Basic information

2016/0176(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
EU Blue Card Directive Repealing Directive 2009/50/EC 2007/0228(CNS) **Subject** 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 **Legislative priorities** Joint Declaration 2021	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	MORENO SÁNCHEZ Javier (S&D)	19/02/2020
	Shadow rapporteur ZDECHOVSKÝ Tomáš (EPP) STRUGARIU Ramona (Renew) BOESELAGER Damian (Greens/EFA) KANKO Assita (ECR) KOFOD Peter (ID) BARRENA ARZA Pernando (GUE/NGL)	

Former committee responsible	Former rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
EMPL Employment and Social Affairs (Associated committee)	ŽDANOKA Tatjana (Greens/EFA)	27/04/2020

JURI Legal Affairs	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
EMPL Employment and Social Affairs (Associated committee)		
JURI Legal Affairs		

Council of the European Union

European Commission

Commission DG	Commissioner
Migration and Home Affairs	AVRAMOPOULOS Dimitris

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary
07/06/2016	Legislative proposal published	COM(2016)0378	Summary
04/07/2016	Committee referral announced in Parliament, 1st reading		
19/01/2017	Referral to associated committees announced in Parliament		
15/06/2017	Vote in committee, 1st reading		
15/06/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
28/06/2017	Committee report tabled for plenary, 1st reading	A8-0240/2017	Summary
03/07/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
05/07/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
21/10/2019	Resumption of business from the previous parliamentary term		
03/06/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE693.667 GEDA/A/(2021)001972	
14/09/2021	Debate in Parliament		
15/09/2021	Decision by Parliament, 1st reading	T9-0374/2021	Summary
07/10/2021	Act adopted by Council after Parliament's 1st reading		
20/10/2021	Final act signed		

20/10/2021	End of procedure in Parliament		
28/10/2021	Final act published in Official Journal		

Technical information

Procedure reference	2016/0176(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2009/50/EC 2007/0228(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 079-p2
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/00162

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE595.499	26/01/2017	
Amendments tabled in committee		PE599.783	03/03/2017	
Amendments tabled in committee		PE599.784	03/03/2017	
Committee opinion	EMPL	PE597.413	31/05/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0240/2017	28/06/2017	Summary
Text agreed during interinstitutional negotiations		PE693.667	21/05/2021	
Text adopted by Parliament, 1st reading/single reading		T9-0374/2021	15/09/2021	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2021)001972	21/05/2021	
Draft final act	00040/2021/LEX	20/10/2021	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0378	07/06/2016	Summary
	SWD(2016)0193		

Document attached to the procedure		08/06/2016	
Document attached to the procedure	SWD(2016)0194	08/06/2016	
Commission response to text adopted in plenary	SP(2021)637	03/11/2021	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Reasoned opinion	CZ_SENATE	PE589.135	07/09/2016	
Contribution	IT_SENATE	COM(2016)0378	19/09/2016	
Contribution	PT_PARLIAMENT	COM(2016)0378	22/09/2016	
Contribution	RO_SENATE	COM(2016)0378	26/09/2016	
Contribution	PL_SENATE	COM(2016)0378	28/09/2016	
Reasoned opinion	CZ_CHAMBER	PE589.334	28/09/2016	
Contribution	RO_CHAMBER	COM(2016)0378	12/10/2016	
Contribution	AT_BUNDESRAT	COM(2016)0378	14/10/2016	
Reasoned opinion	BG_PARLIAMENT	PE593.929	11/11/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR3699/2016	08/12/2016	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Directive 2021/1883
OJ L 382 28.10.2021, p. 0001

EU Blue Card Directive

2016/0176(COD) - 15/09/2021 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 556 votes to 105, with 31 abstentions, a 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.

The revised Blue Card Directive defines the conditions of entry and residence that third-country nationals (and their family members) must fulfil in order to take up highly qualified employment in the EU Member States.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Admission criteria

The applicant for an EU Blue Card should present a valid work contract or a binding offer for highly qualified employment of at least **6 months** in the Member State concerned. For non-regulated professions, he/she should present documents proving that he/she has the high professional qualifications related to the work to be performed.

