



Plenary sitting

A8-0240/2017

28.6.2017

*****I**
REPORT

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
(COM(2016)0378 – C8-0213/2016 – 2016/0176(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Claude Moraes

Rapporteur for the opinion (*):

Jean Lambert, Committee on Employment and Social Affairs

(*) Associated committee – Rule 54 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

(COM(2016)0378 – C8-0213/2016 – 2016/0176(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0378),
 - having regard to Article 294(2) and Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0213/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the National Assembly of the Republic of Bulgaria, as well as the Chamber of Deputies and the Senate of the Czech Republic, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of ...¹,
 - having regard to the opinion of the Committee of the Regions of 8 December 2016²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Employment and Social Affairs (A8-0240/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

¹ OJ C 00 of 00.00.0000, p. 0.

² Not yet published in the Official Journal.

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The Commission's Communication of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth'³⁰ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to facilitate the admission of third-country national highly skilled workers have to be seen in that broader context.

³⁰ COM(2010) 2020 final

Amendment

(1) The Commission's Communication of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth'³⁰ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand **and identifies the need for a comprehensive labour migration policy and for better integration of migrants**. Measures to facilitate the admission of third-country national highly skilled workers have to be seen in that broader context.

³⁰ COM(2010) 2020 final

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The European Agenda on Migration adopted on 13 May 2015 calls for an attractive EU-wide scheme for highly qualified third-country nationals, and specifies that a review of Council Directive 2009/50/EC³¹ is needed to make it more effective in attracting talents to the Union and thereby address both the demographic challenges faced by the Union and labour and skills shortages in key sectors of the Union economy.

³¹ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry

Amendment

(3) The European Agenda on Migration adopted on 13 May 2015 calls for an attractive EU-wide scheme for highly qualified third-country nationals, and specifies that a review of Council Directive 2009/50/EC³¹ is needed to make it more effective in attracting talents to the Union and thereby address both the demographic challenges faced by the Union and labour and skills shortages in key sectors of the Union economy, **with a view to economic growth and a more competitive Union economy**.

³¹ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry

and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.6.2009, p.17).

and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.6.2009, p.17).

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The European Parliament, in its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, noted the flaws in the current EU Blue Card Directive, including the very limited level of harmonisation it has brought about. It called for an ambitious and targeted review of the Directive, including on the issue of the scope. Moreover, having noted that the current fragmented Union legislative framework regulating the access of third-country nationals to employment in the Union can only contribute to meeting short-term, specific needs, it also called on the Union to establish, in the medium and long term, more general rules governing the entry and residence for third-country nationals seeking employment in the Union, including in low and medium-wage sectors.

Amendment 4

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The working-age population in the Union is projected to decline by 7,5 million by 2020^{1a} and projections on the development of labour market needs in the Union point to emerging and future

shortages in specific fields.

^{1a} See *Joint EU-OECD Policy Brief “Matching Economic Migration with Labour Market Needs in Europe”, September 2014, p. 5.*

Amendment 5

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) It is necessary to respond to the challenges identified in the implementation report on Directive 2009/50/EC. The Union should aim at establishing a more attractive and effective EU-wide scheme for highly skilled workers. The Union approach on attracting highly skilled workers should be further harmonised and the EU Blue Card should be made the primary tool in that regard with faster procedures, more flexible and inclusive admission criteria, and more extensive rights including more facilitated intra-EU mobility. As this would entail substantial changes to Directive 2009/50/EC, that Directive should therefore be repealed and replaced by a new Directive.

Amendment

(4) It is necessary to respond to the challenges identified in the implementation report on Directive 2009/50/EC. The Union should aim at establishing a more attractive and effective EU-wide scheme for highly skilled workers. ***The revision of Directive 2009/50/EC also provides an opportunity to improve legal migration into Europe.*** The Union approach on attracting highly skilled workers should be further harmonised and the EU Blue Card should be made the primary tool in that regard with faster procedures, more flexible and inclusive admission criteria, and more extensive rights including more facilitated intra-EU mobility. As this would entail substantial changes to Directive 2009/50/EC, that Directive should therefore be repealed and replaced by a new Directive.

Amendment 6

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to reinforce and promote the EU Blue Card scheme and attract highly skilled workers and facilitate their economic prospects, the embassies and

delegations of the Union and Member States in third countries should strengthen advertisement activities and information campaigns concerning the EU Blue Card. They should dispose of sufficient human and financial resources to provide information about the EU Blue Card to third-country nationals on the ground.

Amendment 7

Proposal for a directive Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) According to the Communication of the Commission on the Implementation of Directive 2009/50/EC in 2014, only 2,1% of the beneficiaries of the EU Blue Card during the first phase of the implementation in 2012 came from Sub-Saharan Africa. This may indicate implicit racial bias applied preventing certain types of workers to access to some more favourable statuses and therefore enjoying equal treatment with other workers or other family members. The lack of diversity among the EU Blue Card holders may reflect national policies and practices which can perpetuate forms of direct, indirect or institutional discrimination towards new candidates.

Amendment 8

Proposal for a directive Recital 5

Text proposed by the Commission

Amendment

(5) *An EU-wide admission system to attract and retain highly skilled workers into the Union should be created. Member States should issue an EU Blue Card **instead of a national permit** to all*

(5) *A **clear and transparent** EU-wide admission system to attract and retain highly skilled workers into the Union **and promote mobility** should be created. Member States should issue an EU Blue*

applicants falling within the scope of this Directive. Member States should retain the right to issue permits other than EU Blue Card for any purpose of employment to third-country nationals who fall outside of the scope of this Directive, subject to the limitations following from other directives in the area of labour migration.

Card to all applicants falling within the scope of this Directive. Member States should retain the right to issue permits other than EU Blue Card for any purpose of employment to third-country nationals who fall outside of the scope of this Directive, subject to the limitations following from other directives in the area of labour migration.

Amendment 9

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In so far as it does not undermine the spirit of this Directive, Member States are encouraged to apply best practices and more favourable provisions in respect of this Directive and in particular in respect of procedural safeguards, fees, temporary unemployment, equal treatment, provisions on family members and long-term residence status for EU Blue Card holders.

Amendment 10

Proposal for a directive Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In that context, consideration should be given to expanding access to the European network of employment services (EURES) so that all the job opportunities in the Member States are also accessible to third-country nationals, since in order to get the “EU Blue Card” permit, those third-country nationals must first have a job offer. Expanding access to EURES would allow third-country nationals to avail themselves of the necessary assistance and support when

using the platform.

Amendment 11

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The concept of highly skilled worker should replace the concept of highly qualified worker in order to emphasise that both formal educational qualifications and equivalent professional experience should be taken equally into account as criteria for admission. According to a Council Recommendation of 20 December 2012³², the validation of learning outcomes, namely competences (knowledge, skills and attitudes)³³ acquired through non-formal and informal learning can play an important role in enhancing employability and mobility. It recommends Member States to have in place, no later than 2018, arrangements for the validation of non-formal and informal learning. As mechanisms and arrangements for the evaluation and validation of professional experience are not readily available in all Member States, ***an additional*** transposition period ***of two years after the entry into force of this Directive should be provided for the provisions related to recognising professional experience in order to enable Member States, where necessary, to develop*** such mechanisms and arrangements. Member States' National Contact Points on the EU Blue Card should be involved in effective cooperation with stakeholders and networks in the education, training, employment and youth sectors, as well as other relevant policy areas, for the purpose of recognising professional experience under this Directive.

³² Council Recommendation of 20

Amendment

(6) The concept of highly skilled worker should replace the concept of highly qualified worker in order to emphasise that both formal educational qualifications and equivalent professional experience should be taken equally into account as criteria for admission. According to a Council Recommendation of 20 December 2012³², the validation of learning outcomes, namely competences (knowledge, skills and attitudes)³³ acquired through non-formal and informal learning can play an important role in enhancing employability and mobility. It recommends Member States to have in place, no later than 2018, arrangements for the validation of non-formal and informal learning. As mechanisms and arrangements for the evaluation and validation of professional experience are not readily available in all Member States, ***the*** transposition period ***for this Directive should take account of that factor to enable Member States, where necessary, to develop such mechanisms and arrangements. Member States should consult the social partners when developing*** such mechanisms and arrangements. Member States' National Contact Points on the EU Blue Card should be involved in effective cooperation with stakeholders and networks in the education, training, employment and youth sectors, as well as other relevant policy areas, for the purpose of recognising professional experience under this Directive.

³² Council Recommendation of 20

December 2012 on the validation of non-formal and informal learning (2012/C 398/01) (OJ C 398, 22.12.2012, p. 1).

³³ Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (OJ L 394, 30.12.2006, p. 10).

December 2012 on the validation of non-formal and informal learning (2012/C 398/01) (OJ C 398, 22.12.2012, p. 1).

³³ Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (OJ L 394, 30.12.2006, p. 10).

Amendment 12

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) At least until the establishment of such arrangements for the validation of non-formal and informal learning, every applicant should be required to present evidence of professional experience of at least three years such as recommendations of former employees, former working contracts, job references or certificates of employment.

Amendment 13

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) When transposing this Directive and in order to better respond to the needs of the Union labour market, Members States and the Commission should gather data and list the sectors of employment or geographical areas where there are employment shortages or where vacancies are hard to fill and communicate this information publicly.

Amendment 14

Proposal for a directive Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) *In respect of the higher education qualifications and higher professional skills of applicants for, or beneficiaries of, international protection residing in the territory of the Union who do not have the necessary documents to prove their qualifications and or professional skills, Member States should be encouraged to establish appropriate skills and knowledge-based assessments that would allow for a determination of their level of qualification and/or professional skills.*

Amendment 15

Proposal for a directive Recital 7

Text proposed by the Commission

Amendment

(7) This Directive should not affect the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory in order to seek work in accordance with Article 79(5) of the Treaty. ***On that basis, Member States should be able to either consider an application for an EU Blue Card inadmissible or reject it.*** As Article 79(5) TFEU only refers to third-country nationals coming from third countries, the right to determine volumes of admission does not apply in situations where a third-country national has already been admitted in the territory of Member States under this Directive and is seeking to continue the period of residence in the same or a second Member State.

(7) This Directive should not affect the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory in order to seek work in accordance with Article 79(5) of the Treaty. As Article 79(5) TFEU only refers to third-country nationals coming from third countries, the right to determine volumes of admission does not apply in situations where a third-country national has already been admitted in the territory of Member States under this Directive and is seeking to continue the period of residence in the same or a second Member State.

Amendment 16

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Beneficiaries of international protection *as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and of the Council*³⁴ have a *wide* set of rights including labour market access in the Member State having granted them protection. In order to further promote social inclusion of these persons and enhance their labour market opportunities across the Union, those who are highly skilled should be entitled to apply for an EU Blue Card. They should be subject to the same rules as any other third-country national falling within the scope of this Directive, while holding the statuses of beneficiary of international protection and EU Blue Card holder in parallel. However, for reasons of legal clarity and coherence, the provisions on equal treatment and family reunification of this Directive should not apply to *this group of* EU Blue Card holders in the Member State which granted them international protection. Those rights should remain regulated under the asylum acquis and, where applicable, Council Directive 2003/86/EC³⁵.

³⁴ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

³⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family

Amendment

(8) Beneficiaries of international protection *and certain categories of applicants for international protection* have a set of rights including labour market access in the Member State having granted them protection *or responsible for their application for international protection*. In order to further promote social inclusion of these persons and enhance their labour market opportunities across the Union, those who are highly skilled should be entitled to apply for an EU Blue Card. They should be subject to the same rules as any other third-country national falling within the scope of this Directive, while holding the statuses of beneficiary of international protection, *or applicant for international protection*, and EU Blue Card holder in parallel. However, for reasons of legal clarity and coherence, the provisions on equal treatment and family reunification of this Directive should not apply to *refugees who are* EU Blue Card holders in the Member State which granted them international protection. Those rights should remain regulated under the asylum acquis and, where applicable, Council Directive 2003/86/EC³⁵.

³⁴ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

³⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family

reunification (OJ L 251, 3.10.2003, p. 12).

reunification (OJ L 251, 3.10.2003, p. 12).

Amendment 17

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Where they fall within the scope of this Directive, applicants for international protection should be subject to the same rules as any other third-country national falling within the scope of this Directive. Where an application for international protection is suspended as a result of the granting of an EU Blue Card, the Member State responsible for that application should not consider the application to be implicitly withdrawn.

Amendment 18

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) The transfer of responsibility for protection of beneficiaries of international protection is outside the scope of this Directive: ***the protection status*** and the rights associated with ***it*** should not be transferred to another Member State on the basis of the issuance of an EU Blue Card.

(9) The transfer of responsibility for protection of beneficiaries of international protection ***or responsibility for applications for international protection*** is outside the scope of this Directive: ***those statuses*** and the rights associated with ***them*** should not be transferred to another Member State on the basis of the issuance of an EU Blue Card.

Amendment 19

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) ***This Directive should not apply to***

(11) This Directive should not apply to

categories of third-country nationals to whom a particular scheme under Union law, with specific entry conditions and sets of rights, applies when the inclusion of those categories in this Directive would go against the rationale of the particular scheme, create unnecessary legal complexity or entail a risk of abuses. This Directive should not apply to third-country nationals who apply to reside in a Member State as researchers in order to carry out a research project, as they fall within the scope of Directive (EU) 2016/801 of the European Parliament and of the Council³⁷ which introduces a specific procedure for admitting third-country nationals for the purposes of scientific research. However, once admitted under Directive (EU) 2016/801, legally residing researchers should be entitled to apply for an EU Blue Card under this Directive for other purposes than those covered under Directive (EU) 2016/801.

³⁷ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.05.2016, p. 21).

third-country nationals who apply to reside in a Member State as researchers in order to carry out a research project, as they fall within the scope of Directive (EU) 2016/801 of the European Parliament and of the Council³⁷ which introduces a specific procedure for admitting third-country nationals for the purposes of scientific research. However, once admitted under Directive (EU) 2016/801, legally residing researchers should be entitled to apply for an EU Blue Card under this Directive for other purposes than those covered under Directive (EU) 2016/801. *Equally, legally residing EU Blue Card holders should be entitled to apply to reside as researchers under Directive (EU) 2016/801. The provisions of that Directive should be clarified so as to ensure such a possibility.*

³⁷ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.05.2016, p. 21).

