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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
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Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL on the implementation of Directive
2009/50/EC on the conditions of entry and residence of third-country
nationals for the purpose of highly qualified employment (“EU Blue Card”)

Delegations will find attached document from the Commission COM(2014) 287 final.

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of third-country nationals for the purpose of highly qualified employment**

(“EU Blue Card”)

Well-managed migration policies aimed at attracting highly qualified migrants can contribute to boosting economic growth and competitiveness, addressing labour market shortages and offsetting the costs of demographic aging.

The EU Blue Card Directive¹ was adopted to facilitate the admission and mobility of highly qualified migrants² and their family members by harmonising entry and residence conditions throughout the EU and by providing for a legal status and a set of rights.

In the increasing global competition for talent, the EU Blue Card intends to make the EU more attractive to highly qualified workers from around the world and strengthen its knowledge economy. The Directive also aims to minimise brain drain in developing and middle-income countries and to encourage circular and temporary migration.

Member States (‘MS’) had until 19 June 2011 to transpose the Directive into their national legislation. The Commission launched infringement proceedings against 20 MS³ for not having transposed the Directive in time, which have since all been closed.

All MS bound by the Directive⁴ are now in a position to grant EU Blue Cards. In parallel, many MS have national policies in place for attracting highly qualified migrants⁵. While some MS⁶ have imposed volumes of admission restricting the number of highly qualified migrants, other MS⁷ have adopted or retained more favourable provisions in respect of specific provisions of the Directive.

This Communication⁸ responds to the Commission's obligation to report to the European Parliament and the Council on the application of the Blue Card Directive⁹. First, it assesses the main aspects related to the attractiveness of the EU Blue Card, followed by a brief

¹ Council Directive 2009/50/EC of 25 May 2009, OJ L 155, 18.6.2009, p. 17–29.

² Given that the Directive does not apply to third-country nationals who enter a Member State under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons [Article 3(2)(g)], nothing in this report covers highly qualified mode 4 categories of service providers.

³ AT, BE, BG, DE, EL, FR, IT, CY, LV, LT, LU, HU, MT, PL, PT, RO, SI, SK, FI and SE.

⁴ All MS except DK, IE and the UK. HR's implementation following its accession has still to be assessed but entered into force timely on 1 July 2013.

⁵ AT, BE, CZ, DE, EE, EL, ES, FI, FR, NL, LT, LU, SK, SI and SE

⁶ BG, CY, EE, EL and RO

⁷ AT, BE, CZ, DE, EL, FI, FR, HU, IT, LU, LV, NL, PT, SE and SI

⁸ The Communication is based on a study carried out for the Commission.

⁹ Article 21.

overview of how measures were enacted in the national legislations. Insofar as possible, particular attention is paid to the impact of national schemes for highly qualified migrants (Article 3(4)), the criteria for admission (Article 5), notably the salary threshold, and the conditions for residence in other MS (Article 18).

1. ATTRACTIVENESS OF THE EU BLUE CARD

1.1. Statistics

As a result of the late transposition the Blue Card scheme was only in force for a few months in 2012 in most MS¹⁰. Despite the delays, in 2012, 3 664 Blue Cards were granted and 1 107 family members were admitted¹¹.

Table 1 shows that in 2012, most Blue Cards were granted by DE (2 584; 70,52%), ES (461; 12,58%) and LU (183; 4,99%). On the other side of the scale, PL, PT and FI each granted 2 Blue Cards, NL and HU granted 1 while BE, CY, EL and MT issued none¹². CY set a volume of admission of zero.

In 2013, the number of Blue Cards granted increased to at least 15 261¹³. Most Blue Cards were granted by DE (14 197)¹⁴, LU (306) and FR (304).

Table 2 shows that most Blue Cards in 2012 were granted to highly qualified migrants from Asia (1 886), followed by Eastern Europe (463), Northern America (380), South America (278), Southern Europe (227), Northern Africa (174) and Central America (118). Only 78 highly qualified workers came from the rest of Africa. Oceania accounted for 38 Blue Card holders.

The top countries of origin in 2012 were India (699), China (324), Russia (271), United States (313) and Ukraine (149), out of 96 countries. The first statistics for 2013 appear to confirm this ranking.

