

SENATE OF THE REPUBLIC  
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RESOLUTION OF THE FIRST STANDING COMMITTEE

(Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system of the State and the civil service)

*(Rapporteur MAZZONI)*

*adopted at the sitting of 3 August 2016*

ON THE

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL ON CONDITIONS OF ENTRY AND RESIDENCE OF  
THIRD-COUNTRY NATIONALS FOR THE PURPOSES OF HIGHLY SKILLED  
EMPLOYMENT (COM(2016) 378 FINAL)**

*pursuant to Article 144(1) and (6) of the Rules of Procedure*

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**Sent to the President's Office on 5 August 2016**

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The Committee,

having examined the proposal for a Directive, whereas:

the proposal is one of a series of initiatives taken by the European Union to develop a comprehensive migration management policy, in particular from the legal point of view;

the proposal replaces the EU Blue Card Directive (Council Directive 2009/50/EC of 25 May 2009) on the conditions of entry and residence of third-country nationals in the Member States for more than three months for the purpose of highly skilled employment;

given that:

the objective of the measure is to increase the EU's ability to attract and retain highly skilled third-country nationals, and thus improve the competitiveness of European economy, by addressing the skills shortages and the consequences of demographic aging in the EU;

noting, in particular, that:

reference is made to 'highly skilled employment' rather than 'highly qualified employment', providing that Member States must recognise skills, as proven by higher professional qualifications, which may be attested by evidence of higher educational qualifications and also by higher professional skills;

the scope of the EU Blue Card is extended to innovative entrepreneurs, i.e. self-employed workers, for whom a separate set of admission conditions is created;

the proposal applies to beneficiaries of international protection under Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (the 'Qualification Directive'), who may apply for the EU Blue Card in the same way as any other third-country national, while retaining all the rights they enjoy as beneficiaries of protection;

Applicants for whom a positive decision has been taken by the Member State concerned will receive a residence permit called an 'EU Blue Card' which authorises the holder to enter, re-enter and stay in the territory of that Member State and enjoy the rights recognised in the Directive for a period of at least 24 months, which may be renewed, or at least for the duration of the work contract plus three months, if the work contract covers a shorter period;

movement between Member States is regulated; Blue Card holders may also enter and stay in other Member States without any further visa or permit, for the purpose of pursuing an occupation, for a period of 90 days within a 180-day period, and there are also simplified, fast-tracked procedures for Blue Card holders wishing to apply for another Blue Card in a second Member State based on a work contract or binding job offer;

whereas, moreover:

the proposal complies with the principle of subsidiarity, since the objectives it sets out cannot be sufficiently achieved by the Member States, especially as regards the question of mobility;

the Directive does not go beyond what is necessary to achieve its stated objectives, in accordance with the principle of proportionality;

having examined the Government's report, drawn up pursuant to Article 6(4) of Law No 234 of 24 December 2012;

issues a favourable opinion.

**OPINION OF THE 11th STANDING COMMITTEE**

(LABOUR, SOCIAL SECURITY)

(Rapporteur: MANASSERO)

21 July 2016

The Committee, having examined the act,

whereas the measure is one of a series of initiatives taken by the European Union to develop a comprehensive migration management policy and - in this case - to facilitate the admission and the mobility of highly skilled workers from third countries;

welcoming the recommendation by the Council of the European Union to the Member States to establish, by 2018, arrangements for the validation of non-formal and informal learning, recognising its key role in improving the employability and mobility of workers within the Union;

having regard to the importance of indicating the salary of workers who hold an EU Blue Card, provided for in Article 5(2), which must be in line with the average monthly or annual salary of the host Member State, so as not to give rise to forms of discrimination between workers with equivalent qualifications;

does not object to the proposal.

**OPINION OF THE 14th STANDING COMMITTEE**

(EUROPEAN UNION POLICY)

(Rapporteur: GUERRA)

20 July 2016

The Committee, having examined the proposal, whereas:

the proposal for a Directive lays down the conditions of entry and residence for more than three months in the territory of the Member States for third-country nationals arriving from third countries or already residing in the European Union with another status for the purpose of highly skilled employment, and their family members, and defines their rights (Article 1);

Council Directive 2009/50/EC (the ‘EU Blue Card Directive’) has been in force since 25 May 2009, with a view to making the Union more competitive by attracting the best qualified workers from other continents; however, it has not managed to achieve the planned objectives;

The weaknesses inherent in the previous Directive concern admission conditions, which proved to be restrictive, very limited facilitation of mobility within the Union and lack of harmonisation among the Member States, which have kept parallel national schemes;

the choice made in this proposal, set out in more detail in the impact assessment (document SWD(2016) 193), concerns the adoption of a system which: modifies the admission conditions and makes the EU Blue Card accessible to a wider group of highly skilled workers; improves the rights associated with the EU Blue Card, including intra-EU mobility; does not extend the scope beyond highly skilled workers; no longer allows national schemes for third-country nationals falling within the scope of the Directive; complements the legislative measures by introducing non-legislative actions and, potentially, by making the EU Blue Card accessible to highly skilled beneficiaries of international protection;

it is estimated that the preferred option will make it possible to obtain a number of additional permits for highly skilled workers, between a minimum of 32 484 and a maximum of 137 690 per year, with a positive economic impact estimated at between an additional EUR 1.4 and 6.2 billion a year;

noting that:

Article 2 states that ‘highly skilled employment’ means paid employment, in accordance with national law and practice, of a person having the necessary competence as proven by ‘higher professional qualifications’;

the proposal will 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 (Article 3); Member States will therefore not be allowed to have parallel national schemes

targeting the same group of highly skilled workers, but will have to grant an EU Blue Card to persons falling within the scope of the Directive.