Amendment 20

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) It is necessary to provide for a flexible *demand-driven* admission system based on objective criteria, such as a work contract or a binding job offer of at least **6** months, a salary threshold adaptable by the Member States to the situation in its labour market and higher *professional*

Amendment

(13) It is necessary to provide for a flexible, *clear and balanced* admission system based on objective criteria, such as a work contract or a binding job offer of at least *nine* months, *compliance with the applicable laws, collective agreements or national practices in the relevant*

qualifications.

occupational branches, a salary threshold adaptable by the Member States to the situation in its labour market and higher *education qualifications or higher professional skills*.

Amendment 21

Proposal for a directive Recital 15

Text proposed by the Commission

(15) *In order to ensure a sufficient level of harmonisation in the admission conditions throughout the Union, both minimum and maximum factors for calculating the salary threshold should be determined. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies.*

Amendment

(15) *In addition to the conditions laid down in this Directive, when transposing it, Member States should establish a salary threshold in agreement with the social partners. That salary threshold should be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned. Member States could, in agreement with the social partners, decide not to establish a salary threshold in certain occupational branches where it is agreed that such a threshold is unnecessary. Such may be the case, where a collective agreement governs the wages which apply in that occupational branch. The principle of equal treatment with workers who are nationals of the host Member State should be respected..*

Amendment 22

Proposal for a directive Recital 16

Text proposed by the Commission

(16) *A lower salary threshold should be laid down for specific professions where it is considered by the Member State concerned that there is a particular lack of available workforce and where such professions belong to major group 1 or 2 of the ISCO ("International Standard*

Amendment

deleted

*Classification of Occupation''
classification.*

Amendment 23

Proposal for a directive Recital 17

Text proposed by the Commission

Amendment

(17) A lower salary threshold should also be laid down to benefit third-country nationals during a certain period after their graduation. This period should be granted each time that the third-country national reaches a level of education relevant for the purposes of this Directive, namely levels 6, 7 or 8 of ISCED 2011, or levels 6, 7 or 8 of EQF, according to the national law of the Member State concerned. It should apply whenever the third-country national applies for an initial or renewed EU Blue Card within three years from the date of obtaining the qualifications and in addition, when that third-country national applies for a first renewal of the EU Blue Card and the initial EU Blue Card was issued for a period shorter than 24 months. After these grace periods – which may run in parallel – have elapsed the young professionals can be reasonably expected to have gained sufficient professional experience in order to fulfil the regular salary threshold.

deleted

Amendment 24

Proposal for a directive Recital 20

Text proposed by the Commission

Amendment

*(20) Member States should reject applications for an EU Blue Card and be allowed to withdraw or refuse to renew an EU Blue Card **if** there is a threat to public*

*(20) Member States should **be entitled to** reject applications for an EU Blue Card and be allowed to withdraw or refuse to renew an EU Blue Card **where** there is a*

policy, public security or public health. Any rejection on grounds of public policy or public security should be based on the individual behaviour of the person concerned, in accordance with the principle of proportionality. Illness or disability suffered *after* the third-country national *was admitted to the territory of the first Member State* should not constitute *the sole* ground for withdrawing *or refusing to renew* an EU Blue Card *or for not issuing an EU Blue Card in a second Member State*.

Amendment 25

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) Member States should be allowed to withdraw or refuse to renew an EU Blue Card where the EU Blue Card holder has *either* failed to comply with the conditions for mobility under this Directive *or has repetitively exercised the mobility rights in an abusive manner, for example by applying for EU Blue Cards in second Member States and beginning employment immediately while it is clear that the conditions will not be fulfilled and the application will be refused*.

Amendment 26

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Any decision to reject an application for an EU Blue Card or to withdraw or refuse to renew an EU Blue Card should take into consideration the specific circumstances of the case and *respect the principle of proportionality*. In

proven threat to public policy, public security or public health. Any rejection on grounds of public policy or public security should be based on the individual behaviour of the person concerned, in accordance with the principle of proportionality. Illness or disability suffered *while* the third-country national *is an EU Blue Card holder* should not constitute *a* ground for withdrawing an EU Blue Card.

Amendment

(21) Member States should be allowed to withdraw or refuse to renew an EU Blue Card where the EU Blue Card holder has failed to comply with the conditions for mobility under this Directive.

Amendment

(22) Any decision to reject an application for an EU Blue Card or to withdraw or refuse to renew an EU Blue Card should take into consideration the specific circumstances of the case and *be proportionate*. In particular, where the

particular, where the ground for rejection is related to the **activity** of the employer, a minor misconduct should not in any case constitute the sole ground for rejecting an application or withdrawing or refusing to renew the permit.

ground for rejection, **withdrawal or refusal to renew** is related to the **conduct** of the employer, minor misconduct **of the employer** should not in any case constitute the sole ground for rejecting an application or withdrawing or refusing to renew the permit.

Amendment 27

Proposal for a directive Recital 24

Text proposed by the Commission

(24) The rules on processing times for EU Blue Card applications should **guarantee the swift issuance of permits in all cases**. The processing time for examining the application for an EU Blue Card should not include the time required for the recognition of professional qualifications, where applicable, or the time required for issuing a visa, if required.

Amendment

(24) The rules on processing times for EU Blue Card applications should **reflect the objective of facilitating the admission of highly skilled third-country nationals**. The processing time for examining the application for an EU Blue Card should not include the time required for the recognition of professional qualifications, where applicable, or the time required for issuing a visa, if required. **To modernise and simplify the EU Blue Card application procedure, Member States should consider accepting electronic applications**.

Amendment 28

Proposal for a directive Recital 26

Text proposed by the Commission

(26) The Member State concerned should ensure that applicants have the right to challenge before a court or tribunal **any** decision rejecting an application for an EU Blue Card, or **not renewing** or **withdrawing** an EU Blue Card. **This is without prejudice to the possibility to** designate an administrative authority to carry out a prior administrative review of

Amendment

(26) The Member State concerned should ensure that applicants have the right to challenge before a court or tribunal **a** decision rejecting an application for an EU Blue Card, or **a decision not to renew** or **to withdraw** an EU Blue Card. **Member States might also** designate an administrative authority to carry out a prior administrative review of such decisions.

such decisions.

Amendment 29

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) Since EU Blue Card holders are highly skilled workers contributing to addressing labour and skills shortages in key sectors, the principle of access to the labour market should be the general rule. **However, in** circumstances where the domestic labour market **undergoes serious disturbances such as** a high level of unemployment in a given occupation or sector, which may be limited to particular regions or other parts of the territory, a Member State should be able to take into account the situation of its labour market before issuing an EU Blue Card.

Amendment

(27) Since EU Blue Card holders are highly skilled workers contributing to addressing labour and skills shortages in key sectors, the principle of access to the labour market should be the general rule. **In** circumstances where the domestic labour market **suffers** a high level of unemployment in a given occupation or sector, which may be limited to particular regions or other parts of the territory, a Member State should, **after consulting with social partners**, be able to take into account the situation of its labour market before issuing an EU Blue Card.

Amendment 30

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) In **case** Member **States decide** to make use of this possibility for a given occupation or sector, possibly in a particular part of their territory, **they** should send a notification to the Commission hereof, explaining the economic, social and other reasons justifying the decision to introduce such labour market test for the next **12** months and do so again for every subsequent **12** month period. Member States **may** involve social partners in the assessment of the circumstances related to the domestic labour market. This **verification** should not be possible **when** an EU Blue Card **is renewed** in the first Member State. **For EU Blue Cards in a**

Amendment

(28) In **the event that a** Member **State decides** to make use of this possibility for a given occupation or sector, possibly in a particular part of their territory, **it** should send a notification to the Commission hereof, explaining the economic, social and other reasons justifying the decision to introduce such labour market test for the next **six** months and do so again for every subsequent **six** month period. Member States **should** involve social partners in the assessment of the circumstances related to the domestic labour market. This **labour market test** should not be possible **where** an EU Blue Card **holder seeks to renew his or her EU Blue Card** in the first Member

second Member State, taking into account the situation of the labour market should only be possible if that Member State has also introduced checks for first applications for third-country nationals coming from third countries and after a separate justified notification. In case Member States decide to make use of this possibility, they should communicate this in a clear, accessible and transparent way to applicants and employers, including online.

State. *Where a third-country national notifies* a second Member State *of his or her intention to take up work in that Member State*, taking into account the situation of the labour market *when objecting to such a notification* should only be possible if that Member State has also introduced checks for first applications for third-country nationals coming from third countries and after a separate justified notification. In case Member States decide to make use of this possibility, they should communicate this in a clear, accessible and transparent way to applicants and employers, including online.

Amendment 31

Proposal for a directive Recital 29

Text proposed by the Commission

(29) In implementing this Directive, Member States should refrain from pursuing active recruitment in developing countries in sectors suffering from a lack of personnel. Ethical recruitment policies and principles applicable to public and private sector employers should be developed in key sectors, for example the health sector. This is consistent with EU's commitment to the 2010 WHO Global Code on the International Recruitment of Health Personnel³⁹ in addition to the Council and Member States' conclusions of 14 May 2007 on the European Programme for Action to tackle the critical shortage of health workers in developing countries (2007-2013) and the education sector, as appropriate. These principles and policies should be strengthened by the development and application of mechanisms, guidelines and other tools to facilitate, as appropriate, circular and temporary migration, as well as other measures that would minimise negative and maximise positive impacts of highly skilled immigration on developing

Amendment

(29) In implementing this Directive, Member States should refrain from pursuing active recruitment in developing countries in sectors suffering from a lack of personnel *in key sectors essential for sustainable development*. Ethical recruitment policies and principles applicable to public and private sector employers should be developed in key sectors, for example the health sector. This is consistent with EU's commitment to the 2010 WHO Global Code on the International Recruitment of Health Personnel³⁹ in addition to the Council and Member States' conclusions of 14 May 2007 on the European Programme for Action to tackle the critical shortage of health workers in developing countries (2007-2013) and the education sector, as appropriate. These principles and policies should be strengthened by the development and application of mechanisms, guidelines and other tools to facilitate, as appropriate, circular and temporary migration, as well as other measures that would minimise

countries in order to turn “brain drain” into “brain gain”.

negative and maximise positive impacts of highly skilled immigration on developing countries in order to turn “brain drain” into “brain gain”.

³⁹ The WHO Global Code of Practice on the International Recruitment of Health Personnel, adopted on 21 May 2010 by the Sixty-third World Health Assembly in resolution WHA63.16.

³⁹ The WHO Global Code of Practice on the International Recruitment of Health Personnel, adopted on 21 May 2010 by the Sixty-third World Health Assembly in resolution WHA63.16.

Amendment 32

Proposal for a directive Recital 30

Text proposed by the Commission

(30) A simplified procedure for employers which have been recognised for that purpose should be provided, ***optional for Member States***. The status of recognised employer should bring specific facilitation in terms of procedures and admission conditions – amounting to a simplified procedure – under this Directive and Member States should include sufficient safeguards against abuse. Where the status of recognised employer is withdrawn during the period of validity of an EU Blue Card issued under the simplified procedure, regular admission conditions should apply upon renewing that EU Blue Card, unless the third-country national concerned is employed by another recognised employer.

Amendment

(30) A simplified procedure for employers which have been recognised for that purpose should be provided. The status of recognised employer should bring specific facilitation in terms of procedures and admission conditions – amounting to a simplified procedure – under this Directive and Member States should include sufficient safeguards against abuse. Where the status of recognised employer is withdrawn during the period of validity of an EU Blue Card issued under the simplified procedure, regular admission conditions should apply upon renewing that EU Blue Card, unless the third-country national concerned is employed by another recognised employer.

Amendment 33

Proposal for a directive Recital 31

Text proposed by the Commission

(31) In order to promote innovative

Amendment

(31) In order to promote innovative

entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity without it affecting the right of residence as an EU Blue Card holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity.

entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity *under the same conditions as nationals and other Union citizens in the Member State which issued the EU Blue Card*, without it affecting the right of residence as an EU Blue Card holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity. *Any self-employed activity by EU Blue Card holders should be subsidiary to their employment under the EU Blue Card.*

Amendment 34

Proposal for a directive Recital 34

Text proposed by the Commission

(34) **Professional** qualifications acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council⁴². Where a third-country national is applying for an EU Blue Card to practice an unregulated profession, Member States should avoid excessive formal requirements and full recognition procedures regarding qualifications, wherever sufficient evidence can be otherwise obtained.

⁴² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255,

Amendment

(34) **Education** qualifications, **professional skills and professional experience** acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council⁴². Where a third-country national is applying for an EU Blue Card to practice an unregulated profession, Member States should avoid excessive formal requirements and full recognition procedures regarding qualifications, wherever sufficient evidence can be otherwise obtained.

⁴² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255,

Amendment 35

Proposal for a directive Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Many third-country nationals have appropriate skills and qualifications, but they are usually acquired in different labour markets and education systems. Thus, Member States and employers need to focus on improving the procedures and methods for recognizing and accrediting training, skills and qualifications previously acquired by third-country nationals.

Amendment 36

Proposal for a directive Recital 35

Text proposed by the Commission

Amendment

(35) The rights acquired by a beneficiary of international protection as an EU Blue Card holder should be without prejudice to rights enjoyed by the person concerned under Directive 2011/95/EU and under the Geneva Convention in the Member State which granted the protection status. In that Member State, ***in order to avoid situations of conflicting rules, the*** provisions on equal treatment and family reunification of this Directive should ***not*** apply. Persons who are beneficiaries of international protection in ***one*** Member State and EU Blue Card holders in another should enjoy the same rights including equality of treatment with nationals of the Member State of residence as any other EU Blue Card holders in ***the latter*** Member State.

