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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the status of third-country nationals who are long-term residents (recast) - Presidency compromise text

For the purpose of discussions in the IMEX (admission) meeting on 26 July 2023, delegations will find in the Annex a Presidency compromise text on the above-mentioned proposal.

Suggested modifications are indicated as follows:

- new text compared to the Commission's proposal is in **bold**;
- new text compared to the previous version is in **bold underlined**;
- deleted text compared to the Commission's proposal is marked with [...];
- deleted text compared to the previous version is in ~~strike through~~.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
concerning the status of third-country nationals who are long-term residents (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2), points (a) and (b) thereof,

Having regard to the proposal from the Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 2003/109/EC¹ has been substantially amended². Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (2) This Directive respects the fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union.
- (3) The integration of third-country nationals who are EU long-term residents in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Union stated in the Treaty.
- (4) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L16, 23.1.2004, p.44).

² See Annex I, Part A.

- (5) The prospect of obtaining EU long-term resident status in a Member State after a certain time is an important element for the full integration of beneficiaries of international protection in the Member State of residence. Beneficiaries of international protection should therefore be able to obtain EU long-term resident status in the Member State which granted them international protection, subject to the same conditions as other third-country nationals. [In order to ensure that beneficiaries respect the authorised period of stay or residence in accordance with the relevant Union, national or international law, the 5-year period after which beneficiaries of international protection are eligible for the EU long term resident status {...}should {...}in principle be restarted each time the person is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there {...}.^{3]}
- (6) Third-country nationals who are beneficiaries of free movement rights in accordance with EU law should be given access to EU long-term residence status in accordance with the same rules as any other third-country nationals falling within the scope of this Directive. The rights that such third-country nationals acquire as holders of the EU long-term residence status should be without prejudice to rights they may enjoy under Directive 2004/38/EC⁴. All provisions in this Directive regarding the beneficiaries of the right to free movement should also apply to third-country nationals who enjoy rights of free movement equivalent to those of Union citizens under agreements either between the Union and the Member States on the one hand, and third countries on the other, or between the Union and third countries.

[³ Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, recital 44.]

⁴ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (7) The main criterion for acquiring the status of EU long-term resident should be the duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country. Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis.
- (7a) Residence solely on temporary grounds should not be taken into account when calculating the period required for acquiring EU long-term resident status. This includes any residence of a lawful nature, which does not reflect any intention to settle on a long-term basis in the territory of Member States. When it comes to intra-corporate transferees under Directive 2014/66⁵, such third country nationals also often reside in the EU on a temporary basis. However, to attract such skills and talent to the EU, periods of residence as an intra-corporate transferee should be taken into account when calculating the period required for EU long-term resident status, provided that the overall residence has been legal and continuous. Researchers under Directive 2016/801⁶, who are already included in the scope of this Directive and therefore can apply for EU long-term resident status, are another category of skilled and talented third-country nationals that the EU should continue to attract and retain.

⁵ Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

⁶ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast)

- (8) To prevent the risk of abusive acquisition of EU long-term resident status, Member States should ensure that the requirement of legal and continuous residence is **complied with** ~~duly monitored~~ for all categories of third-country nationals. This risk is particularly relevant for those third-country nationals who hold a residence permit granted on the basis of any kind of investment in a Member State, as the issue of these residence permits is not always subject to the requirement of continuous physical presence in the Member State or is merely subject to the requirement of the investors' presence in the Member State for a limited time. To prevent this risk, Member States should strengthen checks on the requirement of legal and continuous residence with particular regard to applications for EU long-term resident status submitted by third-country nationals who reside in a Member State in exchange of any kind of investment, such as capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget.
- (9) {The required period of residence for the acquisition of EU long-term resident status should be completed in the same Member State of application. However, in order to promote the intra-EU mobility of skilled ~~and talented~~ third-country nationals, Member States should allow certain periods of residence in different Member States to be cumulated. **In order to limit the attractiveness of investor residence schemes and on account of the fact that not all Member States have regulated this category of residence permits, Member States should not take into account periods of residence as a holder of a residence permit granted on the basis of any kind of investment in another Member State for the purpose of cumulating periods.**

- (9a) **The periods of legal residence of UK nationals and their family members under the Withdrawal Agreement⁷ as well as periods of legal residence that they previously spent under Directive 2004/38/EC shall be considered as periods of legal residence in a Member State of the European Union in accordance with this directive and, therefore, shall be counted in order to cumulate the 5- year residence period required for the acquisition of the EU long- term resident status. This shall apply either when the residence period has been completed in the same Member State or when certain periods have been cumulated in other Member States.**
- (10) Any period of residence, within the territory of the same Member State of application, that is included in the scope of the Directive should be taken into account fully in the calculation of the five year period required to acquire EU long-term resident status, provided that the overall residence has been legal and continuous. The same should, ~~with some exceptions,~~ apply for **those** periods of residence spent by a holder of **certain** a long-stay visa or residence permits ~~issued under Union or national law that is not included~~ **which are excluded in from** the scope of the Directive, ~~where~~ **provided that** the third-country national concerned has acquired a title of residence which will enable him/her to be granted EU long-term resident status.
- (10a) **In order to enable national authorities to check the continuity and legality of the periods of residence spent in other Member States, the European Commission should make available the appropriate tools to identify the type of residence permits and long-stay visas included for the purposes of accumulation under this directive, as well as their validity in other Member States. As long as such an instrument is not in force, and on an exclusively transitory basis, the exchange of information necessary for this purpose will be carried out through the EU Mobil tool, into which the European Commission will have incorporated the necessary technical adaptations to facilitate the exchange of information by the national authorities on the cumulation of the periods of residence in other Member States referred to in this directive.**

⁷ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01)

- (11) To acquire EU long-term resident status, third-country nationals should prove that they have adequate resources and sickness insurance, to avoid becoming a burden for the Member State. **The Court of Justice has in case C-578/08⁸, concerning Council Directive 2003/86/EC**, held that Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level below which all **family reunifications** [...] will be refused, irrespective of an actual examination of the situation of each applicant. **The same principle should apply when assessing applications for EU long-term resident status.** When making an assessment of the possession of stable and regular resources, Member States, **where needed**, may take into account ~~factors such as contributions to the pension system and fulfilment of tax obligations.~~ Normally, the applicant for EU long-term resident status should be able to fulfil the requirement of stable and regular resources with his or her own resources. However, ~~Aas⁹ held by the Court of Justice in case C-302/18⁹]~~ the concept of ‘resources’ should not concern solely the ‘own resources’ of the applicant for EU long-term resident status, but may also cover the resources made available to that applicant by a third party provided that, in the light of the individual circumstances of the applicant concerned, they are considered to be stable, regular and sufficient. **In that regard, the legally binding nature of a commitment of cost bearing by a third party or a member of the applicant’s family may be an important factor to be taken into account. It is also permissible for the competent authorities of the Member States to take into account, inter alia, the family relationship between the applicant for EU long-term resident status and the member or members of the family prepared to bear his or her costs. Similarly, the nature and permanence of the resources of the member or members of the applicant’s family may be relevant factors to that effect.**

