



**2016/0176(COD)**

31.5.2017

## **OPINION**

of the Committee on Employment and Social Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

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))

Rapporteur (\*): Jean Lambert

(\*) Associated committee – Rule 54 of the Rules of Procedure

PA\_Legam

## AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### 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 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, *and in agreement with the social partners. The principle of equal treatment with workers who are nationals of the host Member State should be respected.*

### Amendment 2

#### Proposal for a directive Recital 31

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

(31) In order to promote innovative entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity without it affecting the right of residence as an EU Blue Card holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under

##### *Amendment*

(31) In order to promote innovative entrepreneurship, third-country nationals admitted under this Directive should be given the right to exercise in parallel a self-employed activity *under the same conditions as nationals and other Union citizens in the Member State which issued the Blue Card*, without it affecting the right of residence as an EU Blue Card

this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity.

holder. This right should be without prejudice to the continuous obligation to meet the conditions for admission under this Directive, and the EU Blue Card holder should therefore remain in highly skilled employed activity. ***Any self-employed activity by EU Blue Card holders should be subsidiary to their employment under the EU Blue Card.***

### Amendment 3

#### Proposal for a directive

#### Article 2 – paragraph 1 – point b – indent 3

*Text proposed by the Commission*

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

*Amendment*

- has the required ***qualifications or skills as attested by evidence of higher education qualifications or higher professional skills, or evidence of specific artistic or sporting talent;***

### Amendment 4

#### Proposal for a directive

#### Article 2 – paragraph 1 – point g

*Text proposed by the Commission*

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

*Amendment*

***deleted***

### Amendment 5

#### 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 shall fix a salary threshold in agreement with the social partners. In such a case,*** 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 ***or inferior to the wages which apply or which would apply to a comparable worker in the same sector, based on the applicable legislation, collective agreements and practices, in the Member State concerned.*** 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. ***Member States shall consult the social partners before introducing a salary threshold.***

**Amendment 6**

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

*Text proposed by the Commission*

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

*Amendment*

(a) ***where*** the employer has ***repeatedly*** failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions ***within a period of five years prior to the date of the application;***

**Amendment 7**

**Proposal for a directive  
Article 7 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

## **Amendment 8**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

**(fa) 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;**

## **Amendment 9**

**Proposal for a directive**

**Article 7 a (new)**

*Text proposed by the Commission*

*Amendment*

### **Article 7 a**

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

**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 employer has repeatedly failed to meet its legal obligations regarding social security, taxation, labour rights or working conditions and has failed to rectify the situation within a reasonable time;**

**(b) 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 which occurred when carrying out the employment as an EU Blue Card holder.*

## Amendment 10

### Proposal for a directive Article 13 – paragraph 2

#### *Text proposed by the Commission*

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity in parallel to the activity in highly skilled employment.

#### *Amendment*

2. Without prejudice to the criteria for admission set out in Article 5, EU Blue Card holders may engage in self-employed activity, ***under the same conditions as nationals and other EU citizens in the Member State which issued the Blue Card***, in parallel to the activity in highly skilled employment. ***Any such activity shall be subsidiary to their employment under the EU Blue Card.***

## Amendment 11

### Proposal for a directive Article 14

#### *Text proposed by the Commission*

#### Article 14

#### 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***

#### *Amendment*

#### Article 14

#### Temporary unemployment

***1. During a period of unemployment, the EU Blue Card holder shall be allowed to seek and take up employment in***

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.

accordance with the conditions set out in Article 13.

2. 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.

## Amendment 12

### Proposal for a directive Article 15 – paragraph 1 – point d

*Text proposed by the Commission*

(d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;

*Amendment*

(d) recognition of diplomas, certificates and other professional qualifications, ***including the non-formal acquisition of skills***, in accordance with the relevant national procedures;

## Amendment 13

### Proposal for a directive Article 15 – paragraph 1 – point f a (new)

*Text proposed by the Commission*

*Amendment*

***(fa) access to justice and support if they face any kind of discrimination, including in the labour market by applying the principles and safeguards referred to in Council Directive 2000/43/EC and Council Directive 2000/78/EC;***

## Amendment 14

### Proposal for a directive Article 15 – paragraph 1 – point f b (new)



*Text proposed by the Commission*

*Amendment*

***(fb) non-discrimination on the grounds of origin, gender, religion or belief, disability, age or sexual orientation.***

