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From:	General Secretariat of the Council
To:	Delegations
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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) - compilation of replies by Member States

Following the request for written contributions on the above-mentioned proposal, delegations will find in Annex a compilation of the replies as received by the General Secretariat.

ANNEX

Written replies submitted by the Member States

AUSTRIA

Art. 3:

The addition in Art. 3 regarding *job-search* is welcomed. Nevertheless, Austria is still opposed to the deletion of *formally limited residence titles* (see for further reasoning the written contributions following the IMEX meeting of 28th June 2023). In this point, Austria wants to emphasize, that the wording as it is now read, gives the impression that the LTR Directive or EU law in general conclusively covers all possible purposes of residence. However, this conclusion is incorrect, as further purposes of residence may also be provided for in national law.

Art. 4: Reservation

Regarding the addition in Art. 4 (1) Austria understands the wording in the sense, that long-term visa are only included if they were issued in accordance with Art. 3 (2) (e.g. for study purposes or as ICT). Otherwise, Austria is opposed to such a provision, meaning long-term visa have to be considered in any case, with the reasoning, that the fulfillment of the requirement of continuous residence and thus the examination by the authorities won't be feasible. Regarding **Art. 4 (2)** and the cumulation of residence in other Member States, Austria has no objections on students, residence under the Withdrawal Agreement as well as residence as beneficiaries of temporary protection under Directive 2011/55/EC. Nevertheless Austria sees the inclusion of family members of EEA very critically. Austria would like to have more clarification which cases could be relevant? In this regard, Austria wants to underline, that EEA citizens themselves cannot cumulate their residence in other Member States in order to acquire permanent residence according to Directive 2004/38/EC, so it should be further clarified whether the proposed amendment in Art. 4 (2) could come into conflict with the Free Movement Directive. It also has to be clarified, how authorities have to proceed in cases of abuse (e.g. in case of marriage of convenience in the other Member State). This seems to be crucial, as the right of residence then exists by virtue of the Free Movement Directive or not. With regard to beneficiaries of the Withdrawal Agreement, Austria wants to raise the practical issue of how to proceed in the case the other Member State applies a declaratory system but the applicant concerned has not collected a document. From Austria's point of view, the applicant should then be obliged to provide the evidence of his rights under the Withdrawal Agreement.

[One formal note: it seems a paragraph **3** is missing?] Regarding **Art. 4 (3a)** and beneficiaries of international protection, Austria welcomes the Presidency proposal to retain the five years of required residence. In the sense of a compromise, Art. 4 (3a) as proposed by the Presidency could be supported. Although with regard to the consideration of the asylum procedure, the legal provision of the current Directive is preferred.

Regarding **Art. 4 (5a)**, the question remains whether this would cover a case in which a recognized refugee e.g. in Greece travels to Austria and stays there unlawfully, then goes back to Greece and applies for LTR status there. Are the periods of prior residence in Greece not counted because of the interim unlawful stay in Austria? If that is the case, Austria welcomes the inclusion of this provision. But there also will be the question, how an interim unlawful stay can be checked in practice.

Art. 5: Reservation **(the same as Art. 17 und 18)**

Austria welcomes the introduction of an optional provision regarding resources made available by third parties in **Art. 5 (1) (a)**. Notwithstanding this, there is still a need for clarification concerning the wording "*where needed*". When is it necessary to take resources made available by third parties into account? Furthermore the question regarding the reasoning of the amendment in **Art. 17 (2) (a)** arises and whether the proof of accommodation when calculating stable and regular resources, could also be included in Art. 5? In general, an obligation to recognize resources made available by third parties in any case is seen really critically, especially in view of the fact that there won't be a restriction of these third parties to, either only persons within the European Union or who, are gainfully employed, pay taxes and social security contributions, and are able to support themselves and their families without government assistance. Hence, this group of persons should be defined more precisely in the Directive with regard to the prescribed verification and control in order to prevent abuse and to enable controls.

With regard to **Art. 5 (3)** and the corresponding new **recital 12**, Austria welcomes the addition in recital 12. However, it still states the following: "However, **as held by the Court of Justice in case C-579/13**, 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." The drafted text might still give the impression that the mentioned circumstances **automatically** lead to an exemption from integration measures. Austria is already taking into account the individual situation of a person, when it comes to permanent illnesses or handicaps. However, in Austria's view, illiteracy or retirement age does not per se constitute an exemption, overcoming illiteracy is usually possible (e.g. through literacy courses). The fulfilment obligation period may be extended upon request by the competent authority. Especially with regard to the significantly increasing share of beneficiaries of international protection that needs literacy training it would not be conducive to integration to exclude this group from integration measures and their duty to make an effort altogether. It is therefore once again suggested to delete the underlined part or clarify in the above sense.

