



Council of the  
European Union

Brussels, 21 December 2016  
(OR. en)

15758/16

---

---

**Interinstitutional File:**  
**2016/0176 (COD)**

---

---

**MIGR 223**  
**SOC 816**  
**CODEC 1936**

**COVER NOTE**

---

From:	European Economic and Social Committee
date of receipt:	21 December 2016
To:	General Secretariat of the Council
Subject:	Proposal for Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment - Opinion of the European Economic and Social Committee

---

Delegations will find attached the opinion of the Economic and Social Committee regarding the above mentioned subject. Please note that other language versions should be available at:

<https://dm.eesc.europa.eu/EESCDocumentSearch/Pages/opinionsresults.aspx?k=SOC%2F539>



*European Economic and Social Committee*

**SOC/539**

**Towards a coherent EU labour immigration policy with regard to the EU Blue Card**

## **OPINION**

European Economic and Social Committee

**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**  
[COM(2016) 378 final - 2016/0176 (COD)]

Rapporteur: **Peter CLEVER**

Consultation	European Parliament, 04/07/2016
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Consultation	Council of the European Union 20/07/2016
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	22/11/2016
Adopted at plenary	14/12/2016
Plenary session No	521
Outcome of vote (for/against/abstentions)	195/0/7

## 1. Conclusions and recommendations

- 1.1 In the context of demographic change, the EU is dependent in part on immigration of highly skilled workers to ensure growth and prosperity. Activating national labour market potential – however incontestably important this in particular is in national policy – is not enough here: a common EU recruitment strategy is needed, because in the global competition for skilled workers Europe as a bloc can take a stronger position than its individual Member States.
- 1.2 A common strategy for attracting skilled workers from outside the EU should be comprehensive, covering all the relevant spheres from the initial approach to workers interested in immigrating through to dealing with pension entitlements. This should also mean considering immigrants who have first completed part of their university education in the host country. The implications for countries of origin of skilled workers emigrating must also be taken into account and those countries helped to further develop their education systems.
- 1.3 It is important in addition to achieve the broadest possible consensus so that the Member States also commit themselves to this strategy and consistently implement the measures decided on at EU level. Care should be taken in the process to ensure close involvement of national and European social partners. Equal opportunities and non-discrimination must be guaranteed in the employing of third-country nationals.
- 1.4 Admission policy is a key aspect of a coherent labour immigration policy: joint rules can make it easier for third-country nationals to access European labour markets, but at the same time they still always represent an encroachment on national sovereignty. The advantages and disadvantages of further harmonisation must therefore be weighed here. As things stand at present, full harmonisation of admission policy does not appear sensible or necessary.
- 1.5 The proposal presented by the European Commission to reform the Blue Card system goes too far in the present circumstances, because it takes away the Member States' scope to maintain their own routes for admitting highly qualified workers – routes that are geared to their specific needs. It is nevertheless right to endeavour to ensure that in future more use is made of the Blue Card to admit into the EU highly skilled workers from non-EU countries. Like the Green Card in the United States, the Blue Card could then be a hallmark making the EU attractive as a destination region for highly skilled immigration.
- 1.6 The Commission's proposal for revising the Blue Card rules is broadly to be welcomed, since it makes the card more attractive as a way of entering the EU and in particular makes it significantly easier for holders of the card to move within the EU. In this context the improvement in opportunities for business stays in other EU Member States is very welcome.

- 1.7 The measures to facilitate granting of the card are also correct. However, the application of lower salary thresholds has to be viewed with scepticism. A level for highly qualified workers below the average income is not acceptable.
- 1.8 The same goes for the optional possibility of replacing a university degree with equivalent professional experience. The possibility should be considered of reducing the amount of equivalent professional experience required from five to three years; it would also make sense to give at least an indication of the criteria on which this would be assessed.
2. **Context: the importance for the European Union of labour immigration of highly skilled workers and the need for a European strategy to attract such workers**
- 2.1 Migration policy has various objectives. One is to stabilise the labour pool in countries strongly affected by demographic change. Another is to shoulder social responsibility in the international context by for instance accepting refugees. **Considering the complexity of this area, the present opinion focuses on immigration of highly qualified workers from third countries.**
- 2.2 Without migration from third countries, demographic change over the next two decades will lead to a marked decrease in the working-age population of the EU. At the same time the number of elderly people will significantly increase. **Such a trend poses considerable challenges** for public budget planning, with fewer (net) contributors to, and more (net) recipients of, government benefits. There is also a threat of shortages in the labour market.
- 2.3 To make these negative effects of demographic change manageable, existing labour potential in the EU Member States must first be increased. A substantial effort must be mounted to equip people with adequate qualifications for the labour market, especially socially disadvantaged target groups. Mobility within the European Union can also help to stabilise the labour pool in the medium term in those countries particularly affected by demographic change. This intra-European mobility is not yet being used as much as would be legally and practically possible. These two things will not be enough, however. **Efforts must be supplemented by a targeted, long-term strategy to promote the legal immigration of qualified workers from outside the EU.**
- 2.4 **The labour market situation currently varies widely between the EU Member States.** While in some countries there is a shortage of skilled labour, others have high unemployment. This means that there are also fundamental differences in the demand for migrant labour and in integration opportunities for non-EU migrants. **The immigration strategies of the individual Member States must therefore be designed differently too.**

