



**2016/0176(COD)**

26.1.2017

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## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on the conditions of entry and residence of third-country nationals for the  
purposes of highly skilled employment  
(COM(2016)0378 – C8-0213/2016 – 2016/0176(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Claude Moraes

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment**

**(COM(2016)0378 – C8-0213/2016 – 2016/0176(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0378),
  - having regard to Article 294(2) and Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0213/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the National Assembly of the Republic of Bulgaria, as well as the Chamber of Deputies and the Senate of the Czech Republic, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of xx xx xx<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 8 December 2016<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Employment and Social Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C xx of xx.xx.xxxx, p. xx.

<sup>2</sup> Not yet published in the Official Journal.

## Amendment 1

### Proposal for a directive Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3 a) The European Parliament, in its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, noted the flaws in the current EU Blue Card Directive, including the very limited level of harmonisation it has brought about. It called for an ambitious and targeted review of the Directive, including on the issue of the scope.***

Or. en

#### *Justification*

*The European Parliament's resolution on a holistic approach to migration included an assessment and key recommendations to strengthen legal migration which should also be referred to in this revision of the Blue Card Directive.*

## Amendment 2

### Proposal for a directive Recital 5

*Text proposed by the Commission*

*Amendment*

(5) An EU-wide admission system to attract and retain highly skilled workers into the Union should be created. Member States should ***issue an EU Blue Card instead of a national permit to all applicants falling within the scope of this Directive. Member States should*** retain the right to issue permits other than EU Blue Card for any purpose of employment to third-country nationals who fall outside of the scope of this Directive, subject to the limitations following from other directives in the area of labour migration.

(5) An EU-wide admission system to attract and retain highly skilled workers into the Union should be created. Member States should retain the right to issue permits other than EU Blue Card for any purpose of employment to third-country nationals who fall outside of the scope of this Directive, subject to the limitations following from other directives in the area of labour migration.

Or. en

## Justification

To avoid repetition the second sentence of this paragraph should be deleted as it is redundant. It is self-evident that the directive covers only those seeking highly skilled employment in the Union.

### Amendment 3

#### Proposal for a directive

##### Recital 6

###### *Text proposed by the Commission*

(6) The concept of highly skilled worker should replace the concept of highly qualified worker in order to emphasise that both formal educational qualifications and equivalent professional experience should be taken equally into account as criteria for admission. According to a Council Recommendation of 20 December 2012<sup>32</sup>, the validation of learning outcomes, namely competences (knowledge, skills and attitudes)<sup>33</sup> acquired through non-formal and informal learning can play an important role in enhancing employability and mobility. It recommends Member States to have in place, no later than 2018, arrangements for the validation of non-formal and informal learning. As mechanisms and arrangements for the evaluation and validation of professional experience are not readily available in all Member States, ***an additional*** transposition period ***of two years after the entry into force of this Directive should be provided for the provisions related to recognising professional experience in order to enable Member States, where necessary, to develop*** such mechanisms and arrangements. Member States' National Contact Points on the EU Blue Card should be involved in effective cooperation with stakeholders and networks in the education, training, employment and youth sectors, as well as other relevant policy areas, for the purpose of recognising professional experience under this

###### *Amendment*

(6) The concept of highly skilled worker should replace the concept of highly qualified worker in order to emphasise that both formal educational qualifications and equivalent professional experience should be taken equally into account as criteria for admission. According to a Council Recommendation of 20 December 2012<sup>32</sup>, the validation of learning outcomes, namely competences (knowledge, skills and attitudes)<sup>33</sup> acquired through non-formal and informal learning can play an important role in enhancing employability and mobility. It recommends Member States to have in place, no later than 2018, arrangements for the validation of non-formal and informal learning. As mechanisms and arrangements for the evaluation and validation of professional experience are not readily available in all Member States, ***the*** transposition period ***for this Directive should take account of that factor to enable Member States, where necessary, to develop such mechanisms and arrangements. Member States should consult the social partners when developing*** such mechanisms and arrangements. Member States' National Contact Points on the EU Blue Card should be involved in effective cooperation with stakeholders and networks in the education, training, employment and youth sectors, as well as other relevant policy areas, for the purpose of recognising professional experience under this

Directive.

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<sup>32</sup> Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning (2012/C 398/01) (OJ C 398, 22.12.2012, p. 1).

<sup>33</sup> Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (OJ L 394, 30.12.2006, p. 10).

Directive.

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<sup>32</sup> Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning (2012/C 398/01) (OJ C 398, 22.12.2012, p. 1).

<sup>33</sup> Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (OJ L 394, 30.12.2006, p. 10).

Or. en

### *Justification*

*The period for transposing the revised Directive should be the same for all elements of the Directive to avoid confusion and delay. In addition, giving social partners a role in determining what constitutes "high professional skills" can facilitate a more accurate & efficient recognition process for qualifications and skills in Member States, while helping reassure those worried about national labour markets being undercut.*

## **Amendment 4**

### **Proposal for a directive**

#### **Recital 7**

##### *Text proposed by the Commission*

(7) This Directive should not affect the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory in order to seek work in accordance with Article 79(5) of the Treaty. ***On that basis, Member States should be able to either consider an application for an EU Blue Card inadmissible or reject it.*** As Article 79(5) TFEU only refers to third-country nationals coming from third countries, the right to determine volumes of admission does not apply in situations where a third-country national has already been admitted in the territory of Member States under this Directive and is seeking to continue the period of residence in the same or a second

##### *Amendment*

(7) This Directive should not affect the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory in order to seek work in accordance with Article 79(5) of the Treaty. As Article 79(5) TFEU only refers to third-country nationals coming from third countries, the right to determine volumes of admission does not apply in situations where a third-country national has already been admitted in the territory of Member States under this Directive and is seeking to continue the period of residence in the same or a second Member State.

*Justification*

*There are no grounds for inadmissibility in the articles. This sentence should be removed as Article 6 on grounds for refusal clearly state when Member States should or might reject an application for a Blue Card.*

**Amendment 5**

**Proposal for a directive**

**Recital 8**

*Text proposed by the Commission*

(8) Beneficiaries of international protection *as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and of the Council*<sup>34</sup> have a *wide* set of rights including labour market access in the Member State having granted them protection. In order to further promote social inclusion of these persons and enhance their labour market opportunities across the Union, those who are highly skilled should be entitled to apply for an EU Blue Card. They should be subject to the same rules as any other third-country national falling within the scope of this Directive, while holding the statuses of beneficiary of international protection and EU Blue Card holder in parallel. However, for reasons of legal clarity and coherence, the provisions on equal treatment and family reunification of this Directive should not apply to *this group of* EU Blue Card holders in the Member State which granted them international protection. Those rights should remain regulated under the asylum acquis and, where applicable, Council Directive 2003/86/EC<sup>35</sup>.

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<sup>34</sup> Directive 2011/95/EU of the European

*Amendment*

(8) Beneficiaries of international protection *and certain categories of applicants for international protection* have a set of rights including labour market access in the Member State having granted them protection *or responsible for their application for international protection*. In order to further promote social inclusion of these persons and enhance their labour market opportunities across the Union, those who are highly skilled should be entitled to apply for an EU Blue Card. They should be subject to the same rules as any other third-country national falling within the scope of this Directive, while holding the statuses of beneficiary of international protection, *or applicant for international protection*, and EU Blue Card holder in parallel. However, for reasons of legal clarity and coherence, the provisions on equal treatment and family reunification of this Directive should not apply to *refugees who are* EU Blue Card holders in the Member State which granted them international protection. Those rights should remain regulated under the asylum acquis and, where applicable, Council Directive 2003/86/EC<sup>35</sup>.

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<sup>34</sup> Directive 2011/95/EU of the European

Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

<sup>35</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

<sup>35</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

Or. en

### *Justification*

*Persons who are seeking international protection in a Member State and who already have access to the labour market under the Union's asylum rules should be entitled to apply for a Blue Card. There is no reason why such persons should not have the chance to also take part in the Blue Card provided they meet the criteria laid down in the Directive. Moreover, while enhancing their chances for integration, enabling those persons to participate in the Blue Card scheme is in line with one of the objectives of the Directive, i.e. to increase the highly skilled work force in the EU and meet Europe's future demographic and labour market needs.*

## **Amendment 6**

### **Proposal for a directive Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8 a) Where they fall within the scope of this Directive, applicants for international protection should be subject to the same rules as any other third-country national falling within the scope of this Directive. Where an application for international protection is suspended as a result of the granting of an EU Blue Card, the Member State responsible for that application should not consider the application to be implicitly withdrawn.***

Or. en

### *Justification*

*If applicants for international protection are successful in obtaining a Blue Card then they should be treated as any other Blue Card holder and enjoy all of the rights attached. In addition, where the application for international protection is pending, it should be suspended for the duration of the Blue Card but should not be considered implicitly withdrawn by the Member State responsible for the application.*

### **Amendment 7**

#### **Proposal for a directive Recital 9**

##### *Text proposed by the Commission*

(9) The transfer of responsibility for protection of beneficiaries of international protection *is* outside the scope of this Directive: ***the protection status*** and the rights associated with *it* should not be transferred to another Member State on the basis of the issuance of an EU Blue Card.

##### *Amendment*

(9) The transfer of responsibility for protection of beneficiaries of international protection ***or applications for international protection*** is outside the scope of this Directive: ***those statuses*** and the rights associated with ***them*** should not be transferred to another Member State on the basis of the issuance of an EU Blue Card.

Or. en

### *Justification*

*For legal clarity and to avoid administrative overlapping, applicants for international protection cannot transfer their asylum application to another Member State.*

### **Amendment 8**

#### **Proposal for a directive Recital 11**

##### *Text proposed by the Commission*

(11) ***This Directive should not apply to categories of third-country nationals to whom a particular scheme under Union law, with specific entry conditions and sets of rights, applies when the inclusion of those categories in this Directive would go against the rationale of the particular scheme, create unnecessary legal complexity or entail a risk of abuses.*** This

##### *Amendment*

(11) This Directive should not apply to third-country nationals who apply to reside in a Member State as researchers in order to carry out a research project, as they fall within the scope of Directive (EU) 2016/801 of the European Parliament and of the Council<sup>37</sup> which introduces a specific procedure for admitting third-country nationals for the purposes of

Directive should not apply to third-country nationals who apply to reside in a Member State as researchers in order to carry out a research project, as they fall within the scope of Directive (EU) 2016/801 of the European Parliament and of the Council<sup>37</sup> which introduces a specific procedure for admitting third-country nationals for the purposes of scientific research. However, once admitted under Directive (EU) 2016/801, legally residing researchers should be entitled to apply for an EU Blue Card under this Directive for other purposes than those covered under Directive (EU) 2016/801.

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<sup>37</sup> Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.05.2016, p. 21).

scientific research. However, once admitted under Directive (EU) 2016/801, legally residing researchers should be entitled to apply for an EU Blue Card under this Directive for other purposes than those covered under Directive (EU) 2016/801. ***Equally, legally residing EU Blue Card holders should be entitled to apply to reside as researchers under Directive (EU) 2016/801. The provisions of that Directive should be clarified so as to ensure such a possibility.***

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<sup>37</sup> Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.05.2016, p. 21).

Or. en

### *Justification*

*Amendment to clarify that when a third-country national is admitted as a Blue Card holder, he/ she is not prevented from applying to become a researcher under the Students and Researchers Directive (2016/801/EU). Similarly students and researchers legally residing under Directive 2016/801/EU may apply for a Blue Card.*

## **Amendment 9**

### **Proposal for a directive Recital 13**

#### *Text proposed by the Commission*

(13) It is necessary to provide for a flexible ***demand-driven*** admission system based on objective criteria, such as a work contract or a binding job offer of at least 6 months, a salary threshold adaptable by the Member States to the situation in its labour

#### *Amendment*

(13) It is necessary to provide for a flexible admission system based on objective criteria, such as a work contract or a binding job offer of at least 6 months, ***compliance with the applicable laws, collective agreements or national***

market and higher *professional* qualifications.

*practices in the relevant occupational branches, the option of a salary threshold adaptable by the Member States to the situation in its labour market and higher education qualifications or higher professional skills.*

Or. en

#### *Justification*

*As a salary threshold is acknowledged as being a blunt instrument in terms of legal migration, the proposed salary threshold should be made optional for Member States. By contrast, the requirement that conditions in collective agreements or national practices in relevant occupational branches are met is essential to ensure equal treatment and therefore to allow entry to the Union for high-skilled employment. This should protect national labour markets and reduce any risk of undercutting labour markets.*

### **Amendment 10**

#### **Proposal for a directive**

#### **Recital 15**

##### *Text proposed by the Commission*

(15) In order to ensure *a* sufficient *level* of harmonisation in *the* admission conditions *throughout the Union*, both minimum and maximum factors for calculating the salary threshold should be determined. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies.