The occupations of Blue Card holders in 2012 are only available for 294 out of 3 664 (8,02%)¹⁵ which is not enough to be representative.

In DE, in the first 6 months of 2013, 6 131 migrants were granted a Blue Card of whom 4 442 (72,45%) had entered before 2013¹⁶ while only 1 689 (27,55%) were new arrivals¹⁷.

¹⁰ 4 MS transposed on time, 5 by the end of 2011, 8 in the first half of 2012, 5 in the second half of 2012, and 2 only in 2013.

¹¹ <http://epp.eurostat.ec.europa.eu/portal/page/portal/population/data/database>

¹² HR, LT, SE: entry into force in 2013.

¹³ Provisional and incomplete statistics for 15 MS from EMN Ad Hoc Query (reply deadline 20.02.2014); direct contacts with migration authorities of several MS.

¹⁴ Preliminary Data for DE.

¹⁵ Only submitted by BG, CZ, EE, FI, FR, HU, IT, LV, PL, RO and SI.

¹⁶ These have studied or trained in DE, or are have changed status from another permit for employment.

¹⁷ Source: Wanderungsmonitoring: Migration nach Deutschland, 1. Halbjahr 2013. <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/wanderungsmonitoring-I-halbjahr-2013.html>

In the first 9 months of 2013, 8 888 Blue Cards were granted in DE of which 4 100 (46,13%) in shortage occupations¹⁸ and 4 788 (53,87%) in standard occupations¹⁹. In this period, 6 971 (78,43%) were granted to men and 1 914 (21,53%) to women in DE²⁰.

Blue Cards in DE in this period were granted to migrants of

- 0 – 25 years: 183 (2,06%)
- 25 – 35 years: 6 533 (73,50%)
- 35 – 45 years: 1 765 (19,86%)
- 45 – 55 years: 308 (3,47%)
- 55 – 65 years: 95 (1,07%)
- 65 years and older: 4 (0,05%)

1.2. National schemes for highly qualified migrants (Article 3(4))²¹

Many MS have national policies in place for attracting highly qualified migrants besides the EU Blue Card²².

Some MS have placed a specific focus on certain groups of individuals²³ or on precise areas of occupation in which there are a specific national labour market needs and shortages²⁴. Most promote themselves as destination countries for highly qualified workers and facilitate their admission and entry, for instance, through fast-track procedures for permits and visas, exemptions from general immigration requirements and labour market tests, information campaigns and other incentives. The systems in place in these MS vary from points-based systems to employer-led, demand driven systems.

Several MS that have such national policies in place have a higher share of highly qualified migrants²⁵ in their migrant population than some of the MS that do not have such policies²⁶.

Table 3 suggests that the existence of national schemes for highly qualified workers may impact on the EU Blue Cards issued by some MS. In 2012, in NL 5 514 national permits were issued compared to 1 Blue Card; in FR 3 030 compared to 77 Blue Cards; in AT 1 158

¹⁸ ‘Mangelberufe’: professions for which a particular need is identified in DE.

¹⁹ ‘Regelberufe’: all other professions.

²⁰ Gender unknown for 3.

²¹ For more info: EMN Study, Attracting Highly Qualified and Qualified Third-Country Nationals, Synthesis Report, 2013, pp. 16-21. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/attracting/emnsr_attractinghqworkers_finalversion_23oct2013_publication.pdf

²² BE, EE, FI, EL, IT, LT, LU, SK, SI and SE have specific provisions in wider migration policies; AT, CZ, DE, ES, FR, NL and PT have separate policies targeted at highly qualified migrants.

²³ E.g.: Executive staff and managerial employees; Researchers and scientists; or Intra-Corporate Transferees.

²⁴ E.g.: Information and Communications Technology; Healthcare; Academia; Financial services; or Engineering.

²⁵ In 2012, in SE 47% of migrants were classified into UNESCO’s International Standard Classification of Education (ISCED) levels 5-6 (university degree and/or PhD) and 35% held jobs in ISCO groups 1-3 (managers, professionals, technicians and associate professionals). In LU 54% were ISCED 5-6 and 53% ISCO 1-3.

²⁶ CY, IT, LV, MT, PL do not attract higher shares of highly qualified migrants, except CY where 28% were classified in ISCED level 5-6 in 2012.

compared to 124 Blue Cards; in ES 1 136 compared to 461 Blue Cards; in FI 748 compared to 2 Blue Cards.

