

## The EU Blue Card

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## **I. Introduction<sup>1</sup>**

The EU Blue Card is a work and residence permit granted by a member state of the European Union. Citizens of third countries can apply for it in order to commence employment in the specific EU state. Its name is derived from the U.S. "Green Card" and the blue color of the European flag.

The legal basis is EU Directive 2009/50/EC. In October 2007, the European Commission adopted two proposals: the first one known as the EU Blue Card Directive, which was adopted by the European Council in May 2009 for the purpose of admitting skilled and educated migrants to the EU, and the second known as the Single Permit Directive, which simplifies migration procedures by funneling applicants into a single application procedure. The second directive was adopted in December 2011.

Together, the directives establish the EU Blue Card Scheme: a demand-driven, residence and work permit.

The Blue Card's purpose is to make it possible for the residence of third-country nationals in the EU to balance the expected or already existing shortage of qualified persons in a lot of employment sectors.

The EU Blue Card is granted within the entire EU, except for Great Britain, Ireland and Denmark.

## **II. What are the requirement for obtaining an EU Blue Card?<sup>2</sup>**

The persons who can obtain an EU Blue Card are: highly qualified workers, researchers, vocational trainees, students, school pupils in exchange programs, voluntary workers, seasonal workers and intra-corporate transferees.

### **1. Highly Qualified Workers:<sup>3</sup>**

The first condition is that they have a work contract in the EU member state. Otherwise, they have to apply for a job seeker/employment visa to look for a company that is willing to bring

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<sup>1</sup> <http://www.eu-bluecard.com/>; <http://www.auswaertiges-amt.de/DE/Infoservice/FAQ/ArbeitLebenDeutschland/02a-Blue-Card-EU/>; <https://www.apply.eu/BlueCard/>; <http://www.bamf.de/SharedDocs/FAQ/DE/Blaue-Karte/026-eu-staaten-richtlinie-umgesetzt.html>.

<sup>2</sup> <http://www.eu-bluecard.com/>.

<sup>3</sup> <http://www.eu-bluecard.com/highly-qualified-workers/>.

foreign employees within their work environment and could benefit from the skills they provide.<sup>4</sup>

- a) To get a **job seeker/employment visa**, they have to have a university degree and sufficient funds to support themselves. Such a visa allows residence in the desired member state for six months in order to find a job.
- b) If they already have a job, they need to have the following documents to obtain an EU Blue Card:
  - For unregulated professions – a recognized university diploma
  - For regulated professions – the acquired certificate
  - A work contract for at least one year in the hosting state
  - Proof that the salary exceeds the average in the hosting state by 1.5 times or 1.2 times for professions in shortage
  - A written declaration by the employer – only paid employees, no self-employed or entrepreneurs
  - A valid travel document
  - Proof that the applicant does not represent a threat to the public policy, security or health of the hosting state
  - An application form, filled out either by the applicant or the employer
  - Two passport-size personal photos, not older than six months
  - Proof of application fee payment
  - Health insurance proof

The application is filed by post to the authorized Federal Office for Migration or Employment in the hosting state. A decision is made within 90 days after the application. The EU Blue Card holder is entitled to the same rights as citizens of the hosting state after two years of work and residency, excluding loans, grants and housing rights.

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<sup>4</sup> <http://www.eu-bluecard.com/highly-qualified-workers/>.

The EU Blue Card allows the card holder to visit other EU member states for three months during a six-month period. After 18 months, the card holder may move to another member state to start highly-skilled employment. In the new country, a new application for an EU Blue Card is obligatory.<sup>5</sup>

To change jobs during the first two years of arrival, a request should be filed with the competent authorities, and the decision of the authorities must be complied with.

Unemployment for highly-qualified workers may not last longer than three consecutive months. The competent authorities should be notified of the unemployment period. If unemployment recurs, a withdrawal of the EU Blue Card by the competent authorities may be the consequence.

- c) The application for an EU Blue Card can also be **refused**<sup>6</sup>.

The national authorities **will** reject the application if:

- The applicant does not meet the various conditions outlined above.
- The application was based on incorrect or false information.
- The applicant represents a threat to public policy, public security or public health.

The national authorities **may** reject the application, if:

- A national or EU worker, or an already legally present non-EU citizen, could fill the vacancy.
- The employer has been found guilty of employing irregular migrants without the necessary documents.
- The home country lacks qualified workers in the applicant's sector.