##### *Amendment*

(15) In order to ensure sufficient *transparency and a degree* of harmonisation in admission conditions, *where Member States establish a salary threshold*, both minimum and maximum factors for calculating the salary threshold should be determined. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies.

Or. en

#### *Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants, and for Member States themselves. In some Member States there are no fixed salaries in highly skilled sectors, therefore optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors.*

## Amendment 11

### Proposal for a directive

#### Recital 16

*Text proposed by the Commission*

(16) A lower salary threshold should be laid down for specific professions where it is considered by the Member State concerned that there is a particular lack of available workforce and where such professions belong to major group 1 or 2 of the ISCO ("International Standard Classification of Occupation") classification.

*Amendment*

(16) ***Where Member States establish a salary threshold***, a lower salary threshold should be laid down for specific professions where it is considered by the Member State concerned that there is a particular lack of available workforce and where such professions belong to major group 1 or 2 of the ISCO ("International Standard Classification of Occupation") classification.

Or. en

*Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants and for Member States themselves. In some Member States there are no fixed salaries in highly skilled sectors, therefore optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors.*

## Amendment 12

### Proposal for a directive

#### Recital 17

*Text proposed by the Commission*

(17) A lower salary threshold should also be laid down to benefit third-country nationals during a certain period after their graduation. This period should be granted each time that the third-country national reaches a level of education relevant for the purposes of this Directive, namely levels 6, 7 or 8 of ISCED 2011, or levels 6, 7 or 8 of EQF, according to the national law of the Member State concerned. It should apply whenever the third-country national applies for an initial or renewed EU Blue Card

*Amendment*

(17) ***Where Member States establish a salary threshold***, a lower salary threshold should also be laid down to benefit third-country nationals during a certain period after their graduation. This period should be granted each time that the third-country national reaches a level of education relevant for the purposes of this Directive, namely levels 6, 7 or 8 of ISCED 2011, or levels 6, 7 or 8 of EQF, according to the national law of the Member State concerned. It should apply whenever the

within three years from the date of obtaining the qualifications and in addition, when that third-country national applies for a first renewal of the EU Blue Card and the initial EU Blue Card was issued for a period shorter than 24 months. After these grace periods – which may run in parallel – have elapsed the young professionals can be reasonably expected to have gained sufficient professional experience in order to fulfil the regular salary threshold.

third-country national applies for an initial or renewed EU Blue Card within three years from the date of obtaining the qualifications and in addition, when that third-country national applies for a first renewal of the EU Blue Card and the initial EU Blue Card was issued for a period shorter than 24 months. After these grace periods – which may run in parallel – have elapsed the young professionals can be reasonably expected to have gained sufficient professional experience in order to fulfil the regular salary threshold.

Or. en

### *Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants, and for Member States themselves. In some Member States there are no fixed salaries in highly skilled sectors, therefore optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors.*

## **Amendment 13**

### **Proposal for a directive Recital 20**

#### *Text proposed by the Commission*

(20) Member States should reject applications for an EU Blue Card and be allowed to withdraw or refuse to renew an EU Blue Card *if* there is a threat to public policy, public security or public health. Any rejection on grounds of public policy or public security should be based on the individual behaviour of the person concerned, in accordance with the principle of proportionality. Illness or disability suffered after the third-country national was admitted to the territory of the first Member State should not constitute *the sole* ground for withdrawing *or refusing to renew* an EU Blue Card *or for not issuing an EU Blue Card in* a second Member

#### *Amendment*

(20) Member States should *be entitled to* reject applications for an EU Blue Card and be allowed to withdraw or refuse to renew an EU Blue Card *where* there is a threat to public policy, public security or public health. Any rejection on grounds of public policy or public security should be based on the individual behaviour of the person concerned, in accordance with the principle of proportionality. Illness or disability suffered after the third-country national was admitted to the territory of the first Member State should not constitute *a* ground for withdrawing *an EU Blue Card. Illness or disability suffered during the period when the third-country national is*

State.

an EU Blue Card ***holder should not constitute the sole ground for objecting to mobility to a second Member State or for refusing to renew an EU Blue Card.***

Or. en

#### *Justification*

*It is important to distinguish between withdrawing a Blue Card and refusing to renew a Blue Card. If a Blue Card holder becomes ill or suffers disability, that fact should never result in the Blue Card being withdrawn. In the case of renewal, however, it may be a factor in a decision to refuse to renew but should not be the sole factor. Likewise for objections to mobility.*

### **Amendment 14**

#### **Proposal for a directive**

##### **Recital 21**

#### *Text proposed by the Commission*

(21) Member States should be allowed to withdraw or refuse to renew an EU Blue Card where the EU Blue Card holder has ***either*** failed to comply with the conditions for mobility under this Directive ***or has repetitively exercised the mobility rights in an abusive manner, for example by applying for EU Blue Cards in second Member States and beginning employment immediately while it is clear that the conditions will not be fulfilled and the application will be refused.***

#### *Amendment*

(21) Member States should be allowed to withdraw or refuse to renew an EU Blue Card where the EU Blue Card holder has failed to comply with the conditions for mobility under this Directive.

Or. en

#### *Justification*

*The inclusion of the term "abusive manner" can lead to vague interpretation. The recital suggests that a Blue Card holder should not use mobility provisions too often. Yet the grounds on which mobility is permitted are clearly set out in the relevant articles. Likewise, the grounds for refusal, withdrawal and non-renewal are clearly defined in the articles. There is no need to include additional grounds in a recital. Moreover, a facilitated mobility is one of the elements that can enhance the attractiveness of the scheme, so it would go against one of the objectives of the Directive to encourage moderation in use of mobility provisions.*

## Amendment 15

### Proposal for a directive

#### Recital 22

*Text proposed by the Commission*

(22) Any decision to reject an application for an EU Blue Card or to withdraw or refuse to renew an EU Blue Card should take into consideration the specific circumstances of the case and **respect the principle of proportionality**. In particular, where the ground for rejection is related to the **activity** of the employer, a minor misconduct should not in any case constitute the sole ground for rejecting an application or withdrawing or refusing to renew the permit.

*Amendment*

(22) Any decision to reject an application for an EU Blue Card or to withdraw or refuse to renew an EU Blue Card should take into consideration the specific circumstances of the case and **be proportionate**. In particular, where the ground for rejection, **withdrawal or refusal to renew** is related to the **conduct** of the employer, minor misconduct **of the employer** should not in any case constitute the sole ground for rejecting an application or withdrawing or refusing to renew the permit.

Or. en

*Justification*

*In providing grounds on the basis of which Member States might refuse a Blue Card, withdraw a Blue Card or not renew a Blue Card, it is important to ensure that any such decision should be based on the individual circumstances of the applicant and be proportionate in the light of those circumstances.*

## Amendment 16

### Proposal for a directive

#### Recital 24

*Text proposed by the Commission*

(24) The rules on processing times for EU Blue Card applications should **guarantee the swift issuance of permits in all cases**. The processing time for examining the application for an EU Blue Card should not include the time required for the recognition of professional qualifications, where applicable, or the time required for issuing a visa, if required.

*Amendment*

(24) The rules on processing times for EU Blue Card applications should **reflect the objective of facilitating the admission of highly skilled third-country nationals**. The processing time for examining the application for an EU Blue Card should not include the time required for the recognition of professional qualifications, where applicable, or the time required for issuing a visa, if required.

*Justification*

*This sentence has been slightly amended to emphasise the link between the processing times for Blue Card applications and admission of a highly skilled third-country national to a Member State.*

**Amendment 17****Proposal for a directive****Recital 26***Text proposed by the Commission*

(26) The Member State concerned should ensure that applicants have the right to challenge before a court or tribunal **any** decision rejecting an application for an EU Blue Card, or **not renewing or withdrawing** an EU Blue Card. **This is without prejudice to the possibility to** designate an administrative authority to carry out a prior administrative review of such decisions.

*Amendment*

(26) The Member State concerned should ensure that applicants have the right to challenge before a court or tribunal **a** decision rejecting an application for an EU Blue Card, or **a decision not to renew or to withdraw** an EU Blue Card. **Member States might also** designate an administrative authority to carry out a prior administrative review of such decisions.

Or. en

*Justification*

*The wording of this recital should encourage Member States to provide for administrative review of initial decisions, before requiring applicants or employers to go to court.*

**Amendment 18****Proposal for a directive****Recital 27***Text proposed by the Commission*

(27) Since EU Blue Card holders are highly skilled workers contributing to addressing labour and skills shortages in key sectors, the principle of access to the labour market should be the general rule. **However**, in circumstances where the domestic labour market **undergoes serious disturbances such as a high** level of

*Amendment*

(27) Since EU Blue Card holders are highly skilled workers contributing to addressing labour and skills shortages in key sectors, the principle of access to the labour market should be the general rule. In circumstances where the domestic labour market **suffers an acute** level of unemployment in a given occupation or

unemployment in a given occupation or sector, which may be limited to particular regions or other parts of the territory, a Member State should be able to take into account the situation of its labour market before issuing an EU Blue Card.

sector, which may be limited to particular regions or other parts of the territory, a Member State should be able to take into account the situation of its labour market before issuing an EU Blue Card.

Or. en

#### *Justification*

*The concept of “serious disturbance” is not defined and is unclear. In addition ‘high level of unemployment’ could be interpreted very differently in different Member State. The state of unemployment in the labour market should be acute before such a labour market test is applied.*

### **Amendment 19**

#### **Proposal for a directive**

#### **Recital 28**

##### *Text proposed by the Commission*

(28) In *case* Member *States decide* to make use of this possibility for a given occupation or sector, possibly in a particular part of their territory, *they* should send a notification to the Commission hereof, explaining the economic, social and other reasons justifying the decision to introduce such labour market test for the next **12** months and do so again for every subsequent **12** month period. Member States *may* involve social partners in the assessment of the circumstances related to the domestic labour market. This *verification* should not be possible *when* an EU Blue Card *is renewed* in the first Member State. *For EU Blue Cards in* a second Member State, taking into account the situation of the labour market should only be possible if that Member State has also introduced checks for first applications for third-country nationals coming from third countries and after a separate justified notification. In case Member States decide to make use of this possibility, they should communicate this in a clear, accessible and

##### *Amendment*

(28) In *the event that a* Member *State decides* to make use of this possibility for a given occupation or sector, possibly in a particular part of their territory, *it* should send a notification to the Commission hereof, explaining the economic, social and other reasons justifying the decision to introduce such labour market test for the next *six* months and do so again for every subsequent *six* month period. Member States *should* involve social partners in the assessment of the circumstances related to the domestic labour market. This *labour market test* should not be possible *where* an EU Blue Card *holder seeks to renew his or her EU Blue Card* in the first Member State. *Where a third-country national notifies* a second Member State *of his or her intention to take up work in that Member State*, taking into account the situation of the labour market *when objecting to such a notification* should only be possible if that Member State has also introduced checks for first applications for third-country nationals coming from

transparent way to applicants and employers, including online.

third countries and after a separate justified notification. In case Member States decide to make use of this possibility, they should communicate this in a clear, accessible and transparent way to applicants and employers, including online.

Or. en

#### *Justification*

*The rapporteur believes that the social partners should always be involved in decisions to impose a labour market test. Otherwise the language of this recital is tidied up and intended to be consistent with later amendments tabled.*

### **Amendment 20**

#### **Proposal for a directive**

#### **Recital 30**

##### *Text proposed by the Commission*

(30) A simplified procedure for employers which have been recognised for that purpose should be provided, ***optional for Member States***. The status of recognised employer should bring specific facilitation in terms of procedures and admission conditions – amounting to a simplified procedure – under this Directive and Member States should include sufficient safeguards against abuse. Where the status of recognised employer is withdrawn during the period of validity of an EU Blue Card issued under the simplified procedure, regular admission conditions should apply upon renewing that EU Blue Card, unless the third-country national concerned is employed by another recognised employer.

##### *Amendment*

(30) A simplified procedure for employers which have been recognised for that purpose should be provided. The status of recognised employer should bring specific facilitation in terms of procedures and admission conditions – amounting to a simplified procedure – under this Directive and Member States should include sufficient safeguards against abuse. Where the status of recognised employer is withdrawn during the period of validity of an EU Blue Card issued under the simplified procedure, regular admission conditions should apply upon renewing that EU Blue Card, unless the third-country national concerned is employed by another recognised employer.