- 2.5 Closer cooperation is also required in strategies to attract highly qualified workers for labour markets in Europe: unlike workers with low skills, these people also have the opportunity to emigrate to other countries, especially in the English-speaking world, and they are courted by those countries, so that Europe faces competition. **Only 31% of highly qualified migrants from non-EU countries in the OECD choose to work in an EU country.** Insufficient command of the relevant national language is a critical barrier to immigration of highly qualified workers to the EU. Another hurdle is the fact that the smaller Member States in particular are often virtually unknown outside Europe and therefore wrongly perceived as less attractive.
- 2.6 In view of these factors, the EU can play an important role in pooling the activities of the Member States to acquire highly qualified workers from non-EU countries, and thus in making those activities more effective. Moreover, in the contest for internationally mobile qualified workers there are considerable advantages in the Member States presenting themselves jointly as Europe. **A targeted EU strategy for recruiting highly qualified workers is needed to increase the attractiveness of the EU as a destination for such workers migrating from third countries,** since this is the only way the EU can keep up and improve its competitive position in the global market for highly qualified workers.
- 2.7 That said, the success of a European strategy to attract skilled workers depends critically on the extent to which it takes national situations into account and **how committed the EU Member States are to it.** It is therefore of fundamental importance to seek the broadest possible consensus on relevant measures, including as regards the necessary legal framework for the migration of skilled workers.
3. **Elements of an EU strategy for attracting skilled workers**
- 3.1 In the context of a joint strategy to promote legal migration of highly qualified workers, measures should be framed at European level **to address and recruit workers from non-EU countries.** A very promising approach here could be a **European skills database** where – along the same lines as EURES – non-EU workers interested in migrating to an EU country can register their qualifications and be approached directly by employers. Other elements of a European strategy to attract skilled workers should include the **provision of information services** on the European Union, relevant immigration rules and the labour market situation in the Member States. An **appropriate framework** should also be introduced for the **mobility** within the EU of workers from third countries, as well as an **agreed procedure for recognising qualifications** from third countries and a **welcoming culture in Europe** to counter anti-immigrant feeling among the local population. National and European social partners should be involved in designing this framework.
- 3.2 A strategy to promote legal immigration of highly qualified workers from third countries should not just consider people arriving in the EU who have already finished their studies, but also people who are first completing all or part of the studies here. In this context, **we very much welcome** the decision in the **new EU directive on study and research stays (Directive 2016/801)** to make it easier for students to engage in other activities and the option after completion of a study programme to remain in the country for at least nine months for the purpose of seeking work. Targeted information and advice services must also be provided at universities to inform students from third countries about their labour market prospects.

- 3.3 Third-country nationals lawfully registered in the EU **should not be discriminated against**. Above all, they should be paid the same as locals and have the same working conditions.
- 3.4 A **very cautious approach must be adopted when wooing workers who have completed their studies**, given that many potential countries of origin themselves have shortages of highly qualified workers. Brain drains must be avoided. On the other hand, temporary immigration of workers as part of a "brain circulation" exercise could make a contribution to economic development in those countries. In this case, it must be ensured that a temporary return to the country of origin does not automatically lead to the cancellation of the existing work permit in the EU Member State. In any case a targeted strategy to attract workers from less developed countries should be accompanied by development policy measures that help countries of origin – to further develop their education systems, for example. This development policy must be geared to the interests of the countries of origin and its purpose cannot be to increase chances of further recruitment of qualified professionals from these countries.
- 3.5 To stem illegal immigration the EU is planning to conclude further **special migration partnerships with key countries of origin and transit**. Such partnerships should also be used to promote legal migration. Very little use has been made of this option within the framework of migration partnerships. Specific measures to develop skilled labour in the partner countries and easier immigration to Europe (if necessary subject to quotas) could be agreed on. This is also a way of combating illegal migration, because it creates a legal alternative for many people interested in migrating. This alternative generally requires further investment in training, with potential positive effects on the level of education in countries of origin.

