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The EU Blue Card: Implementation and Experience of Member States

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Abstract: International labor migration plays an important role in global economic relations nowadays. The present article analyzes the Blue Card, an approved EU work permit that allows high-skilled non-EU citizens to work and live in any country within the European Union (excluding some Member States). After a short overview on the developing of the EU Blue Card from the proposal to implementation, it compares the implementation of the Card in two Member States – Spain and Germany (as they are two countries of different economic and migration pattern).

Key-words: labor migration, high-skilled workers, EU Blue Card, implementation, Spain, Germany.

A problem of migration is very urgent nowadays. An important role in global economic relations plays international labor migration – the movement of workers who search for employment in other countries. The flows of migration rush from one region or country into another. Although this movement provokes some problems, labor migration provides clear benefits to both receiving and sending countries. The main objectives of the modern immigration policy of the EU are: the intensification of the fight against illegal migration and support and the encouragement of the legal one.

In recent years the EU has been facing different problems, such as aging of the population, labor shortages, and low competitiveness toward the USA and Asia. Commission's agenda for new skills and jobs estimates that by 2015 shortages of information and communication technology practitioners will be between 384,000 and 700,000 jobs. By 2020 there will be a shortage of about one million professionals in the health sector [1]. One of the possible solutions for these problems was implementation of the policy for High-Skilled Immigration (hereinafter HSI). First it was focused mainly on the EU workers, but it turned out that most of them have the same problems. Due to this fact, the EU has started to look for high-skilled workers from the third countries (non EU members).

Due to the high number of restrictions and bureaucratic procedures it has always been difficult for third country nationals to obtain a good work in the EU. The implementation of the Blue Card provides a great opportunity to non-EU citizens.

The idea of the implementation of European alternative to U.S. Green Card was proposed in 1999, although its consideration was postponed due to the global terrorist attacks in the U.S. in 2001. European Parliament has started a detailed discussion of the introduction of EU Blue Card only in 2007 [2].

The Blue Card Proposal was presented at a press conference in 2007 in Strasbourg, by the Commissioner for Justice, Freedom and Security Franco Frattini and President of the European Commission José Manuel Barroso. The latter justified the objectives of the proposal as: a shortage of labour and skills in the future; the difficulty for third country workers to move between different Member States for work purposes; the interest of vast majority of the Member States in

attracting high-skilled workers, different and sometimes conflicting admission procedures for the 27 member states, lack of cross-border dimensions in the national immigration policies, and, finally, the "rights gap" between EU citizens and legal immigrants [3].

The name of the residence card (Blue Card) was proposed by the think tank Bruegel. It was inspired by the US Green Card and made reference to the EU blue flag [4].

According to official statistics, it took the Member States 19 months of negotiations to reach a consensus on this issue. Some Member States were concerned about worsening of training conditions for the citizens, while others were afraid to lose migration sovereignty. Such countries as Denmark, Ireland and the UK, didn't approve the Blue Card at all, because they wanted to have their own jurisdiction for immigration policies [5].

Finally, in May 2009, the European Union approved the 'Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment' (the Blue Card Directive) [6].

According to this directive the main objectives of the EU Blue Card implementation are to enhance competitiveness within the context of the Lisbon Strategy and to limit "brain drain". The Directive established the following entry conditions:

- "a valid work contract or job offer with a salary of at least 1,5 times the average gross annual salary paid in the Member State concerned;
- a valid travel document and a valid residence permit or a national long-term visa;
- Health insurance;
- for regulated professions, documents establishing that they meet the legal requirements, and for unregulated professions, the documents establishing the relevant higher professional qualifications" [7].

In the present Directive there were also discussed the admission procedure, issuance, withdrawal of the EU Card as well as the rights and residence in other Member States. According to it, each Member State can amend the application and admission process of a country. After 18 month of the legal residence the Blue Card holders may move to another Member State for employment [8].

After the Blue Card Directive was approved in 2009, the Member States had a deadline till June 19, 2011, to transfer it into their national legislation. Although most of the countries supported the policy for attracting HSI, it was a long and difficult process to implement the policy into national level. Some of the countries, such as France and Czech Republic considered the Blue Card only as a compliment to their national policies; others, such as Spain and Hungary didn't have their specific HSI policy. Those of the Member States who wanted to focus on their own HSI policy decided to opt out of the Directive. Many of the Member States had failed to meet the deadline and received a warning letters from the Commission. However, some of the counties didn't react to these warnings, delaying the transposition of the Blue Card.

