



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
10TH TERM

517th

RESOLUTION OF THE SENATE

Delivered on the 27th session held on 24th August 2016

on the Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment

(Senate Print No. N 95/10)

The Senate

I.

1. Acknowledges

the benefits of legal migration of highly skilled third-country nationals, but is afraid the proposal for a Directive will not fulfil the objectives set by the Commission;

2. Agrees

with the Position of the Government;

3. Has come to the conclusion

that the proposal for a Directive, as far as the prohibition of parallel national systems of legal migration of highly skilled third-country nationals (Article 4(3) of the proposal) and the limitation of flexibility of the Member States in a number of other issues is concerned, does not comply, on the grounds set out in Part II. of this Resolution, with the principle of subsidiarity according to Article 5(3) of the Treaty on European Union;

4. Adopts

therefore a **reasoned opinion** on the incompatibility of the proposal for a Directive with the principle of subsidiarity in accordance with Article 6 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality attached to the Treaties;

II.

1. Is of the opinion

that legal migration of highly skilled third-country nationals can best be supported by parallel action at the national level (national systems for legal migration) and

at the EU level (Blue Card as an optional harmonized tool under the existing rules);

2. Therefore is convinced

that the introduction of a prohibition on the Member States to issue other permits than the EU Blue Card to third-country nationals for the purposes of highly skilled employment, together with the unification of the conditions for granting the Blue Card, is of no benefit, on the following grounds:

- prohibition of parallel national systems constitutes a limitation of legal migration opportunities of the highly skilled third-country nationals, as well as a limitation of the scope for a flexible legal migration policy of the Member States; the advantages of such policy being substantiated by the more frequent use of national systems in comparison with the Blue Card;
- if the Blue Card system continues to operate in the unsatisfactory manner cited by the Commission, according to the proposal the Member States would not have any opportunity to create more effective national systems, which would certainly not lead to an increase in legal migration of the highly skilled third-country nationals;
- any parallel national systems must comply with applicable labour and social standards, thus the advantages of their design in comparison with the Blue Card are best manifested in practice;
- the Commission's argument that if the Member States kept having their national systems parallel to the Blue Card "it would not increase attractiveness of the EU as a whole" seems quite insignificant in the context of the proposed introduction of an exclusive, inflexible and highly unified Blue Card mechanism which, on the contrary, can significantly reduce the attractiveness of the EU and its Member States;
- the Commission's argument that the prohibition of parallel national systems will create economies of scale is also unconvincing, with regard to the abovementioned concerns whether the proposal fulfils its objectives; furthermore, the Senate emphasizes that it is up to the Member States, not the EU, to assess whether the operation of a parallel national system is worth the cost;

3. Thus has come to the conclusion

that the objectives of the intended activities can be satisfactorily achieved by the Member States and, on the contrary, cannot be achieved by the proposed actions of the EU;

4. Observes also

that further harmonization of the EU Blue Card may not influence the choice of destination country by the highly skilled third-country nationals, because the factors which vary between EU Member States, e.g. wage levels, social systems and living standards in general, will still be decisive;

5. Requests

in accord with the Government to maintain the flexibility of the Member States

- regarding the testing of the national labour market and the determination of the minimum wages for the purpose of the Blue Card, in both cases to a greater extent than the Commission proposes;
- regarding the compulsory recognition of professional experience for the purposes of the Blue Card and the decision making on the volume of admissions of third country nationals because the Member States should have the power to decide such important issues that may significantly affect their socio-economic situation;

6. Therefore prefers rather

to strengthen the practical cooperation between Member States and limit the EU legislative interventions only to the solution of practical problems such as the cross-border movement of the Blue Card holders;

III.

1. Requests

the Government to inform the Senate about the way this position was taken into account, and about further development of negotiations;

2. Authorises

the President of the Senate to forward this Resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Jozef Regec
sign manual
Senate Verifier