Art. 7:

As this proposal represents the current text of the LTR Directive – which was confirmed by the Presidency at the IMEX meeting on 26th July – there are no objections from Austria's point of view.

Art. 9 (1) (c): Reservation

Austria welcomes the introduction of *"main residence"* as well as specific criteria regarding the assessment of a main residence in recital 17 (such as stays for school purposes). However, Austria continuous to have reservations about the calculation of the five years (from the date of issue), since the text now assumes that the LTR in any case holds a LTR residence title, which overlooks the fact that the right of long-term residence – once acquired – also exists without a valid title. Therefore it is possible that a LTR does not apply for a renewal of the LTR residence title. In this case, how should authorities proceed? Austria would have understood the five years to be basically the same as the period of validity of the LTR residence title.

Art. 12 (3) (a) and **recital 20** in correlation with Art. 17 (4) and **recital 36:** Reservation

The new recital 20 and Art. 12 (3) (a) of the proposed recast of the long-term residence directive 2003/109/EC are essential to safeguard the system and the organisation of regulated professions in the Member States and are therefore strongly welcomed, as this Directive shall not only affect the conditions for the pursuit of but also those for the access to regulated professions laid down in national law.

However, it must be taken into account that recital 20 and Art. 12 (3) (a) do not apply directly to the conditions for residence in a second Member State. Chapter III provides separate provisions on this topic, which do not seem to be in line with recital 20 and Art. 12 (3) (a) (or are at least ambiguously worded). From Austria's point of view it is necessary to ensure consistency in this context. The rights of a third country resident to access to employment in a second Member State based on a long-term residence in one Member State cannot exceed those rights applicable to the profession in the Member State of his long-term residence. Therefore the last sentence of the new recital 20 ("This Directive should be without prejudice to the conditions set out under national law for the access to and exercise of regulated professions.") should also be expressly included in recital 36. Additionally, the proposed Art. 17 (4) should be supplemented by the sentence *"Article 12(3)(a) applies"*.

Both recital 36 and Art. 17 (4) seem to be insufficient in their current version, because the reference to applicable Union and national law (at least according to the wording) only covers cases of recognition of professional qualifications in accordance with Directive 2005/36/EC, but not the access to and the conditions for the exercise of regulated professions.

Art. 15 (1): Reservation

The amendment in Art. 15 (1) requires further clarification, especially regarding an added value: is there a case where a child born in a Member State does not receive a national right of residence? This point must be dealt with first, because only in this case, the proposed provision would make sense. Furthermore the period of validity of the child's residence permit is questionable, since there is no more link to the one of the LTR's own. In general a decoupling from the period of validity of the LTR would be welcomed from Austria's point of view.

Art. 26: Reservation

Austria would like to ask for more clarification on the deletion of the former addition in **Art. 26 (5).** The addition was also understood as a possibility to differ the right of access to social assistance for mobile LTRs other than workers, self-employed persons, and their family members. This option could have been practical useful but also needs further discussion (as well as the deletion). Furthermore it is still unclear, how this provision id related to the obligation of the Member States to confer entitlement to social assistance?

Art. 28: Reservation

With regard to **Art. 28** it has to be noted that the term "impacts of the required residence period set out in Article 4(1) on the integration of third-country nationals, including the possible benefits of reducing this period, taking into account, inter alia, the different factors relevant for the integration of third-country nationals across Member States" still needs further clarification and definition as it is not mentioned which – EU-wide and comparable – indicators should be used. The current phrase does not allow a concrete estimation of the resources needed for the intended reporting. Therefore clarification is highly encouraged also to ensure that standardised factors for comparable results are applied throughout the European Union.

BELGIUM

Following the IMEX admission Working Party on 26/7/23, we hereby send you our written comments on the Long-Term Residence directive compromise text, document 11994/23 REV 1.

Belgium thanks the ES PRES for the work done on the COM recast proposal of the directive concerning the status of third-country nationals who are long-term residents (LTRD). We appreciate the efforts that have been made to make the text more comprehensive and to diminish the administrative burden for the Member States. Furthermore, we confirm that Chapter III and IV of the current text ST 10528/23 are fully in line with our Belgian political positions.

Article 3

Belgium supports the reference to "job-search" in para 2 point e).

Article 4

Art. 4, para 1 (2)

Belgium supports the explicit reference to art. 3, para 2 since this contributes to the comprehensiveness of the text. However, we are concerned that the reference to long-term visa will introduce an administrative burden for the MS, especially when this would be of an obligatory nature. Furthermore, we hold a reserve for the inclusion of periods of residence on the basis of studies. We want to stress that we understand the philosophy and *ratio legis* of this reference but we cannot support this change since we already notice a lot of abuses of this regime where people only use this study visa for getting access to the Belgian territory. In addition, this loosening would imply that people who intentionally prolong their duration of study potentially could be rewarded by obtaining a LTR- status. We would therefore like to return to the limitation of only taking into account ½ of this residence period for the calculation of the total period of residence of five years.

