

P6_TA(2008)0557

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

European Parliament legislative resolution of 20 November 2008 on the proposal for a Council directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (COM(2007)0637 – C6-0011/2007 – 2007/0228(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM (2007)0637),
 - having regard to Article 63(3)(a) and (4) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0011/2007),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Development (A6-0432/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) At its special meeting in Tampere on 15 and 16 October 1999, the European Council noted the need for approximation of national legislation on the conditions for admission and residence of third-country nationals. In that connection, it declared in particular that the European Union should ensure fair treatment of third-country nationals who reside legally on Member States' territory and that a more vigorous integration policy should aim to grant them rights and obligations comparable to those of Union citizens.

Amendment 2

Proposal for a directive Recital 3

Text proposed by the Commission

Amendment

(3) The Lisbon European Council in March 2000 set the Community the objective of becoming the most competitive and dynamic knowledge-based economy in the world by 2010.

(3) The Lisbon European Council in March 2000 set the Community the objective of becoming the most competitive and dynamic knowledge-based economy in the world, ***capable of sustainable economic growth with more and better jobs and greater social cohesion*** by 2010. ***Measures to attract and retain highly qualified third-country workers as part of an approach based on the needs of Member States should be seen in the broader context established by the Lisbon Strategy and by the Integrated Guidelines for Growth and Jobs.***

Amendment 3

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In an increasingly global labour market, the European Union should increase its attractiveness to workers, in particular highly qualified workers, from third countries. That objective can be

more effectively achieved by granting privileges, e.g. particular derogations, and by making it possible to have easier access to relevant information.

Amendment 4

Proposal for a directive Recital 6

Text proposed by the Commission

(6) To achieve the objectives of the Lisbon Process it is also important to foster the mobility within the Union of highly qualified workers who are EU citizens, and in particular from the Member States which acceded in 2004 and 2007. In ***implementing*** this Directive, ***Member States are bound to respect*** the principle of Community preference as expressed in particular in the relevant provisions of the Acts of Accession of 16 April 2003 and 25 April 2005.

Amendment

(6) To achieve the objectives of the Lisbon Process it is also important to foster the mobility within the Union of highly qualified workers who are EU citizens, and in particular from the Member States which acceded in 2004 and 2007. In ***the implementation of*** this Directive, the principle of Community preference as expressed in particular in the relevant provisions of the Acts of Accession of 16 April 2003 and 25 April 2005 ***should be respected.***

Amendment 5

Proposal for a directive Recital 10

Text proposed by the Commission

(10) This Directive should provide for a flexible demand-driven entry system, based on objective criteria such as ***a minimum salary threshold comparable with the wage levels in the Member States and on professional qualifications. The definition of a common minimum denominator for the national wage threshold*** is necessary to ensure ***a minimum level of harmonisation in the admission conditions throughout the EU. Member States should fix their national threshold accordingly to the situation of their respective labour markets and their general immigration policies.***

Amendment

(10) This Directive should provide for a flexible demand-driven entry system, based on objective criteria such as professional qualifications. ***Application of the principle of ‘equal pay for equal work’*** is necessary to ensure ***that EU nationals and third-country nationals are treated equally.***

Amendment 6

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Derogations from the main scheme in terms of the salary threshold should be laid down for highly qualified applicants under 30 years of age who, due to their relatively limited professional experience and their position on the labour market, may not be in a position to fulfil the salary requirements of the main scheme, or for those who have acquired their higher education qualifications in the European Union.

Amendment

deleted

Amendment 7

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In the case of intra-EU mobility from one Member State to another after renewal of an EU Blue Card, cross-border commuting may be an option for the EU Blue Card holder. As the EU Blue Card combines a work and residence permit, it does not offer the option of commuting to another Member State for the purpose of work while residing in the Member State which issued the EU Blue Card. The possibility of cross-border commuting should be addressed by Council Directive .../.../EC of... on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

Amendment 8

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The mobility of highly qualified third-country workers between the Community and their countries of origin should be fostered and sustained. Derogations from Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents should be foreseen in order to extend the period of absence from the territory of the Community which is not taken into account for the calculation of the period of legal and continuous residence necessary to be eligible for the EC long-term residence status. Longer periods of absence than those provided for in Council Directive 2003/109/EC should also be allowed after highly qualified third-country workers have acquired EC long-term residence status. In particular, to encourage the circular migration of highly qualified third-country workers originating from developing countries, Member States should take into consideration making use of the possibilities offered in Article 4(3), second subparagraph, and Article 9(2) of Council Directive 2003/109/EC to allow for longer periods of absence than those provided for in this Directive. In order to ensure consistency in particular with the underlying development objectives, these derogations should only be applicable if it can be proven that the person concerned has returned to his/her country of origin *for work, study or volunteering activities*.

