



*Brussels, 26.1.2017
C(2017) 11 final*

*Mr Liviu DRAGNEA
President of the Camera
Deputaților
Palace of the Parliament
Str. Izvor nr. 2-4, sector 5
RO – 050563 BUCHAREST*

Dear President,

The Commission would like to thank the Camera Deputaților for its Opinion on the Proposal for a Directive on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment {COM(2016) 378 final}.

Through this proposal, the Commission is delivering on the commitment in President Juncker's Political Guidelines to address the shortcomings of the EU Blue Card Directive¹ and to increase its effectiveness in attracting more highly skilled workers to the EU. The proposed revision of the EU Blue Card is also one of the key actions envisaged in the European Agenda on Migration².

The EU is competing with a growing number of destination countries for the same global pool of talent. Currently the overall number of permits that Member States issue to highly skilled workers – be it national permits or EU Blue Cards – is low compared to other developed economies while the EU's attractiveness rates are high in surveys amongst potential highly skilled migrants.

Therefore, this proposal seeks to make the EU more competitive in attracting highly qualified workers from around the world by providing a single, transparent, flexible and streamlined scheme for them. It would thereby also contribute to addressing labour and skills shortages within the EU as well as to strengthening the EU's overall competitiveness and economic growth.

The Commission welcomes the Camera Deputaților's broad support for the aims of the proposal and the measures chosen for achieving them. The Commission notes the Camera Deputaților's concerns and recommendations relating to the consequences on the EU's existing labour force, policies that support entrepreneurship and the EU's low retention rate of highly skilled people and the efficient provision of up-to-date information.

¹ OJ L 155, 18.6.2009, pp. 17-29.

² COM(2015) 240 final.

The EU already faces structural skills shortages and mismatches in certain sectors and these are projected to increase (e.g. healthcare, ICT and engineering). While other policies should be pursued to activate, (re)train and up-skill the existing labour force to counter these shortages, these measures are unlikely to be sufficient and will take time to have an effect on the labour market. Structural changes in the EU's economies are also projected to increase the demand for skills that are not immediately available in the labour market, creating further skills shortages. Highly skilled migration, therefore, is meant to complement these policies in order to counter the challenges posed by both short term and structural skills shortages, while the proposal also includes safeguards for Member States to regulate the number of admitted third-country nationals and protect their national labour markets.

The Commission looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Camera Deputaţilor in its Opinion and would like to make the following comments and clarifications:

Volumes of admission of third-country nationals (Recital 7):

The proposal for a new EU Blue Card Directive does not affect the right of Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory in order to seek work. This right stems directly from Article 79(5) of the Treaty on the Functioning of the European Union (TFEU) and the Commission fully respects this right. As Article 79(5) applies only to highly skilled workers "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.

Labour market tests (Article 6, paragraph 2):

The Commission acknowledges that labour market tests are a tool for Member States to protect their national labour market and workers already available therein. On the other hand, conducting labour market tests generally adds administrative cost and burden, prolongs procedures and potentially makes foreign recruitment less attractive for employers. Furthermore, the target group of the Blue Card Directive is highly skilled workers who are already often exempted from labour market tests in Member States, and even if the test is applied, their admission is only rarely refused on those grounds. The Commission finds that allowing a labour market test only when serious disturbances occur in the national labour market appropriately strikes the balance between simplifying the procedure and keeping the necessary safeguards available for Member States.

Lowering the salary threshold (Article 5, paragraphs 2, 3, 4 and 5, and Article 15):

In the Impact Assessment report³ published together with the Blue Card proposal, the Commission analysed the effect of the current salary threshold across Member States. While there are differences in the distribution of salaries and therefore the results per country vary to some extent, the overall conclusion is that requiring at least 1.5 times the national average salary is a very restrictive condition. It is also higher than the salary thresholds applied in comparable national schemes. That is why the Commission proposes a range (from 1.0 to 1.4 times the average salary) within which Member States would choose their threshold according to their national interests. In addition, a specific lower threshold would be provided for two groups: recent graduates and workers in shortage occupations. Whatever the choice of salary threshold in an individual Member State, it is crucial to note that this minimum amount would only serve as an admission criterion for obtaining an EU Blue Card.