Notable exceptions in the other direction are DE with 210 national permits compared to 2.584 Blue Cards; LU with 21 national permits compared to 183 Blue Cards; and RO with no national permits compared to 46 Blue Cards.

1.3. Volumes of admission (Article 6)

While the majority of MS have not opted to set volumes of admission of highly qualified migrants, some MS²⁷ have foreseen this possibility in line with Article 79(5) of the Treaty on the Functioning of the EU. Those that have effectively imposed volumes of admission have different approaches for setting these. MS are obliged to communicate if measures imposing volumes of admission are enacted²⁸.

In some MS²⁹ volumes of admission are calculated as a percentage of the national work force or population, or in function of the unemployment level or labour market requirements, sometimes by region and specialisation. In several MS³⁰ the volumes of admission are set every 1 or 2 years by the relevant Ministers.

No MS have informed the Commission of volumes of admission, except for two MS³¹.

1.4. Ethical recruitment (Articles 3(3) and 8(4))

No MS has entered into an agreement with a third country that lists professions which should not fall under the Directive in order to assure ethical recruitment in sectors suffering from a lack of personnel in developing countries.

BE, CY, DE³², EL, LU and MT have transposed the option to reject an application in order to ensure ethical recruitment in such sectors. MS that make use of this provision are obliged to communicate their decisions³³. No rejections on these grounds have been reported.

Given the low number of EU Blue Cards currently granted to highly qualified migrants from least developed countries, the risk of brain drain remains limited for these countries. Middle-income developing countries may however be at higher risk. Some MS³⁴ address brain drain and brain circulation through national legislation, bilateral agreements and/or cooperation with countries of origin.

²⁷ BG, CY, EE, EL, HU, MT, RO and SI.

²⁸ Article 20(1).

²⁹ BG, EE, EL, HU, MT.

³⁰ EE, EL, HU, MT and RO. CY prohibits the admission of highly qualified workers yet the Council of Ministers may, in exceptional cases, allow their admission by sector, profession, specialty and/or country of origin (review possible after 1 year).

³¹ CY: volume currently set at zero; EL: due to no demand EL has not yet activated its system to determine, by ministerial decision, the maximum number of jobs for highly qualified employment granted to third-country nationals.

³² DE foresees the option to use this derogation through a regulation (currently not).

³³ Article 20(1) and 8(4).

³⁴ Source: EMN Study, Attracting Highly Qualified and Qualified Third-Country Nationals, Synthesis Report, 2013, p. 23.

2. TRANSPOSITION BY MS

2.1. Definitions (Article 2)

The definitions of ‘highly qualified employment’, ‘higher professional qualifications’, ‘higher education qualification’, ‘professional experience’ and ‘regulated profession’ have been foreseen by most MS although with variations in terminology, scope and within MS with federal structures.

DE³⁵, EE, EL, ES, FR, LT, LU, MT, PL, PT, SE and SK opted to apply the derogation whereby at least five years of relevant professional experience at a comparable level to higher education qualifications suffices as evidence of higher professional qualifications³⁶.

2.2. Criteria for admission and salary threshold (Article 5)

All MS require a valid work contract or binding job offer, yet DE and LV do not explicitly require a minimum duration of one year³⁷.

All MS require valid travel documents but only CY, EL, FI, LT, MT, PT and SE have used the option to require that the period of validity of the travel documents covers at least the initial duration of the residence permit. As set out in the Directive, all MS require sickness insurance, except ES where no corresponding provision exists. Most MS³⁸ require that the applicant does not pose a threat to public policy, security or health.

Most MS have made use of the option of Article 5(2) to require the applicant to provide his address in the MS³⁹. AT, BE and NL require notification of any change in address. IT and LU proof of adequate housing.

In line with Article 5(3), most MS set the salary threshold nominally at 1,5 times the average gross annual salary but some made use of the possibility under the Directive for higher thresholds⁴⁰. Most MS put a calculation method in their legislation⁴¹. LV, EE, HU, SK and LT calculate the threshold based on the average gross monthly salary. Some use other formulas or criteria than the average gross annual salary to calculate the threshold⁴². Most MS appear to use national data to determine the salary threshold. MS are invited to use Eurostat data⁴³, at least as a benchmark⁴⁴.