#### 4. **Need for and limits of a common admission policy**

- 4.1 Immigrant admission policy is a key part of any strategy to attract skilled workers, regulating not just non-EU nationals' access to the labour market of the host Member State, but also the degree of such workers' mobility within the EU and whether family members can accompany or join them. These issues are also very important in relation to the attractiveness of the EU to workers from non-EU countries.
- 4.2 **Laying down harmonised rules for granting residence permits that are valid across the EU** always represents a **considerable encroachment on national sovereignty**. It is true to say that, the more the national regulatory framework governing residence is harmonised and the less discretion is left to the Member States, the heavier the encroachment. The decision on harmonised admission criteria must therefore as a matter of principle be preceded by a thorough weighing of the advantages of EU-wide rules against the diversity of national needs and interests.

- 4.3 **The need for labour from outside the EU varies very widely between the Member States.** Article 79 TFEU therefore rightly permits the EU level to develop a common immigrant admission policy, without nullifying the right of the Member States to pursue their own national admission policies. The reason for this is that national admission criteria for labour migration from non-EU countries are generally more appropriate to the particularities of national labour markets. Labour market checks may also be important in steering labour immigration and should be at the discretion of the Member States.
- 4.4 **A joint framework is nonetheless urgently needed,** given that the economies of the EU Member States are very closely interwoven within the European single market, with many companies having production sites in several EU countries and selling their goods and services across the EU. Consequently, businesses must often deploy workers from third countries with particular qualifications for short periods in different EU countries. If those workers are not covered by the provisions of the EU directive on intra-group posting (the posting of workers Directive) and their residence permit does not authorise activity in another EU country, it will be difficult to recruit nationals of third countries. Similar problems arise for migrants setting up as self-employed workers in one EU country who wish to, or have to, operate their business in several EU Member States. **It is essential to take account of this need for mobility of highly skilled non-EU nationals.**
5. **Experience with the EU Blue Card and need for reform**
- 5.1 Along with other instruments, the EU Blue Card is an important element of a common strategy for acquiring skilled workers. **The Blue Card could help enormously in recruiting workers from outside the EU,** because like the US Green Card it creates a marketing tool promoting the EU as a region to which people can migrate. The card also makes it easier for highly qualified workers who are interested in migrating to assess their chances of entering the labour market in the EU, since the same criteria apply in all EU Member States, at least structurally speaking. This means that the card can also encourage immigration to the EU.
- 5.2 However, the **Blue Card is not equally successful in each EU Member State.** While it may be an important part of a recruitment strategy in a country like Germany, other countries use it rarely, if at all, and continue essentially to rely on their national residence permit. In 2015 Germany accounted for 14 600 of the first 16 800 Blue Cards issued, or nearly 90%. The number did not exceed 1 000 in any other EU Member State. Several Member States even issued fewer than 20 Blue Cards, including countries with relatively healthy labour markets, such as the Netherlands and Sweden.
- 5.3 Thus many EU countries are not using the EU Blue Card as a strategic tool for recruiting highly qualified workers from non-EU countries. This means that non-EU workers interested in emigrating to the EU are not aware of the EU Blue Card as a brand representing the EU's common migration policy in general and that its potential therefore cannot be realised. In view of this, the European Commission has presented a proposal for reform of the EU Blue Card.



