



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
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Opinion

Title **DG HOME – Impact Assessment on a revision of Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment ("EU Blue Card")**
(draft version of 5 February 2016)*

(A) Context

The EU will face demographic challenges in the next decades with a rapidly ageing population, a progressively shrinking labour force and an increasing old-age dependency ratio. The EU also faces increasing structural skills shortages and mismatches in certain key sectors (e.g. ICT, engineering, health care) often requiring a high level of qualification. This damages growth, innovation capacity and competitiveness of the EU.

The EU Blue Card Directive, adopted in 2009, was intended to help make the EU more competitive in attracting highly qualified workers from around the world. This way it would contribute to address the labour and skills shortages within the EU labour market. However, to date the number of issued Blue Cards has remained insufficient to meet this objective, especially when compared to the number of highly skilled third-country nationals attracted by other non-EU OECD countries.

The review of the Blue Card is included in the key priorities in Jean-Claude Juncker's Political Guidelines of July 2014, confirmed by the European Agenda on Migration issued in May 2015.

(B) Overall opinion: NEGATIVE

The Board gives a negative opinion due to a number of shortcomings in the report that require improvement. In particular, the report should clarify the narrative and intervention logic by better addressing the following issues:

1) The problem analysis should elaborate further on the skills shortages in the EU labour market, explain why the current EU and/or national schemes are not sufficient to address the issue and more clearly show the value added of an EU approach over the national schemes. For the latter, the report should better explain and substantiate the importance of the greater intra-EU mobility that could be attached to the Blue Card. The report should also clearly establish whether and how the Blue Card is linked to other policy priorities such as asylum seekers.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

2) The objectives should be better aligned with the problem analysis (as improved). It should also be explained how this initiative fits with other related EU initiatives (e.g. labour mobility, skills agenda).

3) The report should clarify how the assessed policy packages have been composed - i.e. how the measures contained therein have been selected, how they relate to the identified problems and how much flexibility they leave to the Member States.

4) The report should more clearly draw out the impacts of the policy options on the labour and skill shortages and clarify which option(s) are foreseen to be the most effective and efficient to attract highly skilled third-country workers.

(C) Main recommendations for improvements

(1) Clarify the addressed problems and their EU dimension. The problem section should clarify the main issues that the initiative aims to address. In doing so, it should elaborate further on the labour market issues, i.e. the labour and skills shortages that remain to be filled despite the action of the Blue Card scheme and of the national schemes. The report should more clearly show how and why the combined action of the present EU and national schemes is not sufficient to compete with other developed countries and regions to attract highly qualified workers. In view of the acknowledged ineffectiveness of the Blue Card scheme, the report should elaborate on why national schemes, despite the relative successes of some of them, cannot on their own achieve the same results as an EU approach, especially taking into account the diversity of the labour market situation in Member States. The report should demonstrate that the offer of greater intra-EU mobility would be a determining factor for the value added of the Blue Card scheme over the national schemes (and show why the latter, even if improved, would not be able to attain the same results). The report should clarify whether the Blue Card is also addressing other policy priorities, such as migration and refugee issues or trade matters.

(2) Clarify the objectives and policy options. The report should further strengthen the intervention logic by better linking the objectives to an improved problem analysis. The objectives should be revisited to put emphasis on the main purpose of this exercise. It should also better explain the link with other related initiatives that may have an effect on skills shortages. Furthermore, the report should better explain: (1) why repealing the Blue Card Directive is an option that should be immediately discarded despite the fact that the scheme has failed to fulfil its objectives and (2) the rationale behind the composition of the envisaged policy packages - i.e. according to which criteria they have been composed and which trade-offs have been made between these criteria (administrative conditions attached to the Blue Card, intra-EU mobility rights, flexibility left to Member States). It should also explain the choice of certain parameters (e.g. wage thresholds) and link the inclusion of certain aspects to the problem analysis (e.g. lack of medium-skilled workers).

(3) Focus the impact analysis on the main labour market aspects. The analysis should highlight the essential differences in impact between the policy options and the baseline, and more clearly draw out the impact on the labour and skills shortages. It should clarify how the policy options would impact on individual Member States and what would be the advantages over the current national approaches (taking into account the national flexibility left by the policy options). The report should narrow down the number of policy options for the consideration of the policy makers, by identifying (and hence deselecting) the least effective and efficient options according to economic, social and environmental criteria.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should be shortened, especially with regard to the impact analysis which could focus more narrowly on the essential differences between options. Moreover, the text should be rendered more readable by simplifying the presentation and avoiding acronyms where possible.

(E) RSB scrutiny process

Reference number	2016/HOME/025
External expertise used	No
Date of RSB meeting	2 March 2016