Art. 4, para 1 (3)

Belgium does not have a strong opinion regarding the reference to 'residence periods under a form of protection other than international protection'. However, we do want to stress our reluctance to this term since the negotiations in the context of the recast of the Single Permit Directive have shown that there is no consensus on this concept. We therefore fear a lack of legal certainty by referring to this residence periods.

Art. 4, para 1 (4)

Belgium supports the changes.

Art. 4, para 2

We refer to our previous contributions and interventions by saying that we do not have any principal problems with the 2+3 cumulation of residence periods and we support the *ratio legis* of promoting intra-EU mobility. However we do stress that this support is not unconditional. To ensure the practical feasibility of this 2+3 mechanism, a right balance must be struck between the residence periods that are taken into account and the practical tools to identify and check these residence periods.

We feel that the practical reassurances and tools for which the MS have asked for are not there (yet). Despite the fact that we do appreciate the efforts of the ES PRES to give more guaranties that these practical tools will be provided by the COM (art. 4, para 2, a) + recital 10a), these guarantees are not legally binding. Making this a suspensive condition (so called 'sunset clause') for the recast directive to enter into force could be a possible solution. Moreover, the practical tools that the COM puts forward, especially the VIS system, are not designed for the purpose of implementing this directive and will not adequately reduce the administrative burden for the MS.

Concerning the different residence periods that can be taken into account for the first 2 years, we are willing to accept the EU- residence titles which can be easily identified. National residence titles for high-qualified employers and their family members cannot easily be identified. Neither can residence titles based on the single permit directive.

Article 9

Belgium holds a study reserve regarding this article.

Article 15, para 1

Even though our answer on both of the questions raised in the ES PRES Discussion paper is yes, we feel that the current compromise text does not increases the legal certainty as it does not refer to the modalities of such 'status'. Belgium therefore prefers to refer to directive 2003/86 and its modalities for the dependent children of a LTR- holder who are born or adopted in the MS.

Article 26, para 5

Belgium refers to its previous written comments and proposes, in order to apply paragraphs 3 and 4 in practice, to indicate on the residence document of an LTR whether the status was granted on the basis of article 4 or article 26 of the directive.

CROATIA

Article 3. SCOPE

Paragraph 2. point e) –as regards the exclusion of category „job search"- from technical and legal point of view there needs to be a clear reference as to what is meant by this category. Is this category from Article 25(1) of the Directive 2016/801/EU on students and researchers; or does this refer to other categories of residence of TCN. We would like further explanations.

Article 4. Duration of residence

In principle, we welcome more clarity as regards Article 4., in the sense that it is clear which categories of stay are included and which are not; when counting the duration of residence.

Paragraph 2 (accumulation of residence in other Member States), namely 3 years in the MS where the EU LOTR residence application is lodged and 2 years in other MS under certain residence permits

Firstly, in relation to the accumulation of periods in other MS, we believe that it should be emphasized primarily that the goal of the Directive is integration into the country who was host MS, which seems somewhat challenging with the introduction of this provision.

We also see challenges in the transmission, implementation and application of this provision when it comes to the exchange of information between MS, especially considering that EU MOBIL is not a mandatory tool for data exchange. We also still do not see how amended VIS would be able to help MS in checking of the title, legality and continuity of residence in other MS, as this would take additional time during the application process.

Possible challenges include in particular checking the periods of absence from the territory of other Member States (the question arises whether the general periods of absence are applied and how?) and the implementation of the procedure for issuing a long-term residence permit with regard to shortened periods. We continue to put forward the question how are general periods of absences from Article 4 para 6 to be calculated in situation of accumulation of periods in more than one MS, having in mind that Para 6 of Article 4 refers only to absences from the territory of the Member State (singular), and in this scenario there could be several MS included. Therefore we would like to ask again how would this be calculated (and checked with other MS) and what are the legal and practical allowed periods of absences per MS in this scenario (e.g. TCN has titles of legal residence that fall under the scope of the Directive in three MS, in 1 MS-for one year, in 2 MS for 1 year, and in 3 MS where the application is lodged after 3 years of legal residence-how will MS 3 apply Article 4 para 6)?

