skilled workers with temporary permits to access permanent status through the Federal Skilled Worker or Canadian Experience Class programs. Although the programs share similar requirements and processes, they have different levels of integration into the Express Entry points assessments and eligibility requirements.

Canadian Federal Skilled Worker and Canadian Experience Class Programs

To apply for permanent status through the Federal Skilled Worker program, work permit holders must receive a "valid job offer" from an employer for continuous, full-time paid work that lasts for at least one year after the permanent resident visa's issue date.⁵⁶ The position must fall in specific labor category codes for managerial, professional, or technical and skilled trade fields.⁵⁷ The offer requires a LMIA unless the position falls in an exempted category.⁵⁸

Although the work permit holder can receive an employment offer from a new employer, individuals with a work-specific permit can apply with their existing

employer in two situations: the worker must work in a high-skilled position *and* have a LMIA certified work permit or a work permit for a LMIA exempt occupation (Figure 11). Open permit holders applying for permanent status must get a new LMIA to continue working for the same employer.

Figure 11: How Work Permit Holders Can Apply for Permanent Residence with Current Employer	
Work Permit Holder in High-Skilled Position with A Permit Based On LMIA	Work Permit Holder in High-Skilled Position Exempt From LMIA
<p>The permit holder must:</p> <ul style="list-style-type: none"> • Work for an employer listed on work permit • Be authorized to work in Canada the day they apply for a permanent resident visa <i>and</i> when the visa is issued • Received a full-time job offer from employer that lasts at least one year if permit holder receives permanent residence 	<p>The permit holder must:</p> <ul style="list-style-type: none"> • Work for an employer listed on the work permit • Have one year of full-time work experience or an equal amount of part-time work for that employer • Received a full-time job offer from employer that lasts at least one year if permit holder receives permanent residence

Source: Government of Canada⁵⁹

Applicants must go through the program’s points-based assessment of their personal and professional background to also receive an invitation to apply for permanent residence.⁶⁰ The program awards more points to individuals with higher academic credentials, more professional experience, work experience in Canada, and English or French fluency. The assessment grants points to individuals with “valid job offers,” including work permit holders applying for this status.⁶¹ The candidate cannot be inadmissible on security, human rights, criminal, medical, migration, or financial grounds.⁶²

If an individual receives at least 67 points out of 100 in the assessment, the Canadian government places them in a pool of candidates and ranks their scores through a process called the Comprehensive Ranking System.⁶³ Individuals with the highest rankings in the pool subsequently receive an invitation to apply for permanent residence through the Federal Skilled Workers Program and any other programs they are eligible for based on the annual application targets set by the government.⁶⁴ If the Canadian government approves the application, the candidate must participate in a final interview to review paperwork, prove they can support themselves and their family, and confirm that they meet the terms of permanent residence.⁶⁵

Canadian Experience Class Program

The Canadian Experience Class Program allows individuals who have worked in Canada on a work permit obtained through the Federal Skilled Worker or International Mobility Program to go directly to the Comprehensive Ranking System stage of the Express Entry process if they meet the following requirements:

Figure 12: Requirements for Canadian Experience Class Program

- Have a year of skilled work experience in a managerial, professional, or technical job within the last three years before applying through the program
 - The work must be full-time or an equal period in part-time work
- Meet the minimum language level of Canadian Language Benchmark 7 for managerial or professional jobs or Canadian Language Benchmark 5 for technical and skilled trade positions
- Take approved language test for writing, reading, listening, and speaking within two years of applying for permanent status
- Be admissible to Canada and live outside Quebec

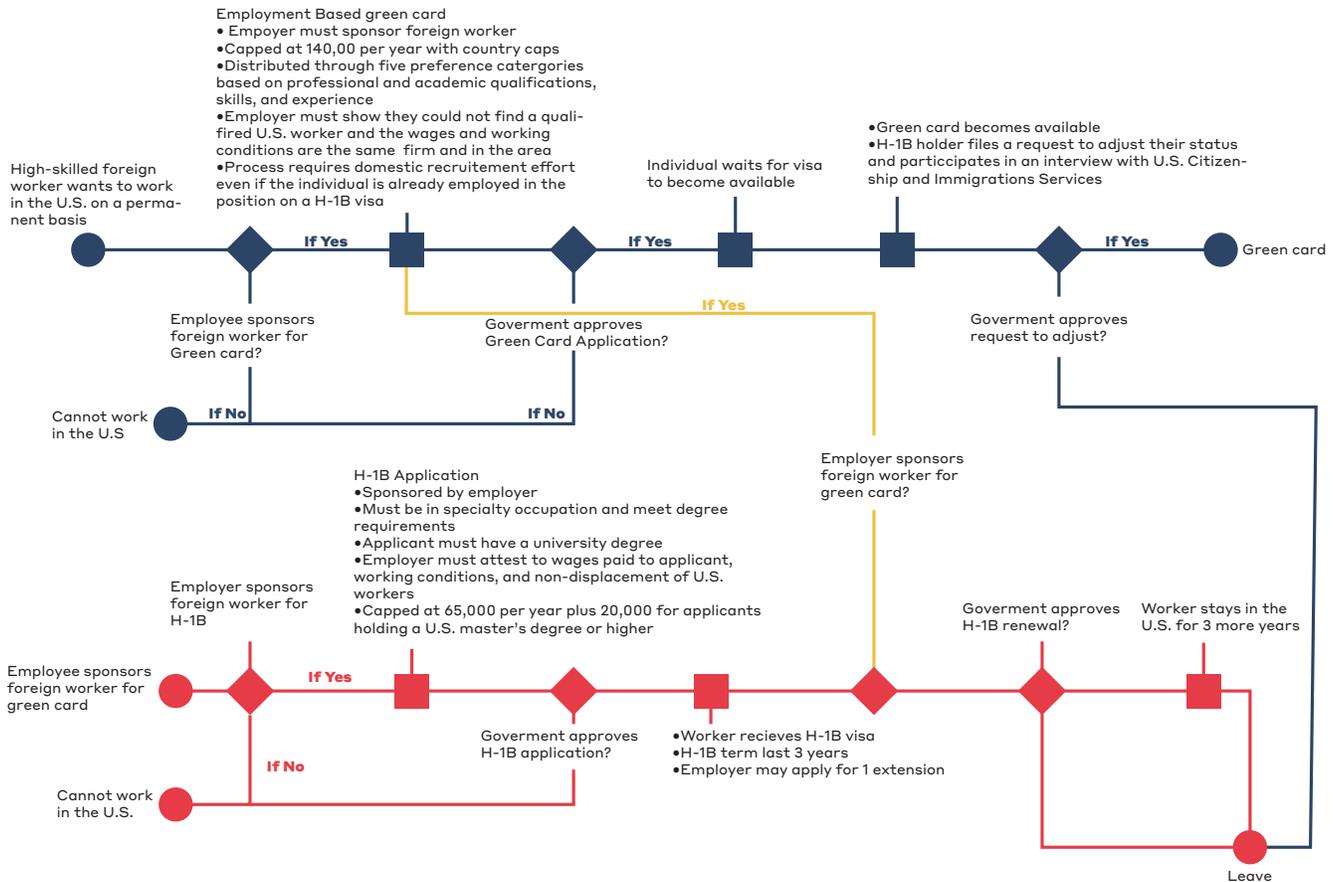
Source: Government of Canada⁶⁶

It is important to note this program does not guarantee permanent residence for its participants. As with other candidates in the Express Entry Pool that go through the ranking process, Canadian Experience Class participants only receive an invitation to apply for permanent residence if their scores fall among the highest tier of potential applicants.

The United States: A Fractured Temporary-to-Permanent System

Although the United States' employment-based system has channels for high-skilled non-citizens to work in the country on a temporary or permanent basis, the system does not have a direct pathway between these two channels. Instead, the system has a fractured pathway that requires non-citizens to navigate between two separate processes to enter and stay in the United States on a permanent basis. The most common pathway for H-1B visa holders is outlined below.

