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WORKING PAPER

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From:	General Secretariat of the Council
To:	JHA Counsellors (Migration, Integration, Expulsion)
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Subject:	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

Delegations will find attached a compilation of contributions received from Member States on the abovementioned subject.

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EN

Written replies submitted by the Member States

in regard to the

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

and following informal videoconferences of the members of the JHA Counsellors (Migration, Integration, Expulsion) on 8 February, 2021

(WK 1560 2021 INIT and WK 1529 2021 INIT)

Table of contents

AUSTRIA.....	2
CROATIA.....	9
FRANCE.....	12
GERMANY	18
GREECE.....	20
HUNGARY	22
MALTA.....	24
POLAND.....	25
ROMANIA.....	26
SWEDEN	28

AUSTRIA

Written comments AT – 8.2. JHA-counsellors:

With a view to the informal videoconference of JHA Counsellors (Legal Migration) of 8 February 2021, delegations will find below a few elements of discussion regarding the following topics: processing times of applications (which are considered here as a package), procedural guarantees, recognised employers and rights of family members, including the Presidency compromise proposals on Articles 16 and 20.

Proposed suggestions are indicated in bold and strikethrough.

1. Times for processing applications:

In the view of the Presidency, a revision of the times for processing of application is an important element of attractiveness and effectiveness of the new proposal. There are four instances where the Directive establishes times for processing of applications:

- a. application of the Blue Card holder (90 days) [L167]
- b. applications in case of recognised employers (30 days) [L168]
- c. applications for family reunification (90 days) [L213]
- d. applications for long-term mobility (90 days) [L262]

The European Parliament considers that all these deadlines for processing applications should be shortened: 30 days for the cases in (a), (c) and (d), and 15 days for (b).

The Presidency proposes that Member States consider the following proposals regarding the processing times together, as a package that could contribute to the overall objective of increasing the attractiveness and effectiveness of Blue Card: while the Council would keep the 90-day deadline for processing the first application for a Blue Card (a), including for recognised employers (b), it would accept to make an effort in cases where the procedure is based, even if only partially, on a set of already available information. In the case of family reunification, the administrative procedure involves the examination of the evidence of the existence of the family relationship, accommodation, sickness insurance and the stable and regular resources which should be easily verified in light of the requirements set out for the salary of the sponsor. As for long-term mobility, the documents to be assessed are the work contract and the documents attesting the fulfilment of the conditions to exercise regulated professions and, possibly, evidence of insurance and documents attesting higher professional qualifications.

In a spirit of compromise, the Presidency proposes, regarding the applications for family reunification (b) and long-term mobility (d), to agree with a period for processing applications of 30 days. Especially in the case of long-term mobility, this could be an important improvement to make the procedure more effective than in the current Blue Card scheme.

Drafting Proposals:

Article 16(4): compromise proposal as follows:

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, where the conditions for family reunification are fulfilled and the complete applications were submitted simultaneously, [...] the decision for family members shall be [...] adopted and notified at the same time as the EU Blue Card. Where the family members join the EU Blue Card holder after the EU Blue Card has been granted to him or her and where the conditions for family reunification are fulfilled, [...] the decision shall be [...] adopted and notified as soon as possible but at the latest within [...] ~~90~~ 30 days from the date on which the complete application was submitted. Article 10(3) of this Directive shall apply accordingly. [line 213]

Article 20(8): compromise proposal as follows:

8. [...] The second Member State shall adopt a decision on an application for an EU Blue Card and notify the applicant and the first Member State in writing as soon as possible, but at the latest within [...] ~~90~~ 30 days of the date of submission of the complete application of its decision to either (...) [line 262]

We appreciate the presidency approach to look at all processing times for applications at once, but cannot support times shorter than 90 days.

One must keep in mind that applications for Blue cards are not the only ones to be processed speedily. The same applies under EU acquis for ICT, Students, Researchers and Volunteers. For obvious reasons we must also speedily decide applications for family reunification with Austrian nationals. Taken together that is a large number of procedures Austrian authorities have to handle. Of course they will endeavor to do so as quickly as possible (that is actually required under Austrian general administrative law), but one has to be realistic also.

Furthermore in case of applications for Blue Cards the residence authorities have to consult with the labour market authorities (as required by the single permit directive). All within 90 days.