⁸ **Paragraph 48.**

⁹ **Paragraph 43 and 44.**

- (11a) To acquire EU long-term resident status, Member States should also be able to require third-country nationals to provide evidence that they have, for themselves and for dependent family members, appropriate accommodation, for example by providing a rental agreement or a contract.
- (12) Member States should be able to require applicants for EU long-term resident status to comply with integration conditions, for example by requiring them to pass a civic integration or language examination. The acquisition of knowledge of the language and society of the host Member State greatly facilitates communication between third-country nationals and nationals of the Member State concerned and, moreover, encourages interaction and the development of social relations between them. However, **as held by the Court of Justice in case C-579/13¹⁰**, the means for implementing this requirement should not be liable to jeopardise the objective of promoting the integration of third-country nationals, having regard, in particular, to the level of knowledge required to pass a civic integration examination, to the accessibility of the courses and material necessary to prepare for that examination, to the amount of fees applicable to third-country nationals as registration fees to sit that examination, or to the consideration of specific individual circumstances, such as age, illiteracy or level of education.
- (13) Moreover, third-country nationals who wish to acquire and maintain EU long-term resident status should not constitute a threat to public policy or public security. The notion of public policy may cover a conviction for committing a serious crime.
- (14) Economic considerations should not be a ground for refusing to grant EU long-term resident status and should not be considered as interfering with the relevant conditions.

¹⁰ Paragraph 49.

- (15) A set of rules governing the procedures for the examination of applications for the acquisition of EU long-term resident status should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned. They should not constitute a means of hindering the exercise of the right of residence.
- (16) The acquisition of EU long-term resident status should be certified by EU long term residence permits enabling those concerned to prove their legal status easily and immediately. Such residence permits should also satisfy high-level technical standards, notably as regards protection against falsification and counterfeiting, in order to avoid abuses in the Member State in which the status is acquired and in Member States in which the right of residence is exercised.
- (17) To maintain the EU long-term resident status, EU long-term residents should have their main residence in the territory of the Union. Factors indicating such residence could include the exercise of an economic activity in an employed or self-employed capacity, housing, the payment of taxes, the presence of family members in the territory of the Union **and the schooling of children in the territory of the EU. On the contrary, elements such as the absence of economic, family or professional interests in that country, the habitual residence in another country, the null contribution of taxes to the State, the absence of a habitual residence in the country concerned, the schooling of minor children in another country, could be indicative of the non-existence of principal residence in a Member State.** However, EU long-term residents should to some extent be able to be absent from the territory of the Union, for example to invest in their countries of origin and share the knowledge and skills acquired in the Union, as well as to return temporarily to their countries of origin for personal and family circumstances, without losing their EU long-term resident status. In case of longer absences, Member States should establish a facilitated procedure for the re-acquisition of the EU long-term resident status.

- (18) In order to constitute a genuine instrument for the integration of EU long-term residents into the society in which they live, EU long-term residents should enjoy equality of treatment with citizens of the Member State in a wide range of economic and social matters, under the relevant conditions defined by this Directive.
- (19) The equality of treatment of beneficiaries of international protection in the Member State which granted them international protection should be without prejudice to the rights and benefits guaranteed under Directive 2011/95/EU of the European Parliament and of the Council¹¹ and under the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967 ('the Geneva Convention').
- (20) Professional qualifications acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council¹². This Directive should be without prejudice to the conditions set out under national law for the access to and exercise of regulated professions.
- (21) This Directive should take into account the common standards and procedures in Member States for returning illegally staying third-country nationals introduced by Directive 2008/115/EC of the European Parliament and of the Council¹³.

¹¹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

¹² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

¹³ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

- (22) EU long-term residents should enjoy reinforced protection against decisions ending their legal stay. Member States should provide for effective legal redress against such decisions.
- (23) Decisions ending the legal stay of EU long-term residents should not be founded on economic considerations.
- (24) Where a Member State intends to end the legal stay, on a ground provided for in this Directive, of a beneficiary of international protection who has acquired EU long-term resident status in that Member State, and *refoule* him/her, that person should enjoy the protection against *refoulement* guaranteed under Directive 2011/95/EU and under Article 33 of the Geneva Convention. For that purpose, where the person enjoys international protection in a Member State other than the one in which that person is currently residing as a long-term resident, it is necessary to provide, unless *refoulement* is permitted under Directive 2011/95/EU, that that person may be required to go only to the Member State which granted international protection and that that Member State is obliged to take back that person. The same safeguards should apply to a beneficiary of international protection who has taken up residence but has not yet obtained EU long-term resident status in a second Member State.
- (25) Where the *refoulement* of a beneficiary of international protection outside the territory of the Union is permitted under Directive 2011/95/EU Member States should be obliged to ensure that all information is obtained from relevant sources, including, where appropriate, from the Member State that granted international protection, and that it is thoroughly assessed with a view to guaranteeing that the decision to *refoule* that beneficiary is in accordance with Article 4 and Article 19(2) of the Charter of Fundamental Rights of the European Union.
- (26) In order to promote better integration of EU long-term residents, rules on favourable conditions for family reunification and access to work for spouses should be introduced. Thus specific derogations from Council Directive 2003/86/EC should be provided for.

- (27) As family life should be respected and its protection is an essential element of the integration of EU long-term residents, **and in order to avoid having children in the same family with different types of residence permits, minor dependent** children of EU long-term residents, **regardless of their place of birth** who are born or adopted in the territory of the EU Member State having issued to the latter the EU long-term residence status should be **granted in that Member State the same status and the same treatment as provided for under national law for those born in the Member State. In this regard, children that entered the EU under the Family reunification directive shall see their migratory status improved and equaled to that of children born in the territory of the EU, once the sponsor becomes an EU long-term resident.** authorised to reside that Member State in a similar way as family members covered by **The term dependent children shall be interpreted in accordance with Articles 4(1) and 4(2) b) of Directive 2003/86/EC [...]**
- (28) Harmonisation of the terms of acquisition of the EU long-term resident status promotes mutual confidence between Member States. However, this Directive should be without prejudice to the right of Member States to issue residence permits of permanent or unlimited validity other than the EU long-term residence permit. Such national residence permits should not confer the right to reside in other Member States.

- (29) {Member States should ensure a level playing field between EU long-term residence permits and national residence permits of permanent or unlimited validity, in terms of procedural and equal treatment rights and access to information. In particular, Member States should ensure that the level of procedural safeguards and rights granted to EU long-term residents is not lower than the level of procedural safeguards and rights enjoyed by holders of national residence permits of permanent or unlimited validity. Member States should also ensure that applicants for an EU long-term residence permit are not required to pay higher fees for the processing of their application than applicants for national residence permits. Finally, Member States should engage in the same level of information, promotion and advertisement activities with respect to the EU long-term residence permit as they do for national residence permits of permanent or unlimited validity, for example with regard to information on national websites on legal migration and information campaigns, and training programmes provided to the competent migration authorities.}
- (30) Residence of EU long-term residents in other Member States should be facilitated. Establishing the conditions subject to which the right to reside in another Member State may be acquired by third-country nationals who are EU long-term residents should contribute to the effective attainment of an internal market as an area in which the free movement of persons is ensured. The occupational and geographical mobility of third-country nationals who are already EU long-term residents in one Member State should be recognised as **possible** [...] contributors to improving labour market efficiency across the Union, to addressing skills shortages and to offsetting regional imbalances.
- (31) In view of the right of beneficiaries of international protection to reside in Member States other than the one which granted them international protection, it is necessary to ensure that those other Member States are informed of the protection background of the persons concerned to enable them to comply with their obligations regarding the principle of *non-refoulement*.