Article 5 lays down the criteria the applicant must meet in order to be admitted as an EU Blue Card holder. The specific conditions laid down by the proposal comprise: a valid work contract or a binding job offer of at least six months in the Member State concerned; a gross annual salary specified in the employment contract not less than the threshold set by the Member States and corresponding to at least 1.0 times but not more than 1.4 times the average gross annual salary in the Member State concerned; a salary threshold of 80 percent of the general salary threshold set by the Member State concerned for employment in professions which are subject to labour shortages and which belong to major groups 1 and 2 of ISCO (which comprise managers and professionals, respectively), and for young graduates (who have obtained a higher education qualification not more than three years before submitting the application for an EU Blue Card);

Articles 6 and 7 lay down the mandatory and optional grounds for refusal, withdrawal or non-renewal of the EU Blue Card;

Articles 8, 9, 10 and 11 define the EU Blue Card and the procedures related to it;

to simplify the procedures for access to the labour market, Article 13 stipulates that EU blue card holders have full access to highly skilled jobs;

Article 14 allows temporary unemployment;

Article 16 provides for derogations from Council Directive 2003/86/EC of 22 September 2003, in order to facilitate the family reunification of highly-skilled workers, and prohibits the application of waiting periods or integration measures before family reunification;

as regards EU long-term resident status for EU Blue Card holders, Articles 17 and 18 provide for derogations to Council Directive 2003/109/EC of 25 November 2003 giving EU Blue Card holders facilitated access to that status;

Articles 19-22 of the proposal regulate mobility among Member States;

Article 23 regulates access to information;

every three years, the Commission must submit a report on the application of the Directive and propose any amendments that may be deemed necessary (Article 25);

having noted also that, as regards national legislation, Directive 2009/50/EC was transposed by Legislative Decree No 108 of 28 June 2012, which introduced two new articles into the consolidated text of the rules governing immigration, in Legislative Decree No 286 of 25 July 1998: Article 27-*quater* (entry and residence for highly qualified workers. Issuing of the EU Blue Card) and Article 9-*ter* (status of long-term resident for EU Blue Card holders). In circulars No 6385 of 26 July 2012 and No 5209 of 3 August 2012 the Ministry of the Interior has further detailed the procedures necessary for the entry and residence of the persons concerned and their family members and for the issuing of the Blue Card;

comments favourably, for matters within its remit, highlighting the following points:

the legal basis is Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union (TFEU), which provides for the adoption, under the ordinary legislative procedure, of measures concerning the conditions of entry and residence, and standards on the issue by Member States of visas and long-term residence permits, including those for the purpose of family reunification, and the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States. This is the same legal basis used to adopt Directive 2009/50/EC and the Committee therefore entirely agrees with this choice;

as regards the principle of subsidiarity, the establishment of a special admission procedure and the adoption of conditions of entry and residence, and the corresponding right, applicable to third-country nationals for the purpose of highly skilled employment and to their family members, cannot be sufficiently achieved by the Member States individually, especially as regards ensuring their mobility among Member States and offering a clear and single set of admission criteria across the Member States, and can therefore be better achieved at Union level. The added value of EU intervention is the introduction of a transparent, flexible and simplified system that can compete with those of traditional immigration countries such as the United States, Canada and Australia, and maximise the potential overall attractiveness of the EU. The proposal complies with the two criteria for subsidiarity, namely that the European action must be necessary and must offer added value;

as regards the principle of proportionality, the proposal strikes a balance between, enhanced rights through a higher level of harmonisation and a more inclusive scheme through further facilitation of admission procedures, while maintaining a certain margin of flexibility for Member States to take account of national circumstances and political preferences. The proposal therefore complies with the principle of proportionality;

it is therefore crucial for the European Union to adopt a more effective system to attract highly skilled workers into the European labour market. Global competitiveness demands that the European Union focus more on work with a high level of innovation and expertise, to bring in the best resources to promote growth and competitiveness. Currently, 68 % of migrants who have been in higher education choose, within countries of the OSCE, a European destination. On the other hand, as is also apparent from the impact assessment accompanying the proposal, the need for highly-skilled workers in Italy remains low, partly because of its unusual economic structure, composed primarily of small and medium-sized businesses. Nevertheless, the proposal is considered necessary for Italy, in order to accompany the ongoing process of change, to create conditions more appropriate to address the challenges of the modern age and technological innovation and to increase the numbers of highly-skilled workers in the country.