³⁵ DE foresees the option to use this derogation through a regulation (currently not).

³⁶ MT: at least 10 years of professional experience.

³⁷ IT requires professionals to fall within levels 1, 2 and 3 of the national ISTAT CP2011 classification of professions.

³⁸ Except LU (no threat to international relations) and RO (no criminal record and medically fit for performing that specific work activity).

³⁹ Except EL, FI, PT and SE.

⁴⁰ RO (4 times) and LT (2 times).

⁴¹ Except NL and PL: an exact amount that is indexed and published annually.

⁴² E.g.: DE: the level of salary amounts to 2/3 of the annual contribution assessment ceiling for the statutory pension fund (which is linked to the average gross salary); IT: 3 times the minimum level for exemption from participation in health care spending; PT: 1,5 times national average gross annual salary or 3 times the Indexing Social Aid (IAS).

⁴³ Gross annual earnings data (per employer) published by Eurostat for firms with 10 or more employees [earn_ses10_an]. These data are collected every four years through the Structure of Earnings Survey (SES) and provide a comparable source across the EU.

⁴⁴ Article 20(3) and Recital 11.

MS are obliged to define and publish the relevant salary thresholds. However, a review by the Commission of the information available on the EU Immigration Portal⁴⁵ and on national websites show that in many MS the salary thresholds are not published or updated, difficult to find or only available in the national language⁴⁶. MS have not notified the salary thresholds or yearly updates to the Commission. The Directive calls upon the Commission to assess the relevance of the salary threshold⁴⁷ which it can only do if the thresholds are notified annually.

A comparison of available salary thresholds with Eurostat and OECD data on average gross annual salaries suggests that in some MS the threshold may not correspond to the minimum 1,5 times the average gross annual salary (Table 4).

CY, DE, EE, EL, ES, HU, LU, MT and PT have transposed the option to apply a salary threshold of at least 1,2 times the average gross annual salary for employment in professions which are in particular need of migrant workers and belong to ISCO major groups 1 and 2. Only DE, EE, HU and LU are known to effectively made use of this derogation possibility to set a lower salary threshold, though none have communicated to the Commission the required annual list of the professions for which a derogation has been decided.

2.3. Period of validity of the EU Blue Card (Article 7(2))

MS must set a standard period of validity of the EU Blue Card in their legislation of between one and four years which, in principle, applies to all applications and renewals in the respective MS.

As an exception, if the work contract covers a period less than the standard period, the EU Blue Card is to be issued or renewed for the duration of the work contract plus three months. The minimum duration for an EU Blue Card is one year since this is the minimum duration of the necessary work contract or job offer⁴⁸. The possibility of renewal of the Blue Card is implicit in the Directive and without limitation as long as the conditions are fulfilled⁴⁹.

The standard period of validity⁵⁰ of the EU Blue Card is one year in BG, CY, ES, LT, MT and PT, and 13 months in BE. AT, CZ, EL, FI, IT, LU, PL, RO, SE and SI set the period at two years and EE at two years and three months. FR and SK set it at three years and DE, HU and NL at four years. LV set it at five years.

In almost all MS⁵¹, if the work contract or binding job offer covers a period less than the standard period of validity, the EU Blue Card is issued or renewed for the duration of the work contract plus three months. Upon renewal, if the remainder of the work contract is less than one year, this could mean that an EU Blue Card is issued with a validity of less than one year. An initial work contract or job offer with a duration of less than one year has to be

⁴⁵ <http://ec.europa.eu/immigration/>

⁴⁶ Checks performed in February 2014.

⁴⁷ Article 21.

⁴⁸ Article 5(1)(a).

⁴⁹ Articles 7(2), 8(2), 9(1)-(3), 11(3), 14(3) and 20(2).

⁵⁰ Several MS link the period of validity of the EU Blue Card to the length of the work contract plus three months and set a *maximum* period (between 1-4 years; 5 years in LV) instead of a *standard* period. This does not clearly set a standard period of validity as required.

⁵¹ Except in BE, FR and ES.

rejected⁵². IT has differentiated between employment contracts of indefinite duration, for which the period of validity is set at two years, and all other contracts, for which the period is the duration of the work contract plus three months.