Amendment 9

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) In implementing this Directive, Member States should *refrain from pursuing active recruitment in developing countries in sectors suffering from lack of human resources*. Ethical recruitment policies and principles *applicable to public*

Amendment

(17) The mobility of highly qualified third-country workers between the Community and their countries of origin should be fostered and sustained. Derogations from Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents should be foreseen in order to extend the period of absence from the territory of the Community which is not taken into account for the calculation of the period of legal and continuous residence necessary to be eligible for the EC long-term residence status. Longer periods of absence than those provided for in Council Directive 2003/109/EC should also be allowed after highly qualified third-country workers have acquired EC long-term residence status. In particular, to encourage the circular migration of highly qualified third-country workers originating from developing countries, Member States should take into consideration making use of the possibilities offered in Article 4(3), second subparagraph, and Article 9(2) of Council Directive 2003/109/EC to allow for longer periods of absence than those provided for in this Directive. In order to ensure consistency in particular with the underlying development objectives, these derogations should only be applicable if it can be proven that the person concerned has returned to his/her country of origin.

Amendment

(20) In implementing this Directive, *the* Member States should *not actively seek to attract highly qualified workers in sectors that are already subject, or are expected to be subject, to a shortage of highly qualified workers in the third country*.

and private sector employers should be developed in particular in the health sector, as underlined in the Council and Member States' conclusions of 14 May 2007 on the European Programme for Action to tackle the critical shortage of health workers in developing countries (2007-2013). These should be strengthened by the development of mechanisms, guidelines and other tools to facilitate circular and temporary migration, as well as other measures that would minimise negative and maximise positive impacts of highly skilled immigration on developing countries. Any such intervention must be taken along the lines of the Joint Africa-EU Declaration on Migration and Development agreed in Tripoli on 22 and 23 November 2006 and with a view of establishing a comprehensive migration policy as called for by the European Council of 14 and 15 December 2006.

This applies to the health and education sectors in particular. Member States should establish cooperation agreements with third countries with a view to safeguarding both the Union's needs and the development of the third countries from which highly qualified immigrants come. The cooperation agreements should include ethical recruitment policies and principles and be strengthened by the development of mechanisms, guidelines and other tools to facilitate circular and temporary migration by which highly qualified immigrants may return to their countries of origin. Any such intervention must be taken along the lines of the Joint Africa-EU Declaration on Migration and Development agreed in Tripoli on 22 and 23 November 2006 *and the conclusions of the first meeting of the Global Forum on Migration and Development of July 2007,* and with a view of establishing a comprehensive migration policy as called for by the European Council of 14 and 15 December 2006. *In addition, the Member States, in cooperation with the countries of origin, should offer concrete support for the training of professionals in key sectors weakened by the exodus of talent.*

Amendment 10

Proposal for a directive Article 2 – point b

Text proposed by the Commission

(b) "highly qualified employment" means the exercise of genuine and effective work under the direction of someone else for which a person is paid and for which higher education qualifications or *at least three years of equivalent professional experience is* required;

Amendment

(b) "highly qualified employment" means the exercise of genuine and effective work *as an employee* under the direction of someone else for which a person is paid and for which higher education qualifications or *higher professional qualifications are* required;

Amendment 11

Proposal for a directive Article 2 – point c

Text proposed by the Commission

(c) 'EU Blue Card' means the authorisation bearing the term "EU Blue Card" entitling its holder to reside and work legally in its territory and to move to another Member State for highly qualified employment ***under the terms of this Directive***;

Amendment

(c) 'EU Blue Card' means the authorisation bearing the term "EU Blue Card" entitling its holder to reside and work legally in its territory and, ***in accordance with Chapter V***, to move to another Member State for highly qualified employment;