In order to qualify for an EU Blue Card, the **salary threshold**, set by the Member State concerned after consultation of the social partners, should be **at least 1.0 times the average gross annual salary in the Member State concerned**, but not more than 1.6 times this salary.

Member States should be able to provide for a lower salary threshold which will benefit third-country nationals for a certain period of time after they have graduated.

Where EU Blue Card holders intend to apply for an EU Blue Card in a second Member State in order to exercise a regulated profession, their professional qualifications should be recognised in the same way as those of EU citizens exercising the right of free movement.

Furthermore, **highly skilled beneficiaries of international protection** should be able to apply for an EU Blue Card. They should have the right to apply for an EU Blue Card in Member States other than the one which granted them international protection.

This Directive should not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory.

Rejection of an application, withdrawal and non-renewal

A Member State shall reject an application for an EU Blue Card where:

- the third-country national concerned is considered to pose a threat to public policy, public security or public health; or where the employer’s business was established or operates for the main purpose of facilitating the entry of third-country nationals;

- the competent authorities of the Member State, after checking the labour market situation, for example where there is a high level of unemployment, conclude that the vacancy concerned may be filled from the national or Union workforce, or by third-country nationals who are lawfully resident in that Member State.

Member States should be able 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, including in cases of the abusive use of mobility rights, or where the EU Blue Card holder 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 that Member State.

Period of validity and procedure

The period of validity of the EU Blue Card should be **at least 24 months**. However, where the duration of the work contract is shorter, the EU Blue Card should be issued for at least the duration of the work contract plus three months, subject to a maximum of 24 months. That decision should be adopted and notified as soon as possible but not later than 90 days after the date of submission of the complete application.

Labour market access, change of employer

During the first 12 months of legal employment of the person concerned as an EU Blue Card holder, a Member State may: (i) require that a change of employer or a change which may affect the fulfilment of the criteria for admission be communicated to the competent authorities in that Member State; (ii) subject any change of employer to a check of the labour market situation. After that 12-month period, Member States should only be allowed to require the EU Blue Card holder to inform competent authorities of a change of employer or a change that affects the fulfilment of the criteria for admission set out in this Directive.

Family reunification

To attract and retain highly skilled workers from outside the EU, family members of EU Blue Card holders will be able to accompany them and access the EU labour market.

Intra-EU mobility

EU Blue Card holders, and their family members, will be able to move to a second Member State based on simplified mobility rules after 12 months of employment in the first Member State. Periods of time spent working in different Member States will also be taken into account, facilitating easier access to the EU long-term resident status.

Applicants will have to demonstrate that they have resided for two years legally and continuously as EU Blue Card holders immediately before the submission of the relevant application in the territory of the Member State where the application for EU long-term resident status in a Member State is submitted.

EU Blue Card Directive

2016/0176(COD) - 07/06/2016 - Legislative proposal

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

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: **the 2009 "EU Blue Card" Directive** (Council Directive 2009/50/EC) intended to facilitate the admission and mobility of highly qualified third-country national workers, and their family members, by harmonising entry and residence conditions throughout the EU and by providing for a set of rights. The current EU Blue Card Directive has demonstrated **intrinsic weaknesses** such as restrictive admission conditions and very limited facilitation for intra-EU mobility.

The overall inflow of highly skilled third-country national workers to the participating Member States under both the EU Blue Card and national schemes for highly skilled workers was **23 419 in 2012, 34 904 in 2013 and 38 774 in 2014**. When compared to the projected needs for highly skilled workers in certain sectors, **these numbers are by far insufficient to address** the existing and projected future labour and skills shortages in the EU in highly skilled occupations.

The current fragmented situation with diverging and parallel national rules for the same category of third-country nationals across Member States is neither effective nor efficient for any party involved.

The conclusions of the European Council of 26 and 27 June 2014 state that in order to remain an attractive destination for talents and skills, Europe must compete in the global race for talent. **Strategies to maximise the opportunities of legal migration** should therefore be developed, including the streamlining of existing rules.

The European Agenda on Migration adopted on 13 May 2015 called for an **attractive EU-wide scheme for highly qualified third-country nationals**, and specifies that a review of Council Directive 2009/50/EC 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.

