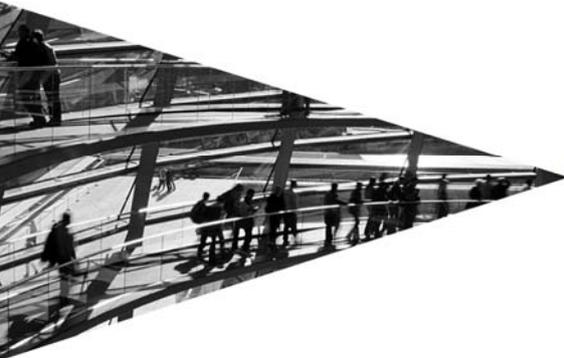


HR and tax alert



Europe

The Council of the European Union adopts Blue Card Directive for skilled migrants.

Executive summary

Recently the Council of the European Union adopted the Blue Card Directive (2009/50/EC). The Directive establishes more attractive conditions for non-EU nationals ("third-country workers") to take up highly qualified employment in the 24 Member States of the European Union. To this end a fast-track procedure for issuing a special work and residence permit, a so-called "EU Blue Card" has been introduced.

Background

The European Union aims to become the most competitive and dynamic knowledge-based economy in the world. Measures to attract and retain highly qualified third-country workers are necessary to achieve this objective. The Directive is intended to contribute towards achieving this goal. The Directive should be without prejudice to the ability of Member States to maintain or introduce new national residence permits for any purpose of employment. In any event, Member States are allowed to set a limit on the volume of admission of third-country workers.

Criteria for admission

The Directive determines the common criteria to be set by EU member states

for applicants of the Blue Card. The admittance criteria for a European Blue Card primarily concerns:

- ▶ Employment contract: the applicant must have been offered a job in the EU for at least one year.
- ▶ Level of pay: the gross monthly wage must not be inferior to a national level defined by the Member States which shall be at least 1.5 times of the gross monthly or annual average wages in the Member State concerned.
- ▶ Qualifications: higher education qualifications or higher professional qualifications are required to qualify.

Procedure

The third-country worker has to lodge the application for the EU Blue Card in the country where they would like to work. The competent authorities of the Member State in question must make a decision within 90 days from the date that the application is lodged.

Rights

The EU Blue Card will allow third-country workers to be employed in any EU member state except the United Kingdom, Ireland and Denmark and enjoy limited social and welfare rights for themselves and their family

members for a renewable period from one to four years. The EU Blue Card holder has the right to move freely within the Schengen area for a maximum period of 3 months. In addition, he has the right to take up highly qualified employment in a second Member State after 18 months.

The 24 Member States who have signed up for the Directive have two years to implement the Directive into national law. This means that the Directive must be implemented by 19 June 2011 at the latest.

Next steps

It is important to follow the developments in the 24 Member States that have signed up for the Directive. The implementation of the Blue Card Directive into national law may result in simplified immigration procedures for third-country workers.

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EYG no. DNO108

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Edith de Bourgraaf

Tel: + 31 10 406 85 42
email: edith.de.bourgraaf@nl.ey.com

Anne Kwint

Tel: + 31 88 407 12 54
email: anne.bijleveld@nl.ey.com