EUROPEAN PARLIAMENT

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Committee on Development

2007/0228(CNS)

3.9.2008

OPINION

of the Committee on Development

for the Committee on Civil Liberties, Justice and Home Affairs

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 – C6-0011/2008 – 2007/0228(CNS))

Rapporteur: Danutė Budreikaitė

SHORT JUSTIFICATION

The European Commission has presented a Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, also known as the "Blue Card" in order to attract highly qualified migrants to meet its labour force needs and compete in the global "battle for brains". Although the framework of the proposal is to make the EU the most competitive economy in the XXI Century, there are several issues that affect primarily its Development Policy. Indeed, the EU recognizes the importance of coherence between its Development Policy and the rest of its policies included migration, but the Blue Card however risks increasing the shortage of skilled workers or "brain drain" in developing countries, with negative consequences for key development sectors. In that sense, the Blue Card proposal could run against the Policy Coherence for Development framework set up in 2006, one of the main contributions of the EU to attain the Millennium Development Goals in 2015.

Currently, more than 25% of the highly skilled workers from African countries, such as Mozambique, Ghana, Kenya and Uganda live in developed countries. Figures in the Caribbean and Pacific mount up to 70%[1]. This brain drain impacts negatively on essential sectors such as education and health and affects the capacity of developing countries to achieve the Millennium Development Goals (MDGs), one of the priorities of the EU's development policy.

Other issue to be addressed by the proposal is the statement that recruitment is made on the basis of the concept of temporary migration, which means that after a certain period working in the EU, the migrant will return to its place of origin (this is also known as "circular migration"). But after two years working in the first Member State, a migrant may move to a second Member State and may cumulate periods of residence in order to obtain long-term status, which turns the temporary migration into a permanent migration. Also related to job opportunities for migrants is the issue of ethical recruitment, a sort of code of conduct to prevent active recruitment in sectors suffering from a lack of human resources. Such a code will however not be able to stop workers flowing to developed countries. What is more, the proposed code of conduct does not include recruitment practices of the private sector and will not include countries such as the United Kingdom, Ireland and Denmark, which do not take part in the Blue Card negotiations

To sum up, although the EU recognizes the possible negative effects of highly skilled migration for developing countries, it argues that highly skilled migration will also benefit developing countries by reducing domestic labour market pressures and by sending remittances back home by migrants abroad. None of these arguments have proved to be completely right: it may be true that the Blue Card reduces the labour market pressures but it will attract workers from sectors already suffering of labour shortage inter alia education and health; at the same time, no consensus has been reached so far as to the real contribution of remittances in the development of social sectors as health or education in developing countries.

[1] Policy Coherence for Development: Climate Change/Energy/Biofuels, Migration and Research: 22-23. http://ec.europa.eu/development/icenter/repository/SEC(2008)434%20Pol%20coherence-3.pdf

AMENDMENTS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive
Recital 4a (new)

Text proposed by the Commission	*Amendment*
	(4a) In order to better assist Member States in developing their immigration strategies and policies, as well as aiding migrants to better comprehend and follow the migration process, a common immigration policy should be devised and implemented at European level.

Amendment 2

Proposal for a directive
Recital 6

Text proposed by the Commission	*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 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.	(6) To achieve the objectives of the Lisbon Process it is also important to foster the mobility within the Union of 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 3

Proposal for a directive
Recital 17

Text proposed by the Commission	*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 ***for work, study or volunteering activities***.	(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 accordance with the Commission Communication of 12 April 2005 entitled "Policy Coherence for Development - Accelerating progress towards attaining the Millennium Development Goals" (COM(2005)0134), five targets need to be stressed in order to encourage circular migration, which are as follows: 1) training of workers in developing countries; 2) retention of highly skilled workers in developing countries; 3) promotion of voluntary return to the country of origin by facilitating social and financial security; 4) ethical recruitment by a legally binding code of conduct; and 5) enhancing circular migration by implementing standards on dual citizenship and mutual recognition of diplomas.*** 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 4

Proposal for a directive
Recital 20

Text proposed by the Commission	*Amendment*
(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 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.	(20) In implementing this Directive, Member States should refrain from pursuing active recruitment in developing countries in sectors suffering from lack of human resources, ***especially the health and education sectors***. Ethical recruitment policies and principles 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 Council conclusions of 15 May 2007 on a European Programme for Action to tackle the critical shortage of health workers in developing countries (2007-2013), the Commission Communication entitled "Policy Coherence for Development - Accelerating progress towards attaining the Millennium Development Goals", the new EU-Africa Strategic Partnership initiated at the EU-Africa Summit of December 2007 in Lisbon and*** the Joint Africa-EU Declaration on Migration and Development agreed in Tripoli on 22 and 23 November 2006 with a view of establishing a comprehensive migration policy as called for by the European

Council of 14 and 15 December 2006.

Amendment 5

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission	*Amendment*
	(20a) The Commission and the Member States should develop and implement, as stated in the Council conclusions of 10 April 2006 on the EU Strategy for Action on the Crisis in Human Resources for Health in Developing Countries, an EU Code of Conduct for ethical recruitment of health workers, compliant with the International Labour Organisation (ILO) provisions and based on Member States' best practices.