Or. en

#### *Justification*

*The recognised employer procedure is a good way of simplifying the application procedure. In order to boost the attractiveness of the EU Blue Card, and to facilitate the process for both employers and potential Blue Card applicants, Member States should commit to establishing*

*a fast track procedure for recognised employers.*

## **Amendment 21**

### **Proposal for a directive Recital 34**

*Text proposed by the Commission*

(34) **Professional** qualifications acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council<sup>42</sup>. Where a third-country national is applying for an EU Blue Card to practice an unregulated profession, Member States should avoid excessive formal requirements and full recognition procedures regarding qualifications, wherever sufficient evidence can be otherwise obtained.

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<sup>42</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

*Amendment*

(34) Qualifications acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council<sup>42</sup>. Where a third-country national is applying for an EU Blue Card to practice an unregulated profession, Member States should avoid excessive formal requirements and full recognition procedures regarding qualifications, wherever sufficient evidence can be otherwise obtained.

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<sup>42</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Or. en

*Justification*

*The amendment is intended to ensure consistency with later amendments.*

## **Amendment 22**

### **Proposal for a directive Recital 35**

*Text proposed by the Commission*

(35) The rights acquired by a beneficiary of international protection as an EU Blue

*Amendment*

(35) The rights acquired by a beneficiary of international protection as an EU Blue

Card holder should be without prejudice to rights enjoyed by the person concerned under Directive 2011/95/EU and under the Geneva Convention in the Member State which granted the protection status. In that Member State, in order to avoid situations of conflicting rules, the provisions on equal treatment and family reunification of this Directive should not apply. Persons who are beneficiaries of international protection in *one* Member State *and* EU Blue Card holders in another should enjoy the same rights including equality of treatment with nationals of the Member State of residence as any other EU Blue Card holders in *the latter* Member State.

Card holder should be without prejudice to rights enjoyed by the person concerned under Directive 2011/95/EU and under the Geneva Convention in the Member State which granted the protection status. In that Member State, in order to avoid situations of conflicting rules, the provisions on equal treatment and family reunification of this Directive should not apply. Persons who are beneficiaries of international protection in *a* Member State, *and who become* EU Blue Card holders in another should enjoy the same rights including equality of treatment with nationals of the Member State of residence *and family reunification rights* as any other EU Blue Card holders in *that Member State. Applicants for international protection should enjoy the same rights, including equality of treatment with nationals of the Member State of residence and family reunification rights, as any other EU Blue Card holders in that Member State, irrespective of the Member State in which they have lodged their application for international protection.*

Or. en

#### *Justification*

*The amendment is intended to ensure consistency with later amendments.*

### **Amendment 23**

#### **Proposal for a directive Recital 36**

##### *Text proposed by the Commission*

(36) Favourable conditions for family reunification and unhindered access to work for spouses should be a fundamental element of this Directive in order to facilitate the attraction of highly skilled workers. Specific derogations from Council Directive 2003/86/EC should be provided for in order to reach this aim.

##### *Amendment*

(36) Favourable conditions for family reunification and unhindered access to work for spouses should be a fundamental element of this Directive in order to facilitate the attraction of highly skilled workers. Specific derogations from Council Directive 2003/86/EC should be provided for in order to reach this aim. ***In***

Conditions related to integration or waiting periods should not be applied before allowing family reunification, *as highly skilled workers and their families are likely to have favourable starting point regarding integration in the host community*. With the aim of facilitating the swift entry of highly skilled workers, residence permits to their family members should be issued at the same time as the EU Blue Card, where the relevant conditions are fulfilled and the applications were lodged simultaneously.

*order to increase the attractiveness of the EU Blue Card*, conditions related to integration or waiting periods should not be applied before allowing family reunification, *bearing in mind that an EU Blue Card holder already has a work contract or binding job offer in highly-skilled employment upon arrival*. With the aim of facilitating the swift entry of highly skilled workers, residence permits to their family members should be issued at the same time as the EU Blue Card, where the relevant conditions are fulfilled and the applications were lodged simultaneously.

Or. en

#### *Justification*

*The rapporteur welcomes the inclusion of favourable conditions in the Directive for family reunification and access to work for family members of Blue Card holders which will boost the attractiveness of the EU Blue Card. The paragraph has been amended as there are a number of factors which contribute to facilitating integration in host communities, with this in mind, it is wrong to assume that high-skilled workers and their families are likely to have a favourable start regarding integration in the host community.*

#### **Amendment 24**

##### **Proposal for a directive Recital 38**

*Text proposed by the Commission*

*Amendment*

**(38) *In order to foster the mobility of highly skilled workers between the Union and their countries of origin, derogations from Directive 2003/109/EC should be provided for in order to allow longer periods of absence than those provided for in that Directive after highly skilled third-country workers have acquired the EU long-term resident status***

*deleted*

Or. en

#### *Justification*

*This provision would create unequal treatment among third-country nationals who are long-*

*term residents in the Member States. The rapporteur believes that the correct way of improving the long-term residents' Directive in this respect would be to revise that Directive. This is particularly true for this provision since the intended beneficiaries of the derogation are not actually Blue Card holders but former Blue Card holders.*

## **Amendment 25**

### **Proposal for a directive Recital 41**

#### *Text proposed by the Commission*

(41) EU Blue Card holders should be allowed to move to a second Member State under *simplified conditions where they intend to apply for a new EU Blue Card based on an existing work contract or binding job offer*. Second Member States should not be allowed to require from EU Blue Card holders any *other* authorisation than the EU Blue Card issued by the first Member State. *As soon as they submit an application for an EU Blue Card* within the deadline provided for in this Directive, they should be allowed to begin employment. *In the second Member State the procedure for issuing an EU Blue Card should be simplified compared to the first EU Blue Card*; as the mobile EU Blue Card holder has already exercised highly skilled activity in one Member State for a certain period of time, the second Member State should not have the need to control all the same details for a second time. However, *mobility should remain demand-driven and therefore* a work contract should always be required in the second Member State, and the salary should meet the threshold set by the second Member State in accordance with this Directive.

#### *Amendment*

(41) EU Blue Card holders should be allowed to move to a second Member State under *their EU Blue Card subject to notifying the second Member State of the fact that they are moving to that second Member State for the purposes of employment under the EU Blue Card*. Second Member States should not be allowed to require from EU Blue Card holders any authorisation *other* than the EU Blue Card issued by the first Member State. *Once the EU Blue Card holder has submitted his or her notification* within the deadline provided for in this Directive, they should be allowed to begin employment. The second Member State *should retain the right to object to the mobility, but the procedure should be simplified*; as the mobile EU Blue Card holder has already exercised highly skilled activity in one Member State for a certain period of time, the second Member State should not have the need to control all the same details for a second time. However, a work contract should always be required in the second Member State, *all the conditions in applicable laws, collective agreements or practices in the relevant occupational branch should be met*, and, *if relevant*, the salary should meet the threshold set by the second Member State in accordance with this Directive.

Or. en

### *Justification*

*A key way to increase the attractiveness of the Blue Card is to simplify the procedure for intra-EU mobility. Taking inspiration from other EU labour migration legislation, the proposals on the Blue Card can be amended to replace additional applications with notifications and allow the Blue Card holder to work in a second Member State once he/she has notified the Member State concerned.*

## **Amendment 26**

### **Proposal for a directive Recital 42**

#### *Text proposed by the Commission*

(42) While some special rules are provided in this Directive regarding entry and stay in a second Member State for the purpose of business activity, as well as moving to a second Member State to **apply for a new** EU Blue Card in its territory, all the other rules governing the movement of persons across borders as laid down in the relevant provisions of the Schengen acquis apply.

#### *Amendment*

(42) While some special rules are provided in this Directive regarding entry and stay in a second Member State for the purpose of business activity, as well as moving to a second Member State to **reside and work there under the** EU Blue Card in its territory, all the other rules governing the movement of persons across borders as laid down in the relevant provisions of the Schengen acquis apply.

Or. en

### *Justification*

*The amendment is intended to ensure consistency with later amendments.*

## **Amendment 27**

### **Proposal for a directive Recital 43**

#### *Text proposed by the Commission*

(43) Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder, in the mobility situations provided for in this Directive, crosses an external border within the meaning of Regulation (EU) 2016/399 of the European Parliament and of the Council<sup>44</sup>, a Member State should be entitled to require

#### *Amendment*

(43) Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder, in the mobility situations provided for in this Directive, crosses an external border within the meaning of Regulation (EU) 2016/399 of the European Parliament and of the Council<sup>44</sup>, a Member State should be entitled to require

evidence that the EU Blue Card holder is entering its territory either for the purpose of business activities or in order to *apply for a new EU Blue Card based on a work contract or binding job offer. In the case of mobility for carrying out business activities, that Member State should be able to require evidence of the business purpose of the stay, such as invitations, entry tickets, or documents describing the business activities of the company and the position of the EU Blue Card holder in the company.*

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<sup>44</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23 03 2016, p. 1).

evidence that the EU Blue Card holder is entering its territory either for the purpose of business activities or in order to *reside and work there under* the EU Blue Card.

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<sup>44</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23 03 2016, p. 1).

Or. en

#### *Justification*

*The recital makes clear that Member States can require evidence that the Blue Card holder is entering its territory for business purposes.*

### **Amendment 28**

#### **Proposal for a directive Recital 44**

##### *Text proposed by the Commission*

(44) Where the EU Blue Card holder moves to a second Member State to apply for an EU Blue Card and he or she is accompanied by family members, that Member State should be able to require *evidence of their lawful residence* in the first Member State. *Besides*, in case of crossing of an external border within the meaning of Regulation (EU) 2016/399, the Members States applying the Schengen acquis in full should consult the Schengen information system and should refuse entry

##### *Amendment*

(44) Where the EU Blue Card holder moves to a second Member State to apply for an EU Blue Card and he or she is accompanied by family members, that Member State should be able to require *the family members to present their residence permits issued* in the first Member State. In case of crossing of an external border within the meaning of Regulation (EU) 2016/399, the Members States applying the Schengen acquis in full should consult the Schengen information system and should

or object to the mobility of persons for whom an alert for the purposes of refusing entry or stay, as referred to in Regulation (EC) No 1987/2006 of the European Parliament and of the Council<sup>45</sup>, has been issued in that system.

refuse entry or object to the mobility of persons for whom an alert for the purposes of refusing entry or stay, as referred to in Regulation (EC) No 1987/2006 of the European Parliament and of the Council<sup>45</sup>, has been issued in that system.

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<sup>45</sup> Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

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<sup>45</sup> Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

Or. en

### *Justification*

*The rapporteur believes that the residence permit from the first Member State should be sufficient evidence of the residence of the family members in that first Member State. No further evidence should be required.*

## **Amendment 29**

### **Proposal for a directive Recital 45**

#### *Text proposed by the Commission*

(45) For the purpose of residence of beneficiaries of international protection across Member States, it is necessary to ensure that Member States other than the one which issued international protection are informed of the protection background of the persons concerned in order to enable Member States to comply with their obligations regarding the principle of non-refoulement.

#### *Amendment*

(45) For the purpose of residence of beneficiaries of international protection ***or the relevant category of applicants for international protection*** across ***the*** Member States, it is necessary to ensure that Member States other than the one which issued international protection, ***or the one that is responsible for the application for international protection***, are informed of the protection ***or application*** background of the persons concerned in order to enable Member States to comply with their obligations regarding the principle of non-refoulement.