- (32) Transfer of responsibility for protection of beneficiaries of international protection is outside the scope of this Directive.
- (33) Provision should be made that the right of residence in another Member State may be exercised in order to work in an employed or self-employed capacity, to study or even to settle without exercising any form of economic activity.
- ~~(34)~~—[...]
- (35) As soon as an EU long-term resident submits a complete application for residence in a second Member State within the deadline provided for in this Directive, it should be possible for that Member State to allow the EU long-term resident to begin employment or study.
[...]
- (36) Where EU long-term residents intend to apply for residence in a second Member State in order to exercise a regulated profession, their professional qualifications should be recognised in the same way as those of Union citizens exercising the right to free movement, in accordance with Directive 2005/36/EC and other applicable Union and national law.
- (37) Family members should also be able to settle in a second Member State with an EU long-term resident in order to preserve family unity and to avoid hindering the exercise of the EU long-term resident's right of residence. With regard to the family members who may be authorised to accompany or to join the EU long-term residents, Member States should pay special attention to the situation of disabled adult children and of first-degree relatives in the direct ascending line who are dependent on them.

- (38) The Member State in which an EU long-term resident intends to exercise his/her right of residence should be able to check that the person concerned meets the conditions for residing in its territory. It should also be able to check that the person concerned does not constitute a threat to public policy, public security or public health.
- (39) To avoid rendering the right of residence nugatory, EU long-term residents should enjoy in the second Member State the same treatment, under the conditions defined by this Directive, they enjoy in the Member State in which they acquired the status. The granting of benefits under social assistance is without prejudice to the possibility for the Member States to withdraw the residence permit if the person concerned no longer fulfils the requirements set by this Directive.
- (40) In order to ensure that the criteria for residence in the second Member State continue to be fulfilled, the second Member State should be allowed to require that EU long-term residents and their family members communicate to the competent authorities any change of employer or economic activity. The communication procedure should not suspend the right of the persons concerned to pursue the economic activity in an employed or self-employed capacity, unless the Member State concerned provides restricted access to employed activities for a period not exceeding 12 months.

- (41) Third-country nationals should be granted the possibility of acquiring EU long-term resident status in the Member State where they have moved and have decided to settle under the same conditions as those required for its acquisition in the first Member State. However, the required period of residence in the second Member State should be three years and it should not be possible to cumulate periods of residence in different Member States. In that case, it should be left to the second Member State to decide whether it will grant social assistance, or maintenance assistance for studies, including vocational training, to EU long-term residents other than those who are workers or self-employed persons or their family members, prior to the completion of five years of legal and continuous residence in its territory, bearing in mind that Union citizens who have exercised free movement rights in a capacity other than that of workers or self-employed persons in accordance with Directive 2004/38/EC or Article 21 TFEU, or their family members, may also be refused such benefits prior to the completion of five years of legal and continuous residence. The second Member State may decide to grant such assistance to EU long-term residents prior to the completion of five years of legal and continuous residence, provided that it ensures the same treatment to Union citizens exercising free movement rights in accordance with Directive 2004/38/EC or Article 21 TFEU, other than workers, self-employed persons or persons who retain such status, their family members, as well as third-country nationals enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and third countries on the other, and their family members. Furthermore, prior to the completion of five years of legal and continuous residence in that Member State, where an EU long-term resident has ceased an employed or self-employed activity and he/she does not have sufficient resources for himself/herself and his/her family members and comprehensive sickness insurance cover so as not to become an unreasonable burden on the social assistance system of the second Member State, his/her legal stay may be ended on that ground, bearing in mind that Union citizens who have exercised free movement rights and their family members may be expelled in such a situation.

- (42) Since the objectives of this Directive, namely the determination of terms for conferring and withdrawing EU long-term resident status and the rights pertaining thereto and terms for the exercise of rights of residence by EU long-term residents in other Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Union, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.
- (43) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Articles of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (44) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of this Directive, and is not bound by it or subject to its application.
- (45) The obligation to transpose this Directive into national law should be limited to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.
- (46) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex I, Part B,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Directive determines:

- (a) the terms for conferring and withdrawing EU long-term resident status granted by a Member State in relation to third-country nationals legally and continuously residing in its territory, and the rights pertaining thereto; and
- (b) the conditions of entry and residence, and the rights, of third-country nationals referred to in point (a) and of their family members, in Member States other than the Member State which first granted EU long-term resident status.

Article 2

Definitions

For the purposes of this Directive:

- (a) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20 (1) of the Treaty;
- (b) ‘EU long-term resident’ means any third-country national who has EU long-term resident status as provided for under Articles 4 to 7;
- (c) ‘first Member State’ means the Member State which for the first time granted EU long-term resident status to a third-country national;

- (d) ‘second Member State’ means any Member State other than the one which for the first time granted EU long-term resident status to a third-country national and in which that long-term resident exercises the right of residence;
- (e) ‘family members’ means the third-country nationals who reside in the Member State concerned in accordance with Council Directive 2003/86/EC¹⁴;
- (f) ‘international protection’ means international protection as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and the Council¹⁵;
- (g) ‘EU long-term residence permit’ means a residence permit issued by the Member State concerned upon the acquisition of EU long-term resident status.

Article 3

Scope

1. This Directive applies to third-country nationals residing legally in the territory of a Member State.

¹⁴ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

¹⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

2. This Directive does not apply to third-country nationals [...]:
- (a) **who** reside in order to pursue studies or vocational training;
 - (b) **who** are authorised to reside in a Member State on the basis of temporary protection in accordance with Directive 2001/55/EC¹⁶ or have applied for authorisation to reside on that basis and are awaiting a decision on their status;
 - (c) **who** are authorised to reside in a Member State on the basis of a form of protection other than international protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;
 - (d) **who** have applied for international protection and whose application has not yet given rise to a final decision;
 - (e) **who** reside solely on temporary grounds such as au pair, job-search, or seasonal worker, or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services;
 - (ea) who reside as intra-corporate transferees under Directive 2014/66;
 - (f) **who** enjoy a legal status governed by the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, the Convention of 1969 on Special Missions or the Vienna Convention on the Representation of States in their Relations with International Organisations of a Universal Character of 1975;
 - (g) whose removal has been suspended on the basis of fact or law.

¹⁶ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

3. This Directive shall apply without prejudice to more favourable provisions of:
- (a) bilateral and multilateral agreements between the Union or the Union and its Member States, on the one hand, and third countries, on the other;
 - (b) bilateral agreements already concluded between a Member State and a third country before the date of entry into force of this Directive;
 - (c) the European Convention on Establishment of 13 December 1955, the European Social Charter of 18 October 1961, the ~~amended~~ **Revised** European Social Charter of 3 May ~~1987~~ **1996**, the European Convention on the Legal Status of Migrant Workers of 24 November 1977, paragraph 11 of the Schedule to the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967, and the European Agreement on Transfer of Responsibility for Refugees of 16 October 1980.