Also, from legal point of view, the wording of the first sentence of Paragraph 2 that refers to "five year duration of legal and continuous residence" should be better connected to Paragraph 1 that prescribes that residence is to be **legal and continuous for 5 years immediately prior to the submission of relevant application**. There should be a direct link to continuity of residences between MS(s) of previous residence and between MS where the application is lodged, to avoid situations where TCN has had legal residence in other MS and after some time TCN moves to other MS. How would this be covered with current ruled on absences? (e.g. TCN has had legal residence in one MS-for one year, in 2 MS for 1 year, and than goes to his country of origin for 6 months and after 6 months comes to 3 MS where the application is lodged after 3 years of legal residence –is this feasible and how will MS 3 apply Article 4 para 6 in this scenario, where there was no legal residence for 6 months in any of the MS; and is this period at all covered by rules on absences)?

This would also arise from the wording of point b)-as this residence in one MS where application is submitted requires 3 years of legal and continuous residence immediately prior to the submission of the application.

We would kindly ask for explanations.

We believe that there should be no additional administrative burden on MS and that all issues and open questions, especially on modalities of exchange of information between MS and continuity of residence should be discussed in details before moving forward.

On inclusion of beneficiaries of Withdrawal Agreement and their family members into accumulation of periods in more MS; **as well as family members of mobile EU nationals**, we do not see the rationale behind this proposal. Also, this would be very difficult to check in practice, because some MS operates constitutive scheme, some MS declaratory scheme when talking of WA beneficiaries, meaning that nor the decision of competent body nor the residence permit constitutes their legal status as WA beneficiaries and legal residence, because it is operated by virtue of WA and implementing legislative acts in that MS. Beneficiaries of WA in declaratory scheme do not have to register with competent authorities in order to have status and rights under WA. They can, if they want to, be registered and issued wit residence permit, but residence permit does not constitute their status of WA beneficiaries. Therefore by including WA beneficiaries as well as family members of mobile EU nationals, in some cases MS would not be able to verify their residence, even if they reside on the territory. **Therefore we are extremely critical towards this proposal.**

We would ask for additional clarifications for the category of **"beneficiaries of temporary protection under Directive 2001/55/EC** if, and under the conditions decided by the Council as per Article 5 of that Directive", because it is not clear does proposed text would allow for accumulation of periods itself; of if there should be a Council decision as per Article 5 of the Directive 2001/55/EC allowing the accumulation of periods for BTP that have this status in other MS. It is not clear how this accumulation would work in practice.

Also, we believe that **further explanation are needed whether this proposed provision** would only apply to **beneficiaries of temporary protection under Directive 2001/55/EC coming from UA;** i.e. until this Directive is in force, having in mind that the *Proposal for a Regulation addressing situations of crisis and force majeure in the field of migration and asylum*, **stipulates that Council Directive 2001/55/EC shall be repealed.**

What is the correlation between these two legal instruments; and correlation with Directive on LOTR? What would be the consequence if Council Directive 2001/55/EC is repealed and Directive on LOTR is not in force yet?

Would, in practice, accumulation of period be only allowed for beneficiaries of temporary protection from Ukraine?

On including students and researchers- their legal and continuous residence defined as an "authorization" under Directive. How does this correlate with short and long mobility of researchers in second MS and their residence in that second MS (and first MS), if no authorization was issued in second MS (no procedure or only notification procedure)?

As regards the beneficiaries of international protection, we can support the proposed Article.

As this is related to newly proposed paragraph 3a and 5, which is taken from the text of the proposal for the Qualification Regulation, we would like to ask for an explanation and a clear flowchart of the interrelationships of the proposed legislative acts, as well as a unique overview of the situation in relation to beneficiaries of international protection, which refers to the proposed rules for acquiring LOTR status, as they are found in several legislative proposals. We thank the Presidency for discussion paper and example provided, although we have question on time frame under the 3-years example, as it seems that Para 3a was not taken into account.

Article 5 (conditions for acquiring EU Long-term residence status)

On including the wording **"where needed, may"** that refers to resources made available by third party, we find that this creates legal uncertainty in proposed text. It is not clear to what situations this refers to and is there a legal obligation, and when, to accept the resources made available by third parties. We find that this bring more uncertainty to legal text.

Also, resources made available by third parties that are not family members, as well as resources made available by third parties that live outside MS, i.e. in third country, because a problem of further checks of resources arises and these resources subject to abuses. This provision in general raises concerns. Propose better explain when resources from third parties could be taken into account- e.g. allowed if **family members also live in that MS**.

This is also as regards Article 17 and 18.

Article 7 (Acquisition of EU long-term resident status)

Paragraph 2-We propose the introduction of the text of the current Directive; or the extension of time limits to 90 days instead of 60 days. Alternatively, we would propose 60 days and additional 30 days in case of significant increase of number of applications.

