




Basic information	
<b>2007/0228(CNS)</b>  CNS - Consultation procedure Directive	Procedure completed
Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment  Repealed by <a href="#">2016/0176(COD)</a>  <b>Subject</b>  4.15.04 Workforce, occupational mobility, job conversion, working conditions 7.10 Free movement and integration of third-country nationals 7.10.04 External borders crossing and controls, visas 7.10.08 Migration policy	

Key players			
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>
	<div>LIBE</div> Civil Liberties, Justice and Home Affairs		KLAMT Ewa (PPE-DE)
	<b>Committee for opinion</b>		<b>Rapporteur for opinion</b>
	<div>DEVE</div> Development		BUDREIKAITĖ Danutė (ALDE)
	<div>EMPL</div> Employment and Social Affairs (Associated committee)		MASIEL Jan Tadeusz (UEN)
Council of the European Union	<b>Council configuration</b>	<b>Meetings</b>	<b>Date</b>
	Justice and Home Affairs (JHA)	2890	2008-09-25
	Justice and Home Affairs (JHA)	2827	2007-11-08
	Justice and Home Affairs (JHA)	2887	2008-07-24
	Justice and Home Affairs (JHA)	2838	2007-12-06
	Employment, Social Policy, Health and Consumer Affairs	2876	2008-06-09
	Employment, Social Policy, Health and Consumer Affairs	2893	2008-10-02
	Employment, Social Policy, Health and Consumer Affairs	2837	2007-12-05
	Agriculture and Fisheries	2944	2009-05-25
European Commission	<b>Commission DG</b>	<b>Commissioner</b>	

## Key events

Date	Event	Reference	Summary
23/10/2007	Legislative proposal published	COM(2007)0637 	<a href="#">Summary</a>
08/11/2007	Debate in Council		
05/12/2007	Debate in Council		
06/12/2007	Debate in Council		
17/01/2008	Committee referral announced in Parliament		
13/03/2008	Referral to associated committees announced in Parliament		
09/06/2008	Debate in Council		
24/07/2008	Debate in Council		<a href="#">Summary</a>
25/09/2008	Debate in Council		<a href="#">Summary</a>
02/10/2008	Debate in Council		
04/11/2008	Vote in committee		<a href="#">Summary</a>
10/11/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0432/2008	
19/11/2008	Debate in Parliament		
20/11/2008	Decision by Parliament	T6-0557/2008	<a href="#">Summary</a>
20/11/2008	Results of vote in Parliament		
25/05/2009	Act adopted by Council after consultation of Parliament		
25/05/2009	End of procedure in Parliament		
18/06/2009	Final act published in Official Journal		

## Technical information





Procedure reference	2007/0228(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by <a href="#">2016/0176(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 063-p3/4
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/55656

## Documentation gateway

**European Parliament**

Document type	Committee	Reference	Date	Summary
Committee draft report		<a href="#">PE409.459</a>	11/07/2008	
Committee opinion	<a href="#">DEVE</a>	<a href="#">PE407.798</a>	03/09/2008	
Amendments tabled in committee		<a href="#">PE412.058</a>	10/09/2008	
Committee opinion	<a href="#">EMPL</a>	<a href="#">PE407.733</a>	11/09/2008	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0432/2008</a>	10/11/2008	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0557/2008</a>	20/11/2008	<a href="#">Summary</a>

**European Commission**

Document type	Reference	Date	Summary
Legislative proposal	<a href="#">COM(2007)0637</a> 	23/10/2007	<a href="#">Summary</a>
Document attached to the procedure	<a href="#">SEC(2007)1382</a> 	23/10/2007	
Document attached to the procedure	<a href="#">SEC(2007)1403</a> 	23/10/2007	
Commission response to text adopted in plenary	<a href="#">SP(2008)7295</a>	12/12/2008	
Follow-up document	<a href="#">COM(2014)0287</a> 	22/05/2014	<a href="#">Summary</a>

**Other institutions and bodies**

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	<a href="#">CES1210/2008</a>	09/07/2008	

**Additional information**

Source	Document	Date
National parliaments	<a href="#">IPEX</a>	
European Commission	<a href="#">EUR-Lex</a>	

**Final act**

[Directive 2009/0050](#)  
[OJ L 155 18.06.2009, p. 0017](#)

[Summary](#)

# Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

2007/0228(CNS) - 22/05/2014 - Follow-up document

The Commission presents a report on the implementation of Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment (European Blue Card).