Applications have to be submitted abroad at the Austrian Embassy and then posted (with diplomatic courier) to the authority in Austria which makes a decision on the application. For data protection reasons the applications cannot simply be e-mailed so EP needs to be realistic what it asks of Member States authorities.

2. Procedural safeguards (Article 10):

Agreement on Procedural safeguards depends, aside the deadlines for processing applications, on the discussion on technical aspects related to administrative procedures.

In this regard, the Presidency understands that EP amendment 110 [L170] brings no added value and it is covered by text of the Council and the amendment is unacceptable since it contains a positive discriminatory treatment for highly skilled workers that is unjustified.

On the other hand, the Presidency would ask Member States to accept the proposal of the EP for recital 22a [L171] with the following explanation: the EP agreed to move the last sentence of its amendment 111 to a recital. Although there is no added value accepting the proposal would be a trade-off for other negotiations.

Finally, a discussion is envisaged with the Commission on its proposals in Lines 169 and 172.

Article 10

Art 10/1 [line 167] The compromised suggestion is acceptable, provided the recognition of employers (and therefore in this context a 30 day deadline) remain optional.

Art 10/2 [line 169] This issue is linked to the time allowed for initial processing. We can accept this line as long as the initial processing time remains at 90 days.

Art 10/3 [line 170] Could EP explain its reasoning behind the new wording? It seems to cover the same concept, namely to give the applicant a chance to supply missing information before making a decision. Why does EP feel the need to change the text? The current wording is in line with Art 34 SRD and Art 15 ICT Directive, so we would support keeping the text as is.

Art 10/4 [line 171] The compromise text for the Article itself is acceptable, but the recital gives no added value. In fact when compared to SRD and ICT Directives it would raise questions as these do not have such a recital. What would that mean of new application of students....? In spirit of compromise we could accept it.

Art 10/4a [line 112] Full support for Council position. In a procedure to withdraw a Blue Card the holder must be heard and is therefore already given notice of the procedure and can prepare accordingly. In particular where reasons for withdrawal concern public security the withdrawal must be able to have immediate effect.

Art 10/5 [line 172] This is linked to the decision timeline. As we cannot accept a decision deadline of less than 90 days, we cannot support setting a maximum deadline shorter than 90 days. Also holders of national permits are allowed to apply for renewal up to three months before expiration of the national permit. What would that mean as MS are obliged to give Blue Card Holders the same rights procedurally as under national schemes?

Art 10/6a [line 173a] What is the point of this amendment? Of course discrimination on basis of gender, race... are prohibited. If it is explicitly mentioned here but not in other legal migration directives that could give the impression that such discrimination is permissible in other procedures, which cannot be the message EP wants to send. Adding it to a recital would be acceptable.

Art 10/7 [line 173b] acceptable as it is in line with the compromised reached.

Art 10/8 [line 173c] acceptable as it is in line with the compromised reached.

3. Recognised employers (Article 12):

The Presidency would like to call the attention of the Member States to Article 12(2) [line 181]. The mandate of the Council indicates that applicants shall be exempt of one or more pieces of evidence when the procedure is done in a simplified procedure linked to recognised employers. In the list of exemptions, the Council included the exemption from presenting the evidence referred in Article 5(1)(b), which refers to the conditions for exercising regulated professions. The Commission proposal refers instead to exemption from presenting the evidence referred in Article 5(1)(c), which refers to higher professional qualifications for unregulated professions. The Presidency considers that the possible exemption from presenting the evidence where a system of recognised employers exists requires more discussion.

It is an important issue for Austria that MS remain flexible and therefore may set up but are not required to set up a system of recognized employers.

4CT:

Article 12

Art 12/1 [line 177] It must remain up to member states to set up a system of trusted employers as this brings additional burdens for the administrations (not only in recognizing, but then also in decision deadlines and so on).

Art 12/1 [line 179] The amendment would be acceptable only if trusted employer schemes remain an option for MS to set up.

Art 12/2 [line 181] If MS set up a trusted employer scheme they should have some flexibility in exempting applicants from submitting certain evidences. That will make setting up such a system more attractive for MS, therefore we support keeping the council text. The Council proposal is also more favorable to the applicant as the MS can choose not to require any three of the normally required documents.