Amendment 12

Proposal for a directive

Article 2 – point f

Text proposed by the Commission

(f) "family members" means third-country nationals as defined in Article 4(1) of Directive 2003/86/EC;

Amendment

(f) "family members" means third-country nationals as defined in Article 4(1), ***4(2)(b) and 4(3)*** of Directive 2003/86/EC;

Amendment 13

Proposal for a directive

Article 2 – point g

Text proposed by the Commission

(g) "higher education qualification" stands for any degree, diploma or other certificate issued by a competent authority attesting the successful completion of a higher education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution by the State in which it is situated. These qualifications are taken into account, for the purposes of this directive, on condition that the studies needed to acquire them lasted at least three years;

Amendment

(g) "higher education qualification" stands for any degree, diploma or other certificate issued ***by a third country and subsequently recognised*** by the competent authority ***of a Member State*** attesting the successful completion of a higher education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution by the State in which it is situated. These qualifications are taken into account, for the purposes of this directive, on condition that the studies needed to acquire them lasted at least three years. ***For the purpose of this Directive, in order to evaluate whether a third-country national possesses higher education, reference shall be made to International Standard Classification of Education (ISCED) 1997 levels 5a and 6;***

Amendment 14

Proposal for a directive

Article 2 – point h

Text proposed by the Commission

(h) "higher professional qualifications" means qualifications attested by evidence of *higher education qualifications or of at least three years of equivalent professional experience*;

Amendment

(h) "higher professional qualifications" means qualifications attested by evidence of *at least five years of professional experience of a level comparable to higher education qualifications, including at least two years in a senior position*;

Amendment 15

Proposal for a directive

Article 2 – point i

Text proposed by the Commission

(i) "professional experience" means the actual and lawful pursuit of the profession concerned.

Amendment

(i) "professional experience" means the actual and lawful pursuit of the profession concerned, *attested by any document issued by the public authorities, e.g. certificate of employment, social insurance certificate or tax certificate*;

Amendment 16

Proposal for a directive

Article 2 – point i a (new)

Text proposed by the Commission

Amendment

(ia) "regulated profession" means a professional activity or group of professional activities access to which, the pursuit of which, or one of the modes of pursuit of which, is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions, to the possession of specific professional qualifications; in particular, the use of a professional title limited by legislative, regulatory or administrative provisions to holders of given professional qualifications shall constitute a mode of

pursuit.

Amendment 17

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

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

Amendment

1. This Directive shall apply to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of highly qualified employment ***as well as third-country nationals already legally resident under other schemes in a Member State who apply for an EU Blue Card.***

Amendment 18

Proposal for a directive Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) staying in a Member State as applicants for international protection or under temporary protection schemes;

Amendment

(a) staying in a Member State as applicants for international protection or under temporary protection schemes ***or who, in either instance, have applied for a residence permit and on whose legal status no decision has yet been taken;***

Amendment 19

Proposal for a directive Article 3 - paragraph 2 - point b

Text proposed by the Commission

(b) who ***are refugees or*** have applied for recognition as refugees and whose application has not yet given rise to a final decision;

Amendment

(b) who have applied for recognition as refugees and whose application has not yet given rise to a final decision;

Amendment 20

Proposal for a directive Article 3 – paragraph 2 – point f

Text proposed by the Commission

(f) entering a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons;

Amendment

(f) entering a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons, ***in particular intra-corporate transferees, providers of contractual services and trainees with higher-education qualifications who are covered by the Community's obligations under the General Agreement on Trade in Services (GATS)***;

Amendment 21

Proposal for a directive

Article 3 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) who have been admitted in the territory of a Member State as seasonal workers.

Amendment 22

Proposal for a directive

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. This Directive *should* be without prejudice to any future agreement between the Community or between the Community and its Member States on the one hand and one or more third countries on the other, that *would list* the professions which *should* not fall under this directive in order to assure ethical recruitment, in sectors suffering from a lack of personnel, by protecting human resources in the developing countries, signatories to these agreements.