CHAPTER II

EU LONG-TERM RESIDENT STATUS IN A MEMBER STATE

Article 4

Duration of residence

1. [...] Member States shall grant EU long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application, where the third-country national concerned is residing legally in accordance with Article 3(1).

The periods of residence spent as a holder of a long- term visa or residence permit issued under Union or national law of Article 3(2), subparagraphs a), and ea), shall be taken into account, provided that the third-country nationals have acquired a residence permit that will enable them to be granted EU long-term residence status.

The periods of residence spent as a beneficiary of temporary protection in accordance with Directive 2001/55/EC or under a form of protection other than international protection, shall be taken into account , provided that the third-country nationals acquire a residence permit that will enable them to be granted EU long-term residence status.

Member States shall ~~establish appropriate control mechanisms to~~ **ensure** that the requirement of legal and continuous residence is ~~duly monitored~~ **complied with, with particular regard to applications submitted by third country nationals holding and /or having held a residence permit granted on the basis of any kind of investment in a Member State.**

~~1a. [With regard to beneficiaries of international protection, the required period of legal and continuous residence shall be three years.¹⁷]~~

[¹⁷ COM(2020) 610 final, COD 2020/0279, Article 71.]

2. ~~By way of derogation from paragraph 1, Member States shall allow third-country nationals to cumulate periods of up to two years of residence in other [...]~~ Member States ~~i~~In order to fulfil the requirement concerning the **five year** duration of **legal and continuous residence necessary** in that paragraph 1, provided that the [...] ~~third-country nationals concerned have accumulated;~~ **to obtain the EU long-term resident status, Member States shall allow third-country nationals to cumulate periods of residence in other Member States as follows:**

- (a) up to two years of legal and continuous residence in other Member States as a holder of an EU Blue Card under Directive 2021/1883¹⁸, **a residence permit other than an EU Blue Card for the purpose of highly qualified employment as per Article 3(3) of Directive 2021/1883,** an authorisation as a **student** ~~researcher~~ under Directive 2016/801, an **authorisation as a researcher under Directive 2016/801, an** intra-corporate transferee permit under Directive 2014/66, **residence under the Withdrawal Agreement as well as a Withdrawal Agreement beneficiary's previous residence under Directive 2004/38/EC, a residence permit as a beneficiary of temporary protection under Directive 2011/55/CE if, and under the conditions decided by the Council as per Article 5 of that directive,** or a residence permit as a family member of one of those categories or as a family member of an EU long-term resident **or and as a third-country national family member of an EU citizen, under Directive 2004/38 EC.**

Member States may also allow third-country nationals to cumulate up to 2 years of legal and continuous residence in other Member States as a holder of a Single permit under Directive 2011/98 /EC of at least 1 year validity.

¹⁸ 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

Member States shall ~~establish appropriate control mechanisms to ensure that the requirement of legal and continuous residence is duly monitored~~ **complied with. To this end, the European Commission shall make available to the Member States the appropriate tools for identifying the type of residence permit and long-stay visa for the purposes of this paragraph, as well as their validity in the various Member States.**

(b) **And** at least three [...] years of legal and continuous residence **immediately prior to the submission of the application**, within the territory of the Member State where the application for EU long-term resident status is submitted [...] **as provided in paragraph 1 of this Article.**

a. ~~When calculating the period referred to in paragraph 1, first subparagraph, and paragraph 3, point (b), the following periods of legal and continuous residence within the territory of the Member State concerned shall be taken into account:~~

~~(a) any period of legal residence in accordance with Article 3(1);~~

~~(b) any period spent as a holder of a long-stay visa or residence permit issued under Union or national law in accordance with Article 3(2), with the exception of periods of residence under Article 3(2), point (e), (f) and (g).~~

3a. Regarding persons to whom international protection has been granted , the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted and the date of the granting of the residence permit referred to in Article 26 of Regulation (EU)..../...Qualifications Regulation, shall be taken into account in the calculation of the period referred to in Article 3, paragraph 1.

4. Member States shall not grant EU long-term resident status on the basis of international protection in the event of the revocation of, ending of or refusal to renew international protection as laid down in Article 14(3) and Article 19(3) of Directive 2011/95/EU.
5. [...] ~~Regarding persons to whom international protection has been granted, the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted and the date of the granting of the residence permit referred to in Article 26 of Regulation (EU) [Qualifications Regulation], shall be taken into account in the calculation of the period referred to in paragraph 1.~~^{19]}
- {5a. Where a beneficiary of international protection is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there in accordance with relevant Union, national or international law, the period of legal stay in the Member State that granted him or her international protection preceding such a situation shall not be taken into account in the calculation of the period referred to in paragraph 1.

By way of derogation from the first subparagraph, in particular where the beneficiary of international protection demonstrates that the reason for the stay or residence without a right was due to circumstances beyond his or her control, Member States may provide, in accordance with their national law, that the calculation of the period referred to in paragraph 1 shall not be interrupted.^{20]}

¹⁹ Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, recital 44., Article 44(1)

6. Periods of absence from the territory of the Member State concerned shall not interrupt the period referred to in paragraph 1 and shall be taken into account for its calculation where they are shorter than six consecutive months and do not exceed in total 10 months within the period referred to in paragraph 1.

In cases of specific or exceptional reasons of a temporary nature and in accordance with their national law, Member States may accept that a longer period of absence than that which is referred to in the first subparagraph shall not interrupt the period referred to in paragraph 1. In such cases Member States shall not take into account the relevant period of absence in the calculation of the period referred to in paragraph 1.

By way of derogation from the second subparagraph, Member States may take into account in the calculation of the total period referred to in paragraph 1 periods of absence relating to secondment for employment purposes, including the provision of cross-border services.

Article 5

Conditions for acquiring EU long-term resident status

1. Member States shall require third-country nationals to provide evidence that they have, for themselves and for dependent family members:
 - (a) stable and regular resources[...], which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status. **Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level, below which all applications for EU long-term resident status would be refused, irrespective of an actual examination of the situation of each applicant; Member States, where needed, may also consider resources made available by third parties.**

- (b) sickness insurance in respect of all risks normally covered for his/her own nationals in the Member State concerned.

2. [...]

~~2a. Member States may require third-country nationals to provide evidence that they have, for themselves and for dependent family members, appropriate accommodation.~~

3. Member States may require third-country nationals to comply with integration conditions, in accordance with national law.

[...]

Article 6

Public policy and public security

1. Member States may refuse to grant EU long-term resident status on grounds of public policy or public security.

When taking the relevant decision, the Member State shall consider the severity or type of offence against public policy or public security, or the danger that emanates from the person concerned, while also having proper regard to the duration of residence and to the existence of links with the country of residence.

2. The refusal referred to in paragraph 1 shall not be founded on economic considerations.

Article 7

Acquisition of EU long-term resident status

1. To acquire EU long-term resident status, the third-country national concerned shall lodge an application with the competent authorities of the Member State in which he/she resides. The application shall be accompanied by documentary evidence to be determined by national law that he/she meets the conditions set out in Articles 4 and 5 as well as, if required, by a valid travel document or its certified copy.