In paragraph 2, subparagraph 4, we are not sure why is there a "may" provision for suspension of the deadlines? Should this not be a "shall" provision?

As regards proposed subpara. 4 para 2-because of the deletion of the word “endevour to” reply in one month, we ask what is the consequence for MS that did not respond in time. Once again, we point out that in application of this Directive, there should be no additional administrative burden on MS and that all issues and open questions, especially on modalities of exchange of information between MS should be discussed in details before moving forward.

As regards paragraph 4.-proposal to add “if applicable”, because the situation could have changed in relation to the time period when the person was granted a national permanent residence permit.

Article 9 (Withdrawal or loss of status)

We can support the proposed provision.

Article 15. Family members of EU-long term residents

Althought we can support the idea that all children have the same migration status, the proposed provision raises concerns and many questions in practice, due to different treatment of children born before and after parents acquired LOTR status and different national legislative solutions of MSs. The text should provide more clarity and include also the procedural side of the status, as it would follow from the proposed text that this procedure and any status would be automatically granted.

Also, there are several categories of children in this scenario (**situation A**: children already on the territory under FRD but before LOTR status was acquired (as in example), **situation B**: children born on the territory before LOTR status was acquired with national status (as in example)), **situation C**: **children born on the territory after LOTR status was acquired with other different national status (not the same as in B)**, situation D: children born before/after outside of MS and coming from third country to reunite with person under LOTR status (Family Reunification Directive applies).

With this proposed text, we would like **clarification what situation and status would be applicable to all children** (as we understood the proposed text, situation C would be applicable, as it refers to national permit issued to a child of a person with LOTR status). **In this situation, all other children would have to apply also for this new status,** namely their **parents would need to apply for this status**, because we believe there can not be an automatic recognition. In practice, this would depend than on whether parents would submit such applications, and some children might already have residence permit in MS.

Also, we strongly believe that there should be a strong connection with MS, namely the condition that children live on the territory of MS and that this should be included in legal text. Also, we propose only to include minor children in the scope.

We also presume that children born before/after LOTR status was required outside of MS and coming from third country to reunite with person under LOTR status, Family Reunification Directive would not apply but rather national status (under C).

Also we suggest to remove the wording “improved” from recital 27, as it may be the case that the statuses of both children under FRD and national law gives status with same rights.

We would kindly ask for clarifications and confirmation of our understanding of this complex issue, as children born outside were not discussed in details.

Article 21-Examinations of applications and issue of a residence permit in second Member State

We suggest to have an additional deadline of 90 days, instead of 60 days. Alternatively, we would propose 60 days and additional 30 days in case of significant increase of number of applications.

Article 26 Acquisition of EU long-term resident status in the second Member State

As this is one of the complicated provisions in text, we have scrutiny reservation.

It would seem that TCN who have obtained LOTR status in first MS, and used the possibility to move to second MS-would have equal treatment for fist three years in second MS. But as soon as he/she acquire LOTR status in that second MS under this provision (after 3 years), the rights would be lowered, and if no revocation takes place, after 2 more years the person would be again in equal treatment (having 5 years of residence in second MS).

Is there a reason they are still listed in Article 26, paragraph 3, since they are not covered by the rules of equal treatment from Article 24 (family members were deleted from Article 24).

In relation to paragraph 4, we ask for an explanation if the LOTR status is revoked, what is the status of third country national in this case, and whether the rules on return apply (TCN has been in the territory of the EU for 8 years).

It would be also very difficult in practice to distinguish categories of persons having LOTR status, but with different set of rights.

CYPRUS

Article 1-3

The Spanish Presidency has not suggested any changes other than those in Article 3.

Concerning Article3(2)(e), the Spanish Presidency proposes to include another group of people who are excluded from the scope of the Directive, those who are in job-search, on the understanding it is a temporary permit.

The Republic of Cyprus supports the above proposal for the inclusion of this group.

Article 4

The Presidency's proposal includes several changes in Article 4.

As regards paragraph 1 and the **control mechanism**, the Cyprus Republic and **especially the Migration Authorities implement a number of controls** in cooperation with other competent authorities. CY would like to stress that all migration permits, issued both under Union or national Law are subject to control mechanism.

In relation to the newly introduced section concerning the periods of residence spent as beneficiary of temporary protection or under any form of protection other than international protection, to be taken into account, in case they are entitled to apply for EU long-Residence Permit Status, **the Cyprus Republic does not agree.**

EL expresses its disappointment for not including in the presidency's compromise text the proposed provision on the condition of the required three-year period of legal and continuous residence for the beneficiaries of international protection **(refugees only),**in order to have access to the LTR status. In fact, El believes the above-mentioned provision to be maintained and be discussed at a political level.