3. This Directive *shall* be without prejudice to any future agreement between the Community or between the Community and its Member States on the one hand and one or more third countries on the other, that *lists* the professions which *will* not fall under this *Directive* in order to *ensure* ethical recruitment, in sectors suffering from a lack of personnel, ***in sectors vital to achieving the UN Millennium Development Goals, in particular the health and education sectors, and in sectors vital to the ability of developing countries to deliver basic social services,*** by protecting human resources in the developing countries, signatories to these agreements.

Amendment 23

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions concerning ***conditions of entry and residence for persons to whom it applies, except for entry into the first Member State.***

Amendment

2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions concerning persons to whom ***this Directive*** applies ***than the following provisions:***.

(a) Article 5(2) in the event of residence in the second Member State;

(b) Articles 12, 13(1) and (2), 14, 16, 17(4) and 20.

Amendment 25

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) present a ***valid*** work contract or a binding job offer of at least one year in the Member State concerned;

Amendment

(a) present a work contract ***for highly qualified employment which is valid under national law*** or a binding job offer of at least one year in the Member State concerned;

Amendment 26

Proposal for a directive

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) for unregulated professions, present the documents attesting the relevant higher professional qualifications in the occupation or sector specified in the work contract or in the binding offer of work;

Amendment

deleted

Amendment 27

Proposal for a directive

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) present evidence of having a sickness insurance for the applicant and his/her family members for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or resulting from, the work contract;

Amendment

(e) present evidence of having a sickness insurance for the applicant and his/her family members for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to **health insurance** benefits are provided in connection with, or resulting from, the work contract;

Amendment 28

Proposal for a directive

Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) **not be considered to pose** a threat to public policy, public security or public health.

Amendment

(f) not, **for reasons which can be objectively demonstrated, constitute** a threat to public policy, public security or public health.

Amendment 29

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. In addition to the conditions stipulated in paragraph 1, the gross monthly **salary** specified in the work contract or binding job offer must not be inferior to a national **salary threshold** defined and published for the purpose by the Member States which shall be at least **three** times the **minimum** gross monthly **wage as set by national law**.

Amendment

2. In addition to the conditions stipulated in paragraph 1, the gross monthly **wage** specified in the work contract or binding job offer must not be inferior to a national **level** defined and published for the purpose by the Member States which shall be at least **1.7** times the gross monthly **or annual average wages in the Member State concerned and shall not be inferior to the wages which apply or would apply to a comparable worker in the host country**.

Member States where minimum wages are not defined shall set the national salary threshold to be at least three times the

minimum income under which citizens of the Member State concerned are entitled to social assistance in that Member State, or to be in line with applicable collective agreements or practices in the relevant occupation branches.

Amendment 30

Proposal for a directive Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Avoiding shortage of highly qualified workers in third countries

The Member States shall not actively seek to attract highly qualified workers in sectors that are already subject, or are expected to be subject, to a shortage of highly qualified workers in the third country. This applies to the health and education sectors in particular.

Amendment 31

Proposal for a directive Article 6

Text proposed by the Commission

Amendment

Article 6

deleted

Derogation

If the application is submitted by a third-country national of less than 30 years of age and holding higher education qualifications, the following derogations shall apply:

(a) Member States shall consider fulfilled the condition set out in Article 5(2) if the gross monthly salary offered corresponds to at least two-thirds of the national salary threshold defined in accordance with Article 5(2);

(b) Member States may waive the salary requirement provided for in Article 5(2) on condition that the applicant has

completed higher education on site studies and obtained a Bachelor and a Master's degree in a higher education institution situated on the territory of the Community;

(c) Member States shall not require proof of professional experience in addition to the higher education qualifications, unless this is necessary to fulfil the conditions set out under national legislation for the exercise by EU citizens of the regulated profession specified in the work contract or binding job offer of work.

Amendment 32

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. The initial validity of an EU Blue Card shall be of **two** years and shall be renewed for at least **the same duration**. If the work contract covers a period less than **two** years, the EU Blue Card shall be issued for the duration of the work contract plus **three** months.

Amendment

2. The initial validity of an EU Blue Card shall be of **three** years and shall be renewed for at least **another two**. If the work contract covers a period **of** less than **three** years, the EU Blue Card shall be issued for the duration of the work contract plus **six** months.