4. Labour market access of family members:

While the Presidency is working based on the premise that labour market tests may be requested in the application process for a Blue Card, in order to increase the goodwill of the Parliament, it would request Member States to consider more in detail the situation of the Blue Card holder's family members.

According to the Blue Card proposal (Article 16 (6) 2nd subparagraph) [L216] and the Council drafting proposal, Member States may check whether the vacancy to be occupied by the family member of the Blue Card holder could not be filled by a national, an EU citizen, a third-country national already forming part of its labour market or by EU long-term residents wishing to move to that Member State for employment. The European Parliament suggests to delete this sentence.

The Presidency's understanding is that the conditions for family reunification of Blue Card holders are an essential element of attractiveness of the EU Blue Card scheme. It is well established that, in their decision to move to other countries, highly skilled workers consider the possibility of their partners or spouses to be able to integrate the labour market of the receiving country one of the most important elements of decision. This has been recognised in the ICT Directive, which has ensured to the family members of the ICT full access to employment and self-employment in the territory of the Member State which issues the family member residence permit.

Bearing in mind the objectives behind the revision of the Blue Card Directive, the Presidency's understanding is that more attractive conditions involve, necessarily, the establishment of favourable conditions allowing the highly skilled professional to keep his/her family together.

In this regard, and also in a spirit of compromise with the EP, could Member States agree on deleting the 2nd subparagraph of Article 16(6)?

The proposal is not acceptable. Family Members are not necessarily highly qualified and their unrestricted access to the labor-market could thus increase existing problems in sectors already under pressure. Labor market tests are a targeted and indispensable instrument for this issue when management is necessary. Tendencies to open the Blue Card system for applicants who themselves do not feature a high level of education emphasize the importance of the labor market test for family members additionally. The timeframe of such labor market tests is limited to a maximum of one year by the conditions laid down in Council Directive 2003/86 on the right to family reunification and even within this timeframe labor market tests do not restrict access for family members entirely.

4CT:

Article 16

Art 16/1a [linie 211] We are flexible on this point and could accept the text as proposed by Com.

Art 16/2a [line 211a] This is a major political issue for Austria. We cannot accept the application of the Blue Card Directive to asylum seekers as legal migration and migrants seeking asylum in the EU should not be mixed.

Art 16/4 [line 213] A processing time of 30 days is unrealistic. Applications have to be submitted abroad at the Austrian Embassy and then posted (with diplomatic currier) to the authority in Austria which makes a decision the application. For data protection reasons the applications cannot simply be e-mailed so EP needs to be realistic what it asks of Member States authorities.

Art 16/6 [line 215] see above

Art 16/7 [line 217] We are flexible on this point.

Art 16/9 [line 219] We are flexible on this point.

Art 16/10 [line 220] This touches on a major political issue.

Art 16/11 [line 220] Wording is acceptable as it is clearly only holders of Blue Card and their family members that can profit. We remain free to give holders of national permits less favorable treatment.

CROATIA

1. DOC WK 1560/2021 INIT

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1. 1. Times for processing applications:

In the view of the Presidency, a revision of the times for processing of application is an important element of attractiveness and effectiveness of the new proposal. There are four instances where the Directive establishes times for processing of applications:

- a. application of the Blue Card holder (90 days) [L167]
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The European Parliament considers that all these deadlines for processing applications should be shortened: 30 days for the cases in (a), (c) and (d), and 15 days for (b).

The Presidency proposes that Member States consider the following proposals regarding the processing times together, as a package that could contribute to the overall objective of increasing the attractiveness and effectiveness of Blue Card: **while the Council would keep the 90-day deadline for processing the first application for a Blue Card (a), including for recognised employers (b), it would accept to make an effort in cases where the procedure is based, even if only partially, on a set of already available information. In the case of family reunification, the administrative procedure involves the examination of the evidence of the existence of the family relationship, accommodation, sickness insurance and the stable and regular resources which should be easily verified in light of the requirements set out for the salary of the sponsor.** As for long-term mobility, the documents to be assessed are the work contract and the documents attesting the fulfilment of the conditions to exercise regulated professions and, possibly, **evidence of insurance and documents attesting higher professional qualifications.**

In a spirit of compromise, the Presidency proposes, regarding the applications for family reunification (b) and long-term mobility (d), to agree with a period for processing applications of 30 days. Especially in the case of long-term mobility, this could be an important improvement to make the procedure more effective than in the current Blue Card scheme.