Or. en

*Justification*

*The amendment is intended to ensure consistency with later amendments.*

**Amendment 30**

**Proposal for a directive**  
**Recital 46 a (new)**

*Text proposed by the Commission*

*Amendment*

***(46 a) Where a Member State intends to expel a person who acquired an EU Blue Card in that Member State and who has lodged an application for international protection in another Member State, that other Member State is obliged to comply with the principle of non-refoulement.***

Or. en

*Justification*

*The amendment is intended to ensure consistency with later amendments.*

**Amendment 31**

**Proposal for a directive**  
**Article 2 –point b – indent 3**

*Text proposed by the Commission*

*Amendment*

- has the required ***competence, as proven by*** higher professional ***qualifications.***

- has the required ***qualifications or skills as attested by evidence of higher education qualifications or*** higher professional ***skills;***

Or. en

*Justification*

*The Commission proposal defines highly skilled employment by reference to higher professional qualifications, which are then defined by reference to higher education qualifications or higher professional skills. This is unnecessarily convoluted. The definitions are thus amended to make it clear that highly skilled employment is based on higher education qualifications or higher professional skills.*

## Amendment 32

### Proposal for a directive

#### Article 2 –point g

*Text proposed by the Commission*

*Amendment*

(g) *"higher professional qualifications" means qualifications attested by evidence of higher education qualifications or higher professional skills;*

*deleted*

Or. en

*Justification*

*This definition is now redundant as it is subsumed into the third indent of Article 2(b)*

## Amendment 33

### Proposal for a directive

#### Article 3 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) who seek international protection and are awaiting a decision on their status or who are beneficiaries of temporary protection in accordance with the Council Directive 2001/55/EC<sup>47</sup> in a Member State;

(a) who seek international protection and are awaiting a decision on their status or who are beneficiaries of temporary protection in accordance with the Council Directive 2001/55/EC<sup>47</sup> in a Member State, ***and who are not entitled to access the labour market while awaiting that decision in accordance with Article 15 of Directive 2013/33/EU<sup>47a</sup>;***

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<sup>47</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

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<sup>47</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

<sup>47a</sup> ***Directive 2013/33/EU of the European Parliament and of the Council***

*of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.13, p. 96).*

Or. en

#### *Justification*

*Persons who are seeking international protection in a Member State and who already have access to the labour market in that Member State under the Union's asylum rules should be entitled to apply for a Blue Card. There is no reason why such persons should not have the chance to take part in the Blue Card provided they meet the criteria laid down in the Directive. Moreover, while enhancing their chances for integration, enabling those persons to participate in the Blue Card scheme is in line with one of the objectives of the Directive, i.e. to increase the highly skilled work force in the EU and meet Europe's future demographic and labour market needs.*

### **Amendment 34**

#### **Proposal for a directive**

#### **Article 3 – paragraph 2 – point b**

##### *Text proposed by the Commission*

(b) who seek protection in accordance with national law, international obligations or practice of the Member State and are awaiting a decision on their status, or who are beneficiaries of protection in accordance with national law, international obligations or practice of the Member State;

##### *Amendment*

(b) who seek protection in accordance with ***the*** national law, international obligations or practice of the Member State and are awaiting a decision on their status, or who are beneficiaries of protection in accordance with ***the*** national law, international obligations or practice of the Member State ***and who are not entitled to access the labour market in that Member State under the relevant national law;***

Or. en

#### *Justification*

*As for those persons who are seeking international protection under Union law, persons seeking protection under specific national law provisions or practices in a Member State should be entitled to apply for a Blue Card, if those persons enjoy access to the labour market in the Member State in which they are seeking protection.*

## Amendment 35

### Proposal for a directive

#### Article 3 – paragraph 2 – point f

*Text proposed by the Commission*

*Amendment*

*(f) who have been admitted to the territory of a Member State as seasonal workers pursuant to Directive 2014/36/EU of the European Parliament and of the Council<sup>49</sup> ;*

*deleted*

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<sup>49</sup> *Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94, 28.3.2014, p. 375).*

Or. en

#### *Justification*

*There is no reason why a seasonal worker who meets the criteria for obtaining an EU Blue Card should not be allowed to apply and obtain a Blue Card, bearing in mind that if he/she were resident in a third-country he/she would automatically be entitled to apply. Arbitrarily restricting the scope of the Directive in this way does not increase the attractiveness of the Blue Card.*

## Amendment 36

### Proposal for a directive

#### Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*3. This Directive shall be without prejudice to any agreement between the Union and its Member States or between the Member States and one or more third countries, that lists the professions which do 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 which are*

*deleted*

*signatories to these agreements.*

Or. en

*Justification*

*The Member States are granted a specific “ethical recruitment” ground for refusal in Article 6. It is therefore not necessary to provide a specific exclusion from the Directive for ethical recruitment reasons.*

**Amendment 37**

**Proposal for a directive**

**Article 5 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. A third-country national *who applies for an EU Blue Card* shall:

*Amendment*

1. *As regards the admission of a third-country national under this Directive, the applicant* shall:

Or. en

*Justification*

*Wording aligned with the wording of the Students and Researchers Directive (2016/801/EU).*

**Amendment 38**

**Proposal for a directive**

**Article 5 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) for unregulated professions, present evidence attesting higher professional *qualifications*;

*Amendment*

(c) for unregulated professions present evidence attesting higher *education qualifications or higher* professional *skills*;

Or. en

*Justification*

*The amendment is intended to ensure consistency with previous amendments concerning the removal of references to higher professional qualifications.*

## Amendment 39

### Proposal for a directive Article 5 – paragraph 2

*Text proposed by the Commission*

2. In addition to the conditions laid down in paragraph 1, the gross annual salary resulting from the monthly or annual salary specified in the work contract or binding job offer shall not be inferior to the salary threshold set and published for that purpose by the Member States. **The** salary threshold **set by the Member States** shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned.

*Amendment*

2. In addition to the conditions laid down in paragraph 1, **Member States may establish a salary threshold. Where a Member State establishes a salary threshold,** the gross annual salary resulting from the monthly or annual salary specified in the work contract or binding job offer shall not be inferior to the salary threshold set and published for that purpose by the Member States. **Where a Member State establishes a salary threshold, that threshold** shall be at least 1.0 times but not higher than 1.4 times the average gross annual salary in the Member State concerned. **Member States shall consult the social partners before introducing a salary threshold.**

Or. en

*Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants, and for Member States themselves. Optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors. In addition, social partners are best placed to assist Member States in determining the need for and level of a salary threshold.*

## Amendment 40

### Proposal for a directive Article 5 – paragraph 4

*Text proposed by the Commission*

4. By way of derogation from paragraph 2, and for employment in professions which are in particular need of third-country national workers **and which belong to major groups 1 and 2 of ISCO,**

*Amendment*

4. By way of derogation from paragraph 2, and for employment in professions which are in particular need of third-country national workers, **where a Member State establishes a salary**

*the salary* threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2.

*threshold, that* threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2.

Or. en

#### *Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants, and for Member States themselves. Optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors.*

### **Amendment 41**

#### **Proposal for a directive**

#### **Article 5 – paragraph 5 – subparagraph 1**

##### *Text proposed by the Commission*

By way of derogation from paragraph 2, as regards third-country nationals who have obtained a higher education qualification not more than three years before submitting the application for an EU Blue Card, *the* salary threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2. The period of three years shall reapply after the attainment of each level of higher education qualifications.

##### *Amendment*

By way of derogation from paragraph 2, as regards third-country nationals who have obtained a higher education qualification not more than three years before submitting the application for an EU Blue Card, *where a Member State establishes a salary threshold, that* threshold shall be 80 percent of the salary threshold set by the Member State concerned in accordance with paragraph 2. The period of three years shall reapply after the attainment of each level of higher education qualifications.

Or. en

#### *Justification*

*A salary threshold which sets one general national salary threshold cutting across all occupations, regions in a Member State and differing salary levels in those regions, is a blunt instrument. However, a salary threshold can provide clarity for employers, applicants, and for Member States themselves. Optional salary thresholds should help to accommodate the diverse national practices in the high-skilled sectors.*

## Amendment 42

### Proposal for a directive

#### Article 5 – paragraph 5 – subparagraph 2

##### *Text proposed by the Commission*

The salary threshold referred to in the first subparagraph of this paragraph shall apply whenever an application for a first EU Blue Card or a renewal is submitted during that period of three years. Where the EU Blue Card issued during the period of three years is renewed after the three years period has elapsed, the salary threshold referred to in paragraph 2 shall apply.

***However, where the first EU Blue Card issued during the period of three years was issued for less than 24 months, the lower salary threshold referred to in the first subparagraph of this paragraph shall apply upon the first renewal.***

##### *Amendment*

The salary threshold referred to in the first subparagraph of this paragraph shall apply whenever an application for a first EU Blue Card or a renewal is submitted during that period of three years. Where the EU Blue Card issued during the period of three years is renewed after the three years period has elapsed, the salary threshold referred to in paragraph 2 shall apply.

Or. en

##### *Justification*

*Where a Member State applies a salary threshold and a reduced salary threshold is applied, it should be applied only for the first Blue Card. Thereafter the normal threshold should apply.*

## Amendment 43

### Proposal for a directive

#### Article 5 – paragraph 6 a (new)

##### *Text proposed by the Commission*

6. Member States shall facilitate the validation and recognition of documents attesting the relevant higher ***professional*** qualifications pursuant to point (c) of paragraph 1.

##### *Amendment*

6. Member States shall facilitate the validation and recognition of documents attesting the relevant higher ***education*** qualifications ***and higher professional skills*** pursuant to point (c) of paragraph 1.

Or. en

*Justification*

*This provision has been included as it is in line with the wording used on highly skilled employment in Article 2(1)(b).*

**Amendment 44**

**Proposal for a directive  
Article 5 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. Member States shall reject applications of third-country nationals who are considered to pose a threat to public policy, public security or public health.** *deleted*

Or. en

*Justification*

*This paragraph has been moved to Article 6 as it constitutes a ground for refusal.*

**Amendment 45**

**Proposal for a directive  
Article 5 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

**8. Member States may require the third-country national concerned to provide his or her address in their territory.** *deleted*

*Where the national law of a Member State requires an address to be provided at the time of application and the third-country national concerned does not yet know his or her future address, Member States shall accept a temporary address. In such a case, the third-country national shall provide his or her permanent address at the latest when the EU Blue Card pursuant to Article 8 is issued.*

Or. en

### *Justification*

*A third country national who has not yet received approval of his/her application for a Blue Card to come to the European Union cannot reasonably be asked to provide an address in the European Union in advance of that approval.*

#### **Amendment 46**

##### **Proposal for a directive Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Member States shall reject an application for an EU Blue Card *in any of the following cases*:

*Amendment*

1. Member States shall reject an application for an EU Blue Card:

Or. en

#### **Amendment 47**

##### **Proposal for a directive Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) where the applicant does not meet the *conditions* set out in Article 5;

*Amendment*

(a) where the applicant does not meet the *criteria* set out in Article 5; *or*

Or. en

### *Justification*

*The amendment is intended to provide clarity for national administrations; failure to meet the criteria set for a Blue Card will result in the rejection of an application.*

#### **Amendment 48**

##### **Proposal for a directive Article 6 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) where the *documents presented have been fraudulently acquired, or*

*Amendment*

(b) where the *third-country national is considered to pose a threat to public*

*falsified or tampered with.*

*policy, public security or public health.*

Or. en

*Justification*

*The ground for refusal originally contained in Article 5(7) has been moved to Article 6(1) under automatic grounds for refusal. The text originally contained in Article 6(1)(b) has been moved to Article 6(2) as a ground for refusal taking into account the circumstances of the case and based on a proportionality test.*

**Amendment 49**

**Proposal for a directive  
Article 6 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. *In circumstances where their labour market situation undergoes serious disturbances such as a high level of unemployment in a given occupation or sector, which may be limited to a particular part of their territory, Member States may 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 highly skilled employment in accordance with Chapter III of Directive 2003/109/EC.***

***deleted***

***The Member State concerned shall notify the Commission of its intention to introduce such check in a given occupation or sector, which may be limited to a particular part of their territory, for third-country nationals coming from third countries for the next 12 months, and shall supply the Commission with all relevant reasons justifying this decision. For each extension of 12 months the Member State concerned shall send a new justified***

*notification.*

Or. en

*Justification*

*This ground for refusal has been added to the other grounds for refusal under Article 6(3).*

**Amendment 50**

**Proposal for a directive**

**Article 6 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. Member States may reject an application for an EU Blue Card **where**:

3. Member States may reject an application for an EU Blue Card:

Or. en

**Amendment 51**

**Proposal for a directive**

**Article 6 – paragraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

(a) **where** the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

**Amendment 52**

**Proposal for a directive**

**Article 6 – paragraph 3 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the employer's business is being or

(b) **where** the employer's business is

has been wound up under national insolvency laws or no economic activity is taking place; *or*

being or has been wound up under national insolvency laws or no economic activity is taking place;

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

**Amendment 53**

**Proposal for a directive  
Article 6 – paragraph 3 – point c**

*Text proposed by the Commission*

(c) the employer has been sanctioned for employment of illegally staying third-country nationals in accordance with Article 9 of Directive 2009/52/EC of the European Parliament and of the Council<sup>51</sup>, or for undeclared work or illegal employment according to national law.