Justification

Following the idea of ethical recruitment, the proposal seeks to implement concrete measures (a legally binding commitment) in order to avoid shortage of skilled workers in developing countries.

Amendment 6

Proposal for a directive
Recital 20 b (new)

Text proposed by the Commission	*Amendment*
	(20b) The scope of the EU Code of Conduct for ethical recruitment of health workers should also be extended to other vital areas such as education with the objective of ensuring that both public and private recruiters will adopt an ethical approach to, or even better abstain from, the hiring of skilled migrants working in any area in which their country of origin suffers from a severe labour shortage.

Justification

In order to prevent negative effects of unethical recruitment on the sector of education, the extension of the code of conduct to cover this vital area is also proposed.

Amendment 7

Proposal for a directive
Recital 20 c (new)

Text proposed by the Commission	*Amendment*
	(20c) The Commission should evaluate the impact of this Directive on the partnership on migration, mobility and employment included in the new Africa-EU Strategic Partnership signed at the EU-Africa Summit held in Lisbon in December 2007.

Amendment 8

Proposal for a directive
Recital 20 d (new)

Text proposed by the Commission	*Amendment*
	(20d) The Commission should provide adequate technical assistance and training to developing countries in order to build up effective strategies to retain highly skilled workers through, for instance, development programmes aimed at the improvement of local employment opportunities and improvements in working conditions.

Amendment 9

Proposal for a directive
Recital 20 e (new)

Text proposed by the Commission	*Amendment*
	(20e) The EU should develop a comprehensive and coherent strategy to

overcome the likely negative effects of the migration of highly qualified workers in developing countries. This strategy should focus on investing in the training of highly qualified human resources, especially in health and education, and on assisting developing countries to retain highly skilled workers at home.

Justification

Brain drain from developing countries encompasses negative consequences on human resources needs in developing countries. Basically EU Member States are benefiting of the fruits resulted from educational investments made by developing countries. EU has the moral obligation to plan arrangements in order to compensate the likely loss that different developing countries could be facing.

Amendment 10

Proposal for a directive
Recital 21

Text proposed by the Commission	*Amendment*
(21) Specific reporting provisions should be foreseen to monitor the implementation of the highly qualified scheme, also with a view to identifying and possibly counteracting its possible impacts in terms of brain drain in developing countries, especially in Sub-Saharan Africa. Data on the professions and the nationality of highly qualified immigrants admitted by Member States should therefore be transmitted annually by Member States through the network created for these purposes by Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration.	(21) Specific reporting provisions should be foreseen to monitor the implementation of the highly qualified scheme, also with a view to identifying and possibly counteracting its possible impacts in terms of brain drain in developing countries, especially in Sub-Saharan Africa. Data on the professions, age, gender and the nationality of highly qualified immigrants admitted by Member States should therefore be transmitted annually by Member States through the network created for these purposes by Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration. ***Therefore the Commission should carry out an impact assessment on the consequences for developing countries of applying the Blue Card proposal and provide these data to Members States and the European Parliament.***

Amendment 11

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission	*Amendment*
	(21a) The Commission should take into account the potential impact of this Directive on the development of the health and education sectors in developing countries and, since those sectors are essential to the achievement of Millennium Development Goals (MDGs) number 2,4,5 and 6, a coherence between the Directive and the MDGs is therefore needed.

Amendment 12

Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission	*Amendment*
	(26a) Since it is important to involve immigrants in the development of their countries of origin, the Union should propose to governments of the African, Caribbean and Pacific (ACP) countries and governments of other countries of origin to consider together with the Union the implementation and application of policies aimed at maximising the positive impact of remittances by ensuring that they pass through official transfer systems, thereby making them more substantial, swifter, less expensive to carry out and better channelled.

Amendment 13

Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission	*Amendment*
	(27a) In order to apply EU legislation and a common strategy for conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, the Commission and the Council should express their regret at the non-participation of the UK, Denmark and Ireland in the Blue Card directive and implement a legally binding code of conduct on conditions for third-country nationals.

PROCEDURE

Title	Conditions of entry and residence of third-country nationals for the purposes of highly qualified employment
References	COM(2007)0637 – C6-0011/2008 – 2007/0228(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	DEVE 17.1.2008
Drafts(wo)man Date appointed	Danutė Budreikaitė 18.12.2007
Discussed in committee	25.6.2008
Date adopted	25.8.2008
Result of final vote	+: 18 –: 0 0: 0
Members present for the final vote	Thijs Berman, Marie-Arlette Carlotti, Corina Crețu, Nirj Deva, Fernando Fernández Martín, Juan Fraile Cantón, Gay Mitchell, Horst Posdorf, Frithjof Schmidt, Jürgen Schröder, Jan Zahradil, Mauro Zani
Substitute(s) present for the final vote	John Bowis, Ana Maria Gomes, Miguel Angel Martínez Martínez, Manolis Mavrommatis, Anne Van Lancker, Renate Weber