The report recalls the main objectives of the Directive which aim to facilitate the admission and mobility of highly qualified migrants and their family members by harmonising entry and residence conditions throughout the EU and by providing for a legal status and a set of rights.

In the increasing global competition for talent, the EU Blue Card intends to make the EU more attractive to highly qualified workers from around the world and strengthen its knowledge economy. The Directive also aims to **minimise brain drain in developing and middle-income countries** and to encourage circular and temporary migration.

**State of transposition:** Member States had until 19 June 2011 to transpose the Directive into their national legislation. The Commission launched infringement proceedings against 20 Member States for not having transposed the Directive in time, which have since all been closed.

All Member States bound by the Directive are now in a position to grant EU Blue Cards. In parallel, many Member States have national policies in place for attracting highly qualified migrants.

While some Member States have imposed volumes of admission restricting the number of highly qualified migrants, other Member States have adopted or retained more favourable provisions in respect of specific provisions of the Directive.

This Communication responds to the Commission's obligation to report to the European Parliament and the Council on the application of the Blue Card Directive. First, it assesses the main aspects related to the attractiveness of the EU Blue Card, followed by a brief overview of how measures were enacted in the national legislations. Insofar as possible, particular attention is paid to the impact of national schemes for highly qualified migrants, the criteria for admission, notably the salary threshold, and the conditions for residence in other Member State.

**Main conclusions:** there are wide variations between Member States in the number of Blue Cards granted (refer to the table published in the Annex of the report which shows that the majority of Blue Cards granted were in **Germany** in 2012 and 2013). While the size of the Member State and its economic situation may have an impact on its attractiveness, it does not fully explain the wide variations. An answer can also be found in **policy choices** by Member States who apply and promote the Blue Card in considerably different ways.

The Directive only set minimum standards and left much leeway to MS through many "may-clauses" and references to national legislation. The national schemes for attracting highly qualified migrants in many Member States compete with the EU Blue Card and with each other. However, some MS have made a policy choice in favour of the EU Blue Card which reflects in the number of Blue Cards granted. Other Member States' policies favour their national schemes.

While the number of Blue Cards increased in most Member States between 2012 and 2013, it is too early to draw conclusions about the impact of the EU Blue Card on attracting highly qualified migrants to the EU. The Commission is concerned about flaws in the transposition, the low level of coherence, the limited set of rights and barriers to intra-EU mobility.

This report reveals a general lack of communication by MS of data and measures taken in application of the Directive, e.g. on volumes of admission, labour market tests, ethical recruitment, salary threshold. The availability of reliable, detailed and up-to-date information is essential for the functioning of the EU Blue Card system, e.g. for intra-EU mobility, and to evaluate its attractiveness.

**Next steps:** a number of deficiencies in the transposition of the Directive have been revealed. The Commission stated that it will increase its efforts to ensure that the Directive is correctly transposed and implemented across the EU. In order to achieve this, the Commission will organise meetings with Member States and, where necessary, make use of its powers under the Treaty.

Lastly, it stated that it will make the best use of existing websites, e.g. the EU Immigration Portal, and encourages Member States to improve their provision of information and to raise awareness via other relevant channels.

On the basis of the available information and in view of the short time of application **no amendments are currently proposed**.

# Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

2007/0228(CNS) - 25/06/2009 - Final act

**PURPOSE:** to establish the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and to provide for the establishment of an EU Blue Card.

**LEGISLATIVE ACT:** Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

**CONTENT:** the Council adopted a Directive aimed at facilitating conditions of entry and residence in the EU of third-country citizens for the purpose of highly qualified employment.

**General purpose of the Directive:** the Directive is intended to contribute to addressing labour shortages by fostering the admission and mobility - for the purposes of highly qualified employment - of third-country nationals for stays of more than three months, in order to make the Community more attractive to such workers from around the world and sustain its competitiveness and economic growth. To that end, the Directive establishes a fast-track procedure for issuing a special residence and work permit called the "**EU Blue Card**".

The Blue Card will facilitate holder's access to the labour market and entitle them to a series of socio-economic rights and favourable conditions for family reunification and movement across the EU.

**Scope:** the Directive shall apply to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of highly qualified employment.