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<sup>51</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

*Amendment*

(c) **where** the employer has been sanctioned for employment of illegally staying third-country nationals in accordance with Article 9 of Directive 2009/52/EC of the European Parliament and of the Council<sup>51</sup>, or for undeclared work or illegal employment according to national law;

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<sup>51</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

**Amendment 54**

**Proposal for a directive  
Article 6 – paragraph 3 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) where the documents presented have been fraudulently acquired, or falsified or tampered with; or***

Or. en

*Justification*

*This ground for refusal has been moved from the automatic grounds for refusal in Article 6(1). A document may be tampered with in a way which is insignificant both in relation to the validity of the document and in relation to its relevance for the issuance or withdrawal of a Blue Card. This ground for withdrawal should thus not be compulsory.*

## **Amendment 55**

**Proposal for a directive**

**Article 6 – paragraph 3 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

***(cb) to ensure ethical recruitment in sectors suffering from a lack of qualified workers in countries of origin.***

Or. en

*Justification*

*The ground for refusal based on “ethical recruitment” considerations should be included under the possible grounds for refusal in Article 6(3) to ensure that the decision to refuse is based on the circumstances of the case and is proportionate.*

## **Amendment 56**

**Proposal for a directive**

**Article 6 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3 c. In circumstances where there is an acute level of unemployment in a given occupation or sector which may be limited to a particular part of their territory and where the Member State in question has checked 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 highly skilled employment in accordance with Chapter III of Directive 2003/109/EC.*

*The Member State concerned shall notify the Commission, at the latest one month in advance, of its intention to introduce such check in a given occupation or sector, which may be limited to a particular part of their territory, for third-country nationals coming from third countries for the next six months, and shall supply the Commission with all relevant reasons justifying this decision. For each extension of 6 months the Member State concerned shall send a new justified notification.*

Or. en

#### *Justification*

*The text of the possible ground for refusal based on a labour market test has been moved from original Article 6(2). In addition, the concept of “serious disturbance” is not defined and is unclear. In addition ‘high level of unemployment’ could be interpreted very differently in different Member State. The state of unemployment in the labour market should be acute before such a labour market text is applied.*

#### **Amendment 57**

##### **Proposal for a directive Article 6 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Member States may reject an application for an EU Blue Card in order to ensure ethical recruitment in sectors suffering from a lack of qualified workers in the countries of origin.**

*deleted*

Or. en

*Justification*

*This paragraph has been included under the possible grounds for refusal in Article 6(3).*

**Amendment 58**

**Proposal for a directive  
Article 6 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. ***Without prejudice to paragraph 1,*** any decision to reject an application shall take account of the specific circumstances of the case and ***respect the principle of proportionality.***

5. Any decision to reject an application ***pursuant to paragraph 3*** shall take account of the specific circumstances of the case and ***shall be proportionate.***

Or. en

*Justification*

*All the decisions taken under Article 6(3) - possible grounds for refusal - should take account of the specific circumstances of the case and the decision to refuse should be proportionate.*

**Amendment 59**

**Proposal for a directive  
Article 7 – title**

*Text proposed by the Commission*

*Amendment*

Withdrawal ***or non-renewal*** of the EU Blue Card

Withdrawal of the EU Blue Card

Or. en

*Justification*

*Having separate articles for the grounds for refusal, withdrawal and non-renewal will provide more clarity for highly-skilled third-country nationals, for potential employers within the EU and for the administrations that have to transpose, apply and enforce the Directive.*

**Amendment 60**

**Proposal for a directive  
Article 7 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall withdraw ***or refuse to renew*** an EU Blue Card where:

1. Member States shall withdraw an EU Blue Card where:

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

**Amendment 61**

**Proposal for a directive**

**Article 7 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the ***EU Blue Card or the documents presented have been fraudulently acquired, or have been falsified or tampered with;***

(a) the ***third-country national is considered to pose a threat to public policy, public security or public health; or***

Or. en

*Justification*

*In the same way as for Article 6 grounds for refusal, a withdrawal of a Blue Card should be possible under this ground.*

**Amendment 62**

**Proposal for a directive**

**Article 7 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required by points (b) and (c) of Article 5(1) or his or her salary no longer meets the salary threshold as set in accordance with Article 5(2), (4) or (5), as applicable, without prejudice to ***Article 14***.

(b) the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required by points (b) and (c) of Article 5(1) or, ***where relevant***, his or her salary no longer meets the salary threshold as set in accordance with Article 5(2), (4) or (5), as applicable, without prejudice to ***the situation in which the third-country***

*national is unemployed.*

Or. en

*Justification*

*As the rapporteur proposes to delete Article 14, it is necessary to mention that this ground for withdrawal applies without prejudice to those Blue Card holders who become unemployed. Their situation is covered in Article 7(2)(1)(f) a new.*

**Amendment 63**

**Proposal for a directive**

**Article 7 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

Member States may withdraw an EU Blue Card issued on the basis of this Directive:

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

**Amendment 64**

**Proposal for a directive**

**Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) *where appropriate*, where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

*Amendment*

(b) where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;

Or. en

*Justification*

*This amendment is intended to ensure consistency with later amendments.*

## Amendment 65

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point e

*Text proposed by the Commission*

(e) where the third-country national no longer holds a valid travel document;

*Amendment*

(e) where the third-country national no longer holds a valid travel document, ***provided that prior to withdrawing the EU Blue Card, the Member State had set a reasonable deadline for the third-country national concerned to obtain and present a valid travel document;***

Or. en

*Justification*

*This wording is moved from the additional subparagraph at the end of Article 7(2) into the ground for withdrawal to which it refers.*

## Amendment 66

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point f

*Text proposed by the Commission*

(f) where the third-country national fails to comply with the conditions of mobility under this Chapter ***or repetitively makes use of the mobility provisions of this Chapter in an abusive manner.***

*Amendment*

(f) where the third-country national fails to comply with the conditions of mobility under this Chapter;

Or. en

*Justification*

*The ground for withdrawal based on not complying with the mobility provisions is sufficient to allow Member States to withdraw a Blue Card if a sufficiently blatant failure to follow the procedure takes place.*

## Amendment 67

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point f a (new)

*Text proposed by the Commission*

*Amendment*

***(f a) where the third-country national has been unemployed for a period exceeding six consecutive months, except where such unemployment is the result of illness or disability; or***

Or. en

*Justification*

*The ground for withdrawal contained in Article 14 of the Commission proposal has been moved to Article 7. The rapporteur believes that Blue Card holders should be given adequate time to find alternative employment in the case of unemployment and that three months is too tight a time frame. It is important to distinguish between withdrawing a Blue Card and refusing to renew a Blue Card. If a Blue Card holder becomes ill or suffers disability, that fact should never result in the Blue Card being withdrawn. In the case of renewal, however, it may be factor in a decision to refuse to renew but should not be the sole factor.*

## **Amendment 68**

### **Proposal for a directive**

#### **Article 7 – paragraph 2 – subparagraph 1 – point f b (new)**

*Text proposed by the Commission*

*Amendment*

***(f b) where the EU Blue Card or the documents presented have been fraudulently acquired, or have been falsified or tampered with;***

Or. en

*Justification*

*A document may be tampered with in a way which is insignificant both in relation to the validity of the document and in relation to its relevance for the issuance or withdrawal of a Blue Card. This ground for withdrawal should thus not be compulsory.*

## **Amendment 69**

### **Proposal for a directive**

#### **Article 7 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Where an EU Blue Card is withdrawn or not renewed on the basis of point (e) of paragraph 2, Member States shall, prior to withdrawing or not renewing the EU Blue Card, set a reasonable deadline for the third-country national concerned to obtain and present a valid travel document.*** ***deleted***

Or. en

*Justification*

*This provision has been moved into Article 7(2)(e) directly.*

## **Amendment 70**

### **Proposal for a directive Article 7 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. Without prejudice to paragraph 1, any decision to withdraw ***or refuse to renew*** an EU Blue Card shall take account of the specific circumstances of the case and ***respect the principle of proportionality***.

4. Without prejudice to paragraph 1, any decision to withdraw an EU Blue Card ***taken pursuant to paragraph 2*** shall take account of the specific circumstances of the case and ***shall be proportionate***.

Or. en

*Justification*

*All the decisions taken under Article 7(2) - possible grounds for withdrawal - should take account of the specific circumstances of the case and the decision to refuse should be proportionate.*

## **Amendment 71**

### **Proposal for a directive Article 7 a (new)**

**Article 7 a**

**Non-renewal of an EU Blue Card**

**1. Where an EU Blue Card Holder or his or her employer applies to renew the EU Blue Card, Member States shall refuse to renew where:**

**(a) the third-country national is considered to pose a threat to public policy, public security or public health;**

**(b) the third-country national no longer holds a valid work contract for highly skilled employment or the qualifications required by points (b) and (c) of Article 5(1) or, where relevant, his or her salary no longer meets the salary threshold set in accordance with Article 5(2), (4) or (5), as applicable.**

**2. Where an EU Blue Card Holder or his or her employer applies to renew his or her EU Blue Card, Member States may refuse to renew that EU Blue Card:**

**(a) where the EU Blue Card or the documents presented have been fraudulently acquired, or have been falsified or tampered with;**

**(b) where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions;**

**(c) where the third-country national has been unemployed for a period exceeding six consecutive months;**

**(d) where the third-country national no longer holds a valid travel document, provided that, prior to refusing to renew the EU Blue Card, the Member State concerned had set a reasonable deadline for the third-country national concerned to obtain and present a valid travel document; or**

**(e) where, under the EU Blue Card previously granted, the third-country**

*national failed to comply with the conditions of mobility under Chapter V.*

*Any decision to refuse to renew an EU Blue Card pursuant to this paragraph shall take account of the specific circumstances of the case and shall be proportionate.*

Or. en

#### *Justification*

*Having separate articles for the grounds for refusal, withdrawal and non-renewal will provide more clarity for highly-skilled third-country nationals, for potential employers within the EU and for the administrations that have to transpose, apply and enforce the Directive.*

### **Amendment 72**

#### **Proposal for a directive Article 8 – paragraph 2**

##### *Text proposed by the Commission*

2. Member States shall set a standard period of validity for the EU Blue Card, which shall be at least **24** months. If the work contract covers a shorter period, the EU Blue Card shall be issued at least for the duration of the work contract plus three months. Where an EU Blue Card is renewed, its period of validity shall be at least **24** months.

##### *Amendment*

2. Member States shall set a standard period of validity for the EU Blue Card, which shall be at least **36** months. If the work contract covers a shorter period, the EU Blue Card shall be issued at least for the duration of the work contract plus three months. Where an EU Blue Card is renewed, its period of validity shall be at least **36** months.

Or. en

#### *Justification*

*By increasing the validity of the Blue Card to 36 months this will increase the attractiveness of Blue Card as it will offer a clear path for highly skilled third-country nationals to secure long-term residency.*

### **Amendment 73**

#### **Proposal for a directive Article 8 – paragraph 4 a (new)**

**4 a.** *Where a Member State issues an EU Blue Card to a third-country national who has applied for international protection in that Member State, it shall enter the following remark in that third-country national's EU Blue Card, under the heading "Remarks": "Applicant for International Protection in [name of the Member State] as from [date of lodging application for international protection]."*

*Should the EU Blue Card holder decide to withdraw his or her application for international protection upon obtaining the EU Blue Card, a new EU Blue Card shall be issued not containing that remark.*

Or. en

*Justification*

*As applicants for international protection who enjoy access to the labour market are included in the scope of the Directive, the provisions on remarks being entered on the Blue Card must include provisions covering them.*

**Amendment 74**

**Proposal for a directive**

**Article 8 – paragraph 5 a (new)**

**5 a.** *Where an EU Blue Card is issued by a Member State to a third-country national who is an applicant for international protection in another Member State, the Member State issuing the EU Blue Card shall enter the remark "Applicant for International protection in [name of the Member State] as from [date of lodging of application for international protection]" in the EU Blue Card.*

*Before the Member State enters that remark, it shall notify the Member State*

*to be mentioned in that remark of the issuance of the EU Blue Card and request that Member State to provide information as to whether the EU Blue Card holder is still maintaining his/her application for international protection. The Member State mentioned in the remark shall reply no later than one month after receiving the request for information. Where the application for international protection has been withdrawn, the Member State issuing the EU Blue Card shall not enter that remark.*

Or. en

#### *Justification*

*As applicants for international protection who enjoy access to the labour market are included in the scope of the Directive, the provisions on remarks being entered on the Blue Card must include provisions covering them.*

#### **Amendment 75**

##### **Proposal for a directive Article 9 – paragraph 1**

###### *Text proposed by the Commission*

1. Member States shall **determine whether** applications for an EU Blue Card **are to be made by** the third-country national or by the employer. **Member States may also allow** an application **from either of the two**.