The evidence referred to in the first subparagraph may also include documentation with regard to appropriate accommodation.

2. The competent national authorities shall give the applicant written notification of the decision as soon as possible and in any event no later than six months from the date on which the complete application was lodged. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation.

In exceptional circumstances linked to the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended for a period not exceeding 60 days. In such cases the competent national authorities shall inform the applicant thereof.

Where the documents presented or information provided in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional documents or information that are required and shall set a reasonable deadline for presenting or providing them. The period referred to in the first subparagraph shall be suspended until the authorities have received the additional documents or information required. If the additional documents or information required have not been provided within that deadline, the application may be rejected.

In addition to checking the documentary evidence submitted by the third-country national concerned, the competent authorities of the Member States may exchange information for the purpose of verifying compliance with the requirements of Article 4(3) regarding the periods of legal and continuous residence within the territory of other Member States. Member States receiving such a request for information shall endeavour to reply within one month. The time period referred to in the first subparagraph may be suspended during this time. If the competent authorities of the Member State where the application for EU long-term resident status is submitted do not receive the requested information within one month, and provided that the applicant has been notified and a reasonable deadline has been set for the applicant to provide additional documents or information, the application may be rejected the Member State where the application was lodged shall make a decision according to the documentation provided by the applicant.

The person concerned shall be informed about his/her rights and obligations under this Directive.

Any consequences of no decision being taken by the end of the period provided for in this provision shall be determined by national legislation of the relevant Member State.

3. If the conditions provided for by Articles 4 and 5 are met, and the person does not represent a threat within the meaning of Article 6, the Member State concerned shall grant the third-country national concerned EU long-term resident status.
4. Where an application for an EU long-term resident status concerns a third-country national who holds a national residence permit issued by the same Member State in accordance with Article 14, that Member State shall not require the applicant to give evidence of the conditions provided for in Article 5(1) and (2a), if the compliance with those conditions [...] **can still be verified by information** in [...]the application for the national residence permit.

Article 8

EU Long-term residence permit

1. The status as EU long-term resident shall be permanent, subject to Article 9.
2. Member States shall issue an EU long-term residence permit to EU long-term residents. The permit shall be valid at least for five years; it shall, upon application if required, be automatically renewable on expiry.
3. An EU long-term residence permit shall be issued in accordance with the rules and standard model as set out in Council Regulation (EC) No 1030/2002²¹. Under the heading ‘type of permit’, the Member States shall enter ‘EU long-term resident’.
4. Where a Member State issues an EU long-term residence permit to a third-country national to whom it granted international protection, it shall enter the following remark in that permit, under the heading ‘Remarks’: ‘International protection granted by [name of the Member State] on [date]’.
5. Where an EU long-term residence permit is issued by a second Member State to a third-country national who already has an EU long-term residence permit issued by another Member State which contains the remark referred to in paragraph 4, the second Member State shall enter the same remark in the EU long-term residence permit it issues.

Before the second Member State enters the remark referred to in paragraph 4, it shall request the Member State mentioned in that remark to provide information as to whether the EU long-term resident is still a beneficiary of international protection. The Member State mentioned in the remark shall reply no later than 1 month after receiving the request for information. Where international protection has been withdrawn by a final decision, the second Member State shall not enter that remark.

²¹ Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

6. Where, in accordance with the relevant international instruments or national law, responsibility for the international protection of the EU long-term resident was transferred to the second Member State after the EU long-term residence permit referred to in paragraph 5 was issued, the second Member State shall amend accordingly the remark referred to in paragraph 4 no later than 3 months after the transfer.

Article 9

Withdrawal or loss of status

1. EU long-term residents shall no longer be entitled to maintain EU long-term resident status in the following cases:
- (a) detection of fraudulent acquisition of EU long-term resident status;
 - (b) adoption of a decision ending the legal stay under the conditions provided for in Article 13;
 - (c) if the EU long-term resident has ~~had his/her main residence outside territory of the Union for more than [...]18 [...] months within a five years preceding a decision of withdrawal or loss of status.~~ **not had his/her main residence in the territory of the Union for more than 18 months within a period of five years preceding a decision of withdrawal or loss of status from the date of the issuance of the last EU long-term residence permit.**

When the Member State issues residence permits with a duration of more than five years, the five-year period shall be counted from the date on which five years have elapsed since the issuance of the EU long-term residence permit.

1a. In specific cases where there is a reasonable doubt as to whether the EU long-term resident satisfies the conditions set out in subparagraph c), first paragraph of this article, Member States may verify if these conditions are fulfilled. Member States shall not be obliged to carry out this verification systematically.

For the purposes of this Directive, continuity of residence may be attested by the applicant by any means of proof admissible in the Member State.

2. By way of derogation from paragraph 1, point (c), **Member States may provide that not having the main residence in** ~~outside~~ **the territory of the Union** exceeding for more than 18 consecutive months within the five- year period specified in that paragraph, for specific or exceptional reasons, shall not entail withdrawal or loss of status.
3. Member States may provide that the EU long-term resident shall no longer be entitled to maintain his/her EU long-term resident status in cases where he/she constitutes a threat to public policy, in consideration of the seriousness of the offences he/she committed, but such threat is not a reason for ending his/her legal stay within the meaning of Article 13.
4. Member States may withdraw the EU long-term resident status in the event of the revocation of, ending of or refusal to renew international protection as laid down in Articles 14(3) and 19(3) of Directive 2011/95/EU if the long-term resident status was obtained on the basis of international protection.
5. The long-term resident who has resided in another Member State in accordance with Chapter III shall no longer be entitled to maintain his/her EU long-term resident status acquired in the first Member State when such a status is granted in another Member State pursuant to Article 26.

In any case after six years of absence from the territory of the Member State that granted EU long-term resident status the person concerned shall no longer be entitled to maintain his/her EU long term resident status in the said Member State.

By way of derogation from the second subparagraph, the Member State concerned may provide that for specific reasons the EU long-term resident shall maintain his/her status in the said Member State in case of absences for a period exceeding six years.

The Member States concerned may exchange information for the purpose of verifying the loss or withdrawal of the status in accordance with the cases referred to in this paragraph.

6. With regard to the cases referred to in paragraph 1, point (c) and in paragraph 5[...], Member States who have granted the status shall provide for a facilitated procedure for the re-acquisition of EU long-term resident status.

In those cases, Member States may decide not to require the fulfilment of the conditions set out in Article 4(1) and Article 5(1).

Member States shall not require third-country nationals who apply for the re-acquisition of the EU long-term resident status to comply with integration conditions, **unless more than three years have passed since the withdrawal or loss of the EU long-term resident status.**

The expiry of an EU long-term residence permit shall in no case entail withdrawal or loss of EU long-term resident status.

7. Where the withdrawal or loss of EU long-term resident status does not lead to the ending of the legal stay, the Member State shall authorise the person concerned to remain in its territory if he/she fulfils the conditions provided for in its national legislation and/or if he/she does not constitute a threat to public policy or public security.