(35) The rights acquired by a beneficiary of international protection as an EU Blue Card holder should be without prejudice to rights enjoyed by the person concerned under Directive 2011/95/EU and under the Geneva Convention in the Member State which granted the protection status. In that Member State, ***more favourable*** provisions on equal treatment and family reunification of this Directive should apply. Persons who are beneficiaries of international protection in ***a*** Member State, and ***who become*** EU Blue Card holders in another should enjoy the same rights including equality of treatment with nationals of the Member State of residence ***and family reunification rights*** as any other EU Blue Card holders in ***that***

Member State. *Applicants for international protection should enjoy the same rights, including equality of treatment with nationals of the Member State of residence and family reunification rights, as any other EU Blue Card holders in that Member State, irrespective of the Member State in which they have lodged their application for international protection. The status of a beneficiary of international protection should not be affected by the fact of that person also being an EU Blue Card holder or by the fact of that EU Blue Card expiring.*

Amendment 37

Proposal for a directive Recital 36

Text proposed by the Commission

(36) Favourable conditions for family reunification and unhindered access to work for spouses should be a fundamental element of this Directive in order to facilitate the attraction of highly skilled workers. Specific derogations from Council Directive 2003/86/EC should be provided for in order to reach this aim. Conditions related to integration or waiting periods should not be applied before allowing family reunification, *as highly skilled workers and their families are likely to have favourable starting point regarding integration in the host community*. With the aim of facilitating the swift entry of highly skilled workers, residence permits to their family members should be issued at the same time as the EU Blue Card, where the relevant conditions are fulfilled and the applications were lodged simultaneously.

Amendment

(36) Favourable conditions for family reunification and unhindered access to work for spouses should be a fundamental element of this Directive in order to facilitate the attraction of highly skilled workers. Specific derogations from Council Directive 2003/86/EC should be provided for in order to reach this aim. *In order to increase the attractiveness of the EU Blue Card*, conditions related to integration or waiting periods should not be applied before allowing family reunification, *bearing in mind that an EU Blue Card holder already has a work contract or binding job offer in highly-skilled employment upon arrival*. With the aim of facilitating the swift entry of highly skilled workers, residence permits to their family members should be issued at the same time as the EU Blue Card, where the relevant conditions are fulfilled and the applications were lodged simultaneously.

Amendment 38

Proposal for a directive Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) In accordance with Directive 2003/86/EC, Member States should be encouraged to ensure that family members of the EU Blue Card holders be granted an autonomous residence permit, independent of that of the EU Blue Card holder, in the event of widowhood, divorce, separation or death of first-degree relatives in the direct ascending or descending line.

Amendment 39

Proposal for a directive Recital 37

Text proposed by the Commission

Amendment

(37) In order to attract highly skilled workers and encourage their continuous stay in the Union, while enabling mobility within the Union as well as circular migration, derogations from Council Directive 2003/109/EC⁴³ should be provided for in order to give EU Blue Card holders an easier access to EU long-term resident status.

(37) In order to attract highly skilled workers and encourage their continuous stay in the Union, while enabling mobility within the Union as well as circular migration, derogations from Council Directive 2003/109/EC⁴³ should be provided for in order to give EU Blue Card holders ***and their family members*** an easier access to EU long-term resident status.

⁴³ Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

⁴³ Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

Amendment 40

Proposal for a directive Recital 38

Text proposed by the Commission

Amendment

(38) In order to foster the mobility of highly skilled workers between the Union and their countries of origin, derogations from Directive 2003/109/EC should be provided for in order to allow longer periods of absence than those provided for in that Directive after highly skilled third-country workers have acquired the EU long-term resident status

deleted

Amendment 41

Proposal for a directive Recital 40

Text proposed by the Commission

Amendment

(40) Existing legal uncertainty surrounding business trips of highly skilled workers should be addressed by defining this notion and setting a list of activities that in any case should be considered as business activities in all Member States. Second Member States should not be allowed to require from EU Blue Card holders engaging in business activities a work permit or any other authorisation than the EU Blue Card issued by the first Member State. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full, its holder should be entitled to enter and stay in one or several second Member States for the purpose of business activity **for up to 90 days in any 180-day period based on the EU Blue Card.**

(40) Existing legal uncertainty surrounding business trips of highly skilled workers should be addressed by defining this notion and setting a list of activities that in any case should be considered as business activities in all Member States. Second Member States should not be allowed to require from EU Blue Card holders engaging in business activities a work permit or any other authorisation than the EU Blue Card issued by the first Member State. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full, its holder should be entitled to enter and stay in one or several second Member States for the purpose of business activity **in accordance with this directive and Regulation (EU) 2016/399 of the European Parliament and of the Council^{1a} the Schengen Borders Code.**

^{1a} **Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)**

Amendment 42

Proposal for a directive Recital 41

Text proposed by the Commission

(41) EU Blue Card holders should be allowed to move to a second Member State under *simplified conditions where they intend to apply for a new EU Blue Card based on an existing work contract or binding job offer*. Second Member States should not be allowed to require from EU Blue Card holders any *other* authorisation than the EU Blue Card issued by the first Member State. *As soon as they submit an application for an EU Blue Card* within the deadline provided for in this Directive, they should be allowed to begin employment. *In the* second Member State the procedure *for issuing an EU Blue Card* should be simplified *compared to the first EU Blue Card*; as the mobile EU Blue Card holder has already exercised highly skilled activity in one Member State for a certain period of time, the second Member State should not have the need to control all the same details for a second time. However, *mobility should remain demand-driven and therefore* a work contract should always be required in the second Member State, *and* the salary should meet the threshold set by the second Member State in accordance with this Directive.

Amendment

(41) EU Blue Card holders should be allowed to move *with their family members* to a second Member State under *their* EU Blue Card *subject to notifying the second Member State of the fact that they are moving to that second Member State for the purposes of employment under the EU Blue Card*. Second Member States should not be allowed to require from EU Blue Card holders any authorisation *other* than the EU Blue Card issued by the first Member State. *Once the EU Blue Card holder has submitted his or her notification* within the deadline provided for in this Directive, they should be allowed to begin employment. *The* second Member State *should retain the right to object to the mobility, but* the procedure should be simplified; as the mobile EU Blue Card holder has already exercised highly skilled activity in one Member State for a certain period of time, the second Member State should not have the need to control all the same details for a second time. However, a work contract should always be required in the second Member State, *all the conditions in applicable laws, collective agreements or practices in the relevant occupational branch should be met or* the salary should meet the threshold set by the second Member State in accordance with this Directive.

Amendment 43

Proposal for a directive Recital 42

Text proposed by the Commission

(42) While some special rules are provided in this Directive regarding entry and stay in a second Member State for the purpose of business activity, as well as moving to a second Member State to **apply for a new** EU Blue Card in its territory, all the other rules governing the movement of persons across borders as laid down in the relevant provisions of the Schengen acquis apply.

Amendment 44

Proposal for a directive
Recital 43

Text proposed by the Commission

(43) Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder, in the mobility situations provided for in this Directive, crosses an external border within the meaning of Regulation (EU) 2016/399 of the European Parliament and of the Council⁴⁴, a Member State should be entitled to require evidence that the EU Blue Card holder is entering its territory either for the purpose of business activities or in order to **apply for a new** EU Blue Card **based on a work contract or binding job offer. In the case of mobility for carrying out business activities, that Member State should be able to require evidence of the business purpose of the stay, such as invitations, entry tickets, or documents describing the business activities of the company and the position of the EU Blue Card holder in the company.**

⁴⁴ **Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the**

Amendment

(42) While some special rules are provided in this Directive regarding entry and stay in a second Member State for the purpose of business activity, as well as moving to a second Member State to **reside and work there under the** EU Blue Card in its territory, all the other rules governing the movement of persons across borders as laid down in the relevant provisions of the Schengen acquis apply.

Amendment

(43) Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder, in the mobility situations provided for in this Directive, crosses an external border within the meaning of Regulation (EU) 2016/399 of the European Parliament and of the Council, a Member State should be entitled to require evidence that the EU Blue Card holder is entering its territory either for the purpose of business activities or in order to **reside and work there under the** EU Blue Card.

rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23 03 2016, p. 1).

Amendment 45

Proposal for a directive Recital 44

Text proposed by the Commission

(44) Where the EU Blue Card holder moves to a second Member State to apply for an EU Blue Card and he or she is accompanied by family members, that Member State should be able to require *evidence of their lawful* residence in the first Member State. *Besides*, in case of crossing of an external border within the meaning of Regulation (EU) 2016/399, the Members States applying the Schengen acquis in full should consult the Schengen information system and should refuse entry or object to the mobility of persons for whom an alert for the purposes of refusing entry or stay, as referred to in Regulation (EC) No 1987/2006 of the European Parliament and of the Council⁴⁵, has been issued in that system.

⁴⁵ Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

Amendment 46

Proposal for a directive Recital 45

Text proposed by the Commission

(45) For the purpose of residence of

Amendment

(44) Where the EU Blue Card holder moves to a second Member State to apply for an EU Blue Card and he or she is accompanied by family members, that Member State should be able to require *the family members to present* their residence *permit issued* in the first Member State. In case of crossing of an external border within the meaning of Regulation (EU) 2016/399, the Members States applying the Schengen acquis in full should consult the Schengen information system and should refuse entry or object to the mobility of persons for whom an alert for the purposes of refusing entry or stay, as referred to in Regulation (EC) No 1987/2006 of the European Parliament and of the Council⁴⁵, has been issued in that system.

⁴⁵ Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

(45) For the purpose of residence of

beneficiaries of international protection across Member States, it is necessary to ensure that Member States other than the one which issued international protection are informed of the protection background of the persons concerned in order to enable Member States to comply with their obligations regarding the principle of non-refoulement.

beneficiaries of international protection *or the relevant category of applicants for international protection* across the Member States, it is necessary to ensure that Member States other than the one which issued international protection, *or other than the one that is responsible for the application for international protection*, are informed of the protection *or application* background of the persons concerned in order to enable Member States to comply with their obligations regarding the principle of non-refoulement.

Amendment 47

Proposal for a directive Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) Where a Member State intends to expel a person who acquired an EU Blue Card in that Member State and who has lodged an application for international protection in another Member State, that other Member State is obliged to comply with the principle of non-refoulement.

Amendment 48

Proposal for a directive Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) As part of its role in monitoring the implementation of this Directive, the Commission should evaluate the applicability of similar schemes for labour migration to other employment sectors, in particular low and medium-wage sectors. The Union should consider further Union-wide admission systems to attract and retain workers – who are not categorized as highly skilled – where they would fill in identified labour market

needs in the Members States.

Amendment 49

Proposal for a directive Recital 48 b (new)

Text proposed by the Commission

Amendment

(48b) To ensure the proper enforcement of this Directive, and in particular the provisions regarding rights and working conditions, Member States should ensure that appropriate mechanisms are in place for the monitoring of the Directive.

Amendment 50

Proposal for a directive Article 2 – paragraph 1 – point b – indent 3

Text proposed by the Commission

Amendment

- has the required **competence, as proven by** higher professional **qualifications.**

- has the required **qualifications or skills as attested by evidence of higher education qualifications or** higher professional **skills;**

Amendment 51

Proposal for a directive Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) “EU Blue Card” means the residence permit bearing the term “EU Blue Card” entitling its holder to reside and work in the territory of a Member State under the terms of this Directive;

(c) “EU Blue Card” means the residence permit bearing the term “EU Blue Card” entitling its holder, **and pursuant to Directive 2003/86/EC his or her family members,** to reside and work in the territory of a Member State under the terms of this Directive;

Amendment 52

Proposal for a directive Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) "**higher professional qualifications**" means qualifications attested by evidence of higher education qualifications or higher professional skills;

Amendment

deleted

Amendment 53

Proposal for a directive Article 2 – paragraph 1 – point h

Text proposed by the Commission

(h) “higher education qualifications” means any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education or equivalent tertiary education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution or equivalent tertiary educational institution by the State in which it is situated, where the studies needed to acquire those qualifications lasted at least three years and correspond at least to ISCED 2011 level 6 or to EQF level 6, according to national law;

Amendment

(h) “higher education qualifications” means any diploma, certificate or other **supporting** evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education or equivalent tertiary education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution or equivalent tertiary educational institution by the State in which it is situated, where the studies needed to acquire those qualifications lasted at least three years and correspond at least to ISCED 2011 level 6 or to EQF level 6, according to national law;

Amendment 54

Proposal for a directive Article 2 – paragraph 1 – point j

Text proposed by the Commission

(j) “professional experience” means the actual and **lawful** pursuit of the

Amendment

(j) “professional experience” means the actual and **documented** pursuit of the

profession concerned;

profession concerned;

Amendment 55

Proposal for a directive

Article 2 – paragraph 1 – point l

Text proposed by the Commission

(l) “business activity” means a temporary activity related to the business interests of the employer, such as attending internal and external business meetings, attending conferences and seminars, negotiating business deals, undertaking sales or marketing activities, ***performing internal or client audits, exploring business opportunities, or attending and receiving training***;

Amendment

(l) “business activity” means a temporary activity related to the business interests of the employer, such as attending internal and external business meetings, attending conferences and seminars, negotiating business deals ***and*** undertaking sales or marketing activities;

Amendment 56

Proposal for a directive

Article 2 – paragraph 1 – point m

Text proposed by the Commission

(m) “international protection” has the meaning as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and of the Council.

Amendment

(m) “international protection” has the meaning as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and of the Council ***and, where applicable, as defined in national law***;

Amendment 57

Proposal for a directive

Article 2 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) “threat to public health” means any disease with epidemic potential as defined by the International Health Regulations of the World Health Organization and other infectious or contagious parasitic diseases if they are

the subject of protection provisions applying to nationals of the Member States.

Amendment 58

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to third-country nationals who apply to be admitted or who have been admitted to the territory of a Member State for the purpose of highly skilled employment.