The EU member states can also set a quota for high-qualified workers obtaining an EU Blue Card.

## **2. Researchers:<sup>7</sup>**

*(In the following, just the peculiarities that differ from the instructions for highly-qualified workers are outlined.)*

The Researchers' Directive applies to the procedure of admission for non-EU researchers interested in carrying out work in an authorized research organization in an EU member state

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<sup>5</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

<sup>6</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

<sup>7</sup> <http://www.eu-bluecard.com/researchers/>.

for periods longer than three months. A research organization – university, institute, private company – is considered authorized when approved by the national authorities to host non-EU researchers.

The applicant **must provide**:

- Scientific qualifications
- Sufficient financial resources
- Health insurance proof
- An agreement with the employer
- A valid passport/travel document
- A written declaration from the research organization concerning the reimbursement of costs should he/she overstay

The agreement is similar to a contract with the authorized research organization that validates the project and stipulates the work conditions.

The permit is valid for at least one year and can be renewed if the conditions are still fulfilled.<sup>8</sup>

### **3. Vocational Trainees<sup>9</sup>:**

*(In the following, just the peculiarities that differ from the instructions for highly-qualified workers are outlined.)*

Applicants must find a vocational training for admission at an academy or other similar institution they cherish in order to apply for the EU Blue Card permit. Upon completion of training, the trainees are permitted to stay in the member state for another year to seek employment. In the meanwhile, any kind of job might be taken up as a means of self-support. Once a job fitting their qualification is found, an appropriate residence permit such as the EU Blue Card should be obtained.

They need the same documents as the highly-qualified workers to get the Blue Card.

Depending on the hosting country, they may need to undertake basic training to ensure they have the language skills needed.

### **4. Students:<sup>10</sup>**

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<sup>8</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

<sup>9</sup> <http://www.eu-bluecard.com/vocational-trainees/>.

<sup>10</sup> [http://www.eu-bluecard.com/students/ropa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://www.eu-bluecard.com/students/ropa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

*(In the following, just the peculiarities that differ from the instructions for highly-qualified workers are outlined.)*

After one year of studying in an EU member state, students seeking a higher education qualification may obtain a permanent residency permit or apply for the EU Blue Card. Rules and regulations vary from state to state, but the **basic factors** are similar throughout the member states:

- The student must have been admitted to a higher education institute to pursue a full-time course of studies leading to a higher education qualification, such as a diploma, certificate or doctoral degree.
- The student must have enough financial resources to cover living and study costs for the stay, as well as the return travel costs.
- The student must not threaten public security or public health. Depending on the country that he/she wishes to study in, he/she may also have to prove:
  - Knowledge of the language of the study program.
  - That fees charged by the higher education institution are paid.

However, EU member states **must** allow the students to work not fewer than ten hours per week, while not exceeding a maximum of twenty, outside their study time.

If the student wishes to study in a second EU member state, he/she needs to have the qualifications and documents mentioned above, all necessary documents proving the academic record and a proof that the course in the second country is related to the course he/she pursued in the first country. The student must have been studying in the first EU country for at least two years or must be participating in an EU or bilateral exchange program.

## **5. School Pupils (Exchange):<sup>11</sup>**

*(In the following, just the peculiarities that differ from the instructions for highly-qualified workers are outlined.)*

The **conditions** for a permit are:

- The applicant has been accepted by a secondary education center (i.e. between primary education and tertiary education, for pupils typically between 12 and 18 years old).
- The applicant is part of a pupil exchange program agreed by the EU country.
- The pupil exchange organization accepts responsibility for all costs (living, study, return travel, health insurance).
- The pupil will stay with a host family.

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<sup>11</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

- The pupil is within the age limits set by the host country.

## 6. Voluntary Workers:<sup>12</sup>

*(In the following, just the peculiarities that differ from the instructions for highly-qualified workers are outlined.)*

To get a residence permit, the applicant has to meet the following **conditions**:

- Be within the age limits set by the host country.
- Have an agreement with the host organization responsible for the voluntary service program. This agreement should set out the tasks and working hours and any training the applicant may receive, explain how he/she would be supervised, and describe the funds available to cover the costs of the stay (travel, living, accommodation).
- Provide evidence that the voluntary service organization will accept responsibility throughout the stay and look after his/her health care needs.