IMPACT ASSESSMENT: the preferred option includes therefore the following main elements:

- modifying the admission conditions and making the EU Blue Card accessible to a wider group of highly skilled workers; improving the rights associated with the EU Blue Card, including intra-EU mobility; and not extending the scope beyond highly skilled workers;
- national schemes for third-country nationals falling within the scope of application of this Directive would no longer be allowed;
- the legislative measures would be complemented by non-legislative actions and potentially by making the EU Blue Card accessible to highly skilled beneficiaries of international protection.

The estimated additional permits for this option are in the range of **minimum 32 484 to maximum 137 690 highly skilled workers** (per year, aggregate across participating Member States, variation depending on the salary threshold set by individual Member States). This would result in an estimated positive annual economic impact of between **EUR 1.4 billion to EUR 6.2 billion.**

CONTENT: this proposal, which **replaces the existing EU Blue Card Directive** (2009/50/EC), aims to improve the EU's ability to attract and retain highly skilled third-country nationals. It seeks to establish a special admission procedure and the adoption of conditions of entry and residence, and the rights, applicable to third-country nationals for the purpose of highly skilled employment and their family members.

Definitions: the proposal sets out the definition given to "highly skilled employment", which replaces the concept of "highly qualified employment" in the current Directive. It refers to **paid employment, in accordance with national law and practice**, by a person having the necessary competence as proven by "higher professional qualifications". The latter can be attested by either "higher education qualifications" or by "higher professional skills" (i.e. skills attested by at least three years of professional experience of a level comparable to higher education qualifications and relevant to the work or profession to be carried out).

The definition of "**business activity**" is provided in order to define which professional activities can be carried out by the EU Blue Card holder in the context of the specific rules for short-term mobility to other Member States.

Scope: the proposal:

- does not cover EU citizens, third-country nationals who are EU long-term residents and want to move to another Member State, seasonal workers nor posted workers;
- shall not apply to third-country nationals 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;

- provides that all third-country national **family members** of EU citizens are given access to the EU Blue Card in order to enable them to engage in highly skilled employment and perform business trips in different Member States regardless of whether or not the EU citizen accompanies them;
- continues to not apply to persons seeking international protection and awaiting decision on their status or to those who are beneficiaries of temporary protection or residing in a Member State on a strictly temporary basis. As a novelty it does cover, however, **beneficiaries of international protection** under Directive 2011/95/EU ("Qualification Directive").
- obliges Member States to **grant an EU Blue Card instead of a national permit** for highly skilled work to persons falling under its scope.

More favourable provisions: this proposal harmonises admission conditions and procedures for third-country nationals falling under its scope, and for their family members, as well as for their subsequent mobility to other Member States. Member States are nevertheless still allowed to grant more favourable conditions as regards rights.

Criteria for admission: besides the general conditions similar to those included in Directive 2009/50/EC and other existing acquis on legal migration (i. e., having a valid travel document, sickness insurance and not posing a threat to public policy, public security or public health), specific conditions include:

- a work contract or a binding job offer with a **duration of at least six months** in the Member State concerned, as admission is demand-driven. The required length of contract is shortened from 12 to 6 months compared to the current Directive;
- proof of higher professional qualifications, i.e. either higher education qualifications or higher professional skills;
- the salary specified in the work contract must be at least equal to a certain threshold determined by Member States within a **range of minimum 1.0 and maximum 1.4 times** the average gross annual salary in the Member State concerned;
- a **mandatory lower salary threshold** (at 80 percent of the general threshold) for shortage occupations determined by the Member States, as well as for young graduates;

As regards the possibility of carrying out a **labour market test**, the proposal states that it is only allowed in circumstances where a Member State's labour market undergoes serious disturbances, for example a high level of unemployment in a given occupation or sector in a particular region in their territory.

Procedure: applicants for whom a positive decision has been taken by the Member State concerned shall receive a residence permit called "EU Blue Card" stating the conditions under which they are allowed to work. **The standard period of validity for the EU Blue Card is at least 24 months**. Only if the work contract covers a shorter period, the EU Blue Card validity should be at least the duration of the work contract plus three months. However, when an EU Blue Card is renewed, **the period of validity should in any case be at least 24 months**.