Figure 13: Temporary-to-Permanent Pathway in the U.S. Immigration System



As Figure 13 shows, employers must sponsor non-citizens for an H-1B visa, which allows the foreign employee to work in a high-skilled profession in the United States on a temporary basis for up to six years.^{xiii} If an individual seeks permanent status, their employer must separately sponsor them for an employment-based green card. These steps have different application processes based on the job offer and the applicant's skills and limits on the visas available to foreign workers each year.

xiii As noted previously, employers have the option of sponsoring high-skilled immigrants through the O visa for individuals possessing extraordinary abilities P visa for athletes and artists, or the L visa for intracompany transfers of managers and executives. Congressional Research Service, *Immigration: Nonimmigrant (Temporary) Admissions to the United States*, 2019. Available at: <https://fas.org/sgp/crs/homesec/R45040.pdf>.

Accessing Temporary Status: In order to access the H-1B visa, the non-citizen must receive a job offer from an employer in a specialty occupation, which is defined as a job category with minimum educational requirements that are related to a candidate's academic background and the job's responsibilities.⁶⁷ The individual must have a U.S. bachelor's degree, a foreign degree that is equivalent to a U.S. bachelor's program, equivalent work experience to a bachelor's degree, a license to practice if required for the profession, or equivalent training relevant to a specialty occupation.⁶⁸

Employers must complete a labor market attestation called a Labor Condition Application, which includes paying the non-citizens the higher of the wages it pays to U.S. workers in the same job or the prevailing wage for the occupation in the area of employment. The attestation also checks if the employer has not displaced any U.S. workers before hiring the foreign worker.⁶⁹ If the employer and employee meet these requirements, the employer can file a petition for the worker, which has an annual cap of 65,000 visas and 20,000 for applicants holding a U.S. master's degree or higher with cap exemptions for academic and research institutions. The H-1B system doles out these visas yearly through a lottery that randomly grants visas to employers to manage the shortage of visas every year.⁷⁰ If the petition is approved, the worker can apply for an H-1B visa at a consulate overseas, or to change their status if they are already in the United States on another visa such as a student or visitor visa.

Renewing Temporary Status: Non-citizens with H-1B visas can work in the country for an initial three-year period. Their employer may file for one three-year extension. The petition requires the employer to include documents on the non-citizen's original H-1B application, professional and academic qualifications, description of their position, and salary records.⁷¹ H-1B workers may change employers during their status if the new employer files a petition on their behalf, but may not remain in H-1B status longer than six years.

Accessing Permanent Status: The U.S. immigration system allows employers to sponsor non-citizens for Lawful Permanent Residence, or LPR status, including those with H-1B visas. The EB system consists of five preference categories that establish priorities for distributing a worldwide total of 140,000 green cards annually. As Figure 14 shows, these preferences prioritize individuals with the highest ability and experience levels over those with lower levels of educational and professional attainment. In addition to the numerical limit for each preference category, the EB system also sets a 7% ceiling for every country in these categories, meaning that each country only gets a limited number of green cards each year regardless of the number of applications filed by their nationals each year.

Figure 14: Description of Preference Categories in Employment-Based Systems

Preference Category	Description	Numerical Limit
First Preference (Priority Workers)	Priority workers: persons of extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors and researchers; and certain multinational executives and managers	28.6% (40,040) of worldwide limit of green cards; plus, unused Fourth and Fifth preference
Second Preference (Members of The Professions Holding Advanced Degrees or Aliens of Exceptional Ability)	Members of professions holding advanced degrees or persons of exceptional abilities in the sciences, arts, or business	28.6% (40,040) of worldwide limit of green cards; plus, unused First Preference
Third Preference (Skilled workers, Professionals, and Other Workers)	Skilled workers with at least two years training or experience; professionals with baccalaureate degrees; and unskilled workers	28.6% (40,040) of worldwide limit of green cards plus unused First or Second Preference; unskilled "other workers" limited to 10,000 green cards
Fourth Preference (Certain Special Immigrants)	"Special immigrants," including ministers of religion, religious workers, certain employees of the U.S. government abroad, and others	7.1% (9,940) of worldwide limit of green cards; religious workers limited to 5,000 green cards
Fifth Preference (Employment Creation/ Investors)	Immigrant investors who invest at least \$1 million (\$500,000 in rural areas or areas of high unemployment) in a new commercial enterprise that creates at least 10 new jobs	7.1% (9,940) of worldwide limit of green cards; minimum of 3,000 green cards reserved for investors in rural or high unemployment areas

Source: Congressional Research Service⁷²

The employment-based system includes a labor market test for the Second and Third preferences. This test, known as a Labor Certification, requires the employer to show the Department of Labor that the employer could not find a qualified U.S. worker for the position and that the wages and working conditions for the job are the same as for U.S. workers at the employer and in the area.⁷³ This process requires a period of domestic recruitment even if the individual is already employed in the position on a temporary worker visa. If the employer passes this test, the employer files a petition on behalf of the foreign worker in the category for which they qualify. Certain individuals in the First, Second, and Fourth preference categories and EB-5 program applicants can initiate the application process on their own.

If the Department of Homeland Security (DHS) approves the petition, the applicant must wait for a green card to become available, which can take extended periods of time because the preference category and per-country caps limit the number of available green cards every year, even if demand exceeds this supply.⁷⁴ Once a green card becomes available, the H-1B holder files a request to adjust their status to LPR and participates in an interview with U.S. Citizenship and Immigration Services to complete the process.

Assessing Temporary-to-Permanent Systems

This section reviews research for each case study country that examines the system's ability to fill labor shortages and promote labor market integration, if the models generate positive or negative effects on local labor conditions like employment and wages, and how many individuals convert from temporary status in these systems.

Methodology for Assessment

This section is a literature review that uses studies from peer-reviewed journals, independent research organizations, and multilateral bodies such as the International Organization for Migration and the Organization for Economic Co-operation and Development to assess the three criteria identified in this section for each of the five countries. In order to reach the conclusions for each criterion, we utilized the following methodology and assumptions:

Criteria One and Two: Labor Market Shortages and Native-Worker Displacement

We utilized two approaches for the European and North American models for these criteria. We found the studies on the European states looked at the legal immigration system's capacity to fill jobs and impact on native-born workers. Since the European model integrates temporary and permanent streams, we used these studies as proxies for assessing their performance in these two areas. In contrast, the studies of the Canadian and U.S. systems examine their temporary and permanent programs independently of each other, leading us to review each body separately before reaching a conclusion about their impact on these criteria. Finally, the studies in these sections spanned various periods of reform in every country over the last decade, meaning our analysis looked at the performance of the five systems over time.

Criteria Three: Temporary-to-Permanent Transitions

This section used two separate approaches for assessing this criterion. First, we reviewed the rankings of temporary-to-permanent systems produced by the 2014 Migration Integration Policy Index, or MIPEX, which evaluates how 38 countries promote the integration of migrants. The rankings provide insight into the strengths and weaknesses of the temporary-to-permanent streams for the case study countries, including their capacity to expand the population eligible for permanent status and the systems' overall efficiency.

We also examined studies and data sources of the number of temporary migrants that transition to permanent status. In the case of European countries, we examined data from the EU and the three countries' websites on the number of foreign workers who receive temporary and permanent work permits. However, these sources do not track transitions, which required us to make inferences by comparing temporary and permanent grant rates. Studies on the Canadian and U.S. systems produced more targeted data, identifying the number of individuals that transition from specific temporary programs to the country's permanent employment-based programs. Given that these studies use different data sources to examine these transitions, the comparisons lack the robustness of benchmark studies. These studies spanned various periods of reform in these countries, meaning that our analysis is a summary of their performance over time.

CRITERION 1: FILLING LABOR SHORTAGES AND PROMOTING LABOR MARKET INTEGRATION

The first assessment criterion evaluates how well the temporary-to-permanent systems in the five case study countries fill domestic labor shortages and meet employer needs for workers with in-demand skills, especially in high-skilled professions. This criterion also examines how well migrants integrate into local labor markets and find employment that fully utilizes their professional skills and academic training. The studies found European systems struggle with these tasks, largely due to low levels of employer recruitment of foreign workers, migrant flows skewed towards lower-skilled individuals, and challenges with recognizing foreign credentials.⁷⁵ However, studies on the Canadian and U.S. systems note their temporary programs do fill labor shortages even as their permanent systems struggle to meet significant demand for foreign workers across a range of industries. In short, the ability of temporary-to-permanent systems to fill labor shortages and promote labor market integration depends as much on external factors such as employer recruitment of foreign workers and their history of migration as it does on the design of their visa and work permit structure.

