

If It Ain't Broke, Don't Fix It

In June of this year, the European Commission (EC) presented an action plan to support EU member states in the integration of third-country nationals, along with their economic and social contributions into the EU. An integral part of the action plan is a complete overhaul of the EU blue card scheme.

By Patrick Rovers

Dimitris Avramopoulos, Commissioner for Migration, Home Affairs, and Citizenship, said: *"If we want to manage migration in the long-term, we have to start making those investments now, in the interest of us all. The early and effective integration of third-country nationals is key to making migration a benefit for the economy and cohesion of our society. At the same time, we have to better equip our systems to deal with labor market and skills shortages in the future. The revised EU Blue Card scheme will make it easier and more attractive for highly skilled third-country nationals to come and work in the EU and will strengthen our economic growth."*

At first glance, it looks like yet another ambitious initiative from Brussels. Upon closer review, however, the action plan has some far-reaching side effects worthy of sharing with *The XPat Journal's* trusted readers. In this contribution, I will first reflect on the Dutch alternative to the EU blue card scheme, the highly skilled migrant (HSM) program, and subsequently bring you up to speed on the EC's plans for the blue card.

The HSM program was introduced in 2004. The Dutch cabinet made it crystal clear why this program was needed, stating: *"In order to develop the Dutch economy into a knowledge-driven economy, admission of highly*

skilled migrants from outside of the European Union is considered a fundamental precondition."

The beneficiary of a valid HSM residence permit is allowed to work and reside in the Netherlands, and his or her employer, the so-called recognized sponsor, is exempted from the general Dutch work permit requirement. The conditions of the HSM program are fairly straightforward. The key condition is the minimum gross monthly salary requirement: a person of 30 years and older has to make at least € 4,240 gross per month, whereas a person under 30 is compliant making € 3,108 gross per month. Special rules apply to foreign graduates of Dutch universities or schools for advanced education.

The HSM program, although not without its flaws, has proven to be successful. Between 2008 and 2013, the Dutch immigration services issued 36,190 HSM residence permits. In 2014, they issued 11,260 HSM residence permits, and in 2015, the total number was 12,140. Here are some statistics to put all of this into perspective. The total number of highly skilled residents in the Netherlands is approximately 2.4 million, of which approximately 50,000 are highly skilled Europeans and approximately 50,000 are highly skilled migrants from outside the EU. Expressing this in percentages: 3.5% to 4% of the highly skilled residents are non-Dutch nationals, which means that, compared to other countries, the Netherlands has a relatively low number of highly skilled foreigners.



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In 2009, the EU blue card directive (2009/50/EC) was launched. The Netherlands implemented the directive in 2011. The blue card's main requirements are strict: an employment agreement with a required minimum length of at least 1 year, a minimum gross salary of € 4,968 per month, and a higher education diploma. A foreign diploma usually requires a separate validation procedure. Between 2011 and 2013, the Dutch immigration services issued fewer than 10 blue cards, and in 2014 no blue cards were issued at all. Between 2012 and 2014, a grand total of 30,480 blue cards were issued in the European Union, of which 26,272 were issued in Germany. By comparison, in France only 1,094 blue cards were issued between 2012 and 2014. Bear in mind that the United Kingdom, Denmark and Ireland never adopted the EU blue card directive.

The EC was apparently not too impressed with the impact of its blue card directive. Instead of admitting that the directive was a total dud, however, the EC is now striking back with an action plan to save the directive from obscurity. The EC claims that, in the future, the demand for higher skills will increase, and that the existing EU workforce won't be able to oblige. Furthermore, countries such as Canada, the US, and Australia are more successful at attracting highly skilled migrants. All in all, a mere 31% of the high-educated migrants choose an EU destination. The changes the EC is proposing are significant: a lowering of the salary threshold from at least 1.5 times the average salary in the member state to a salary threshold between the national average salary and 1.4 times the national average salary, and the required minimum length of the employment agreement is to be shortened to 6 months. As an alternative to higher education qualifications, equivalent professional experience will have to be recognized. Special rules apply to young professionals. Their salary threshold will amount to 80% of the regular threshold. Similar rules will apply to workers in shortage occupations. And

the maximum processing time will be reduced to 60 days.

All this should not threaten the supremacy of the Dutch HSM program. It has no higher education or professional experience requirement, the regular processing time is between 14 and 21 days, the salary requirement is diversified based on age of the beneficiary, and graduates only have to make € 2,223 gross per month to qualify.

Well, here is the kicker. The proposed new blue card scheme replaces parallel national schemes. The EC states '*... those national schemes that directly compete with the EU blue card for the same people will cease to exist.*' In 2011, the Dutch government was of the opinion that the Dutch HSM program and the EU blue card scheme should coexist, in the interest of the Dutch knowledge-driven economy and the reduction of the administrative burden for companies and citizens. The HSM program and the blue card scheme were deemed to be complementary.

What will the future hold? It is clear that the Netherlands maintains efficient regulations regarding highly skilled migrants. On the other hand, the recent proposal by the EC puts the Netherlands on the spot. The main question is: how will the Netherlands avoid "Fixing things that aren't broken and not fixing things that are broken." ❌



ABOUT THE AUTHOR

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