###### *Amendment*

1. Member States shall **allow** applications for an EU Blue Card **from either** the third-country national or by the employer. **Where an application involves a recognised employer in accordance with Article 12, the employer shall lodge the application.** An application **made by the employer shall not restrict the procedural rights enjoyed by the third-country national seeking the EU Blue Card during the application procedure, or the rights enjoyed by the EU Blue Card holder during the period of employment or the EU Blue Card renewal procedure.**

Or. en

*Justification*

*It is important to ensure that where an application is lodged by an employer, the third-country national continues to enjoy all the procedural rights laid down in the Directive.*

**Amendment 76**

**Proposal for a directive**

**Article 9 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Where an applicant for international protection is granted an EU Blue Card, his or her application for international protection shall be considered to be suspended for the duration of the validity of the EU Blue Card. In that regard, the Member State that issues the EU Blue Card shall inform the authorities of the Member State responsible for the application for international protection of the details, in particular, the date on which the EU Blue Card was issued and its duration.***

***Where an application for international protection is suspended, the Member State responsible for that application shall not consider the application to be implicitly withdrawn.***

***Where the EU Blue Card expires, the Member State responsible for the application for international protection shall permit the person concerned to re-enter its territory for the purposes of the application for international protection. Where the family members of the person concerned joined him or her in the Member State which issued the EU Blue Card, they shall not be entitled to enter, or remain in, that Member State on the basis of the expired EU Blue Card.***

Or. en

### *Justification*

*The issuance of a Blue Card should not allow a Member State to consider the application for international protection to be implicitly withdrawn. Where a Blue Card expires, the third-country national should be allowed to resume that application and be entitled to return to the territory of the Member State in which he/she lodged the application for international protection. Family members will not be able to rely on the Blue Card to follow the Blue Card holder to the Member State responsible for the application for international protection.*

### **Amendment 77**

#### **Proposal for a directive**

#### **Article 10 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

1. The competent authorities of the Member States shall adopt a decision on the application for an EU Blue Card and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned. The notification shall be made at the latest within **60** days of the date of submission of the application.

##### *Amendment*

1. The competent authorities of the Member States shall adopt a decision on the application for an EU Blue Card and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned. The notification shall be made at the latest within **30** days of the date of submission of the application.

Or. en

### *Justification*

*In the 21st century, with the everyday use of electronic communications, it should be possible for Member States to process applications for highly-skilled employment within a period of thirty days. Reducing the time period within which a decision on an application is made will help boost the attractiveness of the EU Blue Card.*

### **Amendment 78**

#### **Proposal for a directive**

#### **Article 10 – paragraph 1 – subparagraph 2**

##### *Text proposed by the Commission*

Where the employer has been recognised in accordance with Article 12, the notification shall be made at the latest within **30** days of the date of submission of

##### *Amendment*

Where the employer has been recognised in accordance with Article 12, the notification shall be made at the latest within **15** days of the date of submission of

the application.

the application.

Or. en

### *Justification*

*When a Member State recognises an employer in accordance with Article 12, this should have a dual effect: first, it should reassure the Member State regarding the nature of the Blue Card holders being proposed by that employer; second, it should enable the Member States to thus process the application quicker. In the 21st century, with the everyday use of electronic communications, it should be possible for Member States to process applications for highly-skilled employment from such recognised employers within a period of two weeks.*

## **Amendment 79**

### **Proposal for a directive Article 11**

#### *Text proposed by the Commission*

The level of fees required by Member States for the processing of applications shall not be disproportionate or excessive.

#### *Amendment*

***Member States may require the payment of fees for the handling of applications in accordance with this Directive.*** The level of fees required by Member States for the processing of applications shall not be disproportionate or excessive.

Or. en

### *Justification*

*Member States should choose whether or not to impose a fee, it does not have to be self-evident. This “may” wording is used in the Seasonal Workers (2014/36/EU), the ICT (2014/66/EU) as well as in the Students and Researchers (2016/801/EU) Directives.*

## **Amendment 80**

### **Proposal for a directive Article 12 – paragraph 1 – subparagraph 1**

#### *Text proposed by the Commission*

Member States ***may decide to*** provide for recognition procedures for employers in accordance with their national law or administrative practice for the purpose of applying simplified procedures for

#### *Amendment*

Member States ***shall*** provide for recognition procedures for employers in accordance with their national law or administrative practice for the purpose of applying simplified procedures for obtaining an EU Blue Card. ***Member***

obtaining an EU Blue Card.

***States shall provide clear and transparent information to the employers concerned.***

Or. en

*Justification*

*The recognised employer procedure is a good way of simplifying the application procedure. In order to boost the attractiveness of the EU Blue Card, and to facilitate the process for both employers and potential Blue Card applicants, Member States should commit to establishing a fast track procedure for recognised employers.*

**Amendment 81**

**Proposal for a directive**

**Article 12 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Member States may refuse to recognise an employer pursuant to paragraph 1, where the employer has been sanctioned for employment of illegally staying third-country nationals pursuant to Directive 2009/52/EC.

*Amendment*

2. Member States may refuse to recognise an employer pursuant to paragraph 1, where the employer has been sanctioned for employment of illegally staying third-country nationals pursuant to Directive 2009/52/EC ***or where the employer has failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions.***

Or. en

*Justification*

*The failure of an employer to meet its legal obligations in regard to social security, taxation, labour rights or working conditions is an established ground for refusal, withdrawal or non-renewal of the Blue Card. This punishes primarily the Blue Card holder. Another sanction against the employer should be their possible exclusion from the recognised employers' procedure.*

**Amendment 82**

**Proposal for a directive**

**Article 12 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

The simplified procedures shall include

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*Amendment*

The simplified procedures shall include

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processing of applications as provided for in the second subparagraph of Article 10(1). Applicants shall be exempt from presenting the evidence referred to in ***points (c) and (e)*** of Article 5(1) ***and in Article 5(8)***.

processing of applications as provided for in the second subparagraph of Article 10(1). Applicants shall be exempt from presenting the evidence referred to in ***point (e)*** of Article 5(1).

Or. en

*Justification*

*It is not at all clear why Member States should not still oblige employers to show that the potential Blue Card holder has the necessary skills or qualifications for the high-skilled employment post.*

**Amendment 83**

**Proposal for a directive  
Article 12 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. Member States shall ***provide for measures to prevent possible abuses. Those measures may include monitoring, assessment at regular intervals and, where appropriate, inspection*** in accordance with national law or administrative practice.

*Amendment*

3. Member States shall ***monitor and assess at regular intervals the functioning and effectiveness of the recognition procedures for employers under paragraph 1. To that end, they shall, where appropriate, carry out inspections*** in accordance with national law or administrative practice.

Or. en

*Justification*

*It is important to ensure that Member States are obliged to regularly check all aspects of the recognition procedure to deter potential abuse of the procedure by companies as well as allay fears concerning the undercutting of labour markets.*

**Amendment 84**

**Proposal for a directive  
Article 14**

*Text proposed by the Commission*

***Article 14***

*Amendment*

***deleted***

### *Temporary unemployment*

- 1. Unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or where the unemployment occurs more than once during the period of validity of an EU Blue Card.**
- 2. During the period referred to in paragraph 1, the EU Blue Card holder shall be allowed to seek and take up employment in accordance with the conditions set out in Article 13.**
- 3. The EU Blue Card holder shall communicate the beginning and, where appropriate, the end of the period of unemployment to the competent authorities of the Member State of residence, in accordance with the relevant national procedures.**

Or. en

### *Justification*

*The relevant provisions of this Article are now covered in Article 7 under grounds for withdrawal (Art. 7(2)(1)(fa)) and non-renewal (Art. 7a(new)(2)(d)), and Article 13(1) on access to highly skilled employment respectively.*

### **Amendment 85**

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

*Text proposed by the Commission*

*Amendment*

**2 a. By way of derogation from point (a) of Article 3(2) of Directive 2003/86/EU, that directive, together with the derogations laid down in this Article, shall apply to EU Blue Card holders whose application for international protection is suspended for the duration of validity of the Blue Card pursuant to Article 9(2a) of this Directive.**

Or. en

### *Justification*

*If applicants for international protection are successful in obtaining a Blue Card then they should be treated as any other Blue Card holder and enjoy all of the rights attached. In addition, where the application for international protection is pending, it should be suspended for the duration of the Blue Card but should not be considered implicitly withdrawn by the Member State responsible for the application.*

### **Amendment 86**

#### **Proposal for a directive Article 16 – paragraph 4**

##### *Text proposed by the Commission*

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 applications were submitted simultaneously, residence permits for family members shall be granted 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, residence permits shall be granted at the latest within **60** days from the date on which the application was submitted.

##### *Amendment*

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 applications were submitted simultaneously, residence permits for family members shall be granted 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, residence permits shall be granted at the latest within **30** days from the date on which the application was submitted.

Or. en

### *Justification*

*Aligned with the time period for handling of applications in Article 10(1).*

### **Amendment 87**

#### **Proposal for a directive Article 16 – paragraph 6 – subparagraph 2**

##### *Text proposed by the Commission*

***Before a family member is granted access to employment, Member States may check whether the concerned vacancy could not be filled by national or Union workforce,***

##### *Amendment*

***deleted***

*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.*

Or. en

*Justification*

*In order to facilitate better integration, family members of EU Blue Card holders should be allowed to work once they join the EU Blue Card holder in the Member State in question. A labour market test is therefore not appropriate for family members joining someone already granted an EU Blue Card to work in that Member State and the second subparagraph should therefore be deleted.*

**Amendment 88**

**Proposal for a directive  
Article 17 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*The EU long-term resident status granted in accordance with the first subparagraph of this paragraph may be withdrawn before the period of legal and continuous residence of five years referred to in Article 4(1) of Directive 2003/109/EC within the territory of the Member States has been completed, where the third-country national becomes unemployed and does not have sufficient resources to maintain himself or herself and, where applicable, the members of his or her family, without having recourse to the social assistance system of the Member State concerned.*

*deleted*

Or. en

*Justification*

*The Commission proposes a specific three-year rule for a residence permit for Blue Card holders who stay and work in the same Member State for those three years. But the proposal*

*then adds conditions and derogations which only serve to complicate that rule for Blue Card holders and national administrations dealing with Blue Card holders. The rapporteur believes the three-year rule should apply without conditions and derogations.*

## **Amendment 89**

### **Proposal for a directive**

#### **Article 17 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*However, the EU long-term resident status shall not be withdrawn where the third-country national:*

*deleted*

*(a) is temporarily unable to work as the result of an illness or accident;*

*(b) is in duly recorded involuntary unemployment and has registered as job-seeker with the relevant employment office;*

*(c) begins vocational training which, unless the third-country national concerned is involuntarily unemployed, shall be related to the previous employment.*

Or. en

#### *Justification*

*The Commission proposes a specific three-year rule for a residence permit for Blue Card holders who stay and work in the same Member State for those three years. But the proposal then adds conditions and derogations which only serve to complicate that rule for Blue Card holders and national administrations dealing with Blue Card holders. The rapporteur believes the three-year rule should apply without conditions and derogations.*

## **Amendment 90**

### **Proposal for a directive**

#### **Article 17 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

*5. By way of derogation from Article 9(1)(c) of Directive 2003/109/EC, Member States shall extend to 24 consecutive*

*deleted*

*months the period of absence from the territory of the Member States which is allowed to an EU long-term resident holder of a long-term residence permit with the remark referred to in Article 18(2) of this Directive and of his family members having been granted the EU long-term resident status.*

Or. en

*Justification*

*This provision would create unequal treatment among third-country nationals who are long-term residents in the Member States. The rapporteur believes that the correct way of improving the long-term residents' Directive in this respect would be to revise that Directive. This is particularly true for this provision since the intended beneficiaries of the derogation are not actually Blue Card holders but former Blue Card holders.*

**Amendment 91**

**Proposal for a directive  
Article 17 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6.** *The derogations set out in paragraphs 4 and 5 may be restricted to cases where the third-country national concerned can present evidence that he has been absent from the territory of the Member States to exercise an economic activity in an employed or self-employed capacity, or to perform a voluntary service, or to study in his own country of origin.*

*deleted*

Or. en

*Justification*

*The rapporteur proposes to delete this paragraph as it more properly belongs in a revision of the Long-Term Residents' Directive.*

## Amendment 92

### Proposal for a directive Article 19 – title

*Text proposed by the Commission*

***Business activity in a second Member State***

*Amendment*

***Short-term mobility for EU Blue Card holders***

Or. en

#### *Justification*

*In order to provide clarity on the conditions for mobility the rapporteur believes that differentiating between short and long-term mobility in the directive will be easier to follow for the employer, EU Blue Card holder and national administrations. This is also the approach followed in the ICT Directive (2014/66/EU) and in the Students and Researchers Directive (2016/801/EU).*

## Amendment 93

### Proposal for a directive Article 19 – paragraph 2

*Text proposed by the Commission*

2. A third-country national who holds a valid EU Blue Card issued by a Member State not applying the Schengen acquis in full shall be entitled to enter and stay for the purpose of carrying out a business activity in one or several second Member States for up to 90 days in any 180-day period on the basis of the EU Blue Card issued by the first Member State. The second Member State shall not require any authorisation for exercising the business activity other than the EU Blue Card issued by the first Member State.