Assessments of Integrated Temporary-to-Permanent Systems

Denmark: Studies suggest the country's stringent foreign qualification standards make it difficult for migrants to find a job that fully utilizes their skills,⁷⁶ generating differences in the employment rates of high-skilled migrants and native-born workers. For instance, MIPEx found that university-educated third-country nationals are 15% less likely to be employed than high-educated Danish born workers.⁷⁷ The professional qualifications of migrants arriving to the country also could be a cause of this disparity. A 2016 study that examined the credentials of 42,000 foreign workers who arrived between 2001 and 2011 noted only 6,500 had higher education qualifications.⁷⁸ English-language studies were not located that examined if foreign workers fill the country's labor vacancies.

Germany: Although Germany has reformed its employment-based system, the country has struggled to attract qualified foreign workers due to low employer recruitment efforts. Studies find that concerns about the hindrances of the immigration system, unfamiliarity with foreign recruitment strategies, and concerns about German language fluency deterred these recruitment efforts.⁷⁹ A 2011 Organisation for Economic Cooperation and Development, OECD, poll reinforced these findings, reporting only 25% of employers that failed to locate native-born workers tried to hire foreign workers; and only half of these employers succeeded in their recruitment

efforts. However, a 2018 study found concerns about future recruitment problems improved a foreign candidate's chances of receiving a job offer from a German employer,⁸⁰ indicating these firms understand the value of migration to fill jobs despite their low recruitment efforts.

Data on the arrival of skilled third-country nationals reinforces these observations. A 2013 assessment of German efforts to attract high-skilled third-country employees following a 2005 reform reported the number of highly-skilled third-country nationals only grew from 15,353 to 16,324 and skilled third-country workers increased from 18,049 to just 18,334 between 2006 and 2009, due to these issues.⁸¹ A subsequent study found the number of skilled employees *decreased* from 28,761 to 25,053 during this time.⁸² The German parliament passed a law in June 2019 that created a new "skilled" category of workers to facilitate the entry of 25,000 migrants every year,⁸³ tacitly acknowledging problems related to finding foreign workers.

While the German government has made strides to recognize the foreign credentials of migrants and assist workers with their German language skills, these problems have limited the capacity of some high-skilled immigrants to access the labor market and find higher quality jobs.⁸⁴ Although highly-educated third-country nationals integrate into the German labor market, MIPEX reported they were 10% less likely to have jobs than non-migrants with the same education level. Long-settled third-country nationals with tertiary education are two times more likely to work in occupations below their qualification level.⁸⁵ A 2013 study that examined 2011 German government data noted some parity between migrant and German employment rates in the country's major job sectors. For instance, 30% of migrants and 25% of German workers found employment in communications fields.⁸⁶

Sweden: Although Sweden's history of receiving primarily humanitarian, family-based, and low-skilled migration has led more third-country nationals to work in lower-skilled occupations like care work,⁸⁷ a 2011 OECD study reported the legal migration stream filled high- and low-skilled occupations on the country's job shortage list after the country allowed employers to recruit foreigners without consulting a union.⁸⁸ A comparison of work permit approvals and shortage list occupations in a 2015 Swedish government report finds the government fully or partially filled 13 out of 15 shortage list occupations through its approval of third-country national work permit applications in 2014.⁸⁹ However, a 2019 literature review reported although the country expanded work permits between 2009 and 2017, half of the recipients worked in positions outside the shortage occupation list.⁹⁰

A 2008 summary of empirical studies on the labor market integration of foreign-born nationals reported discrimination and lack of access to social networks generated an excess of foreign workers in low-skilled and low-wage occupations.⁹¹ A 2012 study found more third-country nationals worked in

lower skilled occupation including care work, helpers, and nursing than in highly-skilled occupations such as medical physicians.⁹² However, a 2014 study noted 72% of highly educated non-EU immigrants found employment in the country after living there for 10 years or more, suggesting that employment rates and job quality converge over time.⁹³

Assessments of Parallel Temporary-to-Permanent Systems

Canada: Canada's Express Entry System has struggled to receive enough numbers of qualified migrants to fill migration targets after its rollout in 2015, including those for economic migrants due to individuals filing applications that do not meet the points threshold to access permanent residency. This problem has led the Canadian government to reconfigure its points allocations, so it may select individuals with lower qualifications.⁹⁴ The system also started granting more points to individuals with job offers to offset this problem.⁹⁵

Some studies do suggest temporary migrants fill labor shortages and skills gaps in Canada. A 2019 OECD study found periods of unemployment have an inverse correlation with intakes of temporary work permits requiring LMIA tests at the national and provincial level, suggesting some temporary permits fill labor market needs.⁹⁶ While some economic migrants' skills may not match the needs of Canadian employers, studies find foreign STEM workers meet demand for these positions because Canada produces fewer of these workers compared to other countries such as the United States.⁹⁷

The country's temporary programs may promote better labor market integration due to the selection of migrants that arrive with higher skill levels. Individuals in the Canadian Experience Class Program have higher earnings and employment rates with improved returns on education and work experience.⁹⁸ Workers in the Temporary Foreign Worker Program also had higher initial earnings and employment outcomes than migrants without work experience in Canada.⁹⁹ More broadly, the Canadian government uses longitudinal data of migrant outcomes to improve its assessments' ability to select individuals with better chances to succeed in the nation's labor market.¹⁰⁰

The United States: Broad studies of the U.S. immigration system finds its legal pathways, including ones for high-skilled workers, help fill labor shortages by attracting a work force that complements native-born workers.¹⁰¹ A 2016 National Academies study of the fiscal and economic impact of immigration to the United States finds immigrants and their children account for the majority of the current and future workforce as the native-born workforce continues to shrink. The Bipartisan Policy Center's research has confirmed these findings, noting the large number of immigrants coming to the United States will offset the drop in the working age population as more workers retire.¹⁰²

Research on the H-1B program notes it fills vacancies in STEM professions. A 2013 study that examined a range of job openings data reported postings for STEM job vacancies remain unfilled for extended periods of time, suggesting a native-born workforce cannot fill these labor gaps.¹⁰³ A 2018 study that used a similar methodology found similar results, noting employers seek foreign workers when facing challenges to fill their positions.¹⁰⁴ A 2018 study that examined how H-1B caps shaped the distribution of H-1B visa holders in the U.S. workforce noted they pushed H-1B holders into computer-related occupations and firms that use H-1B visas heavily.¹⁰⁵

As to labor market integration, a 2015 study on factors that helped immigrant professionals integrate into the U.S. job market reported English language fluency, preexisting professional and personal social networks, and duration of stay impacted a migrant's chances of professional success.¹⁰⁶ A 2016 study confirmed and expanded these findings, noting English proficiency, foreign degrees, legal status, and race and ethnicity led to underemployment among high-skilled migrants, including those with green cards. However, H-1B visa holders experienced this problem at lower levels than individuals with other legal statuses because the visa's employment and education requirements limit the mismatch between their skill level and their work positions.¹⁰⁷

CRITERION 2: IMPACT ON LOCAL LABOR MARKETS AND WAGES

The second—and more controversial—component of assessing temporary-to-permanent systems is if the arrival and retention of temporary migrants displaces native-born workers and depresses wages in local labor markets. Our review found migration does not impact labor market conditions for native-born workers in Germany, Sweden, or the United States while displacing some workers in Canada and Denmark due to geographic distribution of workers or wage controls. The evidence is stronger for the U.S. and Canada since these studies examine their temporary programs or larger migration stream. In contrast, the studies of the European models examine the impact of immigration on local labor conditions, which requires using these findings as proxies for a national evaluation. While analyzing how each system's labor market tests produce these outcomes extends beyond the scope of this paper, these studies suggest the content—not the number—of labor market tests in temporary-to-permanent pathways plays a major role in limiting the displacement of native-born workers.