Article 10

Procedural guarantees

1. Reasons shall be given for any decision rejecting an application for EU long-term resident status or withdrawing that status. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the redress procedures available and the time within which he/she may act.
2. Where an application for EU long-term resident status is rejected or that status is withdrawn or lost or the residence permit is not renewed, the person concerned shall have the right to mount a legal challenge in the Member State concerned.
3. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders and applicants the same procedural safeguards as those provided for under their national schemes where the procedural safeguards under such national schemes are more favourable than those provided for in this Article, paragraphs 1 and 2.

Article 11

Fees

Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of fees imposed by a Member State for the processing of applications shall not be disproportionate or excessive.

Where Member States issue national residence permits in accordance with Article 14, they shall not require EU long-term resident applicants to pay higher fees than those imposed on applicants for national residence permits.

Article 12

Equal treatment

1. EU long-term residents shall enjoy equal treatment with nationals as regards:
 - (a) access to employment and self-employed activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration;
 - (a) education and vocational training, including study grants in accordance with national law;
 - (b) recognition of professional diplomas, certificates and other qualifications, in accordance with the relevant national procedures;
 - (c) branches of social security referred to in Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council²², and social assistance and social protection as defined by national law;
 - (d) tax benefits;
 - (e) access to goods and services and the supply of goods and services made available to the public, including [...]procedures for obtaining [...] housing;

²² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

- (f) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;
 - (g) free access to the entire territory of the Member State concerned, within the limits provided for by the national legislation for reasons of security.
2. With respect to the provisions of paragraph 1, points (b), (d), (e), (f) and (g), the Member State concerned may restrict equal treatment to cases where the registered or usual place of residence of the EU long-term resident, **or that of family members for whom he/she claims benefits**, lies within the territory of the Member State concerned.
3. Member States may restrict equal treatment with nationals in the following cases:
- (a) Member States may retain restrictions to access to employment or self-employed activities in cases where, in accordance with existing national or Union legislation, these activities are reserved to nationals, EU or EEA citizens;
 - (b) Member States may require proof of appropriate language proficiency for access to education and training. Access to university may be subject to the fulfilment of specific educational prerequisites.
4. As far as the Member State which granted international protection is concerned, paragraphs 3 shall be without prejudice to Directive 2011/95/EU.
5. EU long-term residents moving to a third country, or their survivors who reside in a third country and who derive rights from an EU long-term resident, shall receive, in relation to old age, invalidity and death, statutory pensions based on the EU long-term resident's previous employment that were acquired in accordance with the legislation referred to in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as nationals of the Member States concerned where such nationals move to a third country.

6. Member States may decide to grant access to additional benefits in the areas referred to in paragraph 1.

Member States may also decide to grant equal treatment with regard to areas not covered by paragraph 1.

7. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders the same equal treatment rights as those granted to holders of national residence permits, where such equal treatment rights are more favourable than those provided for in this Article.

Article 13

Protection against decisions ending the legal stay

1. Member States may take a decision ending the legal stay of an EU long-term resident solely where he/she constitutes an actual and sufficiently serious threat to public policy or public security.
2. The decision referred to in paragraph 1 shall not be founded on economic considerations.
3. Before taking a decision to end the legal stay of an EU long-term resident, Member States shall have regard to the following factors:
 - (a) the duration of residence in their territory;
 - (b) the age of the person concerned;
 - (c) the consequences for the person concerned and family members;
 - (d) links with the country of residence or the absence of links with the country of origin.

4. Where a Member State decides to end the legal stay of an EU long-term resident whose EU long-term residence permit contains the remark referred to in Article 8(4), it shall request the Member State mentioned in that remark to confirm whether the person concerned is still a beneficiary of international protection in that Member State. The Member State mentioned in the remark shall reply no later than 1 month after receiving the request for information.
5. If the EU long-term resident is still a beneficiary of international protection in the Member State mentioned in the remark, that person shall be required to go, in accordance with Article 6(2) of Directive 2008/115/EC, to that Member State, which shall, without prejudice to the applicable Union or national law and to the principle of family unity, immediately take back, without formalities, that beneficiary and his/her family members.
6. By way of derogation from paragraph 5, the Member State which adopted the decision ending the legal stay shall retain the right to *refouler*, in accordance with its international obligations, the EU long-term resident to a country other than the Member State which granted international protection where that person fulfils the conditions specified in Article 21(2) of Directive 2011/95/EU.
7. Where a decision ending the legal stay of an EU long-term resident has been adopted, a judicial redress procedure shall be available to the EU long-term resident in the Member State concerned.
8. Legal aid shall be given to EU long-term residents lacking adequate resources, on the same terms that apply to nationals of the State where they reside.
9. This Article shall be without prejudice to Article 21(1) of Directive 2011/95/EU.

Article 14

National residence permits of permanent or unlimited validity

This Directive is without prejudice to the right of Member States to issue residence permits of permanent or unlimited validity other than the EU long-term residence permit issued in accordance with this Directive. Such residence permits shall not confer the right of residence in the other Member States as provided by Chapter III of this Directive.

Article 15

Family members of EU long-term residents

- 1a. For family members of EU long-term residents, Directive 2003/86/EC applies, subject to the derogations laid down in this Article.

By way of derogation, dependent children, regardless of their place of birth, shall be granted the same status and the same treatment as if they were born in the Member State.

3. By way of derogation from Article 5(4), first subparagraph, of Directive 2003/86/EC, where the conditions for family reunification are fulfilled, the decision shall be adopted and notified as soon as possible but not later than [...] **six months** after the date of submission of the **complete** application [...]. Article 7(2) and Article 10 of this Directive shall apply accordingly.
4. By way of derogation from Article 14(2) of Directive 2003/86/EC, Member States shall not [...] **apply any time limit in respect of access to the labour market for family members.**
5. [...]

CHAPTER III

RESIDENCE IN THE OTHER MEMBER STATES

Article 16

Principle

1. An EU long-term resident shall acquire the right to reside in the territory of a second Member State, provided that the conditions set out in this Chapter are met.
2. An EU long-term resident may reside in a second Member State on the following grounds:
 - (a) exercise of an economic activity in an employed or self-employed capacity;
 - (b) pursuit of studies or vocational training;
 - (c) other purposes.
- 2a. **When the EU long-term resident exercise an economic activity in an employed or self-employed capacity referred to in paragraph 2(a), Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for, respectively, filling a vacancy, or for exercising such activities.**

Member States may give preference to Union citizens, to third-country nationals, when provided for by Union legislation, as well as to third-country nationals who reside legally and receive unemployment benefits in the Member State concerned.

3. This Chapter does not concern the residence of EU long-term residents in the territory of the Member States:

- (a) as employed workers posted by a service provider for the purposes of cross-border provision of services;
- (b) as providers of cross-border services.

Member States may decide, in accordance with national law, the conditions under which EU long-term residents who wish to move to a second Member State with a view to exercising an economic activity as seasonal workers may reside in that Member State. Cross-border workers may also be subject to specific provisions of national law.

4. This Chapter is without prejudice to the relevant Union legislation on social security with regard to third-country nationals.

Article 17

Residence in a second Member State

1. As soon as possible and no later than three months after entering the territory of the second Member State, the EU long-term resident shall apply to the competent authorities of that Member State for a residence permit.