Amendment 33

Proposal for a directive Article 8 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. After 36 months of legal residence in a Member State as holder of an EU Blue Card, the person concerned shall be allowed to carry out highly qualified employment in another Member State while residing in the first Member State. Further details on cross-border commuting are to be drawn up in Directive .../.../EC [on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a

common set of rights for third-country workers legally residing in a Member State].

Amendment 34

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Before taking the decision on an application for an EU Blue Card, Member States may examine the situation of their labour market and apply *their* national procedures regarding the requirements for filling a vacancy.

Amendment

2. Before taking the decision on an application for an EU Blue Card, Member States may examine the situation of their labour market and apply national *and Community* procedures regarding the requirements for filling a vacancy. *Their discretionary decision shall take account of national and regional demand for labour.*

Amendment 35

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may reject an application for an EU Blue Card in order to avoid a brain drain in sectors suffering from a lack of qualified personnel in the countries of origin.

Amendment 76

Proposal for a directive

Article 9 - paragraph 2 - subparagraph 2

Text proposed by the Commission

For reasons of labour market policy, Member States *may* give preference to Union citizens, to third-country nationals, when provided for by Community legislation, as well as to third-country nationals who reside legally and receive unemployment benefits in the Member States concerned.

Amendment

For reasons of labour market policy, Member States *shall* give preference to Union citizens, *and may give preference* to third-country nationals, when provided for by Community legislation, as well as to third-country nationals who reside legally and receive unemployment benefits in the Member States concerned.

Member States shall reject an application

for an EU Blue Card in labour market sectors to which access by workers from other Member States is restricted on the basis of transitional arrangements set out in the Acts of Accession of 16 April 2003 and 25 April 2005.

Amendment 37

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

1. Member States shall withdraw or refuse to renew an EU Blue Card issued on the basis of this Directive ***in the following cases:***

(a) when *it* has been fraudulently acquired, or has been falsified or tampered with, ***or***

(b) wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence laid down in Articles 5 and 6 or is residing for purposes other *than* that for which he/she was authorised to reside.

(c) when the holder has not respected the limitations set out in Articles 13(1) and (2) and 14.

Amendment

1. Member States shall withdraw or refuse to renew an EU Blue Card issued on the basis of this Directive when ***the EU Blue Card*** has been fraudulently acquired, or has been falsified or tampered with.

1a. Member States may withdraw or refuse to renew an EU Blue Card issued on the basis of this Directive in the following cases:

(a) wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence laid down in Articles 5 and 6 or is residing for purposes other *than* that for which he/she was authorised to reside;

(b) when the holder has not respected the limitations set out in Articles 13(1) and (2) and 14.

Amendment 38

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. Member States may withdraw or refuse to renew an EU Blue Card ***for reasons*** of public policy, public security or public health.

Amendment

3. Member States may withdraw or refuse to renew an EU Blue Card ***only where there is a threat to the implementation*** of public policy, ***or to*** public security or public health ***which can be objectively demonstrated.***

Amendment 39

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By issuing an EU Blue Card, a Member State commits itself to issuing relevant documentation and visas, where applicable, as speedily as possible, but at least within a reasonable period of time before the applicant is due to start the employment on the basis of which the EU Blue Card was issued, unless that Member State cannot reasonably be expected to do so because of a late application for the EU Blue Card by either the employer or the third-country national concerned.

Amendment 40

Proposal for a directive

Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. If the information supplied in support of the application is inadequate, the competent authorities shall notify the applicant of the additional information that is required. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information required.

2. If the information supplied in support of the application is inadequate, the competent authorities shall notify the applicant ***as soon as possible*** of the additional information that is required. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information required.

Amendment 41

Proposal for a directive

Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. Any decision rejecting an application for an EU Blue Card, or non-renewing or withdrawing an EU Blue Card, shall be notified in writing to the third-country national concerned and, where relevant, to his/her employer in accordance with the notification procedures under the relevant

3. Any decision rejecting an application for an EU Blue Card, or non-renewing or withdrawing an EU Blue Card, shall be notified in writing to the third-country national concerned and, where relevant, to his/her employer in accordance with the notification procedures under the relevant

national legislation and shall be open to challenge before the *courts* of the Member State concerned. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.

national legislation and shall be open to challenge before the *competent authority* of the Member State concerned *designated in accordance with national law*. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.