Assessments of Integrated Temporary-to-Permanent Systems

Denmark: The impact of high-skilled immigrants on the displacement of native Danish workers remains unclear from existing Danish labor market

data.¹⁰⁸ A review of 2011 Danish government data did find more Western migrants were high wage earners than Danish-born workers and non-Western migrants,¹⁰⁹ which may suggest some overrepresentation in these fields by this group. A 2011 study reported high-skilled immigrants may increase the unemployment rate in Denmark due to the low levels of wage flexibility in the high-skilled labor market, which creates an excess supply of native-born workers.¹¹⁰ However, a 2014 study that examined OECD data found there was low correlation between the foreign born population and unemployment rates in the country.¹¹¹

Germany: A 2014 study that examined OECD data observed no correlation between the foreign-born population in Germany and unemployment rates.¹¹² Economic studies also observe high-skilled migration reduces the unemployment rate in Germany over the long-run even though these arrivals generate more unemployment in the short-run. The productivity of native workers benefits from the influx of middle-skilled immigrants into the German labor market since the high qualification levels of the native-born work force makes them compete more strongly against high-skilled arrivals.¹¹³

Sweden: A 2014 study that examined OECD data on immigration and employment rates did not locate a correlation between the foreign-born population and unemployment rates in Sweden.¹¹⁴ Another 2013 study noted foreign born workers accounted for a third of the country's 2011 employment rate increase, which reversed the economic downturn the country faced between 2008 and 2010. However, the authors added a persistent divergence exists between the employment rates of foreign-born workers and native-born Swedes. In 2011, 77.9% of native-born Swedes had employment, compared to 63.2% for foreign born workers.¹¹⁵

Assessments of Parallel Temporary-to-Permanent Systems

Canada: A 2018 Canadian government study reported immigrants of core working-age—25 to 64 years of age—and Canadian-born workers aged 55 and older drove 66% of national employment gains between 2016 and 2017.¹¹⁶ A 2019 OECD study found periods of high unemployment rates have an inverse correlation with intakes of work permits requiring LMIA tests at the national and provincial level, suggesting the arrival of temporary workers may not displace native-born workers.¹¹⁷ Other studies observed provinces with larger inflows of temporary foreign workers have a reduction in the number of Canadian natives moving to these provinces, generating some native-worker displacement.¹¹⁸

United States: Broadly, the 2016 National Academies study of the fiscal and economic impact of immigration to the United States finds high-skilled immigrants boosted wage and employment outcomes for U.S. workers in these fields because the newcomers complemented the existing workforce with new knowledge and skills.¹¹⁹ A 2018 BPC study supports these conclusions, noting

the employment rates of native U.S. workers—especially those with more education—rose by a small amount as more immigrants arrived to a region.¹²⁰ A 2016 BPC literature review on the impact of immigrants on wages concluded that a majority of studies agree foreign workers have a minor, short-term effect on overall native-born salaries. However, migrants may negatively impact the wages of lower-skilled workers, which supports similar findings from the National Academies study.¹²¹

The debate over the impact of H-1B workers on native-born wages and employment rates has produced differing sets of studies on this issue. Immigration-skeptic organizations on both sides of the U.S. political aisle have produced studies claiming the program has negative impacts on native-born worker employment rates and wages.^{xiv} However, objective studies show arriving STEM workers do not have any impact on native employment rates and have a neutral to positive benefit on wages.¹²² Further, the 2018 study that examined the impact of H-1B quotas on the labor market found the reduction in H-1Bs initially shifted hiring from H-1B workers to established ones. However, these firms began hiring fewer workers overall as the number of H-1B workers decreased over time, largely due to the low level of substitutability between H-1B and native workers.¹²³

CRITERION 3: PROMOTING PERMANENT RESIDENCY OF TEMPORARY MIGRANTS

The final analysis assesses if the case study systems enable *and* promote permanent residency among migrants with temporary status. While these evaluations can examine the design of a temporary-to-permanent system to address this issue, data is needed to determine if these systems live up to their goals and actively allow individuals to gain permanent residency after meeting the length of stay requirements. Direct assessments of these models suggest Sweden and Denmark have systems that facilitate permanent residency among temporary migrants. However, data also show temporary migrants on high-skilled visas in Canada and the United States become permanent residents at high rates, suggesting more integrated systems may not produce the highest number of permanent residents.

MIPEX's 2014 analysis of 38 temporary-to-permanent systems found Belgium, Sweden, and Spain were the top three countries for promoting the permanent

xiv See for instance Norman Matloff, “Are foreign students the best and brightest?” Economic Policy Institute, February 28, 2013. Available at: <https://www.epi.org/publication/bp356-foreign-students-best-brightest-immigration-policy/>; Steven Camarota and Karen Zeigler, “Is there a STEM worker shortage?” Center for Immigration Studies, May 19, 2014. Available at: <https://cis.org/There-STEM-Worker-Shortage>.

residence of migrants, including third-country nationals. Denmark ranked fourth, Canada ranked 16th, Germany ranked 19th, and the United States came in 25th.

Figure 15: Top Ten Countries in MIPeX Ranking for Promoting Migrant Permanent Residence (2014)

1. Belgium	6. Finland
2. Sweden	7. Norway
3. Spain	8. Portugal
4. Denmark	9. Hungary
5. Estonia	10. Bulgaria

Source: MIPeX¹²⁴

MIPeX ranked Sweden ahead of the other countries in this report based on expanding the eligibility for permanent status to more individuals, including temporary residents who came to work in the country. Sweden also received high marks for establishing reasonable requirements to access permanent residency.¹²⁵ Denmark received high marks for shifting from a strict points-based system that limited access to permanent residence to its current incarnation in 2012, which provided a more realistic pathway to this status despite maintaining strong integration tests.¹²⁶ The study also gave most European states high marks for allowing temporary residents to directly access permanent status after five years.¹²⁷

In contrast, MIPeX docked Germany for establishing more restrictive conditions for income and language requirements, even though temporary residents can become permanent after five years.¹²⁸ MIPeX also criticized the United States' system because it does not provide individuals including H-1B holders with a clear path to a green card. The analysis added that the years-long wait for a green card and prospect of deportation create insecurity for this population.¹²⁹ The analysis had similar reservations about the Canadian system, noting the country's increasing use of temporary visas made it harder for many migrants to become permanent residents, especially those outside the Canadian Experience Class program. The study noted the country's language and income requirements made it harder to access permanent residence.¹³⁰

Although these rankings might suggest more temporary migrants become permanent residents in Europe, temporary workers regularly make this transition in the United States and Canada. Our review of U.S. Citizenship and Immigration Services data found 87% of employment-based green cards went to individuals who arrived to the United States on a temporary visa between 2005 and 2014.¹³¹ As Figure 16 shows, 36% of these applicants had H-1B visas, making

it the most common temporary-to-permanent channel in the United States. A 2012 Congressional Research Service study reported that 46% of foreign nationals who obtained green cards between 2000 and 2009 had H-1B visas.¹³²