All MS appear to allow for renewals but some MS⁵³ have set a different (longer) period of validity for renewals than for the initial EU Blue Card instead of applying one standard period of validity. SE has limited the cumulative length of the initial Blue Card plus renewals to four years.

2.4. Labour market test (Article 8(2))⁵⁴

AT, BE, BG, CY, ES, HU, IT, LU, MT, PL, SK and SI transposed the option for performing a labour market test. Most MS⁵⁵ chose to apply the option to verify whether the concerned vacancy could not be filled by national or EU workforce.

2.5. Withdrawal or non-renewal of the EU Blue Card (Article 9)

The option⁵⁶ to withdraw or not renew the EU Blue Card for reasons of public policy, public security or public health is by almost all MS⁵⁷; in AT, BE, ES, FI, FR and IT this is covered by general provisions or the conditions for entry. AT, BE, BG, DE, EE, IT, NL, PL and SK substituted the term ‘public policy’ by ‘public order’ and AT, BE, BG, EL, FR, IT and PL do not mention the term ‘public health’.

A majority of MS⁵⁸ have applied the option to withdraw or not renew the EU Blue Card wherever the EU Blue Card holder does not have sufficient resources to maintain himself and the members of his family, without having recourse to the social assistance system of the MS concerned⁵⁹.

BE, BG, CY, EE, ES, HU, MT and PL have applied the option to withdraw or not renew the EU Blue Card if the person concerned has not communicated his address⁶⁰. CY, CZ, EE, EL, MT, RO and SK have opted for the possibility to withdraw or not renew the EU Blue Card where the EU Blue Card holder applies for social assistance, provided the appropriate written information was provided in advance⁶¹.

⁵² The admission condition of Article 5(1)(a) requires a minimum duration of one year. AT, BG, CY, DE, HU, LT and LV appear not to require a minimum duration for the work contract or job offer in their legislation.

⁵³ PT: 1 year initially + 2 years for renewals; ES: 1 year initially + 2 years for renewals; BE: 13 months initially + 3 years for renewals; EL 2 years initially + 3 years for renewals; EE: 2 years and 3 months initially + 4 years and three months for renewals.

⁵⁴ For more info on labour market tests see: EMN Inform, Approaches and tools used by Member States to identify labour market needs, December 2013. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-informs/emn_inform_on_labour_market_tests_5dec2013_final.pdf; and EMN Study, Intra-EU Mobility of third-country nationals, 2013, pp. 35-37. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/intra-eu-mobility/emn-synthesis_report_intra_eu_mobility_final_august_2013.pdf

⁵⁵ Except CZ, DE, ES, FI, FR, LV, NL and PT.

⁵⁶ Article 9(3)(a).

⁵⁷ Except in LV and SI.

⁵⁸ BE, BG, CY, EE, EL, ES, FI, HU, IT, LT, LU, MT, NL, PT, RO and SI.

⁵⁹ Article 9(3)(b)

⁶⁰ Article 9(3)(c).

⁶¹ Article 9(3)(d).

2.6. Applications for admission (Article 10)

A majority of MS require that the migrant makes the application for the EU Blue Card. CY, ES, FR, IT and MT require the employer to do so. In BE and LV applications are to be made by the migrant and the employer, while NL, AT, PT and SI allow either the migrant or the employer to apply. AT and NL allow submission by a lawyer.

Most MS⁶² provide that applications can be considered and examined when the applicant is either outside or already residing in the MS as holder of a valid residence permit or national long-stay visa⁶³. Most MS⁶⁴ applied the derogation that applications may be submitted when the applicant does not have a valid residence permit but is legally present in the territory of the MS (Article 10(3)). LU and SE applied the standstill derogation of Article 10(4) that an application can only be submitted from outside the territory⁶⁵.

2.7. Procedural safeguards (Article 11)

Most MS set the time limit for adopting a decision on a complete application and giving written notification to the applicant at 90 days⁶⁶, yet some set shorter time limits of 60 (EE, LT and PT; SK and PL for complicated cases), 56 (AT), 45 (ES), 30 (LV, RO and SI; SK and PL for non-complicated cases) and 7 (BG) days. Most MS determined the consequence of a decision not having been taken by the end of this period⁶⁷, though BE, EL, IT and PL have foreseen an extension of the deadline.