*Amendment*

2. A third-country national who holds a valid EU Blue Card issued by a Member State not applying the Schengen acquis in full shall be entitled to enter and stay for the purpose of carrying out a business activity in one or several second Member States for up to 90 days in any 180-day period on the basis of the EU Blue Card issued by the first Member State. The second Member State shall not require any authorisation for exercising the business activity other than the EU Blue Card issued by the first Member State. ***However, , where the second Member State applies the Schengen acquis in full, it may require the EU Blue Card holder, when crossing an external border, to provide evidence of the business purpose of his or her stay in that Member State.***

Or. en

*Justification*

*This paragraph now covers Article 22 (1)(a) & (b) concerning short-term mobility.*

**Amendment 94**

**Proposal for a directive  
Article 20 – title**

*Text proposed by the Commission*

*Amendment*

***Application for an EU Blue Card in a second Member State***

***Long-term mobility for EU Blue Card Holders***

Or. en

*Justification*

*In order to provide clarity on the conditions for mobility the rapporteur believes that differentiating between short and long-term mobility in the directive will be easier to follow for the employer, EU Blue Card holder and national administrations. This is also the approach followed in the ICT Directive (2014/66/EU) and in the Students and Researchers Directive (2016/801/EU).*

**Amendment 95**

**Proposal for a directive  
Article 20 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

2. As soon as possible and no later than one month after entering the territory of the second Member State, the EU Blue Card holder or his employer or both shall ***submit an application for an EU Blue Card to the competent authority of that Member State and present all the documents proving the fulfilment of the conditions referred to in paragraph 3 for the second Member State.***

2. As soon as possible and no later than one month after entering the territory of the second Member State, the EU Blue Card holder or his ***or her*** employer or both shall ***notify*** the competent authority of that ***second Member State of his or her employment in that Member State and shall present the documents required under*** paragraph 3.

Or. en

*Justification*

*A key way to increase the attractiveness of the Blue Card would be to simplify the procedure for intra-EU mobility. Taking inspiration from other EU labour migration legislation, the*

*proposals on the Blue Card can be amended to replace additional applications with notifications and allow the Blue Card holder to work in a second Member State once he/she has notified the second Member State concerned.*

## **Amendment 96**

### **Proposal for a directive**

#### **Article 20 – paragraph 2 – subparagraph 2**

##### *Text proposed by the Commission*

The EU Blue Card holder shall be allowed to work in the second Member State immediately after submitting the **application**.

##### *Amendment*

The EU Blue Card holder shall be allowed to work in the second Member State immediately after submitting the **notification**.

Or. en

##### *Justification*

*Paragraph altered to reflect previous amendments concerning intra-EU mobility.*

## **Amendment 97**

### **Proposal for a directive**

#### **Article 20 – paragraph 2 – subparagraph 3**

##### *Text proposed by the Commission*

The **application** may also be submitted to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first Member State.

##### *Amendment*

The **notification** may also be submitted to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first Member State.

Or. en

##### *Justification*

*Paragraph altered to reflect previous amendments concerning intra-EU mobility.*

## **Amendment 98**

### **Proposal for a directive**

#### **Article 20 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. For the purposes of the **application** referred to in paragraph 2, the EU Blue Card holder shall present:

3. For the purposes of the **notification** referred to in paragraph 2, the EU Blue Card holder shall present:

Or. en

*Justification*

*Paragraph altered to reflect previous amendments concerning intra-EU mobility.*

**Amendment 99**

**Proposal for a directive  
Article 20 – paragraph 3 – point e**

*Text proposed by the Commission*

*Amendment*

(e) evidence of meeting the salary threshold set in the second Member State in application of **paragraph 2** or, where applicable, of **paragraphs 4 or 5 of Article 5**.

(e) **where necessary**, evidence of meeting the salary threshold set in the second Member State in application of **Article 5(2) 5** or, where applicable, of **Article 5(4) or (5)**.

Or. en

*Justification*

*Paragraph amended to reflect the proposals to make salary thresholds optional for Member States.*

**Amendment 100**

**Proposal for a directive  
Article 20 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Where the EU Blue Card was issued by a Member State not applying the Schengen acquis in full and the holder crosses an external border for the purpose of long-term mobility, the second Member State may to require as evidence of the mobility a work contract or a binding job offer for highly skilled employment for at**

*least six months in the second Member State.*

Or. en

## **Amendment 101**

### **Proposal for a directive**

#### **Article 20 – paragraph 4 – introductory part**

*Text proposed by the Commission*

4. The second Member State *shall reject an application for an EU Blue Card* in any of the following cases:

*Amendment*

4. *Within 30 days of the date of receipt of the notification*, the second Member State *may object to the mobility* in any of the following cases:

Or. en

*Justification*

*The time period for objecting to mobility is aligned with time period for deciding on an application laid down in Article 10(1).*

## **Amendment 102**

### **Proposal for a directive**

#### **Article 20 – paragraph 4 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(c a) where the Blue Card holder poses a threat to public policy, public security or public health;*

Or. en

*Justification*

*This paragraph is moved up from Article 20(5) of the Commission proposal. The rapporteur proposes to make a list of the grounds for objecting to mobility.*

## **Amendment 103**

### **Proposal for a directive**

#### **Article 20 – paragraph 4 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

***(c b) where the second Member State undertakes a check in accordance with Article 6(3a) after a justified notification as set out in that Article, and only if the second Member State has also introduced such checks for third-country nationals coming from third countries under this Directive.***

Or. en

*Justification*

*This paragraph is moved up from Article 20(6) of the Commission proposal. The rapporteur proposes to make a list of the grounds for objecting to mobility.*

#### **Amendment 104**

##### **Proposal for a directive**

##### **Article 20 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4 a. Any decision to object to mobility, taken under this paragraph, shall take account of the specific circumstances of the case and shall be proportionate.***

Or. en

*Justification*

*As with decisions to reject, withdraw or not renew a Blue Card, any decision to object to mobility should take account of the specific circumstances of the case and the decision to object should be proportionate.*

#### **Amendment 105**

##### **Proposal for a directive**

##### **Article 20 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The second Member State shall *reject an application for an* EU Blue Card**

**5. The second Member State shall *inform the first Member State in writing***

*where the third-country national poses a threat to public policy, public security or public health.*

*at the same time as informing the EU Blue Card holder, his or her employer, or both, of any objection to mobility and may oblige the EU Blue Card holder and his or her family members, in accordance with procedures provided for in national law, to leave its territory.*

Or. en

#### *Justification*

*The rapporteur has amended the paragraph to clearly outline the procedure that Member States should follow if mobility is rejected. It is important that both the first Member State, the Blue Card holder as well as the employer are informed so the return back to the first Member State can be carried out accordingly.*

### **Amendment 106**

#### **Proposal for a directive Article 20 – paragraph 6**

##### *Text proposed by the Commission*

6. *The second Member State may reject an application for an EU Blue Card on the basis of a check made in accordance with Article 6(2) after a justified notification as set out in that Article, and only if the second Member State has also introduced such checks for third-country nationals coming from third countries under this Directive.*

##### *Amendment*

6. *Where a second Member State objects to mobility, that objection shall not affect the renewal of the EU Blue or the re-entry of the EU Blue Card holder and his or her family members to the first Member State. Upon request of the second Member State, the first Member State shall allow such re-entry without formalities and without delay. This shall also apply if the EU Blue Card issued by the first Member State has expired or has been withdrawn during the notification period. The EU Blue Card holder or his or her employer in the second Member State may be held liable for the costs relating to the re-entry of the EU Blue Card holder and his or her family members.*

Or. en

#### *Justification*

*Member States have varying reasons for objecting to mobility, therefore the decision of a*

*second Member State to object to the mobility of an Blue Card holder should not restrict the third-country national from applying for a renewal of the Blue Card in the first Member State, in case the Blue Card issued by the first Member State expired during the notification for the second Blue Card. Accordingly, Blue Card holders shall face no constraints when returning to the first Member State with a valid Blue Card issued in that Member State.*

## **Amendment 107**

### **Proposal for a directive Article 20 – paragraph 7**

*Text proposed by the Commission*

7. *The second Member State may reject an application for an EU Blue Card where the third-country national repetitively makes use of the possibility to enter and work in second Member States pursuant to this Article in an abusive manner. The second Member State shall notify the first Member State of the rejection for the purpose of point (f) of Article 7(2).*

*Amendment*

7. *Where the EU Blue Card holder, has exercised mobility pursuant to this Article and wishes to renew the EU Blue Card and to continue working in the second Member State, the EU Blue Card holder or his or her employer shall apply for renewal in that second Member State. If he or she applies for renewal in the first Member State, he or she will be required to work for 12 months in that first Member State before exercising his or her right to long-term mobility again, in accordance with paragraph 1.*

Or. en

*Justification*

*Paragraph amended to ensure that rules concerning conditions for long-term mobility still apply to EU Blue Card holders if they decide to return to the first Member State.*

## **Amendment 108**

### **Proposal for a directive Article 20 – paragraph 8 – introductory part**

*Text proposed by the Commission*

8. By way of derogation from Article 10(1), 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 at the latest within 30 days of the date of submission of

*Amendment*

8. By way of derogation from Article 10(1), the second Member State shall adopt a decision on *the notification and inform the EU Blue Card holder* and the first Member State in writing at the latest within 30 days of the date of submission of the

the *application* of its decision to either:

*notification* of its decision to either:

Or. en

*Justification*

*The amendment is intended to ensure consistency with earlier amendments.*

**Amendment 109**

**Proposal for a directive  
Article 20 – paragraph 8 – point a**

*Text proposed by the Commission*

*Amendment*

(a) where the conditions laid down in this Article are fulfilled, ***issue an EU Blue Card and allow the third-country national to reside on its territory for the purpose of highly skilled employment***; or

(a) where the conditions laid down in this Article are fulfilled, ***not to object to mobility***; or

Or. en

*Justification*

*Amendment proposed for consistency with earlier amendments.*

**Amendment 110**

**Proposal for a directive  
Article 20 – paragraph 8 – point b**

*Text proposed by the Commission*

*Amendment*

(b) where the conditions laid down in this Article are not fulfilled, ***refuse to issue an EU Blue Card*** and oblige the applicant and his family members, in accordance with the procedures provided for in national law, to leave its territory.

(b) where the conditions laid down in this Article are not fulfilled, ***to object to the mobility*** and oblige the applicant and his family members, in accordance with the procedures provided for in national law, to leave its territory.

Or. en

*Justification*

*Amendment proposed for consistency with earlier amendments.*

## Amendment 111

### Proposal for a directive Article 20 – paragraph 9

*Text proposed by the Commission*

9. Where the EU Blue Card issued by the first Member State expires during the procedure, the second Member State may issue, if so required by national law, national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on its territory until a decision on the **application** has been taken by the competent authorities.

*Amendment*

9. Where the EU Blue Card issued by the first Member State expires during the **notification** procedure, the second Member State may issue, if so required by national law, national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on its territory until a decision on the **renewal of the EU Blue Card** has been taken by the competent authorities.

Or. en

*Justification*

*Amendment proposed for consistency with earlier amendments.*

## Amendment 112

### Proposal for a directive Article 21 – paragraph 1

*Text proposed by the Commission*

1. Where the EU Blue Card holder moves to a second Member State in accordance with Article 20 and where the family **was already** constituted in the first Member State, the members of **his or her** family shall be **authorised** to accompany him or her and to enter and stay in the second Member State based on **the** valid residence permits obtained as family members of an EU Blue Card holder in the first Member State.

*Amendment*

1. Where the EU Blue Card holder moves to a second Member State in accordance with Article 20 and where the family **has joined the EU Blue Card holder or where the family has been** constituted in the first Member State, the members of **the EU Blue Card holder's** family shall be **entitled** to accompany him or her and to enter and stay in the second Member State based on valid residence permits obtained as family members of **the EU Blue Card holder in the first Member State. Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the family members of an EU Blue Card holder join him or her when crossing an external**

*border for the purpose of moving to a second Member State, the second Member State shall be entitled to require that family members present their residence permits in the first Member State as family members of the EU Blue Card holder.*

Or. en

*Justification*

*If a Blue Card holder moves to a second Member States after submitting a notification, the family members of the EU Blue Card holder should be allowed to move with him/her with no further bureaucracy as is the case for researchers in the Students and Researchers Directive (2016/801/EU).*

**Amendment 113**

**Proposal for a directive**

**Article 21 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. The second Member State may require the family members concerned to *present* with their application *for a residence permit*:

*Amendment*

3. The second Member State may require the family members concerned to *transmit*, with their application, *their residence permit in the first Member State together with a valid travel document, or certified copies thereof*.