At the present moment only 17 Member States presented information about the transposition of the Directive in their countries. The Member States who didn't present any data are Cyprus, Greece, Lithuania, Poland, Slovenia, Sweden and Portugal [9].

As from 2013, the Commission collects from the Member States statistics on the amount of third-country nationals to whom an EU Blue Card has been issued, renewed, withdrawn or

refused. As from 2014, it reports on the application of the directive to the European Parliament and the Council every three years and proposes any necessary changes.

Spain and Germany have been the most popular and attractive destinations for immigrants from the Eastern Europe. However, until recently the main amount of the labor migrants were illegal, with employment in the low-skilled sector.

The implementation of the EU Blue Card gives a great opportunity to the high-skilled third-country nationals to live and work legally in the European Union. According to the Directive, the participating Member States can amend some aspects of the Blue Card according to their national preferences. High-skilled nationals willing to work in Europe can get the necessary information about the application process and for the desirable country (including Spain and Germany) on-line on the official web-site of The Blue Card Network [<http://apply.eu/>] as well as on the EU immigration Portal [<http://ec.europa.eu/immigration/>].

Spain has implemented the EU Blue Card under the Royal Decree (557/2011) from June 30, 2011. According to the official requirements published on the Blue Card Network website, to apply for a Spanish Blue Card applicant must hold a university or college diploma from an educational programme that lasted at least three years, or have at least five years of professional experience. The other regulations include the following:

“Third-country nationals must apply for an EU Blue Card at the Spanish embassy or consulate in their country of origin or residence. Those applicants who are legally staying in Spain or possess an EU Blue Card issued by another country may apply for a new one at the Provincial Aliens Affairs Office.

The salary threshold is at least 1.5 times the average annual salary (about 33,767 a year), but it may be reduced to 1.2. A labor market test is necessary unless the application is filed through the Large Business Unit.

The salary threshold may be reduced to 1.2 times the most recent average gross monthly wage in Spain for jobs which are in particular need of non-EU workers and which belong to the major groups 1 and 2 of ISCO” [10].

An EU Blue Card is granted in Spain for one year, renewable for periods of two years. After 5 years of legal residing, the applicant may apply for a long-term resident status.

Although the Directive was implemented in 2011, there are no information regarding the amount of accepted applicants and required jobs.

Germany has fully enacted the Blue Card legislation in April 2012. According to the official requirements published on the EU Immigration Portal, to work in Germany as a highly-skilled worker, employee must first obtain a visa to enter Germany. In case of Spain it wasn't mentioned. The applicants willing to work in Germany are also required to obtain a Settlement permit, allowing them to work. According to official conditions, highly-skilled workers eligible to obtain a German Blue Card include scientists with special knowledge; university teachers or assistants with executive functions; specialists and executives with special professional experience who reach an annual income of not less than the amount of the pension scheme contribution ceiling which is adjusted annually. The priority is given to employees working in engineering, mathematics and IT areas. Apart from the shortage occupations, the labor market test is not required for the application.

EU Blue Card holders are entitled to a permanent residence permit after 33 months of legal working in Germany. This residence permit has no time limit. It can be reduced to 21 month in case the applicant will demonstrate the sufficient German knowledge (B1 level).

According to the German news media “Die Welt” as for November 2012 Germany attracted only 27 high-skilled workers from the third-countries [11]. However, the latest results proved the success of the Blue Card Implementation. As of January 1, 2014, Germany had given out 7,000 Blue Cards. 4,000 of these were given to foreigners who were already living in Germany [12].

In order to make the European Union a more attractive destination for high-skilled workers and young well-educated specialists, the EU produced alternative to the US Green Card, named the EU Blue Card. One of the objectives of this new work permit was to create a relatively common HSI policy for all the participating Member States. The Directive faced challenges on the level of implementation and transposition of the policy into national level. The lack of publicity available information on the Blue Card application process for some countries causes difficulties for high-skilled workers willing to find an employment. This results in a low effectiveness of the policy.

However, the example of Germany proves that the Blue Card Directive can be successful, attracting high-skilled specialists and reducing labor shortages. Although there is still a space for improvement, complex approach may transform EU Blue Card into competitive system, such as US Green Card in future.

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