Member States [...] **may** accept that the EU long-term resident submits the application for a residence permit to the competent authorities of the second Member State while still residing in the territory of the first Member State.

2. Member States may require the persons concerned to provide evidence that they have:
- (a) stable and regular resources[...]which are sufficient to maintain themselves and the members of their families, without recourse to the social assistance of the Member State concerned. For each of the categories referred to in Article 16(2), Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions. **Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level, below which all applications for a residence permit would be refused, irrespective of an actual examination of the situation of each applicant. Member States, where needed, may also consider resources made available by third parties.**
 - As part of the assessment of resources, Member States may require third-country nationals to provide evidence that they have, for themselves and for dependent family members, appropriate accommodation.**
 - (b) sickness insurance covering all risks in the second Member State normally covered for its own nationals in the Member State concerned;
 - (c) ~~for themselves and for dependent family members, appropriate accommodation.~~
3. Member States may require third-country nationals to comply with integration measures, in accordance with national law.

This condition shall not apply where the third-country nationals concerned have been required to comply with integration conditions **in the first Member State** in order to be granted EU long-term resident status, in accordance with the provisions of Article 5([...]3).

Without prejudice to the second subparagraph, the persons concerned may be required to attend language courses.

4. The application shall be accompanied by documentary evidence, to be determined by national law, that the persons concerned meet the relevant conditions, as well as by their EU long-term resident permit and a valid travel document or their certified copies.

In particular:

- (a) in case of exercise of an economic activity, the second Member State may require the persons concerned to provide evidence:
 - (i) if they are in an employed capacity, that they have an employment contract, a statement by the employer that they are hired or a proposal for an employment contract, under the conditions provided for by national legislation. Member States shall determine which of the said forms of evidence is required;
 - (ii) if they are in a self-employed capacity, that they have the appropriate funds which are needed, in accordance with national law, to exercise an economic activity in such capacity, presenting the necessary documents and permits;
 - (iii) if they are in a regulated profession, documents attesting to the fulfilment of the conditions set under national law for the exercise by Union citizens of the regulated profession;
- (b) in case of study or vocational training the second Member State may require the persons concerned to provide evidence of enrolment in an accredited establishment in order to pursue studies or vocational training.

With regard to point (a)(iii) of the second subparagraph and the exercise of an economic activity in a regulated profession as defined in Article 3(1), point (a), of Directive 2005/36/EC, for the purpose of applying for a residence permit in a second Member State, EU long-term residents shall enjoy equal treatment with Union citizens as regards recognition of professional qualifications, in accordance with applicable Union and national law.

5. The **second Member State** [...] may allow[...]the **EU long-term resident** to commence work or study in [...]that Member State **immediately** [...]after the [...]submission of the complete application for a residence permit.

Article 18

Residence in the second Member State for family members

1. When the EU long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family referred to in Article 4(1) of Directive 2003/86/EC shall be authorised to accompany or to join the EU long-term resident.
2. When the EU long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family, other than those referred to in Article 4(1) of Directive 2003/86/EC, may be authorised to accompany or to join the EU long-term resident.
3. With respect to the submission of the application for a residence permit, the provisions of Article 17(1) apply.
4. The second Member State may require the family members concerned to present with their application for a residence permit:
 - (a) their EU long-term resident permit or residence permit and a valid travel document or their certified copies;
 - (b) evidence that they have resided as members of the family of the EU long-term resident in the first Member State;

(c) evidence that they have stable and regular resources[...] which are sufficient to maintain themselves without recourse to the social assistance of the Member State concerned or that the EU long-term resident has such resources and insurance for them, as well as sickness insurance covering all risks in the second Member State. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions. **Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level, below which all applications for a residence permit would be refused, irrespective of an actual examination of the situation of each applicant. Member States, where needed, may also consider resources made available by third parties.**

5. Where the family was not already constituted in the first Member State, Directive 2003/86/EC shall apply.

Article 19

Public policy and public security

1. Member States may refuse applications for residence from EU long-term residents or their family members where the person concerned constitutes a threat to public policy or public security.

When taking the relevant decision, the Member State shall consider the severity or type of offence against public policy or public security committed by the EU long-term resident or his/her family member(s), or the danger that emanates from the person concerned.

2. The decision referred to in paragraph 1 shall not be based on economic considerations.

Article 20

Public health

Member States may refuse applications for residence from EU long-term residents or their family members where the person concerned constitutes a threat to public health, as defined in Article 2, point 21, of Regulation (EU) 2016/399 of the European Parliament and of the Council²³.

Article 21

Examination of applications and issue of a residence permit in the second Member State

1. The competent national authorities shall take a decision on the application and notify the applicant in writing as soon as possible but not later than four months from the date that the **complete** application has been lodged.

In exceptional circumstances linked to the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended for a period not exceeding 60 days. In such cases the competent national authorities shall inform the applicant thereof.

Where the documents presented **or the information provided in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional documents or information that are required and shall set a reasonable deadline for presenting or providing them. The period referred to in the first subparagraph shall be suspended until the authorities have received the additional documents or information required. If the additional documents or information required have not been provided within that deadline, the application may be rejected[...].**

²³ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

2. If the conditions provided for in Articles 16⁵ and 17 are met, then, subject to the provisions relating to public policy, public security and public health in Articles 19 and 20, the second Member State shall issue the EU long-term resident with a renewable residence permit. This residence permit shall, upon application, if required, be renewable on expiry. The second Member State shall inform the first Member State of its decision.
3. If the conditions provided for in Article 18 are met, then, subject to the provisions relating to public policy, public security and public health in Articles 19 and 20, the second Member State shall issue members of the EU long-term resident's family with renewable residence permits valid for the same period as the permit issued to the EU long-term resident. The second Member State shall inform the first Member State of its decision.

[...]

Article 22

Amendments of EU long-term resident permits

1. Where an EU long-term resident permit contains the remark referred to in Article 8(4), and where, in accordance with the relevant international instruments or national law, responsibility for the international protection of the EU long-term resident is transferred to a second Member State before that Member State issues the EU long-term resident permit referred to in Article 8(5), the second Member State shall ask the Member State which has issued the EU long-term resident permit to amend that remark accordingly.
2. Where an EU long-term resident is granted international protection in the second Member State before that Member State issued the EU long-term resident permit referred to in Article 8(5), that Member State shall ask the Member State which has issued the EU long-term resident permit to amend it in order to enter the remark referred to in Article 8(4).

3. Following the request referred to in paragraphs 1 and 2, the Member State which has issued the EU long-term resident permit shall issue the amended EU long-term resident permit no later than 3 months after receiving the request from the second Member State.

Article 23

Procedural guarantees

1. Reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the possible redress procedures available and the time limit for taking action.

Any consequences of no decision being taken by the end of the period referred to in Article 21(1) shall be determined by the national legislation of the relevant Member State.

2. Where an application for a residence permit is rejected, or the permit is not renewed or is withdrawn, the person concerned shall have the right to mount a legal challenge in the Member State concerned.

Article 24

Treatment granted in the second Member State

1. As soon as they have received the residence permit provided for by Article 21 in the second Member State, EU long-term residents shall in that Member State enjoy equal treatment in the areas and under the conditions referred to in Article 12.