In case of an incomplete application, most MS have set a deadline for providing additional information and suspend the processing time limit. All MS provide for a written notification in case of rejection, non-renewal or withdrawal, and specify time limits for initiating redress procedures.

2.8. Rights

Labour market access (Article 12)

A majority of MS⁶⁸ applied the option that after the first two years of restricted labour market access equal treatment with nationals is granted as regards access to highly qualified employment.

Nearly all MS⁶⁹ require the authorisation by competent authority in the case of change of employer in the first two years. Many MS⁷⁰ require communication or prior authorisation for modifications that affect the conditions for admission.

⁶² Except in BG where applications can only be made in the territory.

⁶³ EL requires a pre-application for a visa outside and then a formal application within the territory, with a visa for the issuance of a Blue Card.

⁶⁴ Except BG, EL, ES, FR, IT, LV, PL and RO.

⁶⁵ It appears that a corresponding national provision existed in LU and SE prior to the adoption of the Directive.

⁶⁶ BE, CY, CZ, DE, EL, FI, FR, IT, HU, LU, MT, NL and SE.

⁶⁷ CY: only recourse possible to Supreme Court for omission by authority, Article 146 Constitution; HU: only general administrative law: a supervisory authority investigates and orders lower authority to take a decision within 8 days, and fee reimbursement if delay cannot be attributed to the applicant.

⁶⁸ Except BE, BG, CY, CZ, EL, LV, MT, PL and SE.

⁶⁹ Except FI and FR.

⁷⁰ Except DE, EE, ES, FI, FR, HU, IT, LT and SK.

Temporary unemployment (Article 13)

These provisions have been transposed by a majority of MS. Some MS apply more favourable legislative provisions or limit the application to involuntary unemployment.

Equal treatment (Article 14)

The equal treatment provisions are applied by most MS, although there are variations in scope of application, explicit transposition of some is absent in some MS and some MS apply more favourable legislative provisions⁷¹.

CY, DE, EL, ES, FI, LU, MT, PL and RO applied the option on possible restrictions to education and vocational training and access to goods and services. AT, BE, CY, CZ, DE, EL, FI, LT, LU, MT, NL, PL and RO applied the option to make access to university and post-secondary education subject to specific prerequisites.

Most MS⁷² did not apply the option to limit equal treatment when the EU Blue Card holder moves to a second Member State and a positive decision on the issuance of an EU Blue Card has not yet been taken.

Family members (Article 15)

In 2012, 1.107 permits for family members of Blue Card holders were granted. In 2013 in DE, at least 1.421 spouses and 899 children joined an EU Blue Card holder⁷³. However, a large majority of Blue Card holders are under 35 and may not yet have started a family⁷⁴. The Commission will analyse this further.

EU Long-term resident status (Articles 16 and 17)

AT, BG, CY, DE, EE, ES, EL, LT, MT, LV, NL and RO chose to apply the option of Article 16(5) to restrict the derogations from Directive 2003/109/EC in relation to periods of absence from the territory of the Community.

2.9. Residence in other MS (Article 18 and 19)

An EU Blue Card holder who wants to move to another MS after 18 months of legal residence in a first MS, must apply for another EU Blue Card in the second MS. In practical terms, this means a new assessment of whether the Blue Card holder meets the conditions that apply in the second MS.

There is some degree of variation in the admission conditions and significant differences in salary thresholds between MS.

It is not yet possible to assess the impact of the intra-EU mobility aspect of the EU Blue Card since the required period of 18 months has not yet been fulfilled by a significant number of EU Blue Card holders.

⁷¹ The Commission is analysing further and seeking clarification from MS.

⁷² Except CY, EL, FR, MT and SK. .

⁷³ Provisional data for first 9 months of 2013 (EMN Ad Hoc Query, reply deadline 20.02.2014).

⁷⁴ DE in 2013: 6.716 (75,56%) under 35 years.

3. CONCLUSIONS AND NEXT STEPS

There are wide variations between MS in the number of Blue Cards granted. While the size of the MS and its economic situation may have an impact on its attractiveness, it does not fully explain the wide variations. An answer can also be found in policy choices by MS who apply and promote the Blue Card in considerably different ways.