The residence permit will last for the duration of the placement/program and for a maximum of one year. In exceptional cases, the residence permit may be renewed once. The national authorities will reject the permit for the same reasons for which they will reject the permit of highly-qualified workers.

## 7. Seasonal Workers Directive:<sup>13</sup>

This directive is a **complementation** of the EU Blue Card, which allows seasonal workers to work in a specific EU member state to offer their skills and knowledge.

The EU Blue Card will be valid at the time the seasonal worker's skills are needed. The most frequent areas are agriculture, horticulture, tourism and/or similar occupations.

See the section "highly qualified workers" for the **documents required**.

Within one calendar year, seasonal workers are allowed to work in the hosting state for five to nine months, a permit extension being possible depending on the work contract. The costs for travel and health insurance have to be paid by the employer. It is possible to re-enter as a sea-

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<sup>12</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

<sup>13</sup> <http://www.eu-bluecard.com/seasonal-workers-directive/>.

sonal worker only if the previous permit acquired within the last five years is respected. The seasonal worker may file a request for extension of permit or change of employer with the competent authorities.

If the employer does not respect the conditions of the agreement, the seasonal workers have the right to appeal/complain, and the employer is compelled to compensate them even after they have left the member state.

- a) Seasonal workers are excluded from the following benefits:
- Family reunification benefits (since their stay is shorter than a year)
  - Educational or vocational benefits
  - Unemployment benefits (social assistance)

Nonetheless, they have the right to retirement benefits for the period they have worked in the hosting state.

It is possible to obtain a permit to work as a seasonal worker in another EU member state: the sole condition is the approval of competent authorities of both member states.

- b) The EU Blue Card for seasonal workers **may be rejected** if the vacancies can be filled by citizens of the hosting state, other EU citizens or non-EU citizens already residing in the hosting state.

Other reasons for rejection:

- Lack of qualified workers in the specific job group in the home country, causing brain drain
- The number of workers accepted is pre-defined by the hosting state
- The employer took part in fraudulent acts
- The seasonal worker's documents prove to be false
- The seasonal worker is a hazard to society
- He/she no longer satisfies the required conditions

## 8. Intra-Corporate Transferees Directive:<sup>14</sup>

This directive was approved in 2014 to **compliment** the EU Blue Card directive in order to provide faster access to qualified non-EU workers by improving and simplifying the process of issuing work permits. It makes it possible for multinational corporations to legally transfer

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<sup>14</sup> <http://www.eu-bluecard.com/intra-corporate-transferees-directive/>.



their employees throughout their places of operation – which has proved to be a very effective practice.

Only those selected employees are able to apply for the EU Blue Card who have worked for the company for between three and twelve months without interruption.

The following documents **should be presented**:

- For unregulated professions – a recognized university diploma
- For regulated professions –proof of the acquired certificate
- A work contract for at least one year in the hosting state
- Proof of the salary exceeding by 1.5 times the average salary in the hosting state or for professions in shortage 1.2 times the average salary in the hosting state
- A written declaration by the employer
- A valid travel document
- Proof that the applicant does not present any threat to the public policy, security or health of the hosting state,
- An application form filled out by either the transferee or the employer
- Two passport-size personal photos not older than six months
- Proof of payment of the application fee
- Proof of return home after job completion
- Dates of mobility if required to work in more than one EU member state

The decision regarding the status is made within 90 days by the competent authorities.

If the candidate does not stay in the EU member states for more than nine months, the family reunification benefits may not be granted.

The Intra-Corporate Transferee permit will be valid for a maximum of three years for managers and specialists, but one year for trainee employees. A renewal of the permit is possible if the transferee applies 90 days before the expiration date of the permit.

In the event of any changes (place or work), the competent authorities have to be notified prior to the change or within one month of it.

Intra Corporate Transferees are not entitled to:

- Housing
- Grants
- Loan rights

9. **Important: If an applicant for the EU Blue Card has no university degree, five years of work experience in the relevant profession are required!**<sup>15</sup>

### **III. Risks of Losing the EU Blue Card**<sup>16</sup>

It is possible to lose the EU Blue Card for **any of the following reasons**:

- The necessary conditions outlined above are no longer met.
- It is found out at a later stage that the application was based on false information or documents.
- The card holder represents a threat to public policy, public security or public health.
- The card holder has no sufficient financial resources to maintain himself/herself and his/her family members without social assistance.

