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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
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OF THE IMPACT ASSESSMENT Accompanying the document Proposal
for a 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

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a 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

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Executive Summary Sheet

Impact assessment accompanying the Proposal for a Revised Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment ("EU Blue Card")

A. Need for action

Why? What is the problem being addressed and why is it a problem at EU level?

The EU faces increasing structural skills shortages and mismatches in certain key sectors (e.g. ICT, engineering, healthcare) often requiring a high level of skills. The EU will also face demographic challenges in the next decades with a rapidly ageing population, a progressively shrinking labour force and an increasing old-age dependency ratio. This jeopardises the growth, innovation capacity and competitiveness of the EU while it competes with other major economies to attract talent: currently, 48 % of non-European low-educated migrants choose a European destination while 68 % of the high-educated prefer a non-European OECD destination.

In 2009, the "EU Blue Card" Directive (BC) was adopted to make the EU a more attractive destination for foreign highly skilled workers (HSW) and contribute to strengthening its knowledge economy. However, the EU continues to fail to attract and retain sufficient numbers of HSW¹ under both national schemes and the BC across Member States² in international comparison³. The main problems include:

- the structural shortcomings of the BC: restrictive admission conditions (e.g. high salary threshold), limited intra-EU mobility and low level of harmonisation (Member States have leeway on central aspects) leading to poor 'marketability';
- the structural shortcomings of parallel national schemes for HSW: while they can be better adapted to the specificities of national labour markets, significant variations across Member States show that only few can be considered to be relatively successful while by their nature they cannot offer intra-EU mobility, identified as an important element of attractiveness, leading to inefficient (re)allocation of labour force across the EU.

This results in different and parallel applicable sets of rules and procedures for admitting HSW to the EU, leading to a complex and inefficient EU immigration system which fails to be able to effectively and promptly respond to rising demands for HSW and offset labour and skill shortages. In addition, the EU fails to admit other talented and highly skilled third-country nationals (TCNs)⁴. However, many factors affecting the EU's attractiveness for HSW lie outside of the scope of migration policy, including living standards, career opportunities, welfare and tax systems, languages, the level of wages etc.

What is this initiative expected to achieve?

The general objectives are to: (1) attract and retain highly skilled TCNs in order to contribute to enhancing the EU's competitiveness and addressing the consequences of demographic ageing, and (2) to offset skill shortages via better labour force (re)allocation through increased inflows, occupational and intra-EU mobility.

The specific objectives are to: (1) create a well-functioning EU immigration system for highly skilled TCNs, (2), increase the number of highly skilled TCNs admitted based on demand, (3) harmonise and simplify the admission of highly skilled TCNs, (4) promote integration of highly skilled TCNs and their families with favourable residence conditions and rights, (5) improve possibilities for intra-EU mobility, and (6) develop the BC brand and the attractiveness of the EU as a destination for highly skilled TCNs.

What is the value added of action at the EU level (subsidiarity)?

Currently, the EU's Member States act as individual players in attracting HSW and the numbers of HSW permits issued are low. The EU value added of a well-functioning Blue Card is providing one, transparent, flexible and streamlined scheme for HSW, that can better compete with schemes of traditional immigration countries, such as US, Canada and Australia, by pooling efforts together, offering tangible intra-EU mobility rights, making use of the wider labour market, and marketing the EU globally with an attractive and clear EU brand.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

Three Policy Option Packages (POPs) have been assessed:

- POP1: a very inclusive scheme that extends the BC significantly, also to some medium-skilled workers, by introducing salary and qualifications as alternative conditions, with limited additional rights;
- POP2: a scheme that modifies the admission conditions and rights and stays focussed on HSW with 3 sub-options: (a) a more inclusive, flexible and adaptable scheme for a wider group of HSW that facilitates procedures and grants more rights and intra-EU mobility, (b) a more selective scheme for the "top" HSW that grants even more rights and mobility, and (c) a two-tier scheme combining (a) and (b).
- POP3: a selective standard EU-wide BC with (high) uniform salary threshold and extensive facilitation and rights, including full mobility.

¹ The current overall inflow of HSW to EU25: 23 419 in 2012, 34 904 in 2013 and 38 774 in 2014.

² In 2014: 13 852 Blue Cards (less in previous years) – almost 90% by 1 Member State – and about 25 000 national HSW permits.

³ The US labour force is around two-third the EU's, yet it admits around 200 000 skilled labour migrants yearly.

⁴ TCN innovative entrepreneurs, service providers and highly skilled beneficiaries of international protection and asylum applicants.