Amendment

1. This Directive shall apply to third-country nationals who apply to be admitted or who have been admitted to the territory of a Member State for the purpose of highly skilled employment. ***This Directive shall also apply to third-country nationals who already hold a residence permit in a Member State on the basis of Directive (EU) 2016/801.***

Amendment 59

Proposal for a directive Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) who seek international protection and are awaiting a decision on their status or who are beneficiaries of temporary protection in accordance with the Council Directive 2001/55/EC⁴⁷ in a Member State;

Amendment

(a) who seek international protection and are awaiting a decision on their status or who are beneficiaries of temporary protection in accordance with the Council Directive 2001/55/EC⁴⁷ in a Member State, ***and who are not entitled to access the labour market while awaiting that decision in accordance with Article 15 of Directive 2013/33/EU of the European Parliament and of the Council***^{47a};

⁴⁷ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences

⁴⁷ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences

thereof (OJ L 212, 7.8.2001, p. 12).

thereof (OJ L 212, 7.8.2001, p. 12).

^{47a} *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.13, p. 96).*

Amendment 60

Proposal for a directive

Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) who seek protection in accordance with national law, international obligations or practice of the Member State and are awaiting a decision on their status, or who are beneficiaries of protection in accordance with national law, international obligations or practice of the Member State;

Amendment

(b) who seek protection in accordance with *the* national law, international obligations or practice of the Member State and are awaiting a decision on their status, or who are beneficiaries of protection in accordance with *the* national law, international obligations or practice of the Member State *and who are not entitled to access the labour market in that Member State under the relevant national law*;

Amendment 61

Proposal for a directive

Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) *who apply to reside in a Member State as researchers within the meaning of Directive (EU) 2016/801 in order to carry out a research project*;

Amendment

deleted

Amendment 62

Proposal for a directive

Article 3 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) who have been admitted to the territory of a Member State as seasonal workers pursuant to Directive 2014/36/EU of the European Parliament and of the Council⁴⁹ ;

deleted

⁴⁹ *Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94, 28.3.2014, p. 375).*

Amendment 63

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. This Directive shall be without prejudice to any agreement between the Union and its Member States or between the Member States and one or more third countries, that lists the professions which do not fall under this Directive in order to assure ethical recruitment, in sectors suffering from a lack of personnel, by protecting human resources in the developing countries which are signatories to these agreements.

deleted

Amendment 64

Proposal for a directive Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. A third-country national *who applies for an EU Blue Card* shall:

1. As regards the admission of a third-country national *under this Directive, the applicant* shall:

Amendment 65

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) present a valid work contract or, as provided for in national law, a binding job offer for highly skilled employment, of at least *six* months in the Member State concerned;

Amendment

(a) present a valid work contract or, as provided for in national law, a binding job offer for highly skilled employment, of at least *nine* months in the Member State concerned;

Amendment 66

Proposal for a directive

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) for unregulated professions, present evidence attesting higher professional *qualifications*;

Amendment

(c) for unregulated professions present *written* evidence attesting higher *education qualifications or higher* professional *skills*;

Amendment 67

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) present a valid travel document, as determined by national law, and, if required, an application for a visa or a valid visa or, where applicable, a valid residence permit or a valid long-stay visa;

Amendment

(d) present a valid travel document, as determined by national law, and, if required, an application for a visa or a valid visa or, where applicable, a valid residence permit or a valid long-stay visa *or evidence that an application for international protection or for protection under national law is pending*;

Amendment 68

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. *In addition to the conditions laid down in paragraph 1, the gross annual salary resulting from the monthly or annual salary specified in the work contract or binding job offer shall not be inferior to the salary threshold set and published for that purpose by the Member States. The salary threshold set by the Member States shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned.*

deleted

Amendment 69

Proposal for a directive Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *In addition to the conditions laid down in paragraphs 1 and 2, when transposing this Directive, Member States shall establish a salary threshold in agreement with the social partners. In such a case, the monthly or annual salary specified in the work contract shall not be inferior to the salary threshold established and published for that purpose by the Member States nor inferior to the wages which apply or which would apply to a comparable worker in the same sector, based on the applicable legislation, collective agreements and practices in the Member State concerned. In any case, that salary threshold shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned.*

Member States may, in agreement with the social partners, decide not to establish a salary threshold in certain occupational branches where it is agreed that such a threshold is unnecessary. Such may be the

case, where a collective agreement governs the wages which apply in that occupational branch.

Amendment 70

Proposal for a directive Article 5 – paragraph 4

Text proposed by the Commission

Amendment

4. By way of derogation from paragraph 2, and for employment in professions which are in particular need of third-country national workers and which belong to major groups 1 and 2 of ISCO, the salary threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2.

deleted

Amendment 71

Proposal for a directive Article 5 – paragraph 5

Text proposed by the Commission

Amendment

5. By way of derogation from paragraph 2, as regards third-country nationals who have obtained a higher education qualification not more than three years before submitting the application for an EU Blue Card, the salary threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2. The period of three years shall reapply after the attainment of each level of higher education qualifications.

deleted

The salary threshold referred to in the first subparagraph of this paragraph shall apply whenever an application for a first EU Blue Card or a renewal is submitted during that period of three years. Where the EU Blue Card issued during the period of three years is renewed after the

three years period has elapsed, the salary threshold referred to in paragraph 2 shall apply. However, where the first EU Blue Card issued during the period of three years was issued for less than 24 months, the lower salary threshold referred to in the first subparagraph of this paragraph shall apply upon the first renewal.

Amendment 72

Proposal for a directive Article 5 – paragraph 6

Text proposed by the Commission

6. Member States shall facilitate the validation and recognition of documents attesting the relevant higher **professional** qualifications pursuant to point (c) of paragraph 1.

Amendment

6. Member States shall facilitate the **speedy** validation and recognition of documents attesting the relevant higher **education** qualifications **and higher professional skills to be verified** pursuant to point (c) of paragraph 1.

Amendment 73

Proposal for a directive Article 5 – paragraph 6 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall develop mechanisms and arrangements for the evaluation of higher professional skills as defined in point (i) of Article 2 and the validation of professional experience as defined in point (j) of Article 2. When developing such mechanisms and arrangements, Member States shall consult with the social partners.

Amendment 74

Proposal for a directive Article 5 – paragraph 7

Text proposed by the Commission

Amendment

7. *Member States shall reject applications of third-country nationals who are considered to pose a threat to public policy, public security or public health.* **deleted**

Amendment 75

Proposal for a directive Article 5 – paragraph 8

Text proposed by the Commission

Amendment

8. *Member States may require the third-country national concerned to provide his or her address in their territory.* **deleted**

Where the national law of a Member State requires an address to be provided at the time of application and the third-country national concerned does not yet know his or her future address, Member States shall accept a temporary address. In such a case, the third-country national shall provide his or her permanent address at the latest when the EU Blue Card pursuant to Article 8 is issued.

Amendment 76

Proposal for a directive Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall reject an application for an EU Blue Card *in any of the following cases:*
1. Member States shall reject an application for an EU Blue Card:

Amendment 77

Proposal for a directive Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) where the applicant does not meet the *conditions* set out in Article 5;

Amendment

(a) where the applicant does not meet the *criteria* set out in Article 5; **or**

Amendment 78

Proposal for a directive Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) where the *documents presented have been fraudulently acquired, or falsified or tampered with.*

Amendment

(b) where the *third-country national is considered to pose a threat to public policy, public security or public health.*

Amendment 79

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. *In circumstances where their labour market situation undergoes serious disturbances such as a high level of unemployment in a given occupation or sector, which may be limited to a particular part of their territory, Member States may check whether the concerned vacancy could not be filled by national or Union workforce, by third-country nationals lawfully resident in that Member State and already forming part of its labour market by virtue of Union or national law, or by EU long-term residents wishing to move to that Member State for highly skilled employment in accordance with Chapter III of Directive 2003/109/EC.*

The Member State concerned shall notify the Commission of its intention to

Amendment

deleted

introduce such check in a given occupation or sector, which may be limited to a particular part of their territory, for third-country nationals coming from third countries for the next 12 months, and shall supply the Commission with all relevant reasons justifying this decision. For each extension of 12 months the Member State concerned shall send a new justified notification.

Amendment 80

Proposal for a directive Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States may reject an application for an EU Blue Card **where**:

Amendment

3. Member States may reject an application for an EU Blue Card:

Amendment 81

Proposal for a directive Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

Amendment

(a) **where** the employer has **repeatedly** failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions **during a period of five years prior to the date of the application**;

Amendment 82

Proposal for a directive Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) the employer's business is being or has been wound up under national

Amendment

(b) **where** the employer's business is being or has been wound up under national

insolvency laws or no economic activity is taking place; *or*

insolvency laws or no economic activity is taking place;

Amendment 83

Proposal for a directive

Article 6 – paragraph 3 – point c

Text proposed by the Commission

(c) the employer has been sanctioned for employment of illegally staying third-country nationals in accordance with Article 9 of Directive 2009/52/EC of the European Parliament and of the Council⁵¹, or for undeclared work or illegal employment according to national law.

⁵¹ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

Amendment

(c) **where** the employer has been sanctioned for employment of illegally staying third-country nationals in accordance with Article 9 of Directive 2009/52/EC of the European Parliament and of the Council⁵¹, or for undeclared work or illegal employment according to national law;

⁵¹ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

Amendment 84

Proposal for a directive

Article 6 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) where, with the knowledge of the third-country national, the documents presented for the purpose of admission pursuant to Article 5 have been fraudulently acquired, or have been falsified or tampered with; or

Amendment 85

Proposal for a directive

Article 6 – paragraph 3 – point c b (new)

Text proposed by the Commission

Amendment

(cb) to ensure ethical recruitment in sectors essential for sustainable development suffering from a lack of qualified workers in countries of origin.

Amendment 86

Proposal for a directive

Article 6 – paragraph 3 – point c c (new)

Text proposed by the Commission

Amendment

(cc) where there is a high level of unemployment in a given occupation or sector which may be limited to a particular part of their territory and where the Member State in question has checked whether the concerned vacancy could be filled by the national or Union workforce, by third-country nationals lawfully resident in that Member State and already forming part of its labour market by virtue of Union or national law, or by EU long-term residents wishing to move to that Member State for highly skilled employment in accordance with Chapter III of Directive 2003/109/EC.

The Member State concerned shall notify the Commission, at the latest one month in advance, of its intention to introduce such a check in a given occupation or sector, which may be limited to a particular part of their territory, for third-country nationals coming from third countries for the following six months, and shall submit to the Commission all relevant reasons justifying this decision. Member States shall involve the social partners in the assessment of the circumstances related to the domestic labour market. For each extension of six months the Member State concerned shall send a new justified notification.

Amendment 87

Proposal for a directive Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Member States shall, where appropriate after consulting social partners, list those sectors of employment which face shortages of highly skilled workers. That list shall be notified to the Commission. Member States may modify such lists, where appropriate after consulting social partners.*

Amendment 88

Proposal for a directive Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. *Member States may reject an application for an EU Blue Card in order to ensure ethical recruitment in sectors suffering from a lack of qualified workers in the countries of origin.*

deleted

Amendment 89

Proposal for a directive Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. *Without prejudice to paragraph 1, any decision to reject an application shall take account of the specific circumstances of the case and **respect the principle of proportionality.***

5. Any decision to reject an application *pursuant to paragraph 3* shall take account of the specific circumstances of the case and *shall be proportionate.*

Amendment 90

Proposal for a directive Article 7 – title

Text proposed by the Commission

Amendment

Withdrawal **or non-renewal** of the EU
Blue Card

Withdrawal of the EU Blue Card

Amendment 91

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall withdraw **or refuse to renew** an EU Blue Card where:

1. Member States shall withdraw an EU Blue Card where ***the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required in accordance with points (b) and (c) of Article 5(1) or, where appropriate, his or her salary no longer meets the salary level or threshold as defined in accordance with Article 5, without prejudice to the situation in which the third-country national is unemployed.***

(a) ***the EU Blue Card or the documents presented have been fraudulently acquired, or have been falsified or tampered with;***

(b) ***the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required by points (b) and (c) of Article 5(1) or his or her salary no longer meets the salary threshold as set in accordance with Article 5(2), (4) or (5), as applicable, without prejudice to Article 14.***

Amendment 92

Proposal for a directive Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States may withdraw **or refuse to renew** an EU Blue Card issued on the basis

Member States may withdraw an EU Blue Card issued on the basis of this Directive:

of this Directive *in any of the following cases*:

Amendment 93

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) *where appropriate, where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;* **deleted**

Amendment 94

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) where the third-country national has not communicated the changes referred to in Article 13(1), *where applicable, and in Article 14(3)*; (d) where the third-country national has not communicated the changes referred to in Article 13(1);

Amendment 95

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) where the third-country national no longer holds a valid travel document; (e) where the third-country national no longer holds a valid travel document, *provided that prior to withdrawing the EU Blue Card, the Member State had set a reasonable deadline for the third-country national concerned to obtain and present a valid travel document;*

Amendment 96

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point f

Text proposed by the Commission

(f) where the third-country national fails to comply with the conditions of mobility under this Chapter *or repetitively makes use of the mobility provisions of this Chapter in an abusive manner.*

Amendment

(f) where the third-country national fails to comply with the conditions of mobility under this Chapter;

Amendment 97

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) where the third-country national has been unemployed for a period exceeding six consecutive months, except where such unemployment is the result of illness or disability; or

Amendment 98

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) where, with the knowledge of the third-country national concerned, the EU Blue Card or the documents presented for the purpose of admission pursuant to Article 5 have been fraudulently acquired, or have been falsified or tampered with.

Amendment 99

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where an EU Blue Card is withdrawn or not renewed on the basis of point (e) of paragraph 2, Member States shall, prior to withdrawing or not renewing the EU Blue Card, set a reasonable deadline for the third-country national concerned to obtain and present a valid travel document.

deleted

Amendment 100

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. The lack of communication pursuant to Article 13(1) **or 14(3)** shall not be considered to be a sufficient reason for withdrawing **or not renewing** the EU Blue Card if the holder proves that the communication did not reach the competent authorities for a reason independent of the holder's will.

3. The lack of communication pursuant to Article 13(1) shall not be considered to be a sufficient reason for withdrawing the EU Blue Card if the holder proves that the communication did not reach the competent authorities for a reason independent of the holder's will.