Member States shall notify the applicant of a decision on an application at the latest **within 60 days** after the submission of the application. This is shortened from the 90 days in Directive 2009/50/EC. Member States may decide to impose fees for handling applications. However, they should not be disproportionate or excessive.

Rights: the proposal simplifies access to the labour market: EU Blue Card holders are granted full access to highly skilled employment. Member States can only require that they communicate changes of employer or changes that can affect the fulfilment of the EU Blue Card admission conditions. **Temporary unemployment** is allowed.

The proposal provides EU Blue Card holders **facilitated access to EU long-term resident status**. To reinforce the link to the country issuing the EU long-term resident status, it is required that the EU Blue Card holder has resided at least two years immediately prior to applying for the status in the Member State concerned.

The provisions on **equal treatment** of EU Blue Card holders with Member State nationals largely correspond to the rights provided under Directive 2009 /50/EC.

Mobility between Member States: the proposal allows Blue Card holders to **enter and stay in other Member States** for the purpose of carrying out a business activity. Second Member States are not allowed to require a work permit or any other authorisation than the EU Blue Card issued by the first Member State for carrying out such activity.

- Where the EU Blue Card is issued by a Member State applying the Schengen acquis in full, the EU Blue Card holder can move within the Schengen area and carry out a business activity for 90 days within a 180-day period.
- Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full, Member States may require evidence of the purpose of the trip when an EU Blue Card holder crosses an external border for mobility purpose.
- Moreover, if an EU Blue Card is not eventually issued by the second Member State, the first Member State has to allow re-entry of the person concerned with possible family members.

Access to information: Member States are required to: (i) provide easily accessible information to applicants about entry and residence conditions, as well as rights; (ii) communicate to the Commission data on a number of aspects, such as the annual salary thresholds, the list of shortage occupations, the cases in which Member States make use of the clause on ethical recruitment, the allowed business activities in their territory.

It should be noted that the United Kingdom, Ireland and Denmark shall not participate in the adoption of the Directive and therefore shall not be bound by it.

EU Blue Card Directive

2016/0176(COD) - 28/06/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Claude MORAES (S&D, UK) 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.

The Committee on Employment and Social Affairs, exercising its prerogative as an associated committee in accordance with Article 54 of the Rules of Procedure, also gave its opinion on the report.

The proposal seeks to improve the attractiveness of the European Blue Card by 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.

The committee recommended that the position of the European Parliament adopted at first reading in accordance with the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: Members propose to extend the scope to include third-country nationals who already hold a residence permit in a Member State under Directive (EU) 2016/801 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.

Where they fall within the scope of the Directive, persons applying for **international protection** should be subject to the same rules as any other third-country national falling within the scope of the Directive.

Admission criteria: a third-country national applying for a European Blue Card should have a valid work contract or a binding job offer of **at least nine months**. For unregulated professions, present written evidence should be provided attesting **higher education qualifications** or higher professional skills.

The third-country national should also be able to present evidence that an application for international protection or protection under national law is pending.

Member States should facilitate the rapid validation and recognition of documents attesting to the possession of a diploma in higher education and high professional skills. In addition, a **simplified procedure** for approved employers should be provided for.

Salary threshold: 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, for example when a collective agreement governs the wages applicable in that occupational branch.

Grounds for refusal: the application for a European Blue Card would be rejected if the third-country national is considered to constitute a threat to public policy, public security or public health.

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.

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.

Withdrawal and non-renewal: 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. Member States shall refuse to renew it where the third-country national is considered to pose a **threat to public policy**, public security or public health.

Member States may refuse renewal, for example where the third-country national has been unemployed for more than **six consecutive months** or no longer holds a valid travel document.

Any decision to reject an application for a European Blue Card or to withdraw or refuse to renew the card shall **take account of the specific circumstances of the case and shall be proportionate**.

Standard validity period: Member States shall set a standard period of validity for the European Blue Card, which is at least **36 months** (instead of 24 months).

When the applicant for international protection receives a European Blue Card, his application for international protection would be considered suspended for the period of validity of the card.

Mobility for blue card holders: Members introduced a series of amendments aimed at simplifying the intra-EU mobility procedure. The proposed amendments aim 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.