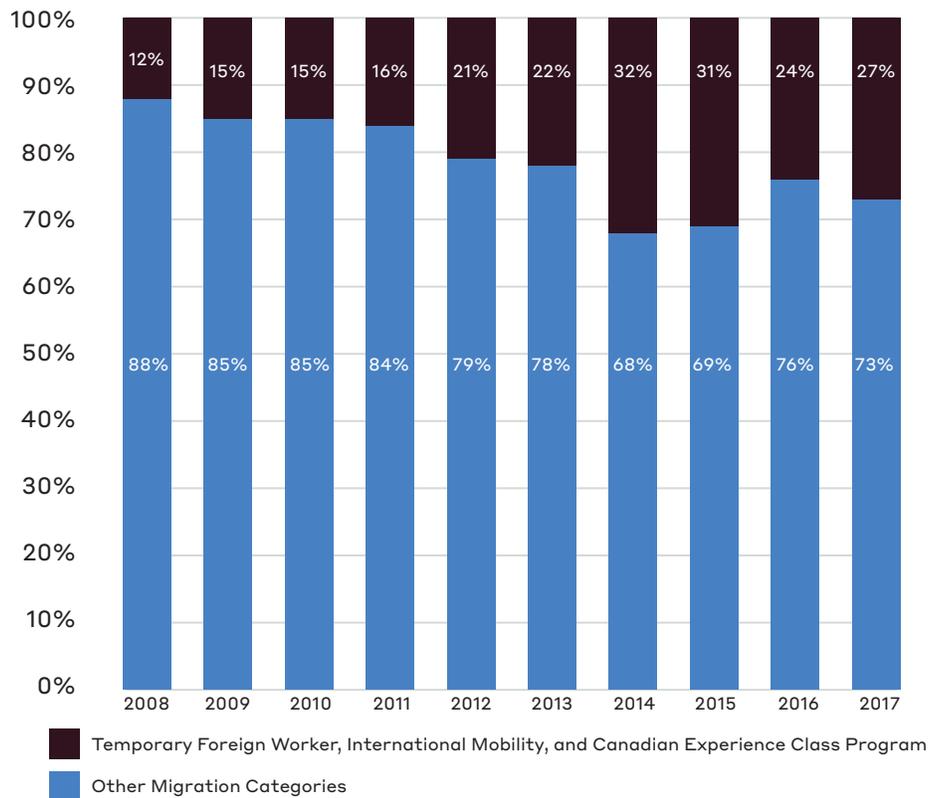
Figure 16: Top 10 Temporary Visas That Precede Employment-Based LPR Status

Rank	Visa	2010	2011	2012	2013	2014	Five Year Total	
							Number	Percent
1	H-1B	40,727	47,764	42,318	49,221	42,167	222,197	36%
2	L	8,837	6,193	9,251	9,596	9,104	42,981	7%
3	Unk	6,354	4,633	4,962	4,902	4,437	25,288	4%
4	F	3,888	4,132	4,072	5,197	4,282	21,571	4%
5	EWI	7,820	3,077	1,859	1,393	1,164	15,313	3%
6	E2	2,498	2,762	2,904	3,523	3,481	15,168	2%
7	B2	4,294	2,462	2,243	2,107	1,743	12,849	2%
8	O1	1,561	887	1,185	1,373	1,278	6,284	1%
9	J	578	498	467	849	692	3,084	1%
10	E1	635	485	545	587	441	2,693	<1%
Dependents of Above		42,873	41,253	44,298	50,583	43,911	222,918	36%
Other Visas		6,152	4,446	4,010	4,070	2,917	21,595	4%

Note: Temporary visa categories are highlighted in blue
Source: USCIS Freedom of Information Act request

Canadian government data show more immigrants over the years have transitioned to permanent status from the Temporary Foreign Worker, International Mobility, and Canadian Experience Class Programs. As Figure 17 shows, temporary workers from these three programs formed at least 21% of permanent admissions since 2012. Although recent numbers have decreased from a peak of 32% in 2015, they still represent a significant number of permanent admissions.

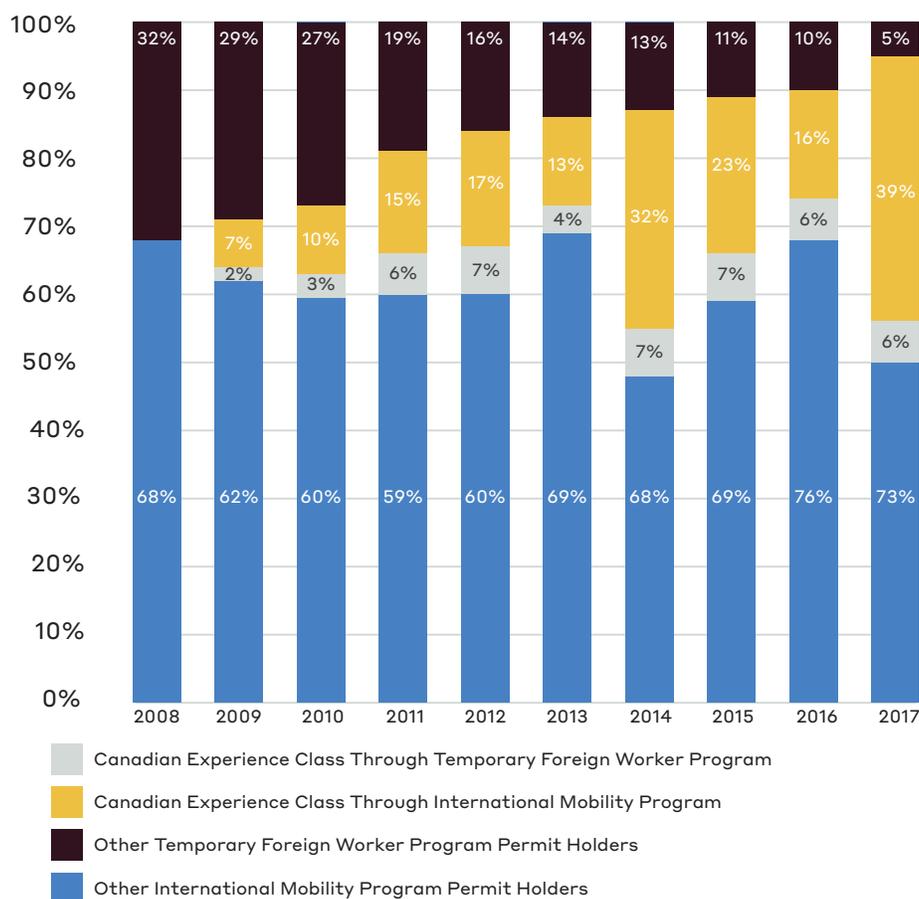
Figure 17: Temporary-to-Permanent Pathway in the Canadian Immigration System



Source: Government of Canada¹³³

The Canadian government’s data also indicate the International Mobility and Canadian Experience Class Programs account for the majority of temporary-to-permanent transitions in Canada. As Figure 18 shows, foreign workers who obtained a work permit through the International Mobility Program formed at least 50% of all temporary-to-permanent transitions between 2008 and 2017. However, Canadian Experience Class beneficiaries through either the Temporary Worker or International Mobility Program have emerged as the other principal source of transitions from temporary-to-permanent status.

Figure 18: Percent of Permanent Admissions to Canada from Specific Temporary Worker Programs (2008-2017)



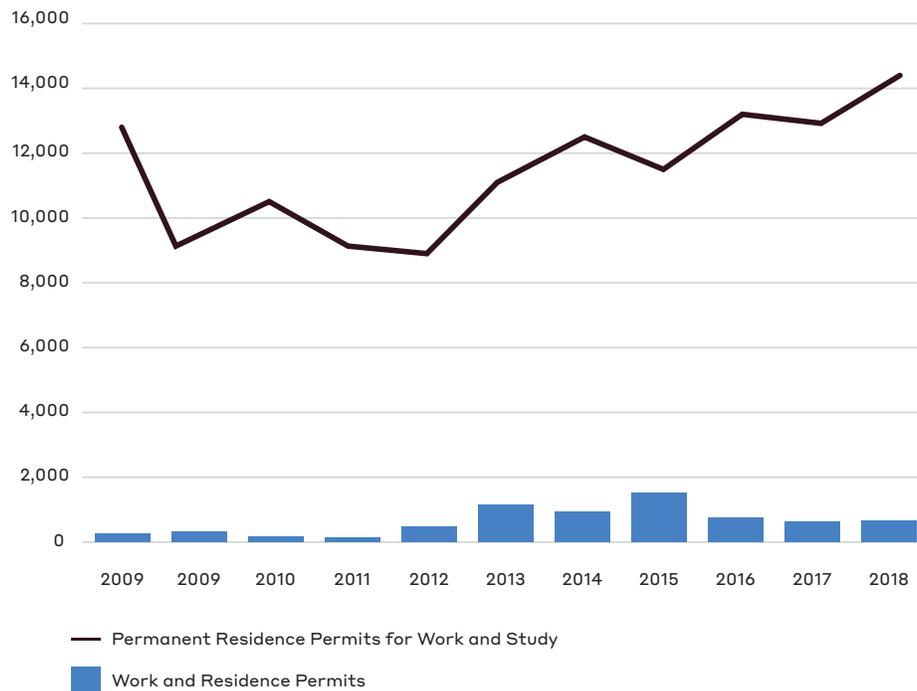
Source: Government of Canada¹³⁴

As for Europe, it is unclear if more temporary migrants transition to permanent residence because most datasets and studies only examine the growth and temporary or permanent population for the duration of their stay, not if they transitioned from a temporary status to a permanent one. Furthermore, consistent data on the number of individuals who receive permanent residence status each year does not exist for Germany, making it difficult to infer if individuals make this transition by comparing temporary and permanent residence status grant rates.