Amendment 101

Proposal for a directive Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Without prejudice to paragraph 1, any decision to withdraw **or refuse to renew** an EU Blue Card shall take account of the specific circumstances of the case and **respect the principle of proportionality**.

4. Without prejudice to paragraph 1, any decision to withdraw an EU Blue Card **taken pursuant to paragraph 2** shall take account of the specific circumstances of the case and **shall be proportionate**.

Amendment 102

Proposal for a directive Article 7 a (new)

Article 7 a

Non-renewal of an EU Blue Card

1. Where an EU Blue Card holder or his or her employer applies to renew the EU Blue Card, Member States shall refuse to renew it where:

(a) the third-country national is considered to pose a threat to public policy, public security or public health;

(b) the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required by points (b) and (c) of Article 5(1) or, where appropriate, his or her salary no longer meets the salary level or threshold defined in accordance with Article 5.

2. Where an EU Blue Card holder or his or her employer applies to renew the EU Blue Card, Member States may refuse to renew it where:

(a) with the knowledge of the third-country national concerned, the EU Blue Card or the documents presented for the purpose of admission pursuant to Article 5 have been fraudulently acquired, or have been falsified or tampered with;

(b) the employer has repeatedly failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions and has failed to rectify the situation within a reasonable time;

(c) the third-country national has been unemployed for a period exceeding six consecutive months;

(d) the third-country national no longer holds a valid travel document, provided that, prior to refusing to renew the EU Blue Card, the Member State concerned had set a reasonable deadline for the third-country national concerned

to obtain and present a valid travel document; or

(e) under the EU Blue Card previously granted, the third-country national failed to comply with the conditions of mobility under Chapter V.

Any decision to refuse to renew an EU Blue Card pursuant to this paragraph shall take account of the specific circumstances of the case and shall be proportionate.

Amendment 103

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. Member States shall set a standard period of validity for the EU Blue Card, which shall be at least **24** months. If the work contract covers a shorter period, the EU Blue Card shall be issued at least for the duration of the work contract plus three months. Where an EU Blue Card is renewed, its period of validity shall be at least **24** months.

Amendment

2. Member States shall set a standard period of validity for the EU Blue Card, which shall be at least **36** months. If the work contract covers a shorter period, the EU Blue Card shall be issued at least for the duration of the work contract plus three months. Where an EU Blue Card is renewed, its period of validity shall be at least **36** months.

Amendment 104

Proposal for a directive Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where a Member State issues an EU Blue Card to a third-country national who has applied for international protection in that Member State, it shall enter the following remark in that third-country national's EU Blue Card, under the heading "Remarks": "Applicant for International Protection in [name of the Member State] as from [date of lodging of

application for international protection]."

Should the EU Blue Card holder decide to withdraw his or her application for international protection upon obtaining the EU Blue Card, a new EU Blue Card shall be issued not containing that remark.

Amendment 105

Proposal for a directive Article 8 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. *Where an EU Blue Card is issued by a Member State to a third-country national who is an applicant for international protection in another Member State, the Member State issuing the EU Blue Card shall enter the remark "Applicant for International protection in [name of the Member State] as from [date of lodging of application for international protection]" in the EU Blue Card.*

Before the Member State enters that remark, it shall notify the Member State to be mentioned in that remark of the issuance of the EU Blue Card and request that Member State to provide information as to whether the EU Blue Card holder is still maintaining his/her application for international protection. The Member State mentioned in the remark shall reply no later than one month after receiving the request for information. Where the application for international protection has been withdrawn, the Member State issuing the EU Blue Card shall not enter that remark.

Amendment 106

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall **determine whether** applications for an EU Blue Card **are to be made by** the third-country national or by the employer. **Member States may also allow** an application **from either of the two**.

Amendment

1. Member States shall **allow** applications for an EU Blue Card **from either** the third-country national or by the employer. **Where an application involves a recognised employer in accordance with Article 12, the employer shall lodge the application.** An application **made by the employer shall not restrict the procedural rights enjoyed by the third-country national seeking the EU Blue Card during the application procedure, or the rights enjoyed by the EU Blue Card holder during the period of employment or the EU Blue Card renewal procedure.**

Amendment 107

Proposal for a directive Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. **Where an applicant for international protection is granted an EU Blue Card, his or her application for international protection shall be considered to be suspended for the duration of the validity of the EU Blue Card. In that regard, the Member State that issues the EU Blue Card shall inform the authorities of the Member State responsible for the application for international protection of the details, in particular, the date on which the EU Blue Card was issued and its duration.**

Where an application for international protection is suspended, the Member State responsible for that application shall not consider the application to be implicitly withdrawn.

Where the EU Blue Card expires, the Member State responsible for the application for international protection shall permit the person concerned to re-

enter its territory for the purposes of the application for international protection. Where the family members of the person concerned joined him or her in the Member State which issued the EU Blue Card, they shall not be entitled to enter, or remain in, that Member State on the basis of the expired EU Blue Card.

Amendment 108

Proposal for a directive Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The competent authorities of the Member States shall adopt a decision on the application for an EU Blue Card and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned. The notification shall be made at the latest within **60** days of the date of submission of *the* application.

Amendment

The competent authorities of the Member States shall adopt a decision on the application for an EU Blue Card and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned. The notification shall be made ***as soon as possible and*** at the latest within **30** days of the date of submission of ***an initial application or an application for renewal.***

Amendment 109

Proposal for a directive Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the employer has been recognised in accordance with Article 12, the notification shall be made at the latest within **30** days of the date of submission of *the* application.

Amendment

Where the employer has been recognised in accordance with Article 12, the notification shall be made ***as soon as possible and*** at the latest within **15** days of the date of submission of ***an initial application or an application for renewal.***

Amendment 110

Proposal for a directive Article 10 – paragraph 3

3. Where the information or documents supplied in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional information that is required and set a reasonable deadline for providing it. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information or documents required. If the additional information or documents have not been provided within the deadline, the application may be rejected.

3. ***Prior to rejecting an application for an EU Blue Card or an application to renew an EU Blue Card***, where the information or documents supplied in support of the ***initial application or the application for renewal*** are inadequate or incomplete, the competent authorities shall notify the applicant of the additional information that is required and set a reasonable deadline for providing it. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information or documents required. If the additional information or documents have not been provided within the deadline, the application may be rejected.

Amendment 111

Proposal for a directive Article 10 – paragraph 4

4. Any decision rejecting an application for an EU Blue Card, or ***a*** decision not to renew an EU Blue Card shall be notified in writing to the third-country national concerned and, where relevant, to his employer in accordance with the notification procedures set out in the relevant national law. The notification shall specify the reasons for the decision and the competent authority with which an appeal may be submitted as well as the time limit for submitting the appeal. Member States shall provide an effective judicial remedy, in accordance with national law.

4. Any decision rejecting an application for an EU Blue Card, ***any decision to withdraw an EU Blue Card***, or ***any*** decision not to renew an EU Blue Card shall be notified in writing to the third-country national concerned and, where relevant, to his ***or her*** employer in accordance with the notification procedures set out in the relevant national law. The notification shall specify the reasons, ***in fact and in law***, for the decision and the competent authority with which an appeal may be submitted as well as the time limit for submitting the appeal. Member States shall provide an effective judicial remedy, in accordance with national law. ***Any decision rejecting an application for an EU Blue Card shall not affect the right of a third-country national to submit a new application, in particular***

where the rejection was based on the conduct of the employer pursuant to points (a), (b) and (c) of Article 6(3).

Amendment 112

Proposal for a directive

Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *Any decision to withdraw an EU Blue Card shall take effect only after the Blue Card holder has been duly notified by the responsible authorities of the Member State concerned. Member States shall ensure that such notification occurs at least 30 days before the withdrawal takes effect.*

Amendment 113

Proposal for a directive

Article 10 – paragraph 6

Text proposed by the Commission

Amendment

6. Where the validity of the EU Blue Card permit expires during the procedure for renewal, Member States shall allow the third-country national to stay on their territory until the competent authorities have taken a decision on the application.

6. Where the validity of the EU Blue Card permit expires during the procedure for renewal, Member States shall allow the third-country national to stay on their territory ***under the same conditions as laid down in this Directive*** until the competent authorities have taken a decision on the application ***for renewal***.

Amendment 114

Proposal for a directive

Article 10 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. *During the initial application procedure, the procedure on withdrawal or the procedure on an application for*

renewal, Member States shall prohibit any form of arbitrariness and/or discrimination in the decision-making process pursuant to Council Directive 76/207/EEC^{1a}, Council Directive 2000/43/EC^{1b} and Council Directive 2000/78/EC^{1c}.

^{1a} *Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39, 14.2.1976, p. 40)*

^{1b} *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).*

^{1c} *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).*

Amendment 115

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

The level of fees required by Member States for the processing of applications shall not be disproportionate or excessive.

Amendment

Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of fees required by ***a Member State*** for the processing of applications shall not be disproportionate or excessive ***and overall not higher than the level of fees required for other residence and working permit applications in that Member State.***

Amendment 116

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States *may decide to* provide for recognition procedures for employers in accordance with their national law or administrative practice for the purpose of applying simplified procedures for obtaining an EU Blue Card.

Amendment

Member States *shall* provide for recognition procedures for employers in accordance with their national law or administrative practice for the purpose of applying simplified procedures for obtaining an EU Blue Card. ***Member States shall provide clear and transparent information to the employers concerned.***

Amendment 117

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The recognition procedures shall not entail disproportionate or excessive administrative burden or costs for the employers.

Amendment

The recognition procedures shall not entail disproportionate or excessive administrative burden or costs for the employers, ***in particular for small and medium-sized enterprises.***

Amendment 118

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States may refuse to recognise an employer pursuant to paragraph 1, where the employer has been sanctioned for employment of *illegally* staying third-country nationals pursuant to Directive 2009/52/EC.

Amendment

Member States may refuse to recognise an employer pursuant to paragraph 1, where the employer has been sanctioned for employment of *irregularly* staying third-country nationals pursuant to Directive 2009/52/EC ***or where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions.***

Amendment 119

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The simplified procedures shall include processing of applications as provided for in the second subparagraph of Article 10(1). Applicants shall be exempt from presenting the evidence referred to in ***points (c) and (e) of Article 5(1) and in Article 5(8)***.

Amendment

The simplified procedures shall include processing of applications as provided for in the second subparagraph of Article 10(1). Applicants shall be exempt from presenting the evidence referred to in ***point (e) of Article 5(1)***.

Amendment 120

Proposal for a directive

Article 12 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall ***provide for measures to prevent possible abuses. Those measures may include monitoring, assessment at regular intervals and, where appropriate, inspection*** in accordance with national law or administrative practice.

Amendment

Member States shall ***monitor and assess at regular intervals the functioning and effectiveness of the recognition procedures for employers under paragraph 1. To that end, without prejudice to Article 10(6a), they shall, where appropriate, carry out inspections*** in accordance with national law or administrative practice.

Amendment 121

Proposal for a directive

Article 13 – paragraph 1 – subparagraph 1

Text proposed by the Commission

EU Blue Card holders shall have full access to highly skilled employment in the Member State concerned. Member States may require that a change of employer and changes affecting the fulfilment of the criteria for admission as set out in Article 5 are communicated in accordance with procedures laid down by national law.

Amendment

EU Blue Card holders shall have full access to highly skilled employment in the Member State concerned. ***During a period of unemployment, the EU Blue Card holder shall be allowed to seek and take up highly skilled employment.*** Member States may require that a change of employer and changes affecting the

fulfilment of the criteria for admission as set out in Article 5 are communicated in accordance with procedures laid down by national law.

Amendment 122

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity in parallel to the activity in highly skilled employment.

Amendment

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity, ***under the same conditions as nationals and other Union citizens in the Member State which issued the Blue Card***, in parallel to the activity in highly skilled employment. ***Any such activity shall be subsidiary to their employment under the EU Blue Card.***

Amendment 123

Proposal for a directive Article 14

Text proposed by the Commission

Article 14

Temporary unemployment

1. ***Unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or where the unemployment occurs more than once during the period of validity of an EU Blue Card.***

2. ***During the period referred to in paragraph 1, the EU Blue Card holder shall be allowed to seek and take up employment in accordance with the conditions set out in Article 13.***

Amendment

deleted

3. *The EU Blue Card holder shall communicate the beginning and, where appropriate, the end of the period of unemployment to the competent authorities of the Member State of residence, in accordance with the relevant national procedures.*

Amendment 124

Proposal for a directive Article 15 – paragraph 1 – point d

Text proposed by the Commission

(d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;

Amendment

(d) recognition of diplomas, certificates and other professional qualifications, ***including the non-formal acquisition of skills***, in accordance with the relevant national procedures;

Amendment 125

Proposal for a directive Article 15 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) access to justice and support if they face any kind of discrimination, including in the labour market by applying the principles and safeguards referred to in Directive 2000/43/EC and Directive 2000/78/EC;

Amendment 126

Proposal for a directive Article 15 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) non-discrimination on the grounds of origin, gender, religion or belief,

disability, age or sexual orientation.

Amendment 127

Proposal for a directive Article 15 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall hold the employer of the EU Blue Card holder responsible for any repeated or significant failure to comply with Article 5(3) and Article 15.

The Member State concerned shall provide for sanctions where the employer is held responsible. Those sanctions shall be effective, proportionate and dissuasive.

Amendment 128

Proposal for a directive Article 15 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. Member States shall provide for measures to prevent possible abuses of Article 5(3) and Article 15. Those measures shall include monitoring, assessment at regular intervals and, where appropriate, inspection in accordance with national law or administrative practice.

Amendment 129

Proposal for a directive Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By way of derogation from point (a) of Article 3(2) of Directive 2003/86/EC, that directive, together with

the derogations laid down in this Article, shall apply to EU Blue Card holders whose application for international protection is suspended for the duration of validity of the Blue Card pursuant to Article 9(2a) of this Directive.

