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Ad-Hoc Query on 2023.19 recognised employers for highly qualified employment

Requested by EMN Slovak Republic on 17 May 2023

**Responses from Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia,
Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania,
Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain,
Sweden (22 in Total)**

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1. BACKGROUND INFORMATION

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Article 13 of the Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC states that Member States may provide for recognition procedures for employers in accordance with their national law or administrative practice for the purposes of a simplified procedure for obtaining an EU Blue Card. The Slovak Republic is currently in the process of discussing the possibilities of transposing the mentioned Article. In this regard, it would be helpful to learn about Member States' experiences with the transposition of this Article or any other experiences with the system of recognised employers in existing national practice/legislation.

We would like to ask the following questions:

1. Does your Member State provide in its existing national migration policy and/or legislation for the system of recognized employers, which after fulfilling certain conditions, facilitates the employment of highly qualified third country nationals? YES/NO

Available choices: Yes, No

2. If yes, could you please explain what criteria have to be fulfilled by the employers?

3. If you answer yes to Q1, could you please explain how this facilitates the procedure for obtaining a residence permit for highly qualified employment for third country nationals (e.g. need to provide less documentation)?

4. Is your Member State planning to transpose Article 13 of the Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC? YES/NO

Available choices: Yes, No

5. If you answer yes to Q4, could you please provide more information on how was/is this Article being transposed?



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We would very much appreciate your responses by **16 June 2023**.

2. RESPONSES



1

		Wider Dissemination	
	EMN NCP Belgium	Yes	1. No 2. N/A 3. N/A 4. No 5. In Belgium, economic migration is largely a regional competence. None of the regions have so far transposed it, but some are looking into it.
	EMN NCP Bulgaria	Yes	1. No 2. N/A

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.



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			<p>3. N/A</p> <p>4. No</p> <p>5. N/A</p>
	EMN NCP Croatia	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. No</p> <p>5. N/A</p>
	EMN NCP Cyprus	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. No</p> <p>5. N/A</p>

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	EMN NCP Czech Republic	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A 4. No 5. N/A
	EMN NCP Estonia	Yes	<ol style="list-style-type: none"> 1. 2. N/A 3. N/A 4. 5. N/A <p>Comment: Amendments to the Aliens Act (Subdivision 41 from §1901 to 19013) regarding the EU Blue Card entered into force on 19.06.2011. According to the Aliens Act, the EU Blue Card is a residence permit for employment that is issued to an alien for residence and employment in Estonia in a job or position that requires higher qualification. Aliens Act sets requirements regarding the remuneration: at least equal to 1.5 times the annual average gross monthly salary and 1.24 times in cases of working as a top specialist/supervisor, top specialist in natural or technical science, in health service, in pedagogics, in business or administration, in</p>

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			information or communication and in legal, cultural or social sphere. No amendments have been nor are planned to be introduced regarding recognized employers.
+	EMN NCP Finland	Yes	<p>1. Yes</p> <p>2. Employer certification is intended for employers whose employees are applying for a residence permit on the basis of work. Companies that apply for employer certification must meet the following requirements:</p> <p>a. During the three years preceding the application:</p> <ul style="list-style-type: none"> • the company's equity has been positive each year; • the confirmed financial result of the company has been positive at least one year. • the annual turnover of your company has been at least one million euros on average per accounting period. <p>b. During the past three years, employees working for the company have been granted at least ten work-based residence permits, of which at least three have been extended permits.</p> <p>c. The company has met its obligations as an employer.</p> <p>d. Employees' terms of employment comply with the provisions in force and with the relevant collective agreement.</p> <ul style="list-style-type: none"> • If no collective agreement exists in the sector, the terms of employment must correspond to those applied to employees in the labour market doing similar work. <p>e. The conditions for withdrawal of certification are not met.</p> <p>f. Certification is not granted if the conditions for withdrawal of certification are met. A certification can be cancelled if</p>