### **IV. EU Blue Card Validity**<sup>17</sup>

The validity depends on the specific work contract, but has a margin from between **one and four years**. After the expiration date of the EU Blue Card, three additional months are granted in order to provide the EU Blue Card holders with a sufficient amount of time to extend or find another job.

If a renewal of the EU Blue Card is desired, the applicant has to add a copy of the earlier EU Blue Card to the rest of the documents. The application process may take up to 90 days. During this period, the applicant is allowed to legally work and reside in the hosting state.

### **V. EU Blue Card Benefits**<sup>18</sup>

- Equal work and salary conditions to those for national citizens
- Free movement throughout the EU
- Recognition of diplomas and qualifications<sup>19</sup>
- Social rights, including education, economic, cultural, human, health rights:<sup>20</sup>

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<sup>15</sup> <http://www.eu-bluecard.com/how-to-apply/>.

<sup>16</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

<sup>17</sup> <http://www.eu-bluecard.com/validity/>.

<sup>18</sup> <http://www.eu-bluecard.com/validity/>.

<sup>19</sup> [http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu\\_en](http://ec.europa.eu/immigration/who-does-what/what-does-the-eu-do/coming-to-the-eu_en).

Every member state is free to decide who is to be insured under its legislation, the conditions and benefits granted, as well as methods of benefit calculations. When the Card holder no longer resides in the member state he/she has worked in, he/she is entitled to the same pension as the citizens of the member state in question.

- Family reunification:<sup>21</sup>

If a Blue Card holder is able to present an employment contract for one or more than one year in the hosting state, he/she has the right to bring family members. The entitled family members are the spouse, children, partner, children of the spouse, other dependent relatives. The Card holder is the sponsor for the family member's permit. The application documents for family members must be prepared according to the relevant embassy or consulate requirements. As soon as the permit is granted, the family members have access, upon arrival, to the same rights as the rest of the citizens. The family can be invited to accompany an EU Blue Card or Permanent Residency Permit holder in a hosting state.

**Other rules** apply to EU citizens trying to bring their non-EU family members to the residing EU state. Non-EU family members of EU citizens are required to present:

- A valid passport
- Registration certificate or proof of residence
- Proof of family relationship (marriage or birth certificate, depending on the relationship)
- For children or grandchildren – proof of being under 21 or dependent on the Card holder
- For parents or grandparents – proof of dependency on the Card holder
- For other family members – proof of dependency on the Card holder, health conditions, etc.
- Unmarried partners – proof of long-term relationship with the Card holder

After being obtained, the residency permit is **valid for up to five years** and expires on the same date as the holder's. Family members may have to wait for a maximum of six months for a decision by competent authorities.

EU Blue Card holders are free to move with their families within other EU member states, being required to notify the authorities either before the move or within one month of arrival in the new member state.

Family members are **not required to speak the language** prior to moving to the hosting EU state, although faster access to employment is enjoyed by the ones who do speak the language, especially at the B1 level.

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<sup>20</sup> <http://www.eu-bluecard.com/social-security-taxes/>.

<sup>21</sup> <http://www.eu-bluecard.com/family-reunification/>.

Spouses younger than 21 may be refused the permit, and those persons who are considered hazardous to the public policy, health and security as well.

- Permanent residency rights.

## **VI. Long-Term Residents<sup>22</sup>**

A permanent residency permit can be obtained **after five years of legally residing and working** within the hosting EU member state as an EU Blue Card holder. Periods of ten months or six consecutive months of not residing in the hosting state for reasons like military service, illnesses, maternity or research and study will not be regarded as interrupting the residence within the hosting state.

In order to obtain the long-term residency permit, the applicant will need:

- Sufficient financial resources to maintain oneself without seeking social assistance
- Health insurance

The response to the application for long-term residency may take six months, and the permit is valid for five years. After the expiration date, an automatic application for renewal is possible.

A long-term resident has access to **almost the same benefits** as the citizens of the hosting state and is allowed to move freely within the EU:

### **1. Access to:**

- Employment and all correlating conditions
- Education and vocational training
- Social security and health insurance
- Social assistance
- Social benefits
- Freedom of movement, especially in the EU
- Freedom of association or union
- Housing
- Grants
- Loans

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<sup>22</sup> <http://www.eu-bluecard.com/long-term-residents/>.