The Blue Card Directive was negotiated and adopted before the entry into force of Treaty of Lisbon. Under the former system unanimity was required in the Council, instead of the current qualified majority, and the European Parliament was not co-legislator. This led to long and difficult negotiations on the Commission's proposal. The resulting Directive only set minimum standards and left much leeway to MS through many "may-clauses" and references to national legislation.

The national schemes for attracting highly qualified migrants in many MS compete with the EU Blue Card and with each other. However, some MS have made a policy choice in favour of the EU Blue Card which reflects in the number of Blue Cards granted. Other MS' policies favour their national schemes.

While the number of Blue Cards increased in most MS between 2012 and 2013, it is too early to draw conclusions about the impact of the EU Blue Card on attracting highly qualified migrants to the EU. The Commission is concerned about flaws in the transposition, the low level of coherence, the limited set of rights and barriers to intra-EU mobility.

This report reveals a general lack of communication by MS of data and measures taken in application of the Directive, e.g. on volumes of admission, labour market tests, ethical recruitment, salary threshold⁷⁵. The availability of reliable, detailed and up-to-date information is essential for the functioning of the EU Blue Card system, e.g. for intra-EU mobility, and to evaluate its attractiveness.

A number of deficiencies in the transposition of the Directive have been revealed. The Commission will increase its efforts to ensure that the Directive is correctly transposed and implemented across the EU. Three years after the deadline for the transposition of the Directive, it is high time to put it to full use. In order to achieve this, the Commission will organise meetings with MS and, where necessary, make use of its powers under the Treaty.

Finally, potential highly qualified migrants and employers should be better informed about the EU Blue Card. The Commission will make the best use of existing websites, e.g. the EU Immigration Portal, and encourages MS to improve their provision of information and to raise awareness via other relevant channels.

On the basis of the available information and in view of the short time of application no amendments are currently proposed.

⁷⁵ Articles 5(5) and 20(1) (regarding Articles 6, 8(2), 8(4) and 18(6)) and 22 (regarding Articles 16, 18 and 20).

Table 1: EU Blue Cards in 2012 and 2013

EU Blue Cards by type of decision							Admitted family members of EU Blue Cards holders by type of decision						
	Granted		Renewed		Withdrawn			Granted		Renewed		Withdrawn	
	2012	2013	2012	2013	2012	2013		2012	2013	2012	2013	2012	2013
Total	3.664	15.261	146	170	1	0		1.107	2	108	0	0	0
BE	0	5	:		:			0		0		0	
BG	15	25	0		0			5		0		0	
CZ	62	74	1	25	0			35		0		0	
DE	2.584	14.197	0		:			270		0		:	
EE	16	12	0	0	0	0		18	2	0	0	0	0
EL	0	0						:		:		:	
ES	461	n.y.a.	91		0			385		82		0	
FR	126	304	49	133				:		:		:	
IT	6	112	:		:			:		:		:	
CY	0	0	0		0			0		0		0	
LV	17	13	0	12	0			8		0		0	
LT	in force: 2013	40											
LU	183	306	0		0			223		0		0	
HU	1	3	0		0			0		0		0	
MT	0	n.y.a.	0		0			0		0		0	
NL	1	n.y.a.	0		0			0		0		0	
AT	124	n.y.a.	5		0			155		25		0	
PL	2	27	0		0			0		0		0	
PT	2	n.y.a.	0		0			0		:		:	
RO	46	119	0		0			:		:		:	
SI	9	n.y.a.	0		1			3		1		0	
SK	7	8	0		0			5		0		0	
FI	2	5	0		0			0		0		0	
SE	in force: 2013	2		0		0			0		0		0
HR	in force: 2013	9											

Sources:

Eurostat, EU Blue Cards by type of decision, occupation and citizenship [migr_resbc1]; Admitted family members of EU Blue Cards holders by type of decision and citizenship [migr_resbc2], Extracted on 16.04.14.

2013 data: EMN Ad Hoc Query (reply deadline 20.02.2014); direct contacts with several MS.