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			<ul style="list-style-type: none"> • the employer or a representative of the employer has been sentenced for an employer's violation of the Aliens Act • a decision to refrain from issuing permits has been made about the employer or a representative of the employer • a financial sanction has been imposed on the employer or a representative of the employer • a prohibition on pursuing a business has been imposed on the employer or a representative of the employer • the employer or a representative of the employer has been sentenced to a corporate fine <p>3. Having employer certification benefits your company:</p> <ul style="list-style-type: none"> • You no longer need to enter the information about your company separately for each employee's application. • Your employees do not need to fill in the terms of employment in their applications. • Your employees can also apply for a D visa. <p>Employer certifications do not only apply specifically for highly qualified employment but they can be applied to all work-related applications. However, these benefits do not apply if your employee is applying for a residence permit on the basis of intra-corporate transfer, seasonal work, research work or internship. When a company applies for employer certification, the company's ability to meet its obligations as an employer will be assessed. This means that a separate assessment is no longer required during the processing of residence permit applications. A first employer certification is granted for two years. After that, an extended certification can be granted for three years at a time.</p>
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			<p>4. Yes</p> <p>5. It is planned that the system of certified employers will continue to be applicable on Blue Card applications. The transposition of article 13 will not cause changes in the already existing legal framework on certified employers. The transposition of the directive is however still in progress and therefore changes are still possible.</p>
	EMN NCP France	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. No</p> <p>5. N/A</p>
	EMN NCP Greece	Yes	<p>1. No</p> <p>2.</p> <p>3.</p> <p>4. Yes</p>


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			<p>5. By article 38 of the new Migration Code (L.5038/2023, GG.A'81) that will enter into force on 1st January 2024, is transposed in the national legislation, article 13 of the Directive 2021/1883, according to which:</p> <p>"1. For third country nationals who are going to be employed by employers who are recognized in accordance with the provisions of the decision of par. 33 of article 176[1] of the present law, a simplified procedure for obtaining an "EU Blue Card" is applied. Recognition procedures shall not entail disproportionate or excessive administrative burdens or costs for employers, in particular for small and medium-sized enterprises.</p> <p>2. The simplified procedures include the processing of applications, in accordance with the third par. of par. 1 of article 37. Applicants are exempted from the obligation to submit or present one or more documents of evidence referred to par.1b and e[2] of article 31.</p> <p>3. In case of establishment of an employer recognition procedure, the competent authorities shall not recognize an employer pursuant to par.1:</p> <p>a) if a sanction has been imposed on the employer in question for employment of illegally resident third-country nationals in accordance with article 88 of L.4052/2012 (A' 41) or for undeclared or illegal work or for failure to fulfill its legal obligations regarding the social security, taxation, labor rights or working conditions, or</p> <p>(b) if he has failed to comply with his obligations under this Chapter or if the recognition has been fraudulently obtained. Each decision to refuse to recognize an employer takes into account the particularities of the specific case, including the time that has passed since the sanction was imposed, and respects the principle of proportionality".</p> <p>[1] By a joint ministerial decision is possible the establishment of a procedure for</p>
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			<p>recognizing employers of article 38, for whom is possible the implementation of a simplified procedure for inviting and granting the "EU Blue Card" to third-country national employees. With the same or a similar decision are determined the terms of transparency and information of the employers concerned, the terms and criteria of recognition, the period of validity of the recognition, the consequences of non-compliance of the recognized employers with the terms of recognition, including the possible revocation or non-renewal of the recognition, as well as potential penalties and potential fees for employers.</p> <p>[2] E.g. evidence of the existence of health insurance for all the risks covered for nationals, in respect of the periods in which the person is not provided, due to the employment contract or in conjunction with it, a corresponding insurance cover or a corresponding right to benefits .</p>
	EMN NCP Hungary	Yes	<p>1. No</p> <p>2. It should be noted; however, that the concept of "preferred employer" has been introduced into Hungarian legislation. This allows third-country nationals who will be employed in the future by employers falling under this category to apply for a residence permit within a facilitated procedure, under certain conditions. One of these conditions is that the third-country national concerned shall undertake employment in a position specified as a shortage occupation position in the Hungarian labour market; such positions may include highly skilled occupations</p> <p>3. -</p> <p>4. No</p>

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			5. -
	EMN NCP Ireland	Yes	<p>1. Yes Clarification: Ireland does not participate in the EU Blue Card Directive. However, under national practice, employers may register as Trusted Partners to apply for all employment permits, including Critical Skills Employment permits for highly qualified workers. Under the Trusted Partner Initiative, a Person who will make an offer of employment/Employers/Connected Persons and EEA contractors may apply for Trusted Partner status. While the scheme does not provide priority access to certain types of permits for Trusted Partner employer, the objective of the initiative is to ease the administrative burden on employers/connected persons/EEA contractors in expansion mode and to remove the requirement that they replicate the same employer/connected person information in respect of each employment permit application made for grant or renewal. The Trusted Partner initiative streamlines the application process for the person making the offer of employment/employers/connected persons and EEA contractors when applying for employment permits. It is aimed primarily at high volume users of the employment permits regime. This may include companies in expansion mode and start-up companies. The benefits of the Trusted Partner Initiative are: -Fast turnaround of Trusted Partner registration applications -Status valid for 2 years- No fee-Reduced paperwork for every permit applied for under the scheme-Shortened employment permit application forms- Faster turnaround of Trusted Partner employment permit applications.</p> <p>2.</p> <ul style="list-style-type: none"> • The Person who will make the offer of employment/Employer/Connected Person and EEA contractor must be registered with the Office of the Revenue