Among the three European case study countries, Denmark and Sweden gather the most data on the number of migrants that receive temporary or permanent status to work in the country. Danish government data shows the country issued more temporary work and residence permits between 2012 and 2018, growing from 9,024 to 14,355 during this period (Figure 19). However, the government issued far fewer permanent residence permits for work and study

purposes during the same period.^{xv} This number increased from 486 to 1,520 between 2012 and 2015 before dropping to 651 in 2018. The large difference between the two suggests that a small number of migrants transitioned from temporary-to-permanent status as workers in these years.

Figure 19: Temporary and Permanent Residence Permits Issued by the Danish Government (2008-2018)



Source: [StatBank Denmark](#)¹³⁵

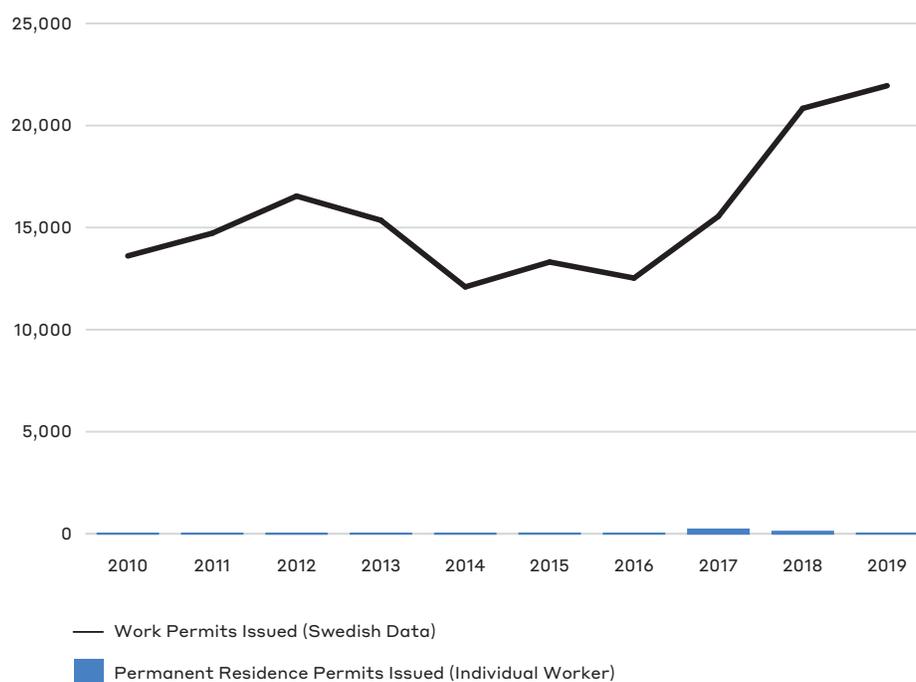
A 2016 study that examined the length of stay of highly educated migrants in Denmark reported foreign workers without families stayed for an average of five and a half years. Migrants with families stayed an average of 10 years if their spouses found employment within a year of arrival. However, this data does not establish if these individuals became permanent residents,¹³⁶ making it hard to assess if the system improved transitions.

Swedish government data shows similar trends. As Figure 20 shows, Swedish government data shows Sweden issued a steady number of temporary work permits between 2009 and 2018, with a modest uptick occurring between

xv The Danish government’s migration database does not separate permanent residence permits issued for work or study purposes. We will use this datapoint as a proxy for permanent residence permits.

2014 and 2018.^{xvi} However, the Swedish government issued significantly fewer permanent residence permits for workers employed by a Swedish firm during this period. Between 2010 and 2017, the number of permanent residence permits grew from 6 to 211 before dropping to 18 in 2019. The Swedish government only issued a total of 393 permits during this period. Like Denmark, this trend suggests the country had relatively few temporary migrants transition to permanent status, even though it has a streamlined temporary to permanent system.

Figure 20: Temporary and Permanent Residence Permits Issued by the Swedish Government (2010-19)^{xvii}



Source: EuroStat¹³⁷, Swedish Migration Agency¹³⁸

Studies provide more information on the length of stay of migrants in Sweden. MIPEX noted half of third-country nationals had more than five years of

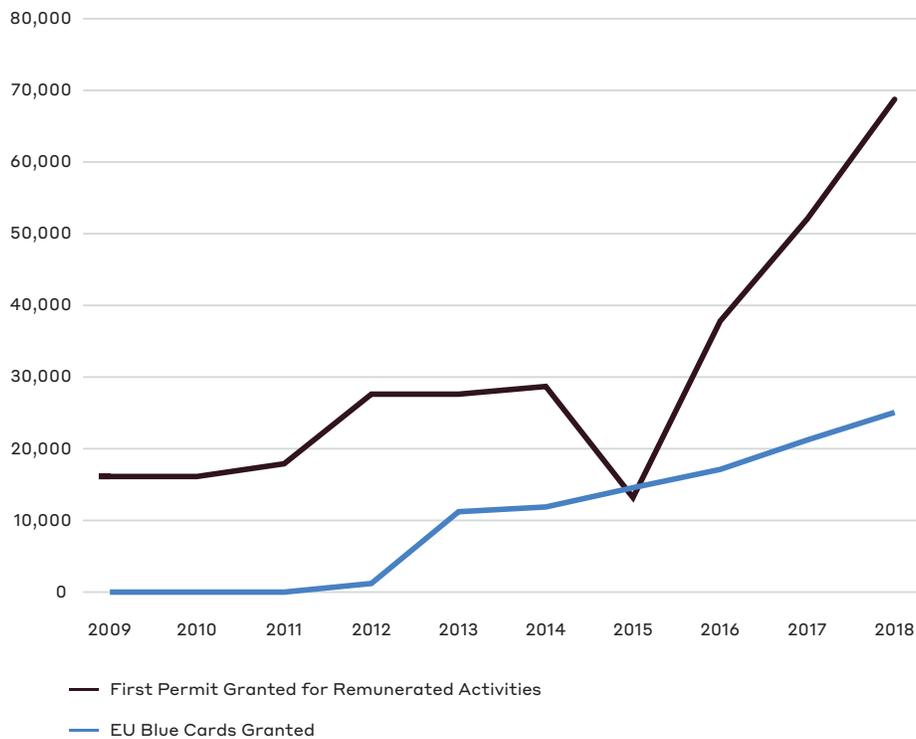
xvi EU data also shows the country has not relied on the Blue Card program to attract high-skilled migrants. Migrants received 46 Blue Cards between 2012 and 2018.

xvii Figures 20 and 21 includes EU data that tracks “first permits granted for remunerated activities.” The EU defines this term as authorizations that allow a third-country national to remain and work in a country for at least three months. Given that Germany and Sweden require individuals to obtain temporary status in order to eventually become permanent residents, we use this data as a proxy for tracking temporary migration. Eurostat, “Residence permits – statistics on first permits issued during the year,” 2019. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Residence_permits_statistics&oldid=410577.

residence in Sweden in 2011 and 2012.^{xviii} While this length of stay makes them eligible for permanent status, the study did not present data on if this population sought or had obtained permanent residence. Another 2015 study discovered highly qualified specialist workers in fields such as information technology stayed in the country for short periods of time,¹³⁹ suggesting fewer high-skilled individuals may reach the point to apply for permanent residency.