The Cyprus Republic has no objection to the acquisition of LOTR status after 3 years for beneficiaries of international protection, although this would mean a significant derogation from the general rule of 5 years of residence.

The Spanish presidency has introduced a new provision regarding the accumulation of periods up to two years of legal and continuous residence in other MS by third country nationals who are holder of EU blue card, students, researchers, beneficiaries of temporary protection, beneficiaries of the Withdrawal Agreement and third country national family members of an EU citizen.

The Cyprus Republic promotes that this provision cannot adversely affect the procedure, if the conditions for integration are still valid. However, the implementation of such a provision will add adversely to the administrative work load.

Article 5-7

During the term of the Swedish Presidency and with the support of most of the MS the reference on the provision of third-party maintenance resources was deleted in Article 5(1)(a). The Spanish Presidency, in order to have a fairer system regarding the provision of resources from third parties, suggests that instead of deleting the specific provision in the article in question, the term "may" should be added, which allows the MS to decide whether to accept provision of resources by third parties and by which third parties.

The Spanish Presidency proceeded to delete Article 5 paragraph 2(a) regarding the evidence for permanent and suitable housing while at the same time a similar provision has been included in Article 7(1).

As there is a possibility in the amendments to Article 5, the position of the Republic of Cyprus as expressed at the meeting is positive.

Article 9

The Swedish Presidency suggested reducing the time of absence for the EU Long term residence status holder from the territory of the European Union from 24 to 18 months within a 5-year period. The European Commission considered this change too strict, while the MSs agreed in their entirety with it.

The Spanish Presidency goes a step further and proposes the loss of the right to EU Long-Term resident status when the holder does not have their main residence in the country that granted the status for 18 months within a 5-year period.

The position of the Republic of Cyprus as expressed at the meeting regarding the amendments to Article 9 is positive.

Article 15

The Swedish Presidency regarding Article 15(6) clarifies that children born in the MS which granted LTR to their parents, are granted renewable residence permits just like the rest of their family members (family reunification permits) and not the EU LTR- status directly as proposed by the EU Commission.

The Spanish Presidency, suggests that, as an exception, the dependent children of EU status holders, regardless of their place of birth, have the same status and the same treatment, as if they had been born in the member state. Also, the Spanish Presidency referred to the added value of this wording, saying that dependent children born in the MS that granted EU status to the parents get a national permit. The same could be done with children born in a third country. The Spanish Presidency pointed out that we are talking about a directive, which gives the discretion to the MSs to decide how to deal with children within the same family.

Because there is potential in the amendments to article 5, the position of the Republic of Cyprus as expressed at the meeting is positive.

In conclusion therefore, the Republic of Cyprus appears to have positive position on several of the proposed amendments, but it may have disagreements or reservations on certain specific points as mentioned above.

THE CZECH REPUBLIC

Article 3 par. 2 letter e)

(job searchers are also excluded from the scope of the Directive)

We agree with this, it is a temporary residence permit.

Article 4 –Duration of residence

Par. 1

Granting of LTR status after 5 years of legal and continuous residence. Shorter period cannot be accepted under any circumstances. The holder of LTR status has broad rights.

Par. 2

Students, vocational training, intra-corporate transferees under Directive 201/66 which are not covered by this Directive- we agree with the inclusion of these categories of persons, i. e. we support the newly proposed text of ES PRES.

We would appreciate more details, some explanation about the stay on long stay visas. It should relate to the same categories and then follow on the stay on residence permit?

Par. 3

We do not agree with the proposed text, i.e. we do not agree with the inclusion of the period of residence spent by a third-country national as a beneficiary of temporary protection in accordance with Directive 2001/55/EC or in any other form of international protection. We believe that these persons should not fall within the scope of this Directive. Residence on the temporary protection is completely exceptional situations, not a permanent relationship with the Member State. Temporary protection should be solved comprehensively, as the other legal migration Directives do not cover these persons either. National forms of Asylum are not a harmonized area of EU law. These persons are a completely different category from holders of international protection.

For the Czech Republic, due to the number of holders of temporary protection, this is absolutely unacceptable. (red line)

Par. 4

We agree, we have no problem.

Par. 1a- beneficiaries of international protection – legal and continuous residence after 3 years.