Notes 2013 data:

LT, RO: Provisional data

n.y.a.: not yet available

Table 2: EU Blue Cards by citizenship in 2012

Total	3.664		
Asia	1.886		
		Southern Asia ⁷⁶	869
		Eastern Asia ⁷⁷	489
		Western Asia ⁷⁸	410
		South Eastern Asia ⁷⁹	99
		Central Asia ⁸⁰	19
Americas	783		
		Northern America ⁸¹	380
		South America ⁸²	278
		Central America ⁸³	118
		Caribbean ⁸⁴	7
Europe	690		
		Eastern Europe ⁸⁵	463
		Southern Europe ⁸⁶	227
Africa	252		
		Northern Africa ⁸⁷	174
		Middle Africa ⁸⁸	35
		Southern Africa ⁸⁹	18
		Western Africa ⁹⁰	15
		Eastern Africa ⁹¹	10
Oceania ⁹²	38		
Rest	15		
		Unknown	9
		Stateless	6

Source: Eurostat, EU Blue Cards by type of decision, occupation and citizenship [migr_resbc1].

⁷⁶ Afghanistan, Bangladesh, India, Iran, Nepal, Pakistan, Sri Lanka.

⁷⁷ China (including Hong Kong), Japan, Mongolia, North Korea, South Korea, Taiwan.

⁷⁸ Armenia, Azerbaijan, Georgia, Iraq, Israel, Jordan, Lebanon, Saudi Arabia, Syria, Turkey, United Arab Emirates, Yemen.

⁷⁹ Cambodia, Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam.

⁸⁰ Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan.

⁸¹ Canada, United States.

⁸² Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Uruguay, Venezuela.

⁸³ Costa Rica, El Salvador, Guatemala, Mexico, Panama.

⁸⁴ Cuba, Dominican Republic, Haiti, Trinidad and Tobago.

⁸⁵ Belarus, Moldova, Russia, Ukraine.

⁸⁶ Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Kosovo (under United Nations Security Council Resolution 1244/99), Montenegro, Serbia.

⁸⁷ Algeria, Egypt, Libya, Morocco, Sudan, Tunisia.

⁸⁸ Angola, Cameroon, Gabon.

⁸⁹ South Africa.

⁹⁰ Benin, Burkina Faso, Côte d'Ivoire, Ghana, Mauritania, Nigeria, Senegal.

⁹¹ Ethiopia, Madagascar, Mauritius, Tanzania, Zambia, Zimbabwe.

⁹² Australia, New Zealand.

Table 3: Comparison with national schemes for highly qualified employment

	First permits under national schemes					Blue Cards	
	2008	2009	2010	2011	2012	2012	2013
Total	16.157	14.980	16.999	19.604	19.988	3.664	15.261
BE	3.577	1.202	106	119	98	0	5
BG				0	0	15	25
CZ		18	0	0	69	62	74
DE	96	119	122	177	210	2.584	14.197
EE			0	0	0	16	12
EL	0	0	0	0	0	0	0
ES	2.884	2.071	1.244	1.650	1.136	461	n.y.a.
FR	1.681	2.366	2.554	3.148	3.030	126	304
IT			1.984	1.563	1.695	6	112
CY	393	436	634	551	600	0	0
LV		85	114	97	106	17	13
LT			138	186	225	in force: 2013	40
LU		96	74	102	21	183	306
HU				0	0	1	3
MT	0	0		0	0	0	n.y.a.
NL	6.411	4.895	5.531	5.594	5.514	1	n.y.a.
AT	827	575	668	868	1.158	124	n.y.a.
PL			12		314	2	27
PT	288	307	342	282	313	2	n.y.a.
RO				0	0	46	119
SI	0	0		0	0	9	n.y.a.
SK		0		0	0	7	8
FI				861	748	2	5
SE		2.810	3.476	4.406	4.751	in force: 2013	2
HR						in force: 2013	9

Sources:

Eurostat, EU Blue Cards by type of decision, occupation and citizenship [migr_resbc1], Extracted on 16.04.14.

2013 data: EMN Ad Hoc Query (reply deadline 20.02.2014); direct contacts with several MS.

Data national schemes: Eurostat, Remunerated activities reasons: Highly skilled workers, First permits issued for remunerated activities by reason, length of validity and citizenship [migr_resocc], Extracted on 17.02.14; LT: Migration Department under the Ministry of the Interior of the Republic of Lithuania.

Notes 2013 data:

LT, RO: Provisional data

n.y.a.: not yet available

Table 4: Salary thresholds (where available) and ratios compared to gross annual salaries per Member State