It shall not apply to third-country nationals:

- who are authorised to reside in a Member State on the basis of temporary protection and are awaiting a decision on their status;
- who are refugees or have applied for recognition as refugees and whose application has not yet given rise to a final decision;
- who have applied to reside in a Member State as researchers within the meaning of Directive 2005/71/EC;
- who are family members of Union citizens who have exercised, or are exercising, their right to free movement within the Community;
- who enjoy EC long-term resident status in a Member State;
- who enter a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of persons;
- who have been admitted to the territory of a Member State as seasonal workers;
- whose expulsion has been suspended for reasons of fact or law;
- who are covered by Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

This Directive shall be without prejudice to any agreement between the Community (and/or its Member States) and one or more third countries, that lists the professions which should not fall under this Directive in order to assure ethical recruitment, in sectors suffering from a lack of personnel in developing countries (health, education, etc.).

**Criteria for admission:** the Directive determines the common criteria to be set by the EU Member States for applicants for the Blue Card without prejudice to more advantageous conditions provided for by national laws. Therefore, an EU Blue Card may be issued to third-country nationals who:

- present a valid work contract or a binding job offer of at least one year in the Member State concerned;
- present a document attesting fulfilment of the conditions set out under national law for the exercise by Union citizens of the regulated profession specified in the work contract;
- for unregulated professions, present the documents attesting the relevant higher professional qualifications in the occupation or sector specified in the work contract or binding job offer;
- present a valid travel document - residence permit, longterm visa, etc;
- present evidence of sickness insurance that covers them during the work contract;
- are not considered to pose a threat to public policy, public security or public health;
- provide their address in the territory of the Member State concerned.

In addition to those specific conditions, the Directive establishes **criteria relating to salary**. The gross annual salary specified in the work contract of EU Blue Card holders shall not be inferior to a relevant salary threshold defined by the Member States, which shall be at least 1.5 times the average gross annual salary in the Member State concerned (however, there are derogations provided for certain professions). In any event, the Member States shall hold collective agreements or practices applicable in the relevant occupational branches.

**Volumes of admission:** the Directive shall not affect the right of a Member State to determine the volume of admission of third-country nationals entering its territory for the purposes of highly qualified employment (in other words, they may set admission quotas to limit the possible number of highly qualified workers admitted). Moreover, they may not grant residence permits for employment in certain professions, certain economic sectors or specified regions.

**EU Blue Card:** a third-country national who has applied and fulfils the requirements set out in the Directive and for whom the competent authorities have taken a positive decision shall be issued with an EU Blue Card, with a **duration of between one and four years**. A Blue Card may also be issued or renewed for smaller periods in order to cover the work contract plus three months.

- **format of the Blue Card:** the EU Blue Card shall be issued by the competent authorities of the Member State using the uniform format as laid down in Regulation (EC) No 1030/2002. Under the heading "type of permit" in the residence permit, Member States shall enter "EU Blue Card". During the period of its validity, the EU Blue Card shall entitle its holder to: (i) enter, re-enter and stay in the territory of the Member State issuing the EU Blue Card; and (ii) the rights recognised in this Directive (see below);
- **procedural safeguards:** the competent authorities of the Member States shall adopt a decision on the complete application for an EU Blue Card at the latest within 90 days of the application being lodged. Any decision rejecting an application for an EU Blue Card or withdrawing an EU Blue Card shall be open to legal challenge in the Member State concerned;
- **applications for admission:** Member States shall determine whether applications for an EU Blue Card are to be made by the third-country national and/or by his employer. In principle, the application shall be examined either when the third-country national concerned is residing outside the territory of the Member State to which he wishes to be admitted or when he is already residing in that Member State as holder of a valid residence permit or national long-stay visa;

- **grounds for refusal:** there are provisions for refusing to grant a Blue Card (in particular, whenever the applicant does not meet the conditions for admission or the documents presented have been fraudulently acquired, or falsified or tampered with). An application may also be refused for ethical reasons (for example, to prevent a “brain drain” from the country of origin) or if the employer has been sanctioned for illegal employment;
- **Community preference:** before taking a decision concerning an application for an EU Blue Card or for renewal, Member States may also examine their labour market conditions and apply quota systems for jobs or even invoke the principle of Community preference or preference for the employment of third-country nationals already living on their territory.

**Rights provided for by this Directive in terms of equal treatment:** EU Blue Card holders will enjoy equal treatment with nationals of the member state issuing the Blue Card, as regards:

- working conditions, including pay and dismissal;
- freedom of association;
- education, training and recognition of qualifications;
- a number of provisions of national law regarding social security and pensions;
- access to goods and services, including procedures for obtaining housing, information and counselling services;
- free access to the entire territory of the member state concerned within the limits provided for by national law.