Drafting Proposals:

Article 16(4): compromise proposal as follows:

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, where the conditions for family reunification are fulfilled and the complete applications were submitted simultaneously, [...] the decision for family members shall be [...] adopted and notified at the same time as the EU Blue Card. Where the family members join the EU Blue Card holder after the EU Blue Card has been granted to him or her and where the conditions for family reunification are fulfilled, [...] the decision shall be [...] adopted and notified as soon as possible but at the latest within [...] 90 30 days from the date on which the complete application was submitted. Article 10(3) of this Directive shall apply accordingly. [line 213]

Article 20(8): compromise proposal as follows:

8. [...] The second Member State shall adopt a decision on an application for an EU Blue Card and notify the applicant and the first Member State in writing as soon as possible, but at the latest within [...] 90 30 days of the date of submission of the complete application of its decision to either (...) [line 262]

In relation to the compromise proposal of PT PRES (mobility and family reunification), we believe that the deadlines of 30 days are too short, and we propose unique deadlines of 60 days.

As a compromise, we propose to keep the initial deadline of 30 days and the possibility to have extension of deadlines for additional 30 days, if the circumstances of the cases and the complexity so require.

4. Labour market access of family members:

While the Presidency is working based on the premise that labour market tests may be requested in the application process for a Blue Card, in order to increase the goodwill of the Parliament, it would request Member States to consider more in detail the situation of the Blue Card holder's family members.

According to the Blue Card proposal (Article 16 (6) 2nd subparagraph) [L216] and the Council drafting proposal, Member States may check whether the vacancy to be occupied by the family member of the Blue Card holder could not be filled by a national, an EU citizen, a third-country national already forming part of its labour market or by EU long-term residents wishing to move to that Member State for employment. The European Parliament suggests to delete this sentence.

The Presidency's understanding is that the conditions for family reunification of Blue Card holders are an essential element of attractiveness of the EU Blue Card scheme. It is well established that, in their decision to move to other countries, highly skilled workers consider the possibility of their partners or spouses to be able to integrate the labour market of the receiving country one of the most important elements of decision. This has been recognised in the ICT Directive, which has ensured to the family members of the ICT full access to employment and self-employment in the territory of the Member State which issues the family member residence permit.

Bearing in mind the objectives behind the revision of the Blue Card Directive, the Presidency's understanding is that more attractive conditions involve, necessarily, the establishment of favourable conditions allowing the highly skilled professional to keep his/her family together. In this regard, and also in a spirit of compromise with the EP, could Member States agree on deleting the 2nd subparagraph of Article 16(6)?

HR

We would like to keep the provision as a may provision, however in a spirit of compromise we can be flexible on the issue of deleting 2nd subparagraph of Article 16(6).

3. Technical discussion on Articles 10 and 12. The Presidency proposes to discuss the outstanding issues on these two provisions, in particular, lines 169, 170, 171, 171a, 172, 173a and 181 of the four-column table.

HR

171a-We can not accept the EP amendment, as it is connected with national legislation on procedural law in administrative matters.

FRANCE

Objet : Commentaires écrits de la France faisant suite à la réunion des Conseillers JAI MIE du 8 février 2021 sur la Carte Bleue Européenne

Réf. :

1. Proposition de révision de la Directive « Carte Bleue Européenne » (CBE)

- *La Présidence informera les délégations de l'état d'avancement des négociations interinstitutionnelles de la proposition de réforme de la CBE*
- *Échanges de vues sur les questions en suspens*

(i) débrief des résultats des trilogues techniques tenus avec le Parlement européen les 28 janvier et 3 février

- **Pas d'observation.**

(ii) délais de traitement de la demande

- **La France ne peut accepter une réduction des délais de traitement.**
- **En effet, les délais prévus dans le mandat du Conseil correspondent à la réalité administrative et permettent une étude sérieuse et complète des demandes. Certains contrôles, notamment sécuritaires, ne peuvent être effectués en quelques jours.**
- **Ainsi, des délais de 30 jours ne pourraient que conduire à une hausse des rejets. En effet, placées dans l'obligation de prendre une décision dans un délai aussi restreint, les administrations ne pourront pas affiner leur analyse des dossiers présentant des difficultés et ces derniers feront invariablement l'objet d'un rejet.**
- **En outre, les délais prévus dans le mandat du Conseil doivent être conservés dans un souci de lisibilité du droit (délai de 90 jours identique dans les directives étudiants/chercheurs, ICT, etc.).**