Finally, longitudinal data on Germany’s migration system only tracks the number of foreign workers who receive temporary permits to work in the country. As Figure 21 shows, according to EU data, the number of first permits for remunerated reasons grew from 13,451 to 68,342 during this time. More migrants received Blue Cards to work in Germany than other countries in this report, with the number increasing from 2,584 in 2012 to 26,995 in 2018, indicating a growing reliance on this program to recruit high-skilled workers. However, the EU did not gather any data on the number of long-term residence

Figure 21: Number of First Permits for Remunerated Activities and EU Blue Cards Issued in Germany (2009-2018)



Source: EuroStat¹⁴⁰

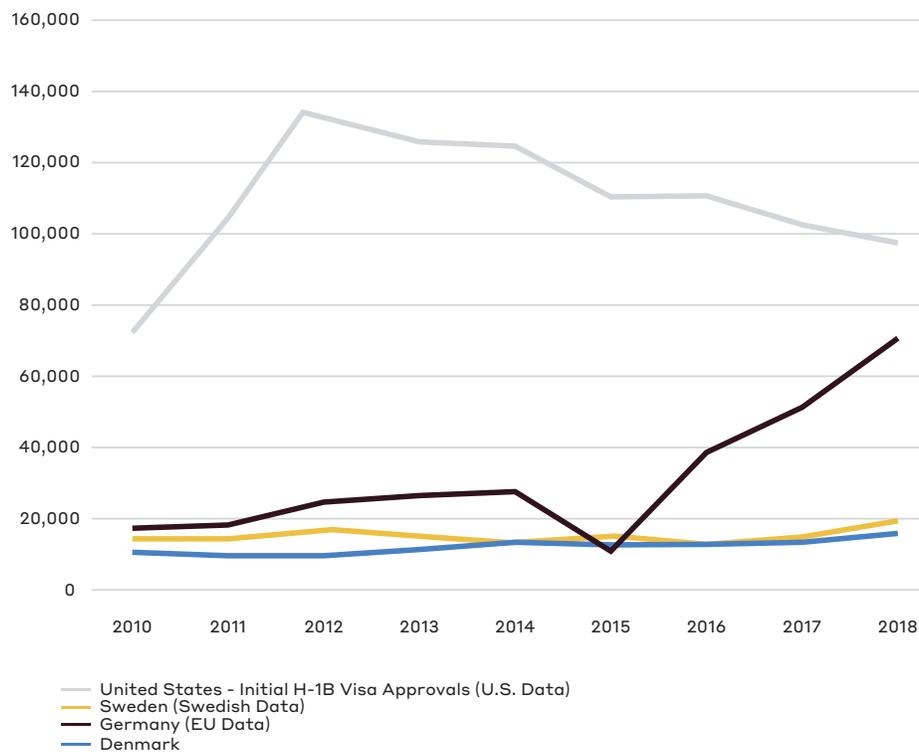
xviii Thomas Huddleston, Ozge Bilgili, Joki Anne Linde, Zvezda Vankova, “Sweden,” *Migrant Integration Policy Index*, 2015. Available at: <http://www.mipex.eu/sweden#/tab-permanent-residence>.

permits issued during this period, and the German government does not maintain longitudinal data on these migrants.^{xix}

Other studies suggest few migrants make the transition from temporary-to-permanent status in Germany. While approximately two-thirds of third-country nationals had lived in Germany for five years or more as of 2013, MIPEX discovered only half of this number had become long-term residents. However, the analysis did not break down the number of temporary migrant workers who made this transition.¹⁴¹

These findings have implications about if integrated systems produce additional permanent residents. As the U.S. and Canadian systems show, high migration numbers can offset inefficient temporary-to-permanent system designs to allow more migrants to make the transition, even if at lower rates. In the case of temporary migration, the United States has approved more initial

Figure 22: Number of Temporary Status Benefits Issued in Case Study Countries (2010-17)



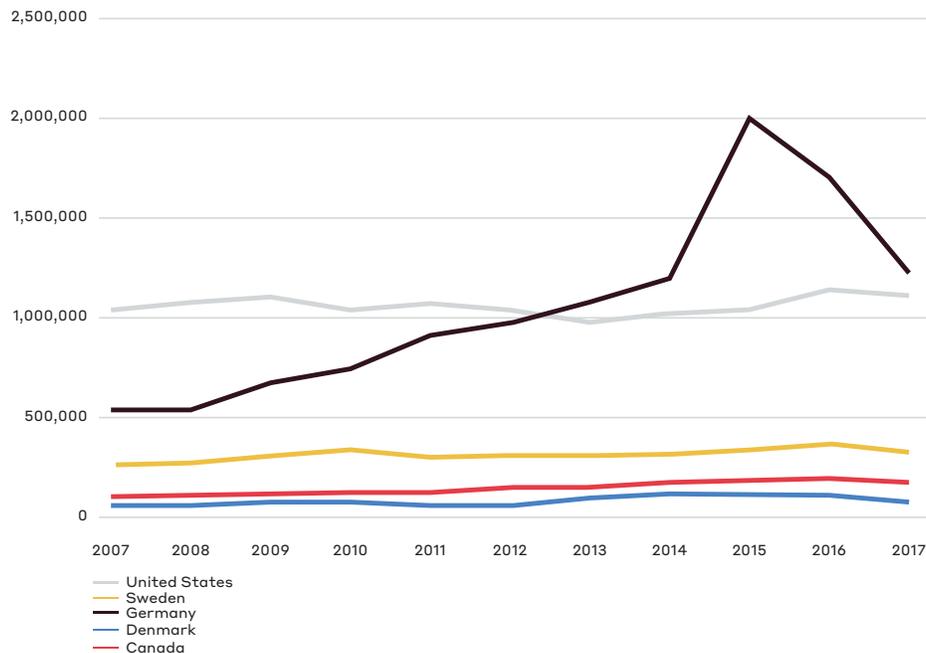
Source: USCIS¹⁴², EuroStat¹⁴³, Swedish Migration Agency¹⁴⁴, StatBank Denmark¹⁴⁵

xix The German government tracks data on the total number of individuals with temporary or permanent resident permits at regular intervals. However, the government only updates its website with this data instead of providing access to historical information that tracks these numbers or over time. Statistisches Bundesamt, “Foreign population, by status under residence law,” 2018. Available at: <https://www.destatis.de/EN/Themes/Society-Environment/Population/Migration-Integration/Tables/foreigner-residence-law.html>.

H-1B visa applications than the three European countries, even as this number has steadily declined since 2012. While Germany has made strides in expanding temporary work permits, they still have not reached the levels seen in the United States.^{xx}

Similar trends appear when looking at permanent migration in the case study countries. OECD data that compares permanent migration inflows shows the United States and Canada consistently have more permanent migration than Denmark and Sweden (Figure 23). While Germany had higher levels of migration than Canada, migrants from Africa and the Middle East seeking asylum in the country boosted these numbers. The decrease in the number of asylum seekers between 2015 and 2017 correlated with a drop in permanent migration to the country.¹⁴⁶

Figure 23: OECD Data on Permanent Inflows of Foreigners (2007-17)



Source: OECD¹⁴⁷

xx A review of Canada’s immigration data found the Canadian government breaks down temporary permit approvals by source country instead of benefit type, so they cannot be easily compared. See: <https://open.canada.ca/data/en/dataset/9b34e712-513f-44e9-babf-9df4f7256550>.