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			<p>Commissioners as an employer and, where applicable, the Companies Registration Office/Registry of Friendly Societies.</p> <ul style="list-style-type: none"> • The application form for Trusted Partner registration must be signed by the Company Secretary (this is especially applicable to Limited Companies), the Person of Compliance or Person of Process or the business owner. By signing the form the Person who will make the offer of employment/Employer/Connected Person or EEA contractor is committing to comply with a list of declarations specified on the application form which includes, inter alia, notifying the Department if there are any changes to its details, undertaking to check within reason that all of the information to be provided about future employment permit applications and submitted to the Department under the Trusted Partner Initiative are true and correct, asserting that the person in receipt of a permit will receive the remuneration promised and be employed in the capacity stated on the employment permit application form. • A Trusted Partner Registration checklist is provided here: https://enterprise.gov.ie/en/publications/publication-files/trusted-partner-registration-checklist.pdf <p>3. The purpose of the Trusted Partner initiative is to reduce the administrative burden for employers when applying for employment permits. When Trusted Partner status is granted a unique Trusted Partner Registration Number is assigned. Applicants granted Trusted Partner status will have access to their own suite of employment permit application forms where they must only provide their Trusted Partner Registration number in lieu of all employer details. Applications by Trusted Partners on the Trusted Partner employment permit application forms only need to provide details relating to the employment and the</p>
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			<p>foreign national when they are applying for a permit. It should be noted that the Trusted Partner initiative refers to applications for employment permits only. Ireland does not participate in the Single Permit Directive. An employment permit and a residence permit, on the basis of that employment permit, are applied for separately.</p> <p>4.</p> <p>5. Not applicable.</p>
	EMN NCP Italy	Yes	<p>1. Yes According to Article 27 quater paragraph 8 of the Testo Unico sull'Immigrazione (T.U.I. - Unified Text on Immigration), companies can sign memorandums of understanding that enable a simplified procedure.</p> <p>2. According to Art. 27 quater paragraph 8 Legislative Decree 286/1998, for the purposes of access to a simplified procedure for the authorization of entering workers with the Blue Card scheme, employers must have signed a special memorandum of understanding with the Ministry of the Interior, after having consulted the Ministry of Labor and Social Policy, by which they guarantee the required economic capacity and compliance with the requirements of the collective bargaining agreement for the category.</p> <p>3. Less documentation is required, thus the procedure is simplified since there is no provision for the issuance of work clearance, which is preparatory to obtaining an entry visa for the foreign national. The authorization is replaced with a procedure of silence-consent whereby: the employer submits to the Sportello Unico Immigrazione</p>


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			<p>a notification of the contract of residence for the foreign worker and, unless the Questore reports any reasons preventing the admission, the Sportello Unico proceeds to its submission to the Diplomatic and Consular Representations to obtain the entry visa.</p> <p>4. Yes</p> <p>5. The article does not require any transposition, as Italian law already provides for the simplified procedure for recognized employers earlier described in response to the previous questions. Therefore, the provision of Article 13 is already present in the national legal system (Art. 27 quater paragraph 8 Legislative Decree 286/1998).</p>
	EMN NCP Latvia	Yes	<p>1. No</p> <p>2. N/a</p> <p>3. N/a</p> <p>4. No No. As the Article 13 of the Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 is optional, Latvia does not plan to transpose it</p> <p>5. N/a</p>
	EMN NCP	Yes	<p>1. No</p>


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	Lithuania		<p>2. N/A</p> <p>3. N/A</p> <p>4. No Article 13 had been transposed to national law through the Law on the Legal Status of Foreigners. In 2019-2022, the List of Approved Companies was used as a recognition procedure for employers, in accordance with paragraph 1 of Article 13 of the Directive. The criteria for being entered into the list were set by an order of the Minister of the Interior. However, as of August 1, 2022, the Law on the Legal Status of Foreigners was amended, whereupon the list of confirmed companies is no longer used and the special conditions that used to apply for the foreign employees of companies on the list no longer apply. Instead, the requirements for the issue of a temporary residence permit were eased for all foreign employees.</p> <p>5. N/A</p>
	EMN NCP Luxembourg	Yes	<p>1. No No. Article 45 and article 45-1 of the amended law of 29 August 2008 on free movement of persons and immigration does not foresee a system for recognized employers in order to facilitate the hiring of blue card holders.</p> <p>2. N/A.</p> <p>3. N/A.</p>