Or. en

*Justification*

*The rapporteur believes that the residence permit from the first Member State should be sufficient evidence of the residence of the family members in that first Member State. No further evidence should be required.*

**Amendment 114**

**Proposal for a directive**

**Article 21 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) *their residence permit in the first Member State and a valid travel*

*Amendment*

*deleted*

*document, or certified copies thereof;*

Or. en

*Justification*

*This paragraph has been included in Article 21 (3).*

## **Amendment 115**

### **Proposal for a directive Article 21 – paragraph 3 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) *evidence that they have resided as members of the family of the EU Blue Card holder in the first Member State.*** *deleted*

Or. en

*Justification*

*The rapporteur believes that the residence permit from the first Member State should be sufficient evidence of the residence of the family members in that first Member State. No further evidence should be required.*

## **Amendment 116**

### **Proposal for a directive Article 22 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. *Where the EU Blue Card is issued by a Member State not applying the Schengen acquis in full and the EU Blue Card holder crosses an external border for the purpose of mobility as referred to in Articles 19 and 20, the second Member State shall be entitled to require as evidence of the mobility of the EU Blue Card holder:*** *deleted*

***(a) the valid EU Blue Card issued by the first Member State;***

*(b) for the purpose of Article 19, evidence of the business purpose of the stay;*

*(c) for the purpose of Article 20, a work contract or a binding job offer for highly skilled employment of at least six months in the second Member State.*

Or. en

*Justification*

*This paragraph has been incorporated into Articles 19(2) & 20(3)(b) and 23a (new).*

**Amendment 117**

**Proposal for a directive  
Article 22 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. Where the second Member State rejects the application for an EU Blue Card in accordance with point (b) of Article 20(8), the first Member State shall, upon the request of the second Member State, allow re-entry of the EU Blue Card holder and, where applicable, his family members, without formalities and without delay. This shall also apply if the EU Blue Card issued by the first Member State has expired or has been withdrawn during the examination of the application. Article 14 shall apply after re-entry into the first Member State.** *deleted*

Or. en

*Justification*

*The provisions of this paragraph have been incorporated into Article 20(6).*

**Amendment 118**

**Proposal for a directive  
Article 22 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The EU Blue Card holder or his employer in the second Member State may be held responsible for the costs related to the re-entry of the EU Blue Card holder and his family members referred to in paragraph 4.** *deleted*

Or. en

*Justification*

*The provisions of this paragraph have been incorporated into Article 20(6).*

### **Amendment 119**

#### **Proposal for a directive Article 22 – paragraph 6 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

***By way of derogation from the second subparagraph, the Member State which adopted the expulsion decision shall retain the right to remove, in accordance with its international obligations, the third-country national to a country other than the Member State which granted international protection, where that person fulfils the conditions specified in Article 21(2) of Directive 2011/95/EU.*** *deleted*

Or. en

*Justification*

*The decision on whether or not a beneficiary of international protection, who was also a Blue Card holder, should be expelled from the Union should remain with the Member State which granted international protection. That Member States should respect the principle of non-refoulement.*

### **Amendment 120**

#### **Proposal for a directive Article 22 – paragraph 6 a (new)**

**6 a.** *Where a Member State withdraws or does not renew an EU Blue Card which contains the remark referred to in Article 8(4a) new and decides to expel the third-country national, it shall request the Member State mentioned in that remark to confirm whether the person concerned has withdrawn his or her application for international protection. The Member State mentioned in that remark shall reply within one month after receiving the request for information.*

*Where the third-country national has not withdrawn his or her application for international protection in the Member State mentioned in that remark, that person shall be expelled to that Member State, which shall, without prejudice to the applicable Union or national law and to the principle of family unity, immediately allow re-entry, without formalities, of that applicant for international protection.*

Or. en

*Justification*

*As applicants for international protection who enjoy access to the labour market are included in the scope of the Directive, the provisions on expelling former Blue Card holders back to another Member State on the basis of the remarks entered on the Blue Card must include provisions covering them.*

**Amendment 121**

**Proposal for a directive  
Article 23 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall make easily accessible to applicants the information on all the documentary evidence needed for an application and information on entry and residence conditions, including the rights,

*Amendment*

Member States shall make easily accessible to applicants the information on all the documentary evidence needed for an application and information on entry and residence conditions, including the rights,

obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive and of their family members. This information shall include information on the salary thresholds *set* in the Member State concerned *in accordance with Article 5(2), (4) and (5), and on the applicable fees.*

obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive and of their family members. This information shall include, *where applicable*, information on the salary thresholds *and where there is any fee for the application* in the Member State concerned, *and information on any occupations or sectors of employment suffering acute levels of unemployment for the purposes of Article 6(3a).*

Or. en

#### *Justification*

*Amendment proposed for consistency with earlier amendments.*

### **Amendment 122**

#### **Proposal for a directive Article 23 – paragraph 1 – subparagraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) on business activities allowed in the territory of the Member State concerned to an EU Blue Card holder from another Member State as referred to in Article 19* **deleted**

Or. en

#### *Justification*

*Business activities are defined in Article 2. It makes little sense to have a definition of the concept in Article 2 and then let Member States define it for themselves through Article 23. For the purpose of ensuring greater harmonisation across the Union in the application of this Directive, the definition of business activities in Article 2 should be applied by all Member States.*

### **Amendment 123**

#### **Proposal for a directive Article 23 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

Member States shall communicate to the Commission each year and upon each modification, the factor they have decided to set for determining the annual salary thresholds, and the resulting nominal amounts, in accordance with Article 5(2), (4) and (5).

*Amendment*

**Where** Member States **establish a salary threshold, they** shall communicate to the Commission each year and upon each modification, the factor they have decided to set for determining the annual salary thresholds, and the resulting nominal amounts, in accordance with Article 5(2), (4) and (5).

Or. en

*Justification*

*Amendment proposed for consistency with earlier amendments.*

**Amendment 124**

**Proposal for a directive**

**Article 23 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

Where Member States refuse applications for an EU Blue Card based on ethical recruitment considerations in accordance with Article **6(4)**, they shall communicate to the Commission and to the other Member States a duly justified decision indicating the countries and sectors concerned.

*Amendment*

Where Member States refuse applications for an EU Blue Card based on ethical recruitment considerations in accordance with Article **6(3)**, they shall communicate to the Commission and to the other Member States a duly justified decision indicating the countries and sectors concerned.

Or. en

*Justification*

*The paragraph referred to has been moved to Article 6 (3)*

**Amendment 125**

**Proposal for a directive**

**Article 23 – paragraph 2 – subparagraph 4**

*Text proposed by the Commission*

*Amendment*

***Member States shall communicate to the Commission each year the list of allowed business activities, as meant in Article 2(l), for the application of Article 19.***

***deleted***

Or. en

*Justification*

*Business activities are defined in Article 2. It makes little sense to have a definition of the concept in Article 2 and then let Member States define it for themselves through Article 23. For the purpose of ensuring greater harmonisation across the Union in the application of this Directive, the definition of business activities in Article 2 should be applied by all Member States.*

## **Amendment 126**

### **Proposal for a directive Article 25 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Every three years, and for the first time by [five years after the date of entry into force of this Directive], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States, in particular the assessment of the impact of Articles 5, 12, 19 and 20, and the impact of this Directive on the national labour market situations. The Commission shall propose any amendments that are necessary.

Every three years, and for the first time by [five years after the date of entry into force of this Directive], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States, in particular the assessment of the impact of Articles 3, 5, 10, 12, 15, 19 and 20, and the impact of this Directive on the national labour market situations. The Commission shall propose any amendments that are necessary.

Or. en

*Justification*

*This paragraph has been amended to include assessments of key areas of the Directive including the scope, criteria for admissions as well as procedural safeguards.*

## **Amendment 127**

### **Proposal for a directive Article 26 a (new)**

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*Text proposed by the Commission*

*Amendment*

**Article 26a**

***Amendment to Directive (EU) 2016/801***

***In Article 2 of Directive (EU) 2016/801 of the European Parliament and of the Council<sup>1a</sup>, point (g) is replaced by the following:***

***"(g) who apply to reside in a Member State for the purpose of highly skilled employment within the meaning of Directive (EU) 2017/...\*.***

***1a Directive (EU) 2016/801 of the European Parliament and of the Council (OJ L 132, 21.5.2016, p. 21).***

***\* OJ reference of COD 2016/176.***

Or. en

*Justification*

*Amendment to clarify that when a third-country national is admitted as a Blue Card holder, he/she apply is entitled to apply to become a researcher under the Students and Researchers Directive (2016/801/EU), just like students and researchers legally staying under Directive 2016/801/EU may apply for a Blue Card.*

**Amendment 128**

**Proposal for a directive  
Article 28 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. By way of derogation from paragraph 1, Member States shall bring into force the laws, regulations and administrative provision necessary to comply with points (g) and (i) of Article 2 with regard to recognising higher professional skills as higher professional qualifications by [2 years after the general transposition deadline].***

***deleted***

Or. en

### *Justification*

*The period for transposing the revised Directive should be the same for all elements of the Directive to avoid confusion and delay. It makes no sense to have certain provisions of the Directive applicable at national level two years after others. It is much more preferable to have an agreed timeframe for the transposition of the Directive as a whole.*

## EXPLANATORY STATEMENT

Policies that facilitate better managed migration are essential to improving the EU's response to migratory flows. Bearing this in mind, the revision of the Blue Card Directive serves as an opportunity to strengthen safe and legal channels to Europe. The main objective is to send a positive message with regard to labour migration by improving the attractiveness of the Blue Card, trying to increase its use across the Union and ensuring that it works for high skilled third-country nationals, for potential employers within the EU and for the administrations that have to transpose, apply and enforce the Directive. The demographic challenges in Europe also draws attention to the urgent need for Member States to increase efforts to attract highly skilled talent from third countries. A healthy labour market is crucial for the successful integration of refugees and migrants in the long-term. Thus far, the EU Blue Card has had very limited success in Member States. By improving the Blue Card Directive this will be an important step towards addressing increasing demographic challenges faced by the EU.

Bearing in mind the objective to send a positive message for labour migration, the rapporteur has proposed amendments to simplify and clarify the procedures (criteria for admission, grounds for refusal and for withdrawal, time limits and mobility provisions) to make them more logical and user-friendly for third-country nationals, potential employers, and for national administrations. In addition, the amendments that have been tabled touch on the scope, the role of the social partners and salary thresholds.

Concerning the scope, the rapporteur proposes to expand the scope to include applicants for international protection who already have access to the labour market under the EU's asylum rules. This is a positive sign that will offer highly skilled applicants for international protection the chance to also take part in the Blue Card.

Bearing in mind the lack of attention given to the EU Blue Card in Member States, abolishing national schemes for high-skilled employment will provide more of an incentive for Member States to invest and utilise the EU Blue Card. The rapporteur has not tabled amendments to the Commission's proposals to abolish national schemes as this will increase the added value of Blue Card.

On the issue of salary thresholds, given the fact that in some Member States there are no fixed salaries in highly skilled sectors, the rapporteur proposes to make salary thresholds optional for Member States to apply. This should help accommodate the diverse national labour markets. Instead, priority should be placed on obliging all Member States to ensure that the conditions that exist in their laws, collective agreements and national practices in the relevant occupational sectors are always met for high-skilled employment.

Social partners are best placed to assist Member States in applying key aspects of the EU Blue Card. With this in mind, the rapporteur proposes to oblige Member States to consult with social partners when determining what constitutes professional experience as well as in the event that a Member State chooses to introduce a salary threshold. Giving social partners a role in these key areas will allay fears of the potential undercutting of existing labour market standards.

The rapporteur also proposes to table amendments to simplify and rationalise the criteria to secure a Blue Card and the grounds for withdrawal and refusal. In particular, seeking to bring together the disparate elements contained in the text on possible grounds for refusal or

withdrawal (unemployment, security concerns). In addition, ensuring that where a ground does not apply automatically, a decision to refuse, withdraw or not renew should always be proportionate to the circumstances of the case. The rapporteur also welcomes the Commission's proposals to introduce a fast-track scheme for recognised employers; amendments have been tabled to oblige all Member States to introduce this measure into national laws. This will be another key factor in increasing the attractiveness of the Blue Card.

Finally, the rapporteur also proposes a set of amendments to simplify the procedure for intra-EU mobility. Taking inspiration from other EU labour migration legislation, the proposals on the Blue Card can be amended to replace additional applications with notifications and allow the Blue Card holder to work in a second Member State once he/she has notified the Member State concerned. Simplifying the procedure for intra-EU mobility will significantly increase the attractiveness of the EU Blue Card.

To conclude, the amendments proposed by the rapporteur all have the overall aim of making the Blue Card and the procedure for obtaining it more attractive for potential holders, employers and the national administrations that will have to handle the applications. At a time when migration is at the top of the political agenda, the revision of the EU Blue Card directive remains the only labour migration instrument proposed by the Commission. With that in mind, and given the parliament's track record of seeking a more positive vision of migration, the rapporteur aims to work to build on the Commission's proposal, to make it migrant-friendly and to present a positive message on migration.