2. EU long-term residents shall have access to the labour market in accordance with paragraph 1.

Member States may provide that the EU long-term residents and their family members who exercise an economic activity in an employed or self-employed capacity communicate to the competent authorities any change of employer or economic activity. Such requirement shall not affect the right of the persons concerned to take up and carry out the new activity, with the exception of the restriction provided for in the third subparagraph.

Member States may provide that the persons referred to in Article 16(2), point (a), shall have restricted access to employed activities, different than those for which they have been granted their residence permit under the conditions set by national legislation for a period not exceeding 12 months.

Member States may decide in accordance with national law the conditions under which the persons referred to in Article 16(2), points (b) or (c), may have access to an employed or self-employed activity.

3. As soon as they have received the residence permit provided for in Article 21 in the second Member State, members of the family of the EU long-term resident shall in that Member State enjoy the rights listed in Article 14 of Directive 2003/86/EC.

Article 25

Withdrawal of the residence permit and obligation to take back

1. Until the third-country national has obtained EU long-term resident status, the second Member State may decide to refuse to renew or to withdraw the resident permit in the following cases:
 - (a) on grounds of public policy or public security referred to in Article 19;
 - (b) where the conditions provided for in Articles 16, 17 and 18 are no longer met;
2. If the second Member State adopts one of the measures referred to in paragraph 1, it shall require the person concerned and his/her family members to go to the territory of the first Member State in accordance with Article 6(2) of Directive 2008/115/EC. The first Member State shall immediately take back without formalities the EU long-term resident and his/her family members. The second Member State shall inform the first Member State of the application of the procedure provided for in article 6(2) of Directive 2008/115/EC.
3. Unless, in the meantime, the international protection has been withdrawn or the person falls within one of the categories specified in Article 21(2) of Directive 2011/95/EU, the second Member State shall not *refoule* third-country nationals whose EU long-term [...]residence permit issued by the first Member State contains the remark referred to in Article 8(4) of this Directive.

This paragraph shall be without prejudice to Article 21(1) of Directive 2011/95/EU.
4. The obligation to take back referred to in paragraph 2 shall be without prejudice to the possibility of the EU long-term resident and his/her family members moving to a third Member State.

Article 26

Acquisition of EU long-term resident status in the second Member State

1. Upon application, the second Member State shall grant EU long-term residents the status provided for by Article 7, subject to the provisions of Articles 3, 4, 5 and 6. The second Member State shall notify its decision to the first Member State.
2. By way of derogation from Article 4(1) concerning the duration of residence[...], the second Member State shall grant EU long-term resident status to third-country nationals **referred to in paragraph 1** who, after acquiring the right to reside in accordance with this Chapter, have legally and continuously resided within its territory for three years immediately prior to the submission of the relevant application.
3. **By way of derogation from Articles 12 and 24(1)** t[...]he second Member State shall not be obliged to confer entitlement to social assistance, or maintenance aid for studies, including vocational training, consisting in student grants or student loans to EU long-term residents other than workers, self-employed persons, and their family members, prior to the completion of five years of legal and continuous residence in its territory.

The second Member State may decide to confer entitlement to such assistance to EU long-term residents prior to the completion of five years of legal and continuous residence, provided that it ensures the same treatment to Union citizens exercising free movement rights in accordance with Directive 2004/38/EC or Article 21 TFEU, other than workers, self-employed persons or persons who retain such status, their family members, as well as third-country nationals enjoying the right of free movement equivalent to that of Union citizens other than workers, self-employed persons or persons who retain such status under an agreement between the Union and its Member States, on the one hand, and third countries on the other, and their family members.

4. By way of derogation from Article 13(2), and solely prior to the completion of five years of legal and continuous residence in its territory, the second Member State may take a decision to end the legal stay of an EU long-term resident who has ceased an employed or self-employed activity, where he/she does not have sufficient resources for himself/herself and his/her family members and comprehensive sickness insurance cover so as not to become an unreasonable burden on its social assistance system.
5. The procedure laid down in Article 7 shall apply to the presentation and examination of applications for EU long-term resident status in the second Member State. Article 8 shall apply for the issuance of the EU long-term residence permit. ~~By way of derogation from Article 8(2), the second Member State may decide that the residence permit shall be valid for two years.~~ Where the application is rejected, the procedural guarantees provided for by Article 10 shall apply.

CHAPTER IV

FINAL PROVISIONS

Article 27

Access to information

1. Member States shall make easily accessible to applicants for an EU long-term resident permit information
 - (a) on the documentary evidence needed for an application;
 - (b) on the status acquisition and residence conditions applicable to third-country nationals and to their family members, including their rights and obligations and the procedural safeguards.
2. Where Member States issue national residence permits in accordance with Article 14, they shall ensure the same access to information on the EU long-term resident permit as the one provided with respect to such national residence permits.

Article 28

Report and rendez-vous clause

Periodically, and for the first time no later than [*two years following the end of the transposition period*] , the Commission shall report to the European Parliament and to the Council on the application of this Directive in the Member States and shall propose any amendments that it considers to be necessary. These proposals for amendments , where necessary, shall be made by way of priority in relation to Articles 4, 5, 9, 12 and to Chapter III.

In the aforementioned report, the Commission shall specifically assess the impacts of the required residence period set out in Article 4(1) on the integration of third-country nationals, [...] taking into account, inter alia, the different factors relevant for the integration of third-country nationals across Member States.

Article 29

Contact points

Member States shall appoint contact points who will be responsible for receiving and transmitting the information and documentation referred to in Articles 7, 8, 9, 13, 21, 22, 25 and 26.

Member States shall provide appropriate cooperation in the exchange of the information and documentation referred to in the first paragraph.

Article 30

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1, point (b), Article 4(1) to (3) and (5), Article 5(2) and (4), Article 7(1), (2), and (4), Article 8(3), Article 9(1), point (c), (2), (5), and (6), Article 10(3), Article 11, Article 12(1), points (d) and (f), (2), (5), and (7), Article 13, Article 14, Article 15, Article 16(1), Article 17(1), (2), (4), and (5), Article 18(1), Article 20, Article 21(1) and (4), Article 24, Article 25(1), (2) and (3), Article 26(2) to (4), Article 27, Article 28, and Article 29 by [**two years after the entry into force**]. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 31

Repeal

Directive 2003/109/EC, as amended by the Directive listed in Part A of Annex I, is repealed with effect from *[day after the date set out in the first subparagraph of Article 30(1) of this Directive]*, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Part B of Annex I.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 32

Entry into force and application

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Articles 1, point (a), Article 3, Article 4(4) and (6), Article 5(1) and (2), Article 6, Article 7(3), Article 8(2) and (4) to (6), Article 9(1), points (a) and (b), (2) to (4), (7) and (8), Article 10(1) and (2), Article 12(1), points (a) to (c), and (e) to (h), (3), (5), and (7), Article 13(1) and (3) to (9), Article 16(2) to (4), Article 17(2) and (3), Article 18(2) to (5), Article 19, Article 20, Article 21(2) and (3), Article 22, Article 23, Article 25(3) and (4), Article 26(1) and (3) shall apply from *[day after the date in the first subparagraph of Article 30(1)....]*.

Article 33

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President