In addition, three horizontal policy options (POs) have been assessed, as complementary or self-standing :

- PO-A: non-legislative action (stronger cooperation, better promotion, faster recognition of qualifications etc.);
- PO-B: extension of scope to innovative entrepreneurs;
- PO-C: extension of scope to highly skilled beneficiaries of international protection or asylum seekers.

The preferred option is POP2 (sub-option a) together with PO-A. In addition, PO-C has been identified as feasible with a limited positive impact, and left for political consideration.

What are different stakeholders' views? Who supports which option?

Most economic stakeholders consider the status quo not satisfactory and non-legislative measures as insufficient. More flexibility in admission conditions and swifter procedures, more harmonisation and enhanced intra-EU mobility are generally seen favourably by economic actors. On the other hand, most governmental actors (MS governments and administrations in particular) do not consider a revision of the BC desirable and prefer to keep parallel national schemes. On the scope of the changes, views are split, particularly as regards extension to medium-skilled workers, as well as to other categories of migrants. Even those favouring EU-wide rules on entrepreneurship or service providers generally consider that a separate targeted instrument would be more appropriate. Stakeholders' views are split as regards extension to categories of migrants having applied for or received international protection.

C. Impacts of the preferred option

What are benefits of the preferred option (if any, otherwise of main ones)?

The preferred option would have a positive economic impact, as a higher availability of HSW in the EU would contribute to growth and competitiveness, and is well suited for addressing labour and skills shortages and retaining young talent (lower salary threshold for shortage occupations and recent graduates).

It has a high potential for increasing the numbers of HSW and their occupational and intra-EU mobility and would allow reacting more swiftly and easily when skills shortages and better opportunities arise elsewhere. The necessary trade-off between flexible admission conditions and extensive rights is well-balanced in the preferred option. It combines a high level of inclusiveness, substantial flexibility for Member States to adapt to their national situation, and a high substitution potential for parallel national schemes, with further facilitation of procedures, a higher level of rights, further facilitation of intra-EU mobility and a high level of harmonisation.

The benefits would be evenly spread across Member States as the scheme would allow for national adaptation. Social impacts would be mostly positive, as EU citizens would benefit from the overall economic growth, and a potential displacement effect is expected to be very limited, if any at all. HSW falling under the scheme would enjoy more extensive rights and third countries would benefit from brain gain, circular migration and remittances. The non-legislative actions of PO-A would have only limited effect alone, but, if combined, they would reinforce the positive impact of POP2(a) and make the scheme more visible to HSW and employers, thereby strengthening the BC brand.

What are the costs of the preferred option (if any, otherwise of main ones)?

There would be some initial administrative costs for Member States to introduce the new scheme and replace parallel national schemes. A certain risk of brain drain exists for third countries, yet there are and there will remain provisions in the BC to mitigate it. The displacement effect vis-à-vis domestic and EU workforce is expected to be very limited

How will businesses, SMEs and micro-enterprises be affected?

Through a more attractive and inclusive BC, companies of all sizes and structures will be able to profit from easier recruitment of HSW and from access to a larger pool of HSW within the EU. SMEs in particular benefit from a more inclusive (lower salary threshold) and simpler admission scheme, as they have limited resources to invest in recruitment efforts. A system of 'recognised employers' may inherently favour larger companies, which is why specific adjustments in favour of SMEs are necessary to keep the admission criteria and costs reasonable. Allowing gradual transition from employment to entrepreneurship promotes the creation of small, innovative businesses.

Will there be significant impacts on national budgets and administrations?

There would be some initial administrative costs for Member States, as possible existing schemes would be replaced by the BC, requiring some training and information provision. However, these costs are expected to be quickly offset by the simpler, easily administrable scheme. While higher numbers of applicants would increase the overall administrative costs, the per-unit cost would decrease due to economies of scale and efficiency gains by a simplified system. In addition, these costs would be largely offset by fees and, indirectly, by the economic benefits for the host society and increased tax revenue.

Will there be other significant impacts?

With a more inclusive BC there would be a positive effect on fundamental rights, as more people would be included in the advantageous family reunification rules and mobility scheme of the BC.

Proportionality?

The preferred option does not raise issues in terms of subsidiarity and proportionality, as it builds on the current scheme, greatly enhancing its capacity to attract talents and highly skilled workers. It enhances harmonisation while leaving the necessary leeway for Member States to adapt to national circumstances and policy preferences.

D. Follow up

When will the policy be reviewed?

The Commission will present to the European Parliament and the Council a report on the implementation and functioning of the EU Blue Card three years after the transposition deadline, and every three years thereafter.