The only exception to this trend is a snapshot of migrant applications received and processed for June 30, 2017. See: <https://open.canada.ca/data/en/dataset/0186868b-a04d-4a0e-962e-bdfbac51bfb3>

Despite the high levels of permanent migration to Canada and the United States, several factors make it more difficult for Canadian and U.S. employers to retain temporary workers for the long term. In the United States numerical limits on permanent migration have created extensive backlogs for permanent status that can leave temporary migrants waiting for years or decades to adjust their status.¹⁴⁸ Migrants and employers must expend resources to complete two separate applications and labor market tests, compounding these problems.¹⁴⁹ While the cited studies in this report provide an incomplete view about the outcomes of the European systems, their emphasis on reducing duplicitous processes points to ways the North American systems could improve the retention of temporary workers.¹⁵⁰

These studies also raise questions about the manner in which integration tests impact permanent migration rates. As this section shows, temporary high-skilled migrants in Canada make this transition at percentage rates comparable or higher than those in the United States even though it requires individuals to pass a language test at the permanent stage.¹⁵¹ However, studies of the permanent residency integration tests in Denmark and Germany suggest earlier versions of these tests sought to limit the number of migrants becoming permanent residents.¹⁵² While the Canadian system shows the United States could likely implement these requirements for H-1B holders without reducing the transition rate, more extensive integration tests may alter the composition of future migration to the United States. As a result, more research is needed to fully assess if including integration tests at the permanent stage would produce outcomes that align with U.S. migration policy goals and the country's values as a nation of immigrants.^{xxi}

xxi Some studies have made strides in answering these questions. For instance, a Migration Policy Institute report that assessed the RAISE Act, which would create a stringent merit-based system for high-skilled workers, reported it would benefit H-1B holders due to their skills and language abilities. The new system's emphasis on English speaking abilities would also benefit individuals from English-speaking countries. Julia Gelatt, "The RAISE Act: Dramatic Change to Family Immigration, Less So for the Employment Based-System," Migration Policy Institute, August 2017. Available at: <https://www.migrationpolicy.org/news/raise-act-dramatic-change-family-immigration-less-so-employment-based-system>. Another analysis of the Trump Administration's plans to shift the U.S. immigration system towards a merit-based system observed that the plan's civics test would benefit individuals from India over other countries due to their English-speaking abilities. Muzaffar Chishti and Jessica Bolter, "Merit-Based' Immigration: Trump Proposal Would Dramatically Revamp Immigrant Selection Criteria But with Modest Effects on Numbers," Migration Policy Institute, May 30, 2019. Available at: <https://www.migrationpolicy.org/article/merit-based-immigration-trump-proposal-immigrant-selection>.

Conclusion: Moving Towards Evidence-Based Policymaking to Improve Temporary-to-Permanent Systems

Temporary-to-permanent systems—including streamlined options like Sweden’s—contend with external factors that reduce effectiveness in helping governments select and retain temporary workers. While this conclusion appears to support calls to abandon immigration as a mechanism to address labor shortages, these problems also affect education systems that produce native-born workers in a given country. For instance, the effectiveness of educational efforts to produce more STEM workers in the United States depends on the number of students pursuing this field, the number of STEM instructors in primary and secondary education, and the overall population of working-age adults.¹⁵³ In short, efforts to attract and retain or produce human capital to address economic needs will always face demographic and institutional limitations beyond their control, making them works in progress that need continual refinement to improve their ability to meet a country’s economic goals.

As a result, U.S. policymakers need a systematic approach to consider ideas from other immigration systems for reforming the U.S. temporary-to-permanent system. Although other immigration systems can offer interesting ideas for immigration reform, copying them based on their perceived benefits or novelty rather than their efficacy in producing positive outcomes increases the chance that outcomes will not match expectations. Every system has its limitations, meaning officials need to assess if the U.S. system can address these weaknesses. Accordingly, policymakers must also identify resources necessary for these policies to succeed in the U.S. system, especially ones that require significant investment in data gathering operations on labor migration and supports for recognizing foreign worker credentials. In short, policymakers must adopt an evidence-based approach to identifying and selecting ideas from other systems that could form part of the reformation of the U.S. employment immigration system.

As a part of this process, U.S. policymakers need to identify key policy goals for reforming the U.S. temporary-to-permanent pathway and the broader immigration system. If lawmakers want to create an integrated temporary-to-

permanent system, they should determine if this new system should make it easier for all long-term foreign workers to remain in the United States or limit permanent residency to individuals with the highest skills. Lawmakers should also determine how this new system will balance the interest of employers who need foreign workers, American workers, and the immigrants themselves when deciding if this pathway needs two labor market tests and credential recognition processes. Policymakers and stakeholders should also discuss the benefits and drawbacks of incorporating integrationist tests into the permanent resident application.

Researchers play a critical role in this process. Evidence-based research on the outcomes of temporary-to-permanent systems is important to help policymakers in the United States and other countries determine the strengths and weaknesses of each model. However, the field needs more studies of these systems' impact on labor markets, especially in European countries where researchers have not distinguished between temporary and permanent migrants. For instance, researchers should examine if integrated temporary-to-permanent systems fill long-term labor market shortages as migrants transition to permanent status. Researchers should also examine if the transition displaces workers and affects wages, especially at the permanent residency stage. Addressing these issues will produce work that can lead to better outcomes for migrants and their host societies as policymakers strive to improve their temporary-to-permanent labor migration systems.

Appendix A: Policy Contexts for Case Study Countries

Canada: Canada has enacted several comprehensive changes to its immigration system since 2014. In June 2014, Canada announced it would initiate a significant overhaul of its Temporary Foreign Work Program.¹⁵⁴ This overhaul included using wage levels instead of national occupational classifications as the main criteria, a new Labour Market Impact Assessment process, and caps on low-wage temporary workers.¹⁵⁵ In January 2015, Canada launched its new application management system, Express Entry, designed to facilitate the recruitment of highly-skilled workers to supplement the Canadian workforce where there are particular skills shortages.¹⁵⁶ In March 2017, the government launched Canada's Global Skills Strategy to help attract skilled foreign workers to Canada to start or expand businesses.¹⁵⁷

Denmark: In June 2010, the Danish government introduced a points-based system for permanent residence.¹⁵⁸ In 2012, however, the government released its official policy platform, entitled "A Denmark that stands together," that would abolish the points-based system the Danish government introduced in 2010.¹⁵⁹ In July 2012, the Danish government followed through with this plan and replaced the points-based system with a new permanent residence benefits system.¹⁶⁰ Over the past several years, the Danish government has enacted multiple regulations that emphasize the importance of integration when determining an individual's eligibility for permanent residence. From July 2013 onwards, Danish municipalities are obliged to establish an integration plan for new migrants within three months after their arrival.¹⁶¹

Germany: Beginning in 2012, German labor migration channels were significantly expanded. The EU Blue Card was introduced, which extended a renewable permit to tertiary-educated workers and their family members with no language requirements.¹⁶² In response to the large influx of refugees and asylum seekers in 2014, the German government adopted a comprehensive legislative package in October 2015.¹⁶³ The legislative package included providing better access to integration courses and promoting job-specific language training. As noted above, in 2020 Germany will implement the Skilled Immigration Act to overhaul the migration system and make it easier for highly qualified migrants to seek work in Germany and German employers to contract these workers.¹⁶⁴

Sweden: The Swedish government has introduced several new initiatives beginning in early 2016. The first of these initiatives is the Fast Track initiative, which is designed to speed up the entry of immigrants into shortage occupations.¹⁶⁵ To facilitate the integration of new immigrants into the labor market, the government announced it will combine Swedish language lessons with additional vocational training. Several additional measures were implemented in 2017 and 2018 to help municipalities cope with the large number of asylum-seekers and migrants arriving in Sweden. The new framework requires newly-arrived migrants to participate in education and training so they can better participate in the labor market.¹⁶⁶

United States: Although the United States has not significantly reformed the legal immigration system since 1990, Congress has introduced—and in some cases, passed—smaller scale reform bills in recent years. In 2017, Senate Republicans introduced the RAISE (Reforming American Immigration for Strong Employment) Act, which would replace the current employment system with a points-based system that uses an individual’s background to determine their eligibility to enter the United States. In July 2019, the House of Representatives passed the Fairness for High-Skilled Immigrants Act with a bipartisan vote. It abolishes per-country caps in the employment-based immigration system that allows individuals to access a green card to work or invest in the United States.¹⁶⁷ The bill has not been passed in the Senate as of the date of this report. Finally, the Trump administration has used regulations, executive actions, and agency guidelines and practices to make it harder for employers to hire foreign workers, including H-1B employees.¹⁶⁸

Endnotes

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