- Concernant spécifiquement le délai de traitement des demandes de regroupement familial, il convient de préciser que, dans une optique d'attractivité, la France traite de manière particulièrement diligente les demandes de titres de séjour déposées par les membres de famille d'un titulaire de CBE. En effet, ces derniers ne relèvent pas d'une procédure classique de regroupement familial, mais leurs demandes d'admission au séjour sont traitées en même temps que celles du titulaire de la CBE. La durée d'instruction est donc accélérée et ils perçoivent un visa spécifique « CBE membre de famille » (à noter que ce même visa est également délivré dans le cas - plus rare - d'un membre de famille rejoignant un titulaire de CBE déjà présent en France).

(iii) discussion technique autour des articles relatifs aux garanties procédurales (article 10) et aux employeurs reconnus (article 12)

a) garanties procédurales (article 10)

- La France entend la logique de la Présidence du « *donnant-donnant* », et peut se rallier à cette proposition du Parlement européen (ligne 171) [dès lors que la dernière phrase est bien transférée dans le considérant 22a et n'est pas contraignante pour les États membres].

b) employeurs reconnus (article 12)

- La France est opposée à un système obligatoire d'employeurs reconnus. En effet, elle ne souhaite nullement être obligée d'utiliser un tel système, qui ne correspond pas à son organisation administrative.
- Elle n'est pas opposée à un système optionnel.

(iv) préparation des prochaines réunions techniques : discussion autour de la proposition de compromis de la Présidence sur les droits des membres de famille du bénéficiaire de la CBE (article 16)

- Nous avons conscience de l'enjeu d'attractivité soulevée par la révision de la CBE. La France reconnaît qu'un tel renforcement des droits des membres de famille du bénéficiaire de la CBE abonde dans le sens d'une plus grande attractivité du dispositif européen. C'est pourquoi, à ce stade, la France n'est pas opposée à la suppression du second paragraphe de l'article 16(6).

Written comments by France following the meeting of the JHA Counsellors (Integration, Migration and Expulsion) on 8 February 2021 on the EU Blue Card

Ref.:

1. Proposal for a revision of the European Blue Card Directive

- *The Presidency will inform delegations of the state of play of the interinstitutional negotiations on the proposed reform of the EU Blue Card*
- *Exchange of views on the outstanding issues*

(i) Briefing on the outcome of the technical trilogues held with the European Parliament on 28 January and 3 February

- **No comments.**

(ii) Times for processing applications

- **France cannot accept a reduction in processing times.**
- **The time limits laid down in the Council's mandate reflect the administrative reality and allow for a serious and comprehensive examination of applications. Certain checks, in particular security checks, cannot be performed in a few days.**
- **Thus, 30-day deadlines could only lead to an increase in refusals. In fact, if the authorities were subject to the obligation to take a decision within such a short period of time, they would not be able to carry out a detailed analysis of cases which present difficulties and such cases would invariably be rejected.**

- Moreover, the time limits laid down in the Council's mandate should be kept in the interests of clarity of the law (identical 90-day deadline in the Directive on Students and Researchers, ICT Directive, etc.).
- With regard specifically to the time limit for processing applications for family reunification, it should be pointed out that, with a view to promoting attractiveness, France is particularly diligent in dealing with applications for residence permits submitted by the family members of EU Blue Card holders. Indeed, family members are not subject to the standard family reunification procedure, but rather their applications for residence are processed at the same time as those of the EU Blue Card holder. The processing time is thus shortened and they receive a specific visa for family members of EU Blue Card holders (note that this same visa is also issued in the (less frequent) case of a family member joining an EU Blue Card holder already present in France).

(iii) Technical discussion on articles on procedural safeguards (Article 10) and recognised employers (Article 12)

(a) Procedural safeguards (Article 10)

- We understand the Presidency's 'give and take' logic, and can support the European Parliament's proposal (line 171) [if the last sentence is indeed transferred to recital 22a and is not binding on Member States].