However, for the first two years of legal employment as an EU Blue Card holder, access to the labour market for the person concerned shall be restricted to the exercise of their initial work contract. After these first two years, Member States may grant the persons concerned equal treatment with nationals as regards access to highly qualified employment.

Note that unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card. However, the Directive provides for a certain number of **restrictions on equal treatment** in certain areas (for example, education). Moreover, in order to respect the principle of Community preference and to avoid possible abuses of the system, the occupational mobility of a third-country highly qualified worker should be limited for the first two years of legal employment in a Member State.

**Family members:** these persons shall not be permitted to obtain a Blue Card in the same way as the worker. However, in order to appeal to highly qualified workers to work in the EU, the Directive provides for the principle of family reunification.

**Other related provisions:** the Directive contains a certain number of specific provisions aimed at linking EU Blue Card holders to the status of EC long-term resident so that EU Blue Card holders who fulfil the requirements for obtaining EC long-term resident status may do so, under certain conditions.

**Residing in other Member States:** after 18 months of legal residence in the first Member State as an EU Blue Card holder, the person concerned and his family members may move, under certain conditions, to a Member State other than the first Member State for the purpose of highly qualified employment.

**Reporting:** every three years, and for the first time no later than 19 June 2014, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. The Commission shall, in particular, assess the relevance of the salary threshold referred to in the Directive and study its impact in terms of “brain drain”.

**Implementing measures:** annually, and for the first time no later than 19 June 2013, Member States shall communicate to the Commission statistics on the volumes of third-country nationals who have been granted an EU Blue Card and, as far as possible, volumes of third-country nationals whose EU Blue Card has been renewed or withdrawn, during the previous calendar year, indicating their nationality and, as far as possible, their occupation.

**Territorial provisions:** in accordance with the relevant provisions of the Treaties, the Directive shall not apply to the United Kingdom, Ireland or Denmark.

ENTRY INTO FORCE: 19/06/2009.

TRANSPOSITION: 19/06/2011.

## Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

2007/0228(CNS) - 25/09/2008

The Council noted the **overall support of all delegations for the Presidency compromise** on the proposal for a Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (Blue Card Directive).

The Council asked Coreper to finalise the text of this Directive on two specific points.

The JHA Council held a policy debate at its meeting in July 2008 and was largely in favour of complementary application of the European Blue Card scheme and national arrangements for issuing residence permits for employment purposes.

## Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

PURPOSE: to establish the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

PROPOSED ACT: Council Directive

BACKGROUND: This proposal forms part of the EU efforts to develop a comprehensive immigration policy, particularly in terms of economic immigration. It is a response to the demands of the December 2006 European Council, which agreed on a series of steps to be taken "[...] in order to assist Member States to meet labour needs [...], while contributing to the sustainable development of all countries". It also responds to the Policy Plan on Legal Migration (see [INI/2006/2251](#)) which aims, on the one hand, at laying down admission conditions for specific categories of migrants (highly qualified workers, seasonal workers, remunerated trainees and intra-corporate transferees), within the framework of 4 specific legislative proposals and, on the other, at establishing the general framework based on the respect of migrant workers' rights.

The proposal also aims to improve the attractiveness of the EU as a destination for highly qualified workers from third countries (given that the EU currently welcomes 87% of the unskilled and medium-skilled workers from the Maghreb, while 54% of the highly qualified immigrants from these same countries reside in the USA and Canada).

With this in mind, the proposal establishes a flexible **fast-track procedure** for the admission of highly qualified third-country workers, including **favourable residency conditions for them and their families**.

CONTENT: The proposal for a Directive has two main purposes:

1. To introduce a **special procedure** for the **entry of third-country nationals** applying to reside in the EU for the purpose of highly qualified employment, for more than three months, based on common criteria;
2. To provide those who have been admitted with a specific residency permit allowing them to work (the "**EU Blue Card**") as well as a certain number of rights for them and their family and the possibility to move for work to a second Member State under certain conditions after two years of legal residence in the first Member State.

#### Chapter I – Scope:

This Directive **shall apply** to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of highly qualified employment (not including independent workers). Professionals who do not necessarily need a post-secondary diploma to exercise their activity (experienced managers, certain IT professionals, etc) could also be included in the scope of the Directive, provided they can prove at least years experience in their given profession.