We agree with the deletion of this paragraph - beneficiaries of international protection should have the same period of residence for obtaining LTR status as any other categories of persons, i.e. LTR status after 5 years of legal and continuous residence. (red line)

Article 4, point 2 *Cumulation of periods of residence*

We agree with the proposed principle of 2+3

We agree that residence in the territory of other Member States will be included up to 2 years of residence in the territory of other Member States:

- Blue Card according to Directive 2021/1883
- National residence permit for highly qualified employees (new EC PRES proposal)
- Students according to Directive 2016/801 (new EC PRES proposal)
- Researchers under Directive 2016/801 (new EC PRES proposal)
- Intra corporate transferee according to Directive 2014/66

In principle, we are also in favour of including holders of a Single permit under Directive 2011/98/EC, but we do not know how many persons will be affected overall, what administrative burden it will represent (e.g. national permits for high qualified employees is a completely unknown category, it is not possible to estimate the number, we do not know how many states have such a residence - the Czech Republic does not). At the last meeting, the commission talked about 300 000 people, and inclusion of other proposed categories that number will change significantly. Potential inclusion of holder of Single Permit would represent a huge expansion of this group. Many questions arise in this connection: How will be recognized that a third country national is a holder of Single permit according to the Directive? In the Czech Republic, we have over 100 thousand of Single permit holders. How will this be dealt with if the "May" provision makes it possible to include it in some states and not in others? For the Czech Republic the overall problem is still unresolved practical implementation. (Neither VIS nor EU mobile seems appropriate, nor is the legal basis for VIS clear).

We do not agree that residence in the territory of other Member States should be included in the 2 years of residence in the territory of other Member States:

- residence under Withdrawal Agreement as well as a Withdrawal Agreement beneficiary´s previous residence under Directive 2004/38/EC (new EC PRES proposal)

- beneficiary´s of temporary protection under Directive 2011/56 (new proposal of EC PRES)

- family members of EU citizens under Directive 2004/38

British under Withdrawal Agreement as well as a Withdrawal Agreement beneficiary's previous residence under Directive 2004/38/EC - We do not understand why this is mentioned in the proposal and for what purpose the British are regulated unilaterally outside the scope of the Withdrawal Agreement. The Withdrawal Agreement is a norm of higher legal force than the Directive, moreover, it is special to the status of British and family members under the Withdrawal Agreement. The Withdrawal Agreement itself determines the rules for the aggregation of periods of residence and the right of permanent residence in its Articles 15-16 (which are even more favourable in specific provisions than in Directive 2004/38/EC), while it applies only in the host state or states . If a Member State wished to do so more favourably, it could already do so.

Beneficiaries of temporary protection according to Directive 2011/56 - see our previous comment.

Family members of EU citizens under Directive 2004/38- We do not consider LTR Directive to be an appropriate legal basis for regulating this category of persons. In our opinion Article 79 TFEU is not sufficient for this category.

Article 4 par. 3a

We agree with ES PRES proposal - it is necessary to take into account the period of waiting for a decision.

Article 5- Conditions for acquiring EU long term resident status

(b) 1 point. a)

Member States may also consider resources provided by third parties where necessary.

We agree, provided that third-party income will be optional ("MAY") not mandatory.

Par. 2a

Deletion, move to Art. 7

We do not agree, we want the provision of appropriate accommodation to be a condition for obtaining LTR status. Regular and constant income is not enough. Providing the address of a building suitable for living is a basic condition in the Czech Republic, e.g. for drawing benefits, health care, school attendance, etc. In addition, all Czech state administration information systems are based on the address principle.

Article 7- Aquisition of EU long- term resident status

1.

See comment to Art. 5- we do not agree with the inclusion of proof of appropriatte accommodation in this

2. We agree in principle, but this provision (as well as Article 4(2)) will only work again if there is a functioning information exchange system.

Article 9 withdrawal or loss of status

We do not support the new concept of "main residence". We insist on the established concept of absence from the territory. We agree with the proposal ad a) Discussion paper: „ *a) absence from the territory of the Union for more than 18 months within a period of five years from the date of issue the last EU long term residence permit.“*

We cannot imagine the concept of main residence in practice, as would be demonstrated, the concept is not clear, unlike periods of absence. We support the principle of counting periods of absence in a 5-year framework.

paragraph 1a- Member States do not have to carry out checks systematically. We don´t agree, it could lead to the resignation of the Member States from the verification of residence.

paragraph 2- we agree

Article 15 Family members

We do not agree with the ES PRES proposal (dependent children regardless of their place of birth - all the same status). We support the original EC proposal - children born/adopted - will receive LTR status on application for their child. In the Czech Republic, children in the family have a minimal difference in rights.

FRANCE

De manière générale, la France remercie la présidence pour le travail effectué sur le projet de texte et les avancées, nombreuses, que comporte la version qui a été soumise aux Etats membres lors de l'IMEX du 26 juillet dernier.