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			<p>4. No At the moment, there has not been a draft bill published.</p> <p>5. N/A.</p>
	EMN NCP Netherlands	Yes	<p>1. Yes</p> <p>2. There are general requirements for applying for recognition as an organisation. These requirements apply to all categories, including work. The following conditions have to apply to the organisation:</p> <ul style="list-style-type: none"> • The organisation is registered in the Commercial Register in the Netherlands (Handelsregister). This is not necessary if not required under the Commercial Register Act 2007 (Hrw 2007); • The continuity and solvency of the organisation is sufficiently guaranteed; • The organisation is not insolvent or has not been granted suspension of payment; • Directors and officers and other natural persons and legal entities involved in the organisation are reliable, which is, for instance, determined by previously incurred penalties based on the Aliens Act, Foreign Nationals (Employment) Act and the Minimum Wage and Minimum Holiday Allowance Act; • The organisation complies with the Code of Conduct that applies to the organisation. Does the organisation carry out activities such as assigning personnel for payment? Then the organisation must be listed in the register of the Labour Standards Foundation (SNA).[1] <p>[1] Immigration and Naturalisation Service (IND) 'Apply for recognition as sponsor', https://ind.nl/en/residence-permits/work/apply-for-recognition-as-</p>



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		<p>sponsor#requirements, last accessed on 31 May 2023</p> <p>3. Recognized sponsors can submit easier and shorter applications as compared to non-recognized sponsors. The application mainly consists of legally binding statements from the recognized sponsor, stating that the applicant meets all conditions and the recognized sponsor will adhere to the duties associated with their status as recognized sponsor. As such, they need to provide less documentary evidence, the application can be sent digitally and the application is processed more quickly (the IND strives to decide on an application by a recognized sponsor within two weeks).[1]</p> <p>[1] Immigration and Naturalisation Service (IND), 'Apply for recognition as sponsor, https://ind.nl/en/residence-permits/work/apply-for-recognition-as-sponso..., last accessed on 31 May 2023.</p> <p>4. No</p> <p>5. The revised directive allows member states to recognize employers, with the aim of simplifying the procedure, as stated in article 13 of the revised directive. The Netherlands will not transpose article 13 because it offers fewer guarantees than the national scheme for recognized sponsors, with regard to the assessment of reliability, solvency and continuity of organizations that want to become recognized sponsors. This means that after implementation of the directive, the same conditions will apply to all sponsors when submitting the EU Blue Card application. So, a recognized sponsor must also submit a complete application (this is not the case now) and there will be no shorter procedure for recognized sponsors.[1]</p>
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			[1] Immigration and Naturalisation Service (IND), 'EAUT Europese blauwe kaart', https://ind.nl/nl/documenten/03-2023/eaut-europese-blauwe-kaart-februari-2023.pdf , last accessed on 22 May 2023.
	EMN NCP Poland	Yes	<ol style="list-style-type: none"> 1. No 2. Not applicable 3. Not applicable 4. No 5. Not applicable
	EMN NCP Portugal	Yes	<ol style="list-style-type: none"> 1. Yes portaria59a_202228jan.pdf 2. According to nr. 3 of Order nr. 59-A/2022 of 28 January: «Article 3 Company Certification Criteria1 — Without prejudice to compliance with other legal requirements that may be applicable, the applications from companies under the «Tech Visa» program are evaluated and selected with based on the following criteria:a) Be legally constituted;b) Have no debts to social security and tax administration;c) Not having wages in arrears;No. 20 January 28, 2022 Page 19-(8)Diário da República, 1st seriesd) Not be considered companies undergoing restructuring;e) Identify in the application the preferred technical areas of qualification intended under the «Tech Visa» programme, in accordance with the