Amendment 130

Proposal for a directive Article 16 – paragraph 4

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, where the conditions for family reunification are fulfilled and the applications were submitted simultaneously, residence permits for family members shall be granted at the same time as the EU Blue Card. Where the family members join the EU Blue Card holder after the EU Blue Card has been granted to him or her and where the conditions for family reunification are fulfilled, residence permits shall be granted at the latest within **60** days from the date *on which* the application *was submitted*.

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, where the conditions for family reunification are fulfilled and the applications were submitted simultaneously, residence permits for family members shall be granted at the same time as the EU Blue Card. Where the family members join the EU Blue Card holder after the EU Blue Card has been granted to him or her and where the conditions for family reunification are fulfilled, residence permits shall be granted at the latest within **30** days from the date *of submission of* the application.

Amendment 131

Proposal for a directive Article 16 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Before a family member is granted access to employment, Member States may check whether the concerned vacancy could not be filled by national or Union workforce, by third-country nationals lawfully resident in that Member State and already forming part of its labour market by virtue of Union or national law, or by EU long-term residents wishing to move to that Member State for employment in

Amendment

deleted

accordance with Chapter III of Directive 2003/109/EC.

Amendment 132

Proposal for a directive Article 16 – paragraph 10

Text proposed by the Commission

10. This Article shall apply to EU Blue Card holders who are beneficiaries of international protection *only* when they reside in a Member State other than the Member State which granted them international protection.

Amendment

10. This Article shall apply to EU Blue Card holders who are beneficiaries of international protection *in respect of any more favourable condition for family members which could derive from this Directive, including* when they reside in a Member State other than the Member State which granted them international protection.

Amendment 133

Proposal for a directive Article 17 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The EU long-term resident status granted in accordance with the first subparagraph of this paragraph may be withdrawn before the period of legal and continuous residence of five years referred to in Article 4(1) of Directive 2003/109/EC within the territory of the Member States has been completed, where the third-country national becomes unemployed and does not have sufficient resources to maintain himself or herself and, where applicable, the members of his or her family, without having recourse to the social assistance system of the Member State concerned.

Amendment

deleted

Amendment 134

Proposal for a directive

Article 17 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

However, the EU long-term resident status shall not be withdrawn where the third-country national:

deleted

(a) is temporarily unable to work as the result of an illness or accident;

(b) is in duly recorded involuntary unemployment and has registered as job-seeker with the relevant employment office;

(c) begins vocational training which, unless the third-country national concerned is involuntarily unemployed, shall be related to the previous employment.

Amendment 135

Proposal for a directive

Article 17 – paragraph 5

Text proposed by the Commission

Amendment

5. By way of derogation from Article 9(1)(c) of Directive 2003/109/EC, Member States shall extend to 24 consecutive months the period of absence from the territory of the Member States which is allowed to an EU long-term resident holder of a long-term residence permit with the remark referred to in Article 18(2) of this Directive and of his family members having been granted the EU long-term resident status.

deleted

Amendment 136

Proposal for a directive

Article 17 – paragraph 6

Text proposed by the Commission

Amendment

6. *The derogations set out in paragraphs 4 and 5 may be restricted to cases where the third-country national concerned can present evidence that he has been absent from the territory of the Member States to exercise an economic activity in an employed or self-employed capacity, or to perform a voluntary service, or to study in his own country of origin.*

deleted

Amendment 137

Proposal for a directive Article 19 – title

Text proposed by the Commission

Amendment

Business activity in a second Member State

Short-term mobility for EU Blue Card holders

Amendment 138

Proposal for a directive Article 19 – paragraph 2

Text proposed by the Commission

Amendment

2. A third-country national who holds a valid EU Blue Card issued by a Member State not applying the Schengen acquis in full shall be entitled to enter and stay for the purpose of carrying out a business activity in one or several second Member States for up to 90 days in any 180-day period on the basis of the EU Blue Card issued by the first Member State. The second Member State shall not require any authorisation for exercising the business activity other than the EU Blue Card issued by the first Member State.

2. A third-country national who holds a valid EU Blue Card issued by a Member State not applying the Schengen acquis in full shall be entitled to enter and stay for the purpose of carrying out a business activity in one or several second Member States for up to 90 days in any 180-day period on the basis of the EU Blue Card issued by the first Member State ***and a valid travel document***. The second Member State shall not require any authorisation for exercising the business activity other than the EU Blue Card issued by the first Member State. ***However, where the second Member State applies the Schengen acquis in full, it may require***

the EU Blue Card holder, when crossing an external border, to provide evidence of the business purpose of his or her stay in that Member State.

Amendment 139

Proposal for a directive Article 20 – title

Text proposed by the Commission

Application for an EU Blue Card in a second Member State

Amendment

Long-term mobility for EU Blue Card holders

Amendment 140

Proposal for a directive Article 20 – paragraph 1

Text proposed by the Commission

1. After twelve months of legal residence in the first Member State as an EU Blue Card holder, the third-country national shall be entitled to enter *a second Member State* for the purpose of highly skilled employment on the basis of the EU Blue Card and a valid travel document under the conditions set out in this Article.

Amendment

1. After twelve months of legal residence in the first Member State as an EU Blue Card holder, the third-country national shall be entitled to enter, *stay and work in one or several Member States* for the purpose of highly skilled employment on the basis of the EU Blue Card and a valid travel document under the conditions set out in this Article.

Amendment 141

Proposal for a directive Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

As soon as possible and no later than one month after entering the territory of the second Member State, the EU Blue Card holder or his employer or both shall *submit an application for an EU Blue Card to* the competent authority of that Member State and present *all* the documents *proving the*

Amendment

As soon as possible and no later than one month after entering the territory of the second Member State, the EU Blue Card holder or his *or her* employer or both shall *notify* the competent authority of that *second Member State of his or her employment in that Member State* and

fulfilment of the conditions referred to in paragraph 3 for the second Member State.

shall present the documents *required under* paragraph 3.

Amendment 142

Proposal for a directive

Article 20 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The EU Blue Card holder shall be allowed to work in the second Member State immediately after submitting the *application*.

Amendment

The EU Blue Card holder shall be allowed to work in the second Member State immediately after submitting the *notification*.

Amendment 143

Proposal for a directive

Article 20 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The *application* may also be submitted to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first Member State.

Amendment

The *notification* may also be submitted to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first Member State.

Amendment 144

Proposal for a directive

Article 20 – paragraph 3 – introductory part

Text proposed by the Commission

3. For the purposes of the *application* referred to in paragraph 2, the EU Blue Card holder shall present:

Amendment

3. For the purposes of the *notification* referred to in paragraph 2, the EU Blue Card holder shall present:

Amendment 145

Proposal for a directive

Article 20 – paragraph 3 – point e

Text proposed by the Commission

Amendment

(e) evidence of meeting the salary threshold set in the second Member State in application of *paragraph 2* or, where applicable, of *paragraphs 4 or 5 of Article 5*.

(e) ***where necessary***, evidence of meeting the salary threshold set in the second Member State in application of ***Article 5(2)*** or, where applicable, of ***Article 5(4) or (5)***.

Amendment 146

Proposal for a directive Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where the EU Blue Card was issued by a Member State not applying the Schengen acquis in full and the holder crosses an external border for the purpose of long-term mobility, the second Member State may require, as evidence for the mobility, a work contract or a binding job offer for highly skilled employment for at least six months in the second Member State.

Amendment 147

Proposal for a directive Article 20 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. The second Member State ***shall reject an application for an EU Blue Card*** in any of the following cases:

4. ***Within 30 days of the date of receipt of the notification***, the second Member State ***may object to mobility*** in any of the following cases:

Amendment 148

Proposal for a directive Article 20 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) the documents were fraudulently acquired, or falsified or tampered with;

(b) the documents were, ***with the knowledge of the third-country national concerned***, fraudulently acquired, or falsified or tampered with;

Amendment 149

Proposal for a directive Article 20 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) where the EU Blue Card holder poses a threat to public policy, public security or public health;

Amendment 150

Proposal for a directive Article 20 – paragraph 4 – point c b (new)

Text proposed by the Commission

Amendment

(cb) where the second Member State undertakes a check in accordance with Article 6(3a) after a justified notification as set out in that Article, and only if the second Member State has also introduced such checks for third-country nationals coming from third countries under this Directive.

Amendment 151

Proposal for a directive Article 20 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Any decision to object to mobility, taken under this paragraph, shall take account of the specific circumstances of the case and shall be proportionate. In respect of any decision to object to mobility, Article 10(3) and (4) shall apply,

mutatis mutandis.

Amendment 152

Proposal for a directive Article 20 – paragraph 5

Text proposed by the Commission

5. The second Member State shall **reject an application for an EU Blue Card where the third-country national poses a threat to public policy, public security or public health.**

Amendment

5. The second Member State shall **inform the first Member State in writing at the same time as informing the EU Blue Card holder, his or her employer, or both, of any objection to mobility and may oblige the EU Blue Card holder and his or her family members, in accordance with procedures provided for in national law, to leave its territory.**

Amendment 153

Proposal for a directive Article 20 – paragraph 6

Text proposed by the Commission

6. **The second Member State may reject an application for an EU Blue Card on the basis of a check made in accordance with Article 6(2) after a justified notification as set out in that Article, and only if the second Member State has also introduced such checks for third-country nationals coming from third countries under this Directive.**

Amendment

6. **Where a second Member State objects to mobility, that objection shall not affect the renewal of the EU Blue Card or the re-entry of the EU Blue Card holder and his or her family members to the first Member State. Upon request of the second Member State, the first Member State shall allow such re-entry without formalities and without delay. This shall also apply if the EU Blue Card issued by the first Member State has expired or has been withdrawn during the notification period. The EU Blue Card holder or his or her employer in the second Member State may be held liable for the costs relating to the re-entry of the EU Blue Card holder and his or her family members.**

Amendment 154

Proposal for a directive Article 20 – paragraph 7

Text proposed by the Commission

7. *The second Member State may reject an application for an EU Blue Card where the third-country national repetitively makes use of the possibility to enter and work in second Member States pursuant to this Article in an abusive manner. The second Member State shall notify the first Member State of the rejection for the purpose of point (f) of Article 7(2).*

Amendment

7. *Where the EU Blue Card holder has exercised mobility pursuant to this Article and wishes to renew the EU Blue Card and to continue working in the second Member State, the EU Blue Card holder or his or her employer shall apply for renewal in that second Member State. If he or she applies for renewal in the first Member State, he or she will be required to work for 12 months in that first Member State before exercising his or her right to long-term mobility again, in accordance with paragraph 1.*

Amendment 155

Proposal for a directive Article 20 – paragraph 8 – introductory part

Text proposed by the Commission

8. By way of derogation from Article 10(1), the second Member State shall adopt a decision on *an application for an EU Blue Card and notify the applicant* and the first Member State in writing at the latest within 30 days of the date of submission of the *application* of its decision to either:

Amendment

8. By way of derogation from Article 10(1), the second Member State shall adopt a decision on *the notification and inform the EU Blue Card holder* and the first Member State in writing at the latest within 30 days of the date of submission of the *notification* of its decision to either:

Amendment 156

Proposal for a directive Article 20 – paragraph 8 – point a

Text proposed by the Commission

(a) where the conditions laid down in this Article are fulfilled, *issue an EU Blue Card and allow the third-country national to reside on its territory for the purpose of*

Amendment

(a) where the conditions laid down in this Article are fulfilled, *not to object to mobility*; or

highly skilled employment; or

Amendment 157

Proposal for a directive Article 20 – paragraph 8 – point b

Text proposed by the Commission

(b) where the conditions laid down in this Article are not fulfilled, ***refuse to issue an EU Blue Card*** and oblige the applicant and his family members, in accordance with the procedures provided for in national law, to leave its territory.

Amendment

(b) where the conditions laid down in this Article are not fulfilled, ***to object to the mobility*** and oblige the applicant and his family members, in accordance with the procedures provided for in national law, to leave its territory.

Amendment 158

Proposal for a directive Article 20 – paragraph 9

Text proposed by the Commission

9. Where the EU Blue Card issued by the first Member State expires during the procedure, the second Member State may issue, if so required by national law, national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on its territory until a decision on the ***application*** has been taken by the competent authorities.

Amendment

9. Where the EU Blue Card issued by the first Member State expires during the ***notification*** procedure, the second Member State may issue, if so required by national law, national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on its territory until a decision on the ***renewal of the EU Blue Card*** has been taken by the competent authorities.

Amendment 159

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

1. Where the EU Blue Card holder moves to a second Member State in accordance with Article 20 and where the family ***was already*** constituted in the first Member State, the members of ***his or her***

Amendment

1. Where the EU Blue Card holder moves to a second Member State in accordance with Article 20 and where the family ***has joined the EU Blue Card holder or where the family has been***

family shall be *authorised* to accompany him or her and to enter and stay in the second Member State based on *the* valid residence permits obtained as family members of an EU Blue Card holder in the first Member State.

constituted in the first Member State, the members of *the EU Blue Card holder's* family shall be *entitled* to accompany him or her and to enter and stay in the second Member State based on valid residence permits obtained as family members of *the* EU Blue Card holder in the first Member State. *Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the family members of an EU Blue Card holder join him or her when crossing an external border for the purpose of moving to a second Member State, the second Member State shall be entitled to require that family members present their residence permits in the first Member State as family members of the EU Blue Card holder.*

Amendment 160

Proposal for a directive

Article 21 – paragraph 3 – introductory part

Text proposed by the Commission

3. The second Member State may require the family members concerned to *present* with their application *for a* residence permit:

Amendment

3. The second Member State may require the family members concerned to *transmit*, with their application, *their* residence permit *in the first Member State together with a valid travel document, or certified copies thereof.*

Amendment 161

Proposal for a directive

Article 21 – paragraph 3 – point a

Text proposed by the Commission

(a) *their residence permit in the first Member State and a valid travel document, or certified copies thereof;*

Amendment

deleted

Amendment 162

Proposal for a directive Article 21 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) evidence that they have resided as members of the family of the EU Blue Card holder in the first Member State. *deleted*

Amendment 163

Proposal for a directive Article 21 – paragraph 7

Text proposed by the Commission

Amendment

7. This Article shall apply to EU Blue Card holders who are beneficiaries of international protection **only** when they move to reside in a Member State other than the Member State which granted them international protection.