(b) Recognised employers (Article 12)

- We are opposed to a mandatory system of recognised employers. We do not wish to be obliged to use such a system, which is not in conformity with our administrative organisation.
- We are not opposed to an optional system.

(iv) Preparation for the next technical meetings: discussion of the Presidency's compromise proposal concerning the rights of family members of the EU Blue Card holder (Article 16)

- We are aware of the attractiveness issue raised by the revision of the EU Blue Card. We acknowledge that such a strengthening of the rights of the family members of EU Blue Card holders increases the attractiveness of the EU scheme. Therefore, at this stage, we are not opposed to the deletion of the second paragraph of Article 16(6).

GERMANY

Proposals made by the Presidency in WK 1560/2021 INIT as well as in the meeting:

1) Times for processing applications

- It is important, to give the authorities enough time and to ensure that the deadline only starts when the application is complete.
- However, in the spirit of compromise, Germany is willing to accept shorter deadlines (30 days) in the cases of family reunification and long-term mobility,

but only together with the possibility to prolong the deadline under certain circumstances in individual cases. The prolongation then should be possible up to the “regular” 90 days.

In particular, in regard to family reunification it can sometimes take a while to verify documents. Concerning long-term mobility, one must keep in mind the ongoing parallel discussion of including “skills” which will also be relevant for cases of long-term mobility.

2) Procedural safeguards (Article 10)

- EP-amendments in paragraphs 3 and 4 (lines 170 and 171)
Germany can support the proposal made by the Presidency.
- Commission’s proposals for paragraphs 2 and 5 (lines 169 und 172)
 - Paragraph 2: If the general deadline of 90 days is kept, there is no need for this provision here, but as stated before (under 1) Times for processing applications) Germany sees a need for such a provision in regard to the deadlines for family reunification and mobility if they will be shortened to 30 days (wording has to be discussed then).
 - Paragraph 5: Germany can accept a deadline of 60 days in that case.
- EP-amendment in paragraph 4a (line 171a)
Germany can support the proposal made by the Presidency not to include the amendment.

3) Recognised employers (Article 12)

- One important general remark on the recognised employers: It is crucial for Germany that introducing a system of recognised employers remains an option for the Member States – meaning that Article 12 para. 1 must remain a “may”-clause.
- Regarding line 181:

Germany welcomes the discussion. In our view, even in the simplified procedure, applicants should not be exempt from presenting the documents attesting fulfilment of the conditions for the exercise of the regulated profession. It seems that – after the correction of the wrong reference in the 3rd column of line 181 in the 4CT – this is what the Council position was in the General Approach. Germany supports the General Approach.
- EP-amendment in paragraph 1, line 179

Germany can agree to the proposal made by the Presidency to move the amendment to a recital.

4) Labour market access of family members Art. 16 para 6 (line 216)

Germany can agree to the deletion.

GREECE

Following the JHA Counsellors' meeting of 8 February on the 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, kindly find below the EL comments on the amendments introduced in the new version of the four-column table, regarding the following specific issues:

A. Times for processing applications

- On **family reunification** (article 16, par.4), we can agree with the first part of the provision, *“Where the conditions for family reunification are fulfilled and the complete applications were submitted simultaneously, [...] the decision for family members shall be [...] adopted and notified at the same time as the EU Blue Card”*.
The second part of par.4 raises substantial concerns for us since the 30-day deadline for the adoption and notification of the applicant seems to be not realistic. Instead of 30 days we would suggest 60 days.
- On **long term mobility** (article 20, par.8), we have similar concerns regarding the 30-day deadline for the adoption and notification of the applicant and we suggest 60 days.

B. Procedural safeguards (Article 10)

- On **recital 22a**, we cannot support the EPs proposal. If an appeal, after the rejection or non-renewal or revocation of a residence permit, is rejected by the Administrative Court, the third-country national, who is no longer protected by the procedural guarantees, must leave the MS and return to her/his country of origin. In case the Court accepts the appeal, then the decision rejecting or non-renewing the residence permit is revoked, due to the compliance procedure. We propose the following amendment: *“Any decision rejecting an application for an EU Blue Card shall not affect **any other possible right** of a third -country national to submit another application **for a visa and a residence permit according to the EU’s acquis and national legislation**”*.
- On **article 10, par.4 (line 171)**, we can accept PCYs proposal.
- Nevertheless, we cannot agree with the EPs proposals regarding lines **171a** and **173a**. On lines **169** and **172** we prefer the Council’s text as agreed.