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			<p>National Qualifications Catalogue;f) In the case of companies incorporated more than three years ago, have a positive net worth, as evidenced in the latest Simplified Corporate Information (IES) available;g) Have a permanent establishment in the national territory and carry out an activity whose exercise requires specialized technical skills, of an exceptional nature, or a qualification suitable for the respective exercise;h) Develop an activity for the production of internationalizable goods and services, namely, goods and services produced in sectors exposed to international competition and which may be the object of international exchange, or, in the case of recognized technological interface centers 8563/2019, of September 27, or the collaborative laboratories recognized under Regulation no. 486-A/2017, of September 12, have an activity economic provision of services to companies engaged in the production of goods and services internationalizable;i) Have a minimum number of internal employees, compatible with the viability of issuance of terms of responsibility, in compliance with the limits defined in paragraph b) of Article 4(1);j) Identify a company responsible for the certification process residing in Portugal;k) Obtain a positive evaluation of the application in the following evaluation criteria:i) Market potential;ii) Orientation towards foreign markets.2 — In the case of technological interface centers recognized under the terms of the Order No. 8563/2019, of September 27, or the collaborative laboratories recognized under the terms of Regulation no. 486-A/2017, of September 12, the assessment provided for in paragraph k) of the previous number is carried out taking into account the companies to which the services of those companies are intended.</p> <p>3. Due to the ordinance No. 328/2018, of December 19, that define the certification scheme for companies with a view to welcoming third-country nationals who wish to develop a highly qualified activity in Portugal.The Program of the XXI Constitutional</p>
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			<p>Government and the National Program of Reforms underline the importance of incentives for the consolidation of a dynamic and international economy, which applies not only to the entrepreneur ecosystem and companies that bet on technology and innovation, but also to other companies that develop their activity in Portugal with employees whose activities requires exercise specialized technical skills, of an exceptional nature or an appropriate qualification for the respective exercise. All these companies are essential for the internationalization of the Portuguese business. In the 21st century, the support and promotion of a global economy capable to attracting highly qualified staff are very relevant focuses of Government action, namely, through development of measures that allow the establishment of international companies and the establishment of qualified and specialized staff from different countries. In this context, having created a more effective and efficient program for granting visas for residence/assignment of residence permit for highly qualified immigrants, legally to the Government the certification of companies that, through the conclusion of a work with highly qualified and/or specialized staff, allowing them to enjoy the program that speeds up the granting of a residence visa/assignment of a residence permit designated «Tech Visa» program, once all other legal requirements are fulfilled, it's shown now essential to extend this program to other forms of recruitment that aim to create highly conditions for high qualified staff with international mobility and attracting foreign direct investment from companies wishing to transfer from other countries activities witch added high value and that need to bring highly qualified technical staff qualified to the national territory.</p> <p>4. No NO. Moreover, bill nr. 83/XV/1.^a, set to transpose the "Blue Card" directive, currently in national circulation for contributions, does not foresee the transposition</p>
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			of article 13 of said directive (which is of optional transposition). 5.
	EMN NCP Slovakia	Yes	1. No 2. NA 3. NA 4. 5. This is under discussion.
	EMN NCP Slovenia	Yes	1. No 2. n/a 3. n/a 4. No 5. n/a
	EMN NCP	Yes	1. Yes


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	Spain		<p>2. Our scheme is based in a database where a employer is registered the first time it applies for a highly qualified worker but, having said that, all the legal employers who are up to date (with no debts) with Social Security System or Spanish Tax Agency are eligible to ask for a work permit for their high qualified workers. All the applications are trusted using company's digital signature as all the process is managed in a digital way throughout a web page.</p> <p>3. In the Spanish legislation we have a special scheme (Ley 14/2013 for supporting entrepreneurs and their internationalization) that provides a fast track in the work permits of entrepreneurs, investors, highly qualified workers, researchers, digital nomads or intra company transfers based on a very simple process, with an estimated resolution answer of 20 days, all of it formulated on an electronic processing system where the information of the company is automatically consulted with other government databases so the main documentation provided for the company is related to the worker such as the contract, the Passport, penal record certificate of the country where he/she has lived in the last years etc. The documents related to registered employers in the database only need to be submitted once, and remain valid during a 3 year period, under new article 76.4 of the Law 14/2013.</p> <p>4.</p> <p>5. It has been transposed by including the Blue Card in the above mentioned scheme of the Law 14/2013, a practical tool whose aim was to help Spanish economy to attract talent setting a fast track scheme where the company can incorporate the worker in less than 20 days, and also where his/her family can travel at the same time getting an individual residence permit for themselves</p>
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			<p>facilitating the establishment in Spain of the whole family at a time.</p> <p>Procedural rules for recognized employers are set in article 76 of the Law 14/2013 (See Q3 for details). Level playing field is guaranteed by applying the same procedural rules for holders blue cards and national permits for highly qualified professionals.</p> <p>All necessary information is available on the website of the Ministry of Inclusion, Social Security and Migration.</p>
	EMN NCP Sweden	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A 4. No 5. N/A. SE would just like to highlight that we have not yet adopted the Directive, it is therefore not possible to say just yet. Although, as for now, it does not look like we will impose the suggested recognition procedures as stated in Article 13.