³ SWD(2016) 193 final.

It would not determine the level of actual wages to be paid, which could be anything above the threshold. In any event, Article 15 of the Directive would require that third-country workers enjoy equal treatment with Member State nationals in relation to pay. Furthermore, the Directive would specify that Member States shall require all applicable laws, collective agreements and relevant practices to be respected (Article 5, paragraph 3). Therefore, no social dumping of EU Blue Card holders through lower wages or otherwise would be allowed. Lowering the salary threshold would merely serve as enabling more highly skilled people to be admitted under the Blue Card scheme.

Recognising professional experience as qualifications (Articles 2 and 5):

Member States already have the possibility under the current Blue Card Directive to recognise professional experience as an alternative to formal education qualifications. The Commission proposes to make this option mandatory in order to truly recognise different learning paths, also informal ones, and to underline the focus on skills and competences. Member States would be given an additional two-year transposition period during which to develop a mechanism for this recognition while exchanging ideas and best practices with other Member States and the Commission.

Impact on Member States with "lower average salaries", which are "less developed" as per the Camera Deputaţilor's opinion:

The proposal contains a number of measures that are designed to increase the overall numbers of admitted highly skilled workers and improve the retention potential of young talent trained in the EU (combined with the measures in the recently adopted Students and Researchers Directive⁴). These measures would create a larger pool of highly skilled workers from which employers across Member States can draw to fill shortages. Combined with increased possibilities for occupational mobility between jobs and intra-EU mobility, this would facilitate and lower the cost of recruitment for employers, also in second Member States, compared to the first entry recruitment from third countries, which often involves considerably higher costs, risks and uncertainty.

Access to entrepreneurship (Article 13(2)):

The proposal would allow EU Blue Card holders to exercise a self-employed activity in parallel with their Blue Card occupation as a possible gradual path to innovative entrepreneurship. This entitlement does not change the fact that the admission conditions for the EU Blue Card have to be continuously fulfilled and, therefore, the EU Blue Card holder must remain in highly skilled employed activity.

⁴ OJ L 132/2, 21.5.2016 , pp. 21-57.

Efficient provision of information (Article 23):

The proposal recognises that making reliable, detailed and up-to-date information available in an efficient way is an important tool for improving the functioning of the EU Blue Card. As a first immediate step, the Commission has launched a dedicated EU Blue Card section on the EU Immigration Portal⁵ at the same time as the proposal, and intends to continue to update and improve this user-friendly, up-to-date and practical information channel for potential EU Blue Card applicants. In addition, as the implementation report and the review showed that accurate and timely provision of information are important shortcomings of the current Blue Card, the proposal reinforces the collection of data and the obligation to make all necessary information easily accessible to applicants.

Flexible admission criteria and administrative burden

The proposal introduces a single European scheme to replace the patchwork of national permits currently available for highly skilled workers. This single scheme is built to be simple and clear for national authorities to implement, whereby the red tape associated with the application procedure can be significantly reduced. This is reflected for instance in the largely harmonised admission criteria and the possibility to set up a system of recognised employers with fewer conditions to fulfil for their employees. At the same time, the new EU Blue Card would be an inclusive scheme with lower salary thresholds and flexible rules to take into account different paths of acquiring the necessary level of qualifications. The Commission acknowledges that setting up this revised system to manage the migration of highly skilled workers would require efforts in Member States, but once this initial work is completed, the EU Blue Card should be an efficient scheme to maintain. The Commission is willing to support Member States in information-sharing and promotion activities.

⁵ http://ec.europa.eu/immigration/bluecard_en