## **Amendment 15**

### **Proposal for a directive Article 15 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***6a. Member States shall hold the employer of the EU Blue Card holder responsible for any repeated or significant failure to comply with Article 5(3) and Article 15.***

***The Member State concerned shall provide for sanctions where the employer is held responsible. Those sanctions shall be effective, proportionate and dissuasive.***

## **Amendment 16**

### **Proposal for a directive Article 15 – paragraph 6 b (new)**

*Text proposed by the Commission*

*Amendment*

***6b. Member States shall provide for measures to prevent possible abuses of Article 5(3) and Article 15. Those measures shall include monitoring, assessment at regular intervals and, where appropriate, inspection in accordance with national law or administrative practice.***

## **Amendment 17**

### **Proposal for a directive Article 22 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

Member States **may** hold the employer of the EU Blue Card holder responsible for failure to comply with the conditions of mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

*Amendment*

Member States **shall** hold the employer of the EU Blue Card holder responsible for **deliberate** failure to comply with the **relevant** conditions of mobility laid down in this Chapter or for repetitively making use of the mobility provisions of this Chapter in an abusive manner.

**Amendment 18**

**Proposal for a directive**

**Article 22 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

The Member State concerned shall provide for sanctions where the employer is **held** responsible. Those sanctions shall be effective, proportionate and dissuasive.

*Amendment*

The Member State concerned shall provide for sanctions where the employer is **proven to be** responsible, **particularly where the employer has failed to fulfil its legal obligations concerning employment or working conditions**. Those sanctions shall be effective, proportionate and dissuasive.

**Amendment 19**

**Proposal for a directive**

**Article 23 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. The Commission shall submit the information it receives pursuant to paragraphs 2 and 3 to the European Parliament on an annual basis.**

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Conditions of entry and residence of third-country nationals for the purposes of highly skilled employment	
<b>References</b>	COM(2016)0378 – C8-0213/2016 – 2016/0176(COD)	
<b>Committee responsible</b> Date announced in plenary	LIBE 4.7.2016	
<b>Opinion by</b> Date announced in plenary	EMPL 4.7.2016	
<b>Associated committees - date announced in plenary</b>	19.1.2017	
<b>Rapporteur</b> Date appointed	Jean Lambert 4.10.2016	
<b>Discussed in committee</b>	25.1.2017	22.3.2017
<b>Date adopted</b>	30.5.2017	
<b>Result of final vote</b>	+: 34	–: 6
	0: 4	
<b>Members present for the final vote</b>	Laura Agea, Guillaume Balas, Brando Benifei, Vilija Blinkevičiūtė, Enrique Calvet Chambon, Ole Christensen, Lampros Fountoulis, Elena Gentile, Czesław Hoc, Danuta Jazłowiecka, Agnes Jongerius, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Elisabeth Morin-Chartier, João Pimenta Lopes, Marek Plura, Terry Reintke, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Tatjana Ždanoka, Jana Žitňanská	
<b>Substitutes present for the final vote</b>	Maria Arena, Georges Bach, Dieter-Lebrecht Koch, Paloma López Bermejo, Joachim Schuster, Csaba Sógor, Neoklis Sylikiotis	
<b>Substitutes under Rule 200(2) present for the final vote</b>	Sophia in 't Veld	

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>34</b>	<b>+</b>
ALDE	Enrique Calvet Chambon, Yana Toom, Sophia in 't Veld
PPE	Georges Bach, Danuta Jazłowiecka, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Thomas Mann, Elisabeth Morin-Chartier, Marek Plura, Claude Rolin, Anne Sander, Sven Schulze, Csaba Sógor, Romana Tomc
S&D	Maria Arena, Guillaume Balas, Brando Benifei, Vilija Blinkevičiūtė, Ole Christensen, Elena Gentile, Agnes Jongerius, Jan Keller, Javi López, Joachim Schuster, Siôn Simon, Jutta Steinruck, Marita Ulvskog
VERTS/ALE	Jean Lambert, Terry Reintke, Tatjana Ždanoka

<b>6</b>	<b>-</b>
ECR	Czesław Hoc, Anthea McIntyre, Ulrike Trebesius, Jana Žitňanská
ENF	Dominique Martin
NI	Lampros Fountoulis

<b>4</b>	<b>0</b>
EFDD	Laura Agea
GUE/NGL	Paloma López Bermejo, João Pimenta Lopes, Neoklis Sylikiotis

Key to symbols:

+ : in favour

- : against

0 : abstention