Amendment 42

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

1. For the first two years of legal residence in the Member State concerned as holder of an EU Blue Card, access to the labour market for the person concerned shall be restricted to the exercise of paid employment activities which meet the conditions for admission set out in Articles 5 and 6. Modifications of the terms of the work contract that affect the conditions for admission or changes in the work relationship shall be *subject to the prior authorisation* in writing of the competent authorities of the Member State of residence, according to national procedures and within the time limits set out in Article 12(1).

Amendment

1. For the first two years of legal residence in the Member State concerned as holder of an EU Blue Card, access to the labour market for the person concerned shall be restricted to the exercise of paid employment activities which meet the conditions for admission set out in Articles 5 and 6. Modifications of the terms of the work contract that affect the conditions for admission or changes in the work relationship shall be *notified in advance*, in writing, to the competent authorities of the Member State of residence, according to national procedures and within the time limits set out in Article 12(1).

Amendment 43

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

2. After the first two years of legal residence in the Member State concerned as holder of an EU Blue Card, the person concerned shall enjoy equal treatment with nationals *as regards access to highly qualified employment. The holder of the EU Blue Card shall notify changes in his/her work relationship to the competent authorities of the Member State of residence, according to national*

Amendment

2. After the first two years of legal residence in the Member State concerned as holder of an EU Blue Card, the person concerned shall enjoy equal treatment with nationals.

procedures.

Amendment 44

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

1. Unemployment in itself shall not constitute a reason for **revoking** an EU Blue Card, unless the period of unemployment exceeds **three** consecutive months.

Amendment

1. Unemployment in itself shall not constitute a reason for **withdrawing or failing to renew** an EU Blue Card, unless the period of unemployment exceeds **six** consecutive months.

Amendment 45

Proposal for a directive Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. An EU Blue Card holder shall have the right to remain on the territory of the Member States for as long as he/she is engaged in training activities aimed at further increasing his/her professional skills or professional re-qualification.

Amendment 46

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

2. During **this period**, the holder of the EU Blue Card shall be allowed to seek and take up employment under the conditions set out in Article 13(1) or (2) whichever is applicable.

Amendment

2. During **the periods mentioned in paragraphs 1 and 1a**, the holder of the EU Blue Card shall be allowed to seek and take up **highly qualified** employment under the conditions set out in Article 13(1) or (2) whichever is applicable.

Amendment 47

Proposal for a directive Article 15 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States may restrict the rights conferred under paragraphs 1(c) and (i) in respect to study grants and procedures for obtaining public housing to cases where the holder of the EU Blue Card has been staying or has the right to stay in its territory for at least three years.

deleted

Amendment 48

Proposal for a directive Article 15 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may restrict equal treatment as regards social assistance to cases where the holder of the EU Blue Card has been granted EC long-term resident status in accordance with Article 17.

deleted

Amendment 49

Proposal for a directive Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Article 8(2) shall be taken to mean that an EU Blue Card holder must have resided lawfully in the territory of a first Member State for the period of validity of the EU Blue Card, renewal included.

Amendment 51

Proposal for a directive Article 17 – paragraph 4

Text proposed by the Commission

Amendment

4. By way of derogation from Article 9(1)(c) of Directive 2003/109/EC, Member States *shall* extend the period of absence allowed to an EU Blue Card holder and of his/her family members having been granted the EC long-term residence status from the territory of the Community to 24

4. By way of derogation from Article 9(1)(c) of Directive 2003/109/EC, Member States *may* extend the period of absence allowed to an EU Blue Card holder and of his/her family members having been granted the EC long-term residence status from the territory of the Community to 24

consecutive months.

consecutive months.

Amendment 52

Proposal for a directive Article 17 – paragraph 5

Text proposed by the Commission

5. The derogations to Directive 2003/109/EC set out in paragraphs 3 and 4 shall apply only in cases where the third-country national concerned can present evidence that he/she has been absent from the territory of the Community to exercise an economic activity in an employed or self-employed capacity, or to perform a voluntary service, or to study *in his/her own country of origin*.