2. Residence in another EU member state for a period of over three months is possible in the event of:
  - Economic activity as employed or self-employed
  - Pursuit of studies
3. The following documents need to be presented to the authorities:
  - The long-term residence permit
  - Identity document
  - Employment contract
  - Accommodation
  - Financial resources
  - Health insurance

In EU states, citizenship may be applied for only if you have legally worked and resided in the EU state for approximately eight years.

4. The long-term residency permit may be rejected on grounds of:
  - Public policy and security threat
  - Absence from the hosting country for more than twelve consecutive months
  - Fraud
  - The number of non-EU citizens to be admitted is already established by the hosting state

## **VII. EU Blue Card Network<sup>23</sup>**

Through the platform of the network, employers are enabled to offer employment and residence in the EU to non-EU nationals on the EU Blue Card. Thanks to the platform, it is possible to submit the EU Blue Card application electronically.

The first step is to create a profile, where information should be added about the applicant's education, trainings and personal qualities. This profile forms the basis for the application. Candidates are encouraged to complete their profile in order to increase their visibility with potential employers. Attachments may be added to the profile, such as a curriculum vitae (CV) and up to five educational or professional achievements. The candidate has unlimited, secure access to the online profile.

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<sup>23</sup> <https://www.apply.eu/Network/>.

Employers will browse through the profiles in search of a matching candidate. When the candidate is found, the employer will connect and initiate the interview process for a job contract or binding job offer. The EU Blue Card Network does not receive any commission or fee when a successful match leads to a job contract or issuance of the blue card; the platform serves as a facilitator and expeditor.

The personal online profile allows the submission of an electronic application for the EU Blue Card. When technically possible, the application is forwarded to the appropriate authorities. Alternatively, guidance is provided on how to proceed. This functionality comes with a complete profile.

Blue Card issuance procedure is defined as "fast-track": when the application is accepted, the card is issued within three months.

### **VIII. Problems Concerning the EU Blue Card**

Making a distinction between highly and poorly qualified workers could constitute discrimination due to the granting of different rights. It is to be feared that the migrants will be subjected to discrimination on grounds of their origins and levels of education, which will increase the already existing disparities.<sup>24</sup>

### **IX. New reform plans: The EU wants to lower immigration barriers – even for refugees<sup>25</sup>**

In June 2016, the EU Commission proposed to reform the actual EU Blue Card system, as it is practiced (nearly) only by Germany. Of a total of 30,500 Blue Cards granted, Germany granted 26,000 from 2012 until 2014. Only 31 percent of the highly qualified non-EU immigrants choose the EU; way more who choose to immigrate to the U.S. or Australia. The Commission is supported by the Organization for Economic Co-operation and Development (OECD), that recommends facilitated recognition of foreign training qualifications.

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<sup>24</sup> Stellungnahme des Europäischen Wirtschafts- und Sozialausschusses zu der „Mitteilung der Kommission an das Europäische Parlament, den Rat, den Europäischen Wirtschafts- und Sozialausschuss und den Ausschuss der Regionen — Europäische Agenda für die Integration von Drittstaatsangehörigen“ COM(2011) 455 final, ABl. C 181 vom 21.06.2012, S. 131-136.

<sup>25</sup> <http://www.wiwo.de/politik/europa/blue-card-eu-will-einwanderungshuerden-fuer-qualifizierte-migranten-senken/13702364.html>; <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/eu-will-voraussetzungen-fuer-blue-card-lockern-14274287.html>; <http://www.handelsblatt.com/politik/international/blue-card-weniger-fluechtlinge-mehr-hochqualifizierte/13701200.html>.

The new regulations shall facilitate access to the European labor market, moves to other EU states and permit independent sideline work (which should support the incorporation of an enterprise). Families are supposed to be able to come together much more rapidly and should be granted permanent residency permit faster.

Specific changes should be:

- Applicants for the EU Blue Card have to show an employment contract for at least six months term with an employment contract with a local employer (instead of at least one year).
- Possibility of application for a permanent right of residency after three instead of five years.
- Lowering of the income threshold for an EU Blue Card; in extreme cases, especially for very young highly qualified immigrants or in the event of a great demand for skilled employees, the EU states should be able to lower the income limit to 80 percent.

These rules should also apply to refugees, if they fulfill the conditions for the granting of the EU Blue Card and if they are allowed to work as identified refugees within the specific Member State.

The EU Member States and the European Parliament would have to accept the reform.