7. This Article shall apply to EU Blue Card holders who are beneficiaries of international protection **both** when they move to reside in a Member State other than the Member State which granted them international protection **and if they stay in that Member State.**

Amendment 164

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder crosses an external border for the purpose of mobility as referred to in Articles 19 and 20, the second Member State shall be entitled to require as evidence of the mobility of the EU Blue Card holder: *deleted*

(a) the valid EU Blue Card issued by the first Member State;

(b) for the purpose of Article 19, evidence of the business purpose of the stay;

(c) for the purpose of Article 20, a work contract or a binding job offer for highly skilled employment of at least six months in the second Member State.

Amendment 165

Proposal for a directive Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall provide for measures to prevent possible abuses and to sanction infringements of this Directive. Such measures shall include monitoring, assessment and, where appropriate, inspection in accordance with Union law, in particular Directive 2009/52/EC, and national law or administrative practice.

Amendment 166

Proposal for a directive Article 22 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the family members of an EU Blue Card holder join him or her when crossing an external border for the purpose of moving to a second Member State as referred to in Article 21(1), the second Member State shall be entitled, in addition to the evidence referred to in paragraph 1 of this Article, to require that family members present their residence permits in the first Member State as family members of the EU Blue Card holder.

deleted

Amendment 167

Proposal for a directive Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. *Where the second Member State rejects the application for an EU Blue Card in accordance with point (b) of Article 20(8), the first Member State shall, upon the request of the second Member State, allow re-entry of the EU Blue Card holder and, where applicable, his family members, without formalities and without delay. This shall also apply if the EU Blue Card issued by the first Member State has expired or has been withdrawn during the examination of the application. Article 14 shall apply after re-entry into the first Member State.* **deleted**

Amendment 168

Proposal for a directive Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. *The EU Blue Card holder or his employer in the second Member State may be held responsible for the costs related to the re-entry of the EU Blue Card holder and his family members referred to in paragraph 4.* **deleted**

Amendment 169

Proposal for a directive Article 22 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

Member States *may* hold the employer of the EU Blue Card holder responsible for failure to comply with the conditions of

Member States *shall* hold the employer of the EU Blue Card holder responsible for *deliberate* failure to comply with the

mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

relevant conditions of mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

Amendment 170

Proposal for a directive Article 22 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Member State concerned shall provide for sanctions where the employer is **held** responsible. Those sanctions shall be effective, proportionate and dissuasive.

Amendment

The Member State concerned shall provide for sanctions where the employer is **proven to be** responsible, **particularly where the employer has failed to fulfil its legal obligations concerning employment or working conditions**. Those sanctions shall be effective, proportionate and dissuasive.

Amendment 171

Proposal for a directive Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the family members of an EU Blue Card holder join him or her when crossing an external border for the purpose of moving to a second Member State as referred to in Article 21(1), the second Member State shall be entitled, in addition to the evidence referred to in paragraph 1 of this Article, to require that family members present their residence permits in the first Member State as family members of the EU Blue Card holder.

Amendment 172

Proposal for a directive

Article 22 – paragraph 6 – subparagraph 3

Text proposed by the Commission

By way of derogation from the second subparagraph, the Member State which adopted the expulsion decision shall retain the right to remove, in accordance with its international obligations, the third-country national to a country other than the Member State which granted international protection, where that person fulfils the conditions specified in Article 21(2) of Directive 2011/95/EU.

Amendment

deleted

Amendment 173

Proposal for a directive

Article 22 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Where a Member State withdraws or does not renew an EU Blue Card which contains the remark referred to in Article 8(4a) and decides to expel the third-country national, it shall request the Member State mentioned in that remark to confirm whether the person concerned has withdrawn his or her application for international protection. The Member State mentioned in that remark shall reply within one month of receipt of the request for information.

Where the third-country national has not withdrawn his or her application for international protection in the Member State mentioned in that remark, that person shall be expelled to that Member State, which shall, without prejudice to the applicable Union or national law and to the principle of family unity, immediately allow re-entry, without formalities, of that applicant for

international protection.

Amendment 174

Proposal for a directive Article 22 – paragraph 7

Text proposed by the Commission

7. Where the EU Blue Card holder or his or her family members cross the external border of a Member State applying the Schengen acquis in full, that Member State shall consult the Schengen information system. That Member State shall refuse entry for persons for whom an alert for the purposes of refusing entry and stay has been issued in the Schengen information system.

Amendment

7. Where the EU Blue Card holder or his or her family members cross the external border of a Member State applying the Schengen acquis in full, that Member State shall, ***in accordance with the Schengen Borders Code***, consult the Schengen information system. That Member State shall refuse entry for persons for whom an alert for the purposes of refusing entry and stay has been issued in the Schengen information system.

Amendment 175

Proposal for a directive Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall make easily accessible to applicants the information on all the documentary evidence needed for an application and information on entry and residence conditions, including the rights, obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive and of their family members. ***This information shall include information on the salary thresholds set in the Member State concerned in accordance with Article 5(2), (4) and (5), and on the applicable fees.***

Amendment

Member States shall make easily accessible to applicants the information on all the documentary evidence needed for an application and information on entry and residence conditions, including the rights, obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive and of their family members.

Amendment 176

Proposal for a directive Article 23 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

This shall include, where applicable, information on the salary thresholds and where there is a fee for the application in the Member State concerned information on the time-limits, procedures and competent authorities for appealing against decisions taken by the Member States' competent authorities under this Directive, information on any occupations or sectors of employment suffering high levels of unemployment for the purposes of point (cc) of Article 6(3), and information on those sectors of employment which face shortages of highly skilled workers under Article 6(3a).

Amendment 177

Proposal for a directive

Article 23 – paragraph 1 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) on the time-limits, procedures and competent authorities for appealing against decisions taken by the Member States' competent authorities under this Directive.

Amendment 178

Proposal for a directive

Article 23 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

In the case where Member States decide to make use of the possibility provided for by Article 6(2), the introduction of a check of the labour market situation in a given occupation or sector, in a given region, shall be communicated in the same way.

deleted

Amendment 179

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall communicate to the Commission each year and upon each modification, the factor they have decided to set for determining the annual salary thresholds, and the resulting nominal amounts, in accordance with Article 5(2), (4) and (5).

Amendment

Where Member States **establish a salary threshold, they** shall communicate to the Commission each year and upon each modification, the factor they have decided to set for determining the annual salary thresholds, and the resulting nominal amounts, in accordance with Article 5(2), (4) and (5).

Amendment 180

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where Member States refuse applications for an EU Blue Card based on ethical recruitment considerations in accordance with Article 6(4), they shall communicate to the Commission and to the other Member States a duly justified decision indicating the countries and sectors concerned.

Amendment

Where Member States refuse applications for an EU Blue Card based on ethical recruitment considerations in accordance with Article 6(3), they shall communicate to the Commission and to the other Member States a duly justified decision indicating the countries and sectors concerned.

Amendment 181

Proposal for a directive

Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall submit the information it receives pursuant to paragraphs 2 and 3 to the European Parliament on an annual basis.

Amendment 182

Proposal for a directive

Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Annually, and for the first time by ...⁵² at the latest, Member States shall, in accordance with Regulation (EC) No 862/2007⁵³, communicate to the Commission statistics on the numbers of third-country nationals who have been granted an EU Blue Card and on those whose application have been rejected, specifying those rejected in application of Article 6(2), as well as on the numbers of third-country nationals whose EU Blue Card has been renewed or withdrawn, during the previous calendar year. Those statistics shall be disaggregated by the citizenship, occupation, length of validity of the permits, sex and age of the applicants, and the economic sector. Those statistics for third-country nationals who have been granted an EU Blue Card shall be further disaggregated into beneficiaries of international protection, beneficiaries of the right to free movement and those who have acquired EU long-term resident status in accordance with Article 17.

⁵² Four years after the date of entry into force of this Directive.

⁵³ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers

Amendment

Annually, and for the first time by ...⁵² at the latest, Member States shall, in accordance with Regulation (EC) No 862/2007⁵³, communicate to the Commission statistics on the numbers of third-country nationals who have been granted an EU Blue Card and on those whose application have been rejected, specifying those rejected in application of Article 6(2), as well as on the numbers of third-country nationals whose EU Blue Card has been renewed or withdrawn, during the previous calendar year. Those statistics shall be disaggregated by the citizenship, occupation, length of validity of the permits, sex and age of the applicants, ***the area of activity, the size of the employer's undertaking*** and the economic sector. Those statistics for third-country nationals who have been granted an EU Blue Card shall be further disaggregated into beneficiaries of international protection, beneficiaries of the right to free movement, ***applicants for international protection, former holders of a residence permit under Directive (EU) 2016/801 and Directive 2014/36/EU***, and those who have acquired EU long-term resident status in accordance with Article 17.

⁵² Four years after the date of entry into force of this Directive.

⁵³ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers

Amendment 183

Proposal for a directive Article 24 – paragraph 2

Text proposed by the Commission

2. For the purpose of the implementation of *paragraphs* Article 5(2), (4) and (5), reference shall be made to data sent to Eurostat in accordance with Regulation (EU) No 549/2013⁵⁴.

⁵⁴ Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

Amendment

2. For the purpose of the implementation of Article 5, reference shall be made to data sent to Eurostat in accordance with Regulation (EU) No 549/2013⁵⁴.

⁵⁴ Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

Amendment 184

Proposal for a directive Article 25 – paragraph 1

Text proposed by the Commission

Every three years, and for the first time by [five years after the date of entry into force of this Directive], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States, in particular the assessment of the impact of Articles 5, 12, 19 and 20, and the impact of this Directive on the national labour market situations. The Commission shall propose any amendments that are necessary.

Amendment

Every three years, and for the first time by [five years after the date of entry into force of this Directive], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States, in particular the assessment of the impact of Articles 3, 5, 10, 12, 15, 19 and 20, and the impact of this Directive on the national labour market situations. The Commission shall propose any amendments that are necessary. *As part of its assessment the Commission shall evaluate the suitability of similar schemes for labour migration to other employment sectors, in particular low and medium-wage sectors.*

Amendment 185

Proposal for a directive Article 25 – paragraph 2

Text proposed by the Commission

The Commission shall notably assess the relevance of the salary threshold set out in Article 5 **and of the derogations provided for in that Article**, taking into account, among others, the diversity of the economical, sectorial and geographical situations and the labour market impact within the Member States.

Amendment

The Commission shall notably assess the relevance of the salary threshold set out in Article 5, taking into account, among others, the diversity of the economical, sectorial and geographical situations and the labour market impact within the Member States.

Amendment 186

Proposal for a directive Article 26 a (new)

Text proposed by the Commission

Amendment

Article 26a

Amendment to Directive (EU) 2016/801

In Article 2 of Directive (EU) 2016/801, point (g) is replaced by the following:

“(g) who apply to reside in a Member State for the purpose of highly skilled employment within the meaning of Directive (EU) 2017/...^{*+}.”

**** Directive (EU) .../... of the European Parliament and of the Council of ... on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment (OJ L ..., p. ...).”***

+ OJ: Please insert in the text the number of the Directive contained in document under interinstitutional code (2016/0176(COD)) and insert the number, name, date and OJ reference of that Directive in the footnote.

Amendment 187

Proposal for a directive Article 28 – paragraph 3

Text proposed by the Commission

Amendment

3. By way of derogation from paragraph 1, Member States shall bring into force the laws, regulations and administrative provision necessary to comply with points (g) and (i) of Article 2 with regard to recognising higher professional skills as higher professional qualifications by [2 years after the general transposition deadline].

deleted

EXPLANATORY STATEMENT

Policies that facilitate better managed migration are essential to improving the EU's response to migratory flows. Bearing this in mind, the revision of the Blue Card Directive serves as an opportunity to strengthen safe and legal channels to Europe. The main objective is to send a positive message with regard to labour migration by improving the attractiveness of the Blue Card, trying to increase its use across the Union and ensuring that it works for high skilled third-country nationals, for potential employers within the EU and for the administrations that have to transpose, apply and enforce the Directive. The demographic challenges in Europe also draws attention to the urgent need for Member States to increase efforts to attract highly skilled talent from third countries. A healthy labour market is crucial for the successful integration of refugees and migrants in the long-term. Thus far, the EU Blue Card has had very limited success in Member States. By improving the Blue Card Directive this will be an important step towards addressing increasing demographic challenges faced by the EU.

Bearing in mind the objective to send a positive message for labour migration, the rapporteur has proposed amendments to simplify and clarify the procedures (criteria for admission, grounds for refusal and for withdrawal, time limits and mobility provisions) to make them more logical and user-friendly for third-country nationals, potential employers, and for national administrations. In addition, the amendments that have been tabled touch on the scope, the role of the social partners and salary thresholds.

Concerning the scope, the rapporteur proposes to expand the scope to include applicants for international protection who already have access to the labour market under the EU's asylum rules. This is a positive sign that will offer highly skilled applicants for international protection the chance to also take part in the Blue Card.

Bearing in mind the lack of attention given to the EU Blue Card in Member States, abolishing national schemes for high-skilled employment will provide more of an incentive for Member States to invest and utilise the EU Blue Card. The rapporteur has not tabled amendments to the Commission's proposals to abolish national schemes as this will increase the added value of Blue Card.

On the issue of salary thresholds, it is proposed to make salary thresholds mandatory for Member States, however with a possibility to derogate for certain occupational branches where it is agreed with the social partners that it is not necessary, for instance where a collective agreement already governs the wages applying in that occupational branch. This should help accommodate the diverse national labour markets. Priority should be placed on obliging all Member States to ensure that the conditions that exist in their laws, collective agreements and national practices in the relevant occupational sectors are always met for high-skilled employment.

Social partners are best placed to assist Member States in applying key aspects of the EU Blue Card. With this in mind, the rapporteur proposes to oblige Member States to consult with social partners when determining what constitutes professional experience and to agree with them when establishing a salary threshold or deciding not to establish such a threshold in certain occupational branches. Giving social partners a role in these key areas will allay fears of the potential undercutting of existing labour market standards.