Amendment

5. The derogations to Directive 2003/109/EC set out in paragraphs 3 and 4 shall apply only in cases where the third-country national concerned can present evidence that he/she has been absent from the territory of the Community to exercise, *in his/her country of origin*, an economic activity in an employed or self-employed capacity, or to perform a voluntary service, or to study, *in order to encourage the circular mobility of these professionals, as well as the subsequent involvement of the same migrant workers in training, research and technical activities in their countries of origin*.

Amendment 53

Proposal for a directive Article 19 – paragraph 3 – introductory part

Text proposed by the Commission

3. In accordance with the procedures set out in Article 12, the second Member State shall process the *notification* and inform in writing the applicant and the first Member State of its decision to:

Amendment

3. In accordance with the procedures set out in Article 12, the second Member State shall process the *application and the documents referred to in paragraph 2 of this Article* and inform in writing the applicant and the first Member State of its decision to:

Amendment 54

Proposal for a directive Article 19 – paragraph 3 – point b

Text proposed by the Commission

(b) refuse to issue an EU Blue Card *and* oblige the applicant and his/her family

Amendment

(b) refuse to issue an EU Blue Card *if the conditions set out in this Article are not*

members, in accordance with the procedures provided for by national law, including removal procedures, to leave its territory ***if the conditions set out in this Article are not fulfilled***. The first Member State shall immediately readmit without formalities the holder of the EU Blue Card and his/her family members. The provisions of Article 14 shall apply after readmission.

fulfilled or there are grounds for refusal pursuant to Article 9. In that case, the Member State shall oblige the applicant, if he/she is already in its territory, and his/her family members, in accordance with the procedures provided for by national law, including removal procedures, to leave its territory. The first Member State shall immediately readmit without formalities the holder of the EU Blue Card and his/her family members. The provisions of Article 14 shall apply after readmission.

Amendment 75
Proposal for a directive
Article 20 - paragraph 2

Text proposed by the Commission

2. In cases where a Member State decides to apply the restrictions on access to the labour market provided for in Article 14(3) of Directive 2003/109/EC, it ***shall*** give preference to holders of the residence permit "long-term resident – EC / EU Blue Card holder" over other third-country nationals applying to reside there for the same purposes.

Amendment

2. In cases where a Member State decides to apply the restrictions on access to the labour market provided for in Article 14(3) of Directive 2003/109/EC, it ***may*** give preference to holders of the residence permit "long-term resident – EC / EU Blue Card holder" over other third-country nationals applying to reside there for the same purposes ***in a situation where two or more candidates are equally well qualified for the job.***

Amendment 57
Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. Member States shall communicate to the Commission and the other Member States if legislative or regulatory measures are enacted in respect of Articles 7, 9(2), 19(5) and 20 through the network established by Decision 2006/688/EC.

Amendment

1. Member States shall communicate to the Commission and the other Member States if legislative or regulatory measures are enacted in respect of Articles 7, 9(2), 19(5) and 20 through the network established by Decision 2006/688/EC ***and shall identify the specific measures concerned.***

Amendment 58

Proposal for a directive
Article 22 – paragraph 3

Text proposed by the Commission

3. Annually, and for the first time no later than 1 April of [one year after the date of transposition of this Directive], Member States shall communicate to the Commission and the other Member States through the network established by Decision 2006/688/EC statistics on the volumes of third-country nationals who have been granted, renewed or withdrawn an EU Blue Card during the previous calendar year, indicating their nationality and their occupation. Statistics on admitted family members shall be communicated likewise. For holders of the EU Blue Card and members of their families admitted in accordance with the provisions of Articles 19 to 21, the information provided shall in addition specify the Member State of previous residence.

Amendment

3. Annually, and for the first time no later than 1 April of [one year after the date of transposition of this Directive], Member States shall communicate to the Commission and the other Member States through the network established by Decision 2006/688/EC statistics on the volumes of third-country nationals who have been granted, renewed or withdrawn an EU Blue Card during the previous calendar year, indicating their nationality and their occupation ***in accordance with legislation for the protection of personal data***. Statistics on admitted family members shall be communicated likewise ***with the exception of information concerning their occupation***. For holders of the EU Blue Card and members of their families admitted in accordance with the provisions of Articles 19 to 21, the information provided shall in addition specify the Member State of previous residence.