C. Recognised employers (Article 12)

Regarding **article 12**, we prefer the Council text as agreed.

D. Labour market access of family members

We can agree with the EP's proposal.



HUNGARY

WK 1529/2021, WK 1560/2021 INIT

Times for processing applications

Hungary supports the original deadlines as set in the proposal of the Commission.

Procedural safeguards (Article 10)

L171.

Hungary has scrutiny reservation on L171, regarding data protection regulations.

Data protection rules have to be considered if there is an employer without authorization for representation. It could result in violation where an unauthorized employer (if not a recognized employer) is notified of the rejection decision and possibly its content without the client's consent. We ask for clarification from the Commission, whether a relevant national law is in line with the Directive, where the employer will only be notified, where it is authorized for representation.

L171a.

Hungary cannot agree with the amendment as proposed by the EP. We support the Councils view, that setting the timeline when withdrawal takes effect is a part of MS administrative regulations. Grounds of withdrawal and possible remedies have to be considered.

L172. and 173a.

Proposals are acceptable for Hungary.

Recognised employers (Article 12)

L177.

Hungary cannot agree with a mandatory system of recognized employers. We only support an optional clause.

L181.

Hungary can agree with the 60 days deadline.

In connection with the evidence to be presented, we are open to simplification with recognised employers, however, we cannot dispense with the evidence attesting of qualification in any case. This would put third-country nationals in a more favourable position on the labour market than the nationals of the Member State concerned, which should not be the objective of the provision. For Hungarian citizens, it is obligatory to prove the existence of the required qualification with documents for a job in a regulated profession.

Labour market access of family members

Hungary supports the Council's position regarding the labour market access of family members. However, in a spirit of compromise, we can accept the proposal of the EP on the deletion of the subparagraph.

MALTA

WK 1529/2021

- **Line 115:** Malta agrees with the indicated salary threshold of 1.0-1.6, however Malta would prefer consultation with social partners to be carried out at the discretion of the Member States, and therefore proposes to amend as follows:

‘The salary threshold **shall be** set by the Member States, **after consultation with the social partners, if necessary, and** be at least...’

WK1560/2021

Regarding the issue of times for processing of applications, MT can accept the reduction to 30 days in the case of applications of the Blue Card holder (L167) and applications for long-term mobility (L262). MT can also accept the reduced deadline for applications in case of recognized employers to 15 days. However, MT cannot accept the reduced deadline for applications for family reunification (L213) and would like to maintain this at 90 days.

- **Line 169:** MT supports the inclusion on this provision in light of the reduction of deadlines.
- **Line 171:** MT accepts the inclusion of this provision as proposed by the Presidency for recital 22a.
- **Line 172:** MT calls for this provision to be maintained.
- **Article 16 - family members (LMT):** MT cannot accept the deletion of the second subparagraph of Article 16 (6). The reference put forward regarding the ICT directive should not be taken into consideration for the blue card as the scope of employment is completely different. In case of ICT, the employment (as ICT) is temporary in nature. MT maintains that the possibility to carry out labour market tests remains a red line for blue card applicants, and also for family members.

POLAND

Reduction of processing times

We do not agree with the European Parliament's assessment that the Member States' administrations are sufficiently well prepared to cope with shorter processing times. We assume that Parliament based its assessment on an analysis of the admission systems in selected countries and did not consider the situation in all Member States in its analysis.

The capacities of the national systems for handling migration proceedings of some Member States which have not been perceived as destination countries (including IT infrastructure, human resources) are lower than in others what has to be taken into account.

In our opinion, the possibilities with regard to the maximum reduction of deadlines are not the norm, as presented by Parliament, although it is undeniable that there are large group of countries that can manage this issue without any problems.

These deadlines should therefore be differentiated according to the current capacities of the Member States or a reasonable time perspective should be provided in which the Member States could make efforts to reorganise their migration systems so that the reduced deadlines can be met.

Amendment 117 (line 179) – We may accept the proposed amendment.