The rapporteur also proposes to table amendments to simplify and rationalise the criteria to

secure a Blue Card and the grounds for withdrawal and refusal. In particular, seeking to bring together the disparate elements contained in the text on possible grounds for refusal or withdrawal (unemployment, security concerns). In addition, ensuring that where a ground does not apply automatically, a decision to refuse, withdraw or not renew should always be proportionate to the circumstances of the case. The rapporteur also welcomes the Commission's proposals to introduce a fast-track scheme for recognised employers; amendments have been tabled to oblige all Member States to introduce this measure into national laws. This will be another key factor in increasing the attractiveness of the Blue Card.

Finally, the rapporteur also proposes a set of amendments to simplify the procedure for intra-EU mobility. Taking inspiration from other EU labour migration legislation, the proposals on the Blue Card can be amended to replace additional applications with notifications and allow the Blue Card holder to work in a second Member State once he/she has notified the Member State concerned. Simplifying the procedure for intra-EU mobility will significantly increase the attractiveness of the EU Blue Card.

To conclude, the amendments proposed by the rapporteur all have the overall aim of making the Blue Card and the procedure for obtaining it more attractive for potential holders, employers and the national administrations that will have to handle the applications. At a time when migration is at the top of the political agenda, the revision of the EU Blue Card directive remains the only labour migration instrument proposed by the Commission. With that in mind, and given the parliament's track record of seeking a more positive vision of migration, the rapporteur aims to work to build on the Commission's proposal, to make it migrant-friendly and to present a positive message on migration.

31.5.2017

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

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
(COM(2016)0378 – C8-0213/2016 – 2016/0176(COD))

Rapporteur (*): Jean Lambert

(*) Associated committee – Rule 54 of the Rules of Procedure

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to ensure *a* sufficient *level* of harmonisation in the admission conditions throughout the Union, both minimum and maximum factors for calculating the salary threshold should be determined. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies.

Amendment

(15) In order to ensure sufficient *transparency and a degree* of harmonisation in the admission conditions throughout the Union, both minimum and maximum factors for calculating the salary threshold, should be determined. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies, *and in agreement with the social*

partners. The principle of equal treatment with workers who are nationals of the host Member State should be respected.

Amendment 2

Proposal for a directive Recital 31

Text proposed by the Commission

(31) In order to promote innovative entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity without it affecting the right of residence as an EU Blue Card holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity.

Amendment

(31) In order to promote innovative entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity ***under the same conditions as nationals and other Union citizens in the Member State which issued the Blue Card***, without it affecting the right of residence as an EU Blue Card holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity. ***Any self-employed activity by EU Blue Card holders should be subsidiary to their employment under the EU Blue Card.***

Amendment 3

Proposal for a directive Article 2 – paragraph 1 – point b – indent 3

Text proposed by the Commission

- has the required ***competence, as proven by higher professional*** qualifications.

Amendment

- has the required ***qualifications or skills as attested by evidence of higher education qualifications or higher professional skills, or evidence of specific artistic or sporting talent;***

Amendment 4

Proposal for a directive

Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) *"higher professional qualifications" means qualifications attested by evidence of higher education qualifications or higher professional skills;*

Amendment

deleted

Amendment 5

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. In addition to the conditions laid down in paragraph 1, the gross annual salary resulting from the monthly or annual salary specified in the work contract or binding job offer shall not be inferior to the salary threshold set and published for that purpose by the Member States. The salary threshold set by the Member States shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned.

Amendment

2. In addition to the conditions laid down in paragraph 1, ***Member States shall fix a salary threshold in agreement with the social partners. In such a case,*** the gross annual salary resulting from the monthly or annual salary specified in the work contract or binding job offer shall not be inferior to the salary threshold set and published for that purpose by the Member States ***or inferior to the wages which apply or which would apply to a comparable worker in the same sector, based on the applicable legislation, collective agreements and practices, in the Member State concerned.*** The salary threshold set by the Member States shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned. ***Member States shall consult the social partners before introducing a salary threshold.***

Amendment 6

Proposal for a directive

Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

Amendment

(a) **where** the employer has **repeatedly** failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions **within a period of five years prior to the date of the application**;

Amendment 7

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) **where appropriate, where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions**;

Amendment

deleted

Amendment 8

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) **where the third-country national has been unemployed for a period exceeding six consecutive months, except where such unemployment is the result of illness or disability**;

Amendment 9

Proposal for a directive

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7 a

Non-renewal of an EU Blue Card

Where an EU Blue Card holder or his or her employer applies to renew his or her EU Blue Card, Member States may refuse to renew that EU Blue Card:

(a) where the employer has repeatedly failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions and has failed to rectify the situation within a reasonable time;

(b) where the third-country national has been unemployed for a period exceeding six consecutive months except where such unemployment is the result of illness or disability which occurred when carrying out the employment as an EU Blue Card holder.

Amendment 10

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity in parallel to the activity in highly skilled employment.

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity, ***under the same conditions as nationals and other EU citizens in the Member State which issued the Blue Card***, in parallel to the activity in highly skilled employment. ***Any such activity shall be subsidiary to their employment under the EU Blue Card.***

Amendment 11

Proposal for a directive

Article 14

Text proposed by the Commission

Article 14

Temporary unemployment

1. Unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or where the unemployment occurs more than once during the period of validity of an EU Blue Card.

2. During *the* period *referred to in paragraph 1*, the EU Blue Card holder shall be allowed to seek and take up employment in accordance with the conditions set out in Article 13.

3. The EU Blue Card holder shall communicate the beginning and, where appropriate, the end of the period of unemployment to the competent authorities of the Member State of residence, in accordance with the relevant national procedures.

Amendment

Article 14

Temporary unemployment

1. During *a* period *of unemployment*, the EU Blue Card holder shall be allowed to seek and take up employment in accordance with the conditions set out in Article 13.

2. The EU Blue Card holder shall communicate the beginning and, where appropriate, the end of the period of unemployment to the competent authorities of the Member State of residence, in accordance with the relevant national procedures.

Amendment 12

Proposal for a directive

Article 15 – paragraph 1 – point d

Text proposed by the Commission

(d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;

Amendment

(d) recognition of diplomas, certificates and other professional qualifications, ***including the non-formal acquisition of skills***, in accordance with the relevant national procedures;

Amendment 13

Proposal for a directive

Article 15 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) access to justice and support if they face any kind of discrimination, including in the labour market by applying the principles and safeguards referred to in Council Directive 2000/43/EC and Council Directive 2000/78/EC;

Amendment 14

Proposal for a directive

Article 15 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) non-discrimination on the grounds of origin, gender, religion or belief, disability, age or sexual orientation.

Amendment 15

Proposal for a directive

Article 15 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall hold the employer of the EU Blue Card holder responsible for any repeated or significant failure to comply with Article 5(3) and Article 15.

The Member State concerned shall provide for sanctions where the employer is held responsible. Those sanctions shall be effective, proportionate and dissuasive.

Amendment 16

Proposal for a directive Article 15 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. *Member States shall provide for measures to prevent possible abuses of Article 5(3) and Article 15. Those measures shall include monitoring, assessment at regular intervals and, where appropriate, inspection in accordance with national law or administrative practice.*

Amendment 17

Proposal for a directive Article 22 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

Member States *may* hold the employer of the EU Blue Card holder responsible for failure to comply with the conditions of mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

Member States *shall* hold the employer of the EU Blue Card holder responsible for *deliberate* failure to comply with the *relevant* conditions of mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

Amendment 18

Proposal for a directive Article 22 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

The Member State concerned shall provide for sanctions where the employer is *held* responsible. Those sanctions shall be effective, proportionate and dissuasive.

The Member State concerned shall provide for sanctions where the employer is *proven to be* responsible, *particularly where the employer has failed to fulfil its legal obligations concerning employment or working conditions*. Those sanctions shall be effective, proportionate and dissuasive.

Amendment 19

Proposal for a directive

Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall submit the information it receives pursuant to paragraphs 2 and 3 to the European Parliament on an annual basis.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Conditions of entry and residence of third-country nationals for the purposes of highly skilled employment
References	COM(2016)0378 – C8-0213/2016 – 2016/0176(COD)
Committee responsible Date announced in plenary	LIBE 4.7.2016
Opinion by Date announced in plenary	EMPL 4.7.2016
Associated committees - date announced in plenary	19.1.2017
Rapporteur Date appointed	Jean Lambert 4.10.2016
Discussed in committee	25.1.2017 22.3.2017
Date adopted	30.5.2017
Result of final vote	+: 34 -: 6 0: 4
Members present for the final vote	Laura Agea, Guillaume Balas, Brando Benifei, Vilija Blinkevičiūtė, Enrique Calvet Chambon, Ole Christensen, Lampros Fountoulis, Elena Gentile, Czesław Hoc, Danuta Jazłowiecka, Agnes Jongerius, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Elisabeth Morin-Chartier, João Pimenta Lopes, Marek Plura, Terry Reintke, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Tatjana Ždanoka, Jana Žitňanská
Substitutes present for the final vote	Maria Arena, Georges Bach, Dieter-Lebrecht Koch, Paloma López Bermejo, Joachim Schuster, Csaba Sógor, Neoklis Sylikiotis
Substitutes under Rule 200(2) present for the final vote	Sophia in 't Veld

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

34	+
ALDE	Enrique Calvet Chambon, Yana Toom, Sophia in 't Veld
PPE	Georges Bach, Danuta Jazłowiecka, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Thomas Mann, Elisabeth Morin-Chartier, Marek Plura, Claude Rolin, Anne Sander, Sven Schulze, Csaba Sógor, Romana Tomc
S&D	Maria Arena, Guillaume Balas, Brando Benifei, Vilija Blinkevičiūtė, Ole Christensen, Elena Gentile, Agnes Jongerius, Jan Keller, Javi López, Joachim Schuster, Siôn Simon, Jutta Steinruck, Marita Ulvskog
VERTS/ALE	Jean Lambert, Terry Reintke, Tatjana Ždanoka

6	-
ECR	Czesław Hoc, Anthea McIntyre, Ulrike Trebesius, Jana Žitňanská
ENF	Dominique Martin
NI	Lampros Fountoulis

4	0
EFDD	Laura Agea
GUE/NGL	Paloma López Bermejo, João Pimenta Lopes, Neoklis Sylikiotis

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Conditions of entry and residence of third-country nationals for the purposes of highly skilled employment			
References	COM(2016)0378 – C8-0213/2016 – 2016/0176(COD)			
Date submitted to Parliament	7.6.2016			
Committee responsible Date announced in plenary	LIBE 4.7.2016			
Committees asked for opinions Date announced in plenary	EMPL 4.7.2016	JURI 4.7.2016		
Not delivering opinions Date of decision	JURI 5.9.2016			
Associated committees Date announced in plenary	EMPL 19.1.2017			
Rapporteurs Date appointed	Claude Moraes 29.2.2016			
Discussed in committee	12.7.2016	31.1.2017	23.3.2017	15.6.2017
Date adopted	15.6.2017			
Result of final vote	+: –: 0:	45 10 2		
Members present for the final vote	Jan Philipp Albrecht, Gerard Batten, Heinz K. Becker, Malin Björk, Michał Boni, Caterina Chinnici, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Monika Flašíková Beňová, Lorenzo Fontana, Kinga Gál, Ana Gomes, Nathalie Griesbeck, Monika Hohlmeier, Brice Hortefeux, Filiz Hyusmenova, Sophia in 't Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Cécile Kashetu Kyenge, Juan Fernando López Aguilar, Barbara Matera, Roberta Metsola, Louis Michel, Claude Moraes, Alessandra Mussolini, József Nagy, Péter Niedermüller, Judith Sargentini, Birgit Sippel, Branislav Škripek, Helga Stevens, Traian Ungureanu, Bodil Valero, Marie-Christine Vergiat, Harald Vilimsky, Beatrix von Storch, Josef Weidenholzer, Kristina Winberg, Tomáš Zdechovský, Auke Zijlstra			
Substitutes present for the final vote	Carlos Coelho, Ignazio Corrao, Maria Grapini, Anna Hedh, Andrejs Mamikins, Maite Pagazaurtundúa Ruiz, Emilian Pavel, John Procter, Emil Radev, Barbara Spinelli, Kazimierz Michał Ujazdowski			
Date tabled	28.6.2017			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
ALDE	Nathalie Griesbeck, Filiz Hyusmenova, Sophia in 't Veld, Louis Michel, Maite Pagazartundúa Ruiz
EFDD	Ignazio Corrao, Laura Ferrara
GUE/NGL	Cornelia Ernst, Barbara Spinelli, Marie-Christine Vergiat
PPE	Heinz K. Becker, Michał Boni, Carlos Coelho, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Monika Hohlmeier, Brice Hortefeux, Barbara Kudrycka, Barbara Matera, Roberta Metsola, Alessandra Mussolini, József Nagy, Emil Radev, Traian Ungureanu, Tomáš Zdechovský
S&D	Caterina Chinnici, Tanja Fajon, Monika Flašíková Beňová, Ana Gomes, Maria Grapini, Anna Hedh, Dietmar Köster, Cécile Kshetu Kyenge, Juan Fernando López Aguilar, Andrejs Mamikins, Claude Moraes, Péter Niedermüller, Emilian Pavel, Birgit Sippel, Josef Weidenholzer
VERTS/ALE	Jan Philipp Albrecht, Eva Joly, Judith Sargentini, Bodil Valero

10	-
ECR	Branislav Škripek, Helga Stevens, Kazimierz Michał Ujazdowski
EFDD	Gerard Batten, Beatrix von Storch, Kristina Winberg
ENF	Lorenzo Fontana, Harald Vilimsky, Auke Zijlstra
PPE	Kinga Gál

2	0
ECR	John Procter
GUE/NGL	Malin Björk

Key to symbols:

+ : in favour

- : against

0 : abstention