This Directive **shall not apply** to third country nationals:

- staying in a Member State as applicants for international protection or under temporary protection schemes;
- who are refugees or have applied for recognition as refugees and whose application has not yet given rise to a final decision;
- applying to reside in a Member State as researchers within the meaning of Directive 2005/71/EC;
- who are family members of Union citizens who have exercised, or are exercising, their right to free movement within the Community;
- who enjoy long-term resident status in a Member State in accordance with Directive 2003/109/EC;
- entering a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of people;
- whose expulsion has been suspended for reasons of fact or law.

Note that this Directive should be without prejudice to any future agreement between the Community (or between the Community and its Member States) and one or more third countries, that would list the professions which should not fall under this directive in order to assure ethical recruitment, in sectors suffering from a lack of personnel in third countries.

**Chapter II – Criteria for admission:** To be admitted, a third country national shall:

- present a valid work contract or a binding job offer of at least one year in the Member State concerned;
- fulfil the conditions set out under national legislation for the exercise by EU citizens of the regulated profession specified in the work contract;
- for unregulated professions, present the documents attesting the relevant higher professional qualifications in the occupation or sector specified in the work contract or in the binding offer of work;
- present a valid travel document (Member States may require the period of the validity of the travel document to cover at least the initial duration of the residence permit);
- present evidence of having a sickness insurance for the applicant and his/her family members for the period of the work contract;
- not be considered to pose a threat to public order, security or health.

In addition to the stipulated conditions, the proposal sets out "**salary**" criteria: the gross monthly salary specified in the work contract must not be inferior to a national salary threshold defined by the Member States (Member States where minimum wages are not defined shall set the national salary threshold to be at least three times the minimum income under which citizens of the Member State concerned are entitled to social assistance).

**Specific derogation for "young professionals"** (under 30): these "young professionals", who are likely to have inadequate experience to obtain high salaries, shall be required to meet an additional condition in order to be admitted as a highly qualified worker: completed higher education in an area related to the activity for which the work contract is to be granted. There is also more flexibility for young professionals who have studied in the EU in terms of the remuneration criterion (two thirds of the national salary threshold).

**Volumes of admission:** the Directive shall be without prejudice to the competence of the Member States to determine volumes of admission of third-country nationals for highly qualified employment (in other words, Member States can set entry quotas to limit the potential number of highly qualified workers to be admitted).

### Chapter III – “EU Blue Card”:

A person fulfilling the requirements set out in the Directive and for whom a positive decision has been issued shall be issued an **EU Blue Card with an initial validity of two years**. It can be renewed for 2 additional years. If the work contract covers a period less than two years, the EU Blue Card shall be issued for the duration of the work contract plus three months. **A 3 month period of unemployment will be acceptable.**

**Labour market access:** for the first two years of legal residence in the Member State concerned as holder of an EU Blue Card, access to the labour market shall be restricted to the exercise of paid employment activities as specified in the initial work contract. Modifications of the terms of the work contract that affect the conditions for admission or changes in the work relationship shall be subject to the prior authorisation in writing of the competent authorities of the Member State of residence.

**Format of the “Blue Card”:** Member States shall issue the EU Blue Card using the uniform format as laid down in Regulation (EC) No 1030/2002 (see [CNS/2001/0082](#)). They shall, in particular, enter “EU Blue Card” under the heading “type of permit”.

**Entitlements of the “Blue Card”:** the Directive indicates the entitlements of the EU Blue Card. During the period of its validity, the EU Blue Card shall entitle its holder (and their family) to:

- enter, re-enter and stay in the territory of the Member State issuing the EU Blue Card;
- travel through other Member States.

**Procedural safeguards:** the competent authorities of the Member States shall notify the applicant at the latest within 30 days of the date on which the application was lodged. In exceptional cases involving complex applications, the deadline may be extended for a maximum of 60 additional days.

Any decision rejecting an application for an EU Blue Card must have due reason, so that a clear explanation for the rejection by national authorities is provided. The rejection, non-renewal or withdrawal of an EU Blue Card shall be open to challenge before the courts of the Member State concerned.

**Rejection:** procedures will be in place for the rejection of a “Blue Card”: in essence, whenever the applicant does not meet the conditions or whenever the documents presented have been fraudulently acquired, or falsified. Before taking the decision on an application for an EU Blue Card, Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for filling a vacancy or may give preference to Union citizens.