- 5.4 **The Commission's proposal for reforming the Blue Card is broadly to be welcomed**, since its aim is to offer solutions to the important issues of how the card interacts with other national residence permits, mobility of non-EU workers within the EU, and easing of issuing criteria. **Major improvements to the proposal are needed, however.**
- 5.5 The Commission proposes that highly qualified migrant workers from non-EU countries should no longer be issued with any residence permit other than the EU Blue Card. The only exceptions would be special categories such as self-employed workers and scientists. This rigidity makes it difficult for Member States to design their immigration policy to reflect their labour needs and to respond specifically to particular labour shortage situations. **It is therefore not advisable to completely prohibit other access routes for highly qualified employees. Rather, the Member States must have the option of still retaining their national systems.**
- 5.6 **The EU Blue Card must nevertheless be more firmly anchored in the immigrant admission policies of the EU Member States.** To this end a passage should be inserted in the Directive's recitals urging the Member States to issue the EU Blue Card in preference to national permits if the applicant meets the criteria for its granting. This would be less of a constraint on national discretion than a ban on other permits. Moreover, it should be noted that the success of the EU Blue Card depends not just on appropriate rules being laid down in the EU Directive, but also on the Member States clearly committing themselves to the card. This will only happen if the EU Member States see the added value of the Blue Card.
- 5.7 It makes sense to reduce the salary thresholds, but the Commission's proposal goes too far.
- 5.7.1 The current salary thresholds of at least 1.5 times the average gross national salary, or 1.2 times for shortage occupations, may be a hurdle in certain EU Member States, especially for workers just beginning their careers. Lowering these thresholds is probably a sensible step, but one the trade unions are critical of. In the EESC's view, it must be ensured that highly qualified recent graduates are on no account paid below the average wage. The Commission's proposal of 0.8 is too low.
- 5.7.2 This estimate is based on all people in employment being included in the calculation of average national salary and on the assumption that highly qualified workers, even if they have only just started their careers, should generally be earning above-average salaries in jobs commensurate with their qualifications. **If there are shortages of skilled workers in a Member State, it makes sense to set relatively low salary thresholds for granting the EU Blue Card, but if unemployment is high even among highly qualified workers, higher thresholds are generally needed.** Moreover, it is necessary to avoid the impression that the EU Blue Card is being used to import "cheap" labour into the EU. This could also undermine the necessary acceptance of the rules.
- 5.7.3 It should also be noted that the Directive is still unclear on **how the average salary benchmark is to be calculated**, which may have a major impact on the salary thresholds that will ultimately obtain.
- 5.8 The planned further easing of conditions for issuing the EU Blue Card should be welcomed.

- 5.8.1 The Commission's proposal **to reduce** from 12 to 6 months the **minimum duration** of the employment contract that must be presented in order to obtain an EU Blue Card is appropriate, since this will make it easier for employers who have doubts about the actual skills of a highly qualified non-EU national to terminate their contract, thus promoting immigration.
- 5.8.2 Continuing the **option of allowing relevant professional experience to be considered equivalent to a higher education qualification** should be regarded as positive, but should remain non-compulsory. **Reducing the amount of equivalent professional experience required from five to three years is a change that should also be reconsidered. There should at least be an indication here** of what criteria the assessment is to be based on, so as to avoid the Member States' interpretations varying too widely.
- 5.8.3 It would **make sense to offer the EU Blue Card to people from outside the EU with protection status** who meet the requirements for skilled migrants, since well-qualified refugees must be given easier access to the labour market.
- 5.9 The **new rules on mobility of EU Blue Card holders within the EU** are an important step.
- 5.9.1 It should also be possible to employ highly qualified workers in other EU Member States for short periods if necessary. The **clear rules** proposed by the Commission on **business trips in other EU Member States** are therefore an important step in the right direction. The proposed maximum duration of 90 days within a 180-day period should be discussed again with experts.
- 5.9.2 The option of **applying for a Blue Card in another EU Member State after one year's residence without another full check of qualifications** is an appropriate way of promoting mobility within the EU.
6. **Integration policy as an important component of the EU strategy to recruit skilled workers**
- 6.1 To ensure an adequate labour base in the context of demographic change in Europe it is not enough to attract sufficient workers from non-EU countries via migration, but such people must also be offered **good integration prospects** so that they can fully develop their potential in European labour markets and so that they also decide to remain in Europe in the long term. The European Commission's Action Plan on Integration is therefore also welcome with a view to labour migration.
- 6.2 Any form of desired immigration is also a rejection of racism and xenophobia. This reflects the values of the EU and is a guiding principle for policy and society.

- 6.3 It is very positive that the integration plan also considers the **period prior to arrival in Europe**, since important foundations are already laid for successful integration before arrival in the destination country. This applies in particular to language learning. By improving people's career prospects in the EU, language courses and other training geared to possible immigration to the EU make it more attractive as a destination for participants from third countries, directly helping to promote the recruitment of workers from outside the EU.
- 6.4 Although the integration plan contains certain measures on highly qualified workers, such as closer cooperation in accrediting non-EU education qualifications, it is still essentially intended for other immigration groups with greater support needs, and rightly so. But a common strategy to attract skilled workers from non-EU countries should go beyond the existing integration plan to pool **targeted integration opportunities for highly qualified workers**. In this connection, attention is drawn to the recommendations adopted by the European Forum on Migration in April 2016.

Brussels, 14 December 2016

Georges DASSIS  
President of the European Economic and Social Committee

---