We maintain the position we presented during the last counsellors VTC with regard to the other amendments.

ROMANIA

1. Times for processing applications:

In view of reaching a compromise with the European Parliament, RO can support the shortening of the deadlines for processing family reunification and long-term mobility applications to 30 days.

2. Procedural safeguards (Article 10):

On the extension to 30 days for the deadline in specific complex cases (line 169), as long as the deadline will remain at 90 days we consider the extension unnecessary. On the other hand, if the deadline is to be shortened, there might be the need for an extension on specific complex cases.

We thank the COM for the explanations but, in our view, the wording of the last sentence in EP amendment 111 (line 171) may lead to the situation where a TCN will be able to make a new application each time after the previous application has been rejected, with the effect of authorizing a stay in the territory of the MS, even if the person concerned does not still meets the conditions. In this regard we cannot support to include the wording in recital 22a.

On line 172- we agree on keeping the CONS text.

Recognised employers (Article 12):

On the topic of the obligatory recognised employers system, RO considers that MS should have flexibility on implementing such a system.

On the exemption to one or more pieces of evidence when the procedure is done in a simplified procedure linked to recognised employers, RO supports the CONS text. Also it is worth mentioning that indeed (as DE emphasized) there might be an issue with the reference of letter b which changed over time and was not aligned.

Line 179 – we agree with the EP proposal to move the last sentence of its amendment 179 (regarding SMI) to a recital.

3. Labour market access of family members:

In a spirit of compromise and if it leads to progress of the negotiations with the EP, RO can agree with lifting the limitation for the family members.

At the same time, we consider that MS should have the possibility to introduce/reintroduce the market test, including for family members, if there are serious imbalances or unfavorable developments in national labour markets or at the level of certain categories of occupations and professions in the MS.

In this regard, we suggest to include the following wording which is based on the COM proposal (art. 6 para 2): *“In circumstances where their labour market situation undergoes serious disturbances such as a high level of unemployment in a given occupation or sector, Member States should have the possibility to check whether the concerned vacancy could not be filled by national or Union workforce, by third-country nationals lawfully resident in that Member State and already forming part of its labour market by virtue of Union or national law, or by EU long-term residents wishing to move to that Member State for employment in accordance with Chapter III of Directive 2003/109/EC.”*

SWEDEN

General remarks

- The possibility to keep, but also develop, parallel national schemes is one of the most important issues for Sweden. We have analysed the PRES proposal and could, in order to move forward in the negotiations, accept harmonisation of certain aspects (focusing on rights, procedures and access to information). However, we will only accept this level of harmonisation if the Blue Card remains a directive for highly-skilled labour migration, i.e. the purpose of this directive.

Member States must be able to counteract abuse of the system, for example through the different provisions in art. 6 and 7. We have seen serious problems with abuse of our national labour migration system and exploitation of foreign workers. Member States must have the necessary legal tools to counteract abuse and exploitation, also when it comes to the Blue Card Directive.

Procedural safeguards

We strongly advocate the Council position of 90 days for all categories apart from those covered by art. 12. We could however, as part of an overall agreement with the EP, accept 30 days for application for long-term mobility.

- Regarding the DE proposal, we prefer to have general (somewhat longer) time-limits for the processing of applications instead of a possibility to extend the set time-limit under certain circumstances. That is difficult to communicate to the public and more complicated to apply for the authority in charge.
- In addition, we do not support the proposal with different time limits for family members depending on when they send in their application. Such a system is also difficult to communicate to the public and more complicated to apply for the authorities. The Migration Agency in Sweden advise against it.
- Line 171a and 173a: We cannot accept EP proposal 112 and 114, for the reasons already mentioned in the 4th column.

Recognised employers

- We have no general objections to art. 12 as it is voluntary to Member States. However, everyone who applies for a Blue Card should prove that they are highly skilled/qualified (i.e. a higher education or professional skills). There should be no exemptions to this rule, regardless if it concerns a regulated profession or not. Or whether the employer is recognised or not. This is important to make sure that the Directive only applies to highly skilled workers. Why should recognised employers be allowed to bring in workers who are not highly skilled/qualified under the Blue Card scheme? The great advantage for recognised employers is the guarantee of a quick application process, not that they can leave out certain documents.