**Chapter IV – Entitlements of the proposal in terms of equal treatment:** the Directive gives a certain number of basic rights to holders of the Blue Card. Holders shall enjoy equal treatment with nationals at least as regards:

- (a) working conditions, including pay and dismissal, as well as health and safety at work;
- (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any professional organisation;
- (c) education and vocational training, including study grants (however, Member States can restrict access to study grants);
- (d) recognition of diplomas, certificates and other professional qualifications;
- (e) branches of social security as defined in Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self employed persons and to members of their families moving within the Community and in Council Regulation (EC) No 859/2003 which extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality;
- (f) social assistance as defined by national law;
- (g) payment of acquired pensions when moving to a third country;
- (h) tax benefits;
- (i) access to goods and services and the supply of goods and services made available to the public, including procedures for obtaining housing and the assistance afforded by employment offices (e.g. EURES data bank);
- (j) free access to the entire territory of the Member State concerned, within the limits provided for reasons of security.

**Restriction of rights:** Member States may restrict equal treatment with national workers in terms of: i) social housing (provided that employees have lived in the country for at least three years); ii) social assistance.

**Family members of workers:** family members will not be entitled to a “Blue Card” in the same way as the worker. However, to promote the attractiveness of the EU to qualified workers, the Directive allows for **immediate family reunification**, including for cases of temporary residency, as well as the access of spouses to the labour market. The proposal also specifies that potential national integration measures shall only apply once family members have arrived in the EU.



**"Blue Card" links with the EC long term resident status:** the aim of the proposal is to encourage the geographical mobility of highly qualified workers. Derogations to the Directive 2003/109/EC (on long term residents – see [CNS/2001/0074](#)) are foreseen so that mobile workers are not penalised, enabling them to build up periods of residency in 2 (or a maximum of 3) Member States. Derogations on periods of absence from the EU are planned but under strict conditions, to support the policy on circular migration and to limit a possible brain drain. A new residency permit is also planned to define the specific status of this type of holder: **the residence permit "long-term resident – EC / EU Blue Card holder"**.

**Chapter V – Residence in other Member States:** after 2 years of legal residence in the Member State that issued the EU Blue Card, the worker and their family members will be allowed to move to another Member State to potentially carry out another highly qualified job. However, this possibility is subject to a series of specific conditions outlined in the proposal.

**Chapter VI – Final provisions:** the proposal requires Member States to share, through the network established by Decision 2006/688/EC, information on possible quotas and annual statistics concerning its application. This information will enable a follow-up of the recruitment in developing countries that suffer from a shortage of qualified labour.

In accordance with the provisions of the relevant treaties, the proposal shall not apply to the UK, Ireland or Denmark.

## Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

2007/0228(CNS) - 24/07/2008

The Council held a **policy debate** on two key aspects of the Commission proposal:

1. the criteria to be adopted for the third-country nationals concerned to be able to have access to highly qualified employment;
2. the relationship between the arrangements set out in the proposal and national systems.

The Council was largely in favour of complementary application of the European Blue Card scheme and national arrangements for issuing residence permits for employment purposes.

On the **question of the criteria** to be adopted in order for nationals of countries concerned to be admitted, the delegations expressed different points of view, particularly on the question of pay and the professional experience to be taken into account when defining a highly qualified worker.

The Council asked its preparatory bodies to continue working on this proposal for a Directive. The proposal is one of the priorities on the French Presidency work programme.

## Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

2007/0228(CNS) - 20/11/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 388 votes to 56 with 124 abstentions, a legislative resolution, amending the proposal for a Council directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (European Blue Card Directive.) The report had been tabled for consideration in plenary by Ewa **KLAMT** (EPP-ED, DE), on behalf of the Committee on Civil Liberties, Justice and Home Affairs. Parliament's amendments seek to ensure a clearer framework for the Blue Card scheme, with more precise definitions, more flexibility Member States, whilst aiming to avoid a brain drain from third countries.

The main amendments – adopted in the framework of the consultation procedure – are as follows:

**Definitions:** Members stress that higher education qualifications or higher professional qualifications are required to qualify. They deleted the Commission's reference to 'higher education qualifications or at least 3 years of equivalent professional experience.' Parliament stated instead that "higher professional qualifications" means qualifications attested by evidence of at least 5 years of professional experience of a level comparable to higher education qualifications, including at least 2 years in a senior position.

**Scope:** the Directive will apply to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of **highly qualified** employment, but Parliament stated that it would also apply to third-country nationals already legally resident under other schemes in a Member State who apply for an EU Blue Card. It will not, however, apply to those staying in a Member State as applicants for international protection or under temporary protection schemes or who, in either instance, have applied for a residence permit and on whose legal status no decision has yet been taken. Nor will it apply to the following: those who have who have applied for recognition as refugees; intra-corporate transferees, providers of contractual services and trainees with higher education qualifications who are covered by the European Community's obligations under the General Agreement on Trade in Services (GATS); and seasonal workers. However, the plenary did not accept the view of its competent committee that an EU Blue Card should be granted only to highly qualified immigrants from third countries with which the EU has previously concluded cooperation and partnership agreements, including in the areas of mobility and immigration.

Other admission conditions : Parliament stated that the following conditions will also apply :

- **level of pay:** the gross monthly wage must not be inferior to a national level defined by the Member States which shall be at least 1.7 times of the gross monthly or annual average wages in the Member State concerned and shall not be inferior to the wages which apply or would apply to a comparable worker in the host country;
- **health insurance:** Blue Card holders must prove that entitlement to health insurance benefits are provided in connection with, or resulting from, the work contract;
- **public policy:** they must show that they do not, for reasons which can be objectively demonstrated, constitute a threat to public policy, public security or public health.

Members deleted the derogation in the Commission's proposal relating to a third-country national of less than 30 years of age and holding higher education qualifications.

**Community preference:** Parliament amended the Commission's text and stated that, for reasons of labour market policy, Member States shall (rather than may) give preference to Union citizens. They may give preference to third-country nationals, when provided for by Community legislation, as well as to third-country nationals who reside legally and receive unemployment benefits in the Member States concerned. Member States shall reject an application for an EU Blue Card in labour market sectors to which access by workers from other Member States is restricted on the basis of transitional arrangements set out in the Acts of Accession of 16 April 2003 and 25 April 2005. A Member State may give preference to holders of the residence permit "long-term resident – EC / EU Blue Card holder" over other third-country nationals applying to reside there for the same purposes in a situation where two or more candidates are equally well qualified for the job.

**Validity of the Blue Card:** the initial validity of an EU Blue Card shall be of 3 years (rather than 2) and shall be renewed for at least another two. If the work contract covers a period of less than 3 years (rather than 2), the EU Blue Card shall be issued for the duration of the work contract plus 6 months (rather than 3). Unemployment in itself shall not constitute a reason for withdrawing or failing to renew an EU Blue Card, unless the period of unemployment exceeds six consecutive months. An EU Blue Card holder shall have the right to remain on the territory of the Member States for as long as he/she is engaged in training activities aimed at further increasing his/her professional skills or professional re-qualification.

**Brain drain:** a new clause states that Member States shall not actively seek to attract highly qualified workers in sectors that are already subject, or are expected to be subject, to a shortage of highly qualified workers in the third country. This applies to the health and education sectors in particular. Members note that the derogations to Directive 2003/109/EC will encourage the circular mobility of these professionals, as well as the subsequent involvement of the same migrant workers in training, research and technical activities in their countries of origin. Member States should establish cooperation agreements with third countries with a view to safeguarding both the Union's needs and the development of the third countries from which highly qualified immigrants come. Member States may reject an application for an EU Blue Card in order to avoid a brain drain in sectors suffering from a lack of qualified personnel in the countries of origin.

**Making the EU more attractive:** in the competition for the 'best and brightest', the EU comes off relatively badly by comparison with the United States, Canada or Australia. Members stipulated that, by issuing an EU Blue Card a Member State commits itself to issuing relevant documentation and visas, where applicable, as speedily as possible, but at least a reasonable period of time before the applicant is due to commence the employment on the basis of which the EU Blue Card was issued, unless the Member State cannot reasonably be expected to do so because of late application for the EU Blue Card by either the employer or the third-country national concerned.

**Establishment in a 2nd Member State :** after 36 months of legal residence in a Member State as holder of a Blue Card, the person concerned shall be allowed to carry out highly qualified employment in another Member State while residing in the first Member State. Further details on cross-border commuting are drawn up in Council Directive .../.../EC [on a single application procedure for a [single permit](#) for third-country nationals).