La France est particulièrement satisfaite de la suppression du délai dérogatoire de 3 ans de résidence sur le territoire de l'UE pour accéder au statut de résident de longue durée (au lieu de 5 ans) pour les bénéficiaires de la protection internationale. Le maintien de la « may clause » s'agissant de la prise en compte des ressources fournies par des tiers dans l'évaluation des moyens de subsistance répond également à une préoccupation forte. De même elle soutient la proposition de la présidence sur les modalités de contrôle de la résidence principale, et propose de la reformuler pour renforcer encore l'opérationnalité du dispositif.

Toutefois, nous devons poursuivre nos efforts afin de parvenir à un équilibre sur l'ensemble de la directive révisée. La France ne peut accepter certaines dispositions qui non seulement modifient l'équilibre existant du dispositif « résident de longue durée », mais créent des distorsions avec d'autres textes européens ou nationaux, dans un contexte de discussion sur l'évolution de la loi française.

Ainsi, la France demeure **fermement opposée au principe même du cumul des périodes de séjour dans différents Etats membres** pour apprécier la satisfaction de la condition de séjour régulier. Le mécanisme permettant les échanges de données entre les Etats membres, indispensable à la vérification de la durée de résidence, n'est pas encore clarifié, alors qu'un risque majeur de fraude existe en l'absence d'outil robuste. *A fortiori,* l'introduction d'un délai d'un mois seulement pour que les informations soient transmises du premier au deuxième Etat membre et d'une obligation pour ce dernier de traiter la demande **même en l'absence de transmission des informations** (article 7.2) conduit à une instruction insuffisamment sécurisée et à des risques majeurs de détournement de la procédure.

De même, la France ne peut soutenir l'opportunité d'accorder le même statut et le même traitement à tous les enfants des RLD-UE, qu'ils soient nés ou non dans l'État membre d'accueil, en raison tant du caractère personnel de l'accès à un droit au séjour que du risque de confusion avec la procédure de regroupement familial. La France souhaite ainsi maintenir l'application du droit national, l'harmonisation et l'approfondissement du statut de RLD-UE n'ayant pas vocation à aboutir à un mécanisme de quasi-reconnaissance mutuelle du regroupement familial.

Enfin, à des fins de cohérence et de sécurité juridique, la France considère nécessaire de ne pas comptabiliser, dans le calcul des 5 ans de séjour régulier, les périodes effectuées sous un motif expressément exclu du champ d'application de la directive à l'article 3(2).

Au-delà de ces réserves, la France souligne la qualité de la méthode de travail de la présidence, attentive aux observations de la France et entretenant un dialogue approfondi. C'est un élément important pour travailler à une révision équilibrée de la directive, tenant compte des intérêts et préoccupations de l'ensemble des Etats-membres.

Champ d'application : Article 3 (au regard des considérants 7, 9 et 10)

- La France salue le fait que les personnes séjournant uniquement pour des motifs à caractère temporaire sont désormais clairement exclues du champ d'application de la directive (personnes au pair, travailleurs saisonniers, travailleurs salariés détachés par un prestataire de services afin de fournir des services transfrontaliers, prestataires de services transfrontaliers).
- La France est donc favorable à l'exclusion du champ d'application des périodes liées à une recherche d'emploi, compte tenu de la nature temporaire de ce type de séjour. Elle soutient donc cette exclusion au e) de l'article 3(2), qui donne déjà des exemples de catégories de séjour relevant d'une nature temporaire et ne devant pas être inclues dans le champ d'application de la directive.
- Toutefois, la France émet des réserves quant au fait de prendre en compte pour l'accès au statut RLD - UE des périodes de séjour passées sous un statut qui ne correspond pas à un motif d'installation durable (étudiants, saisonniers).
- Enfin, la France est favorable à ce que les bénéficiaires de l'accord de retrait du Royaume-Uni soient inclus dans le champ d'application de la directive, et à ce que leurs périodes de résidence sous un statut de citoyen de l'Union européenne soient prises en compte dans le calcul des 5 ans de résidence.

Article 4 : durée de résidence : Article 4 (au regard du considérant 10 a)

- La France salue une avancée importante sur ce point et remercie de manière appuyée la présidence de ne pas avoir retenu l'abaissement à 3 ans de la durée de résidence requise pour les bénéficiaires de la protection internationale (BPI).

- En effet, cela permettra d'éviter que ce public n'accède à une carte de séjour permanente plus rapidement que des citoyens de l'Union européenne, lesquels restent soumis à une période de résidence de 5 ans pour l'obtention de ce document.

- Les BPI font dans la version actuelle l'objet d'une dérogation favorable dans la mesure où est prise en compte la moitié de la période comprise entre la date du dépôt de la demande de protection internationale et la date de délivrance du titre, ce qui permet potentiellement de satisfaire plus rapidement à la condition de durée de séjour requise.

"*Sur les autres dispositions de l'article 4 :*

La France maintient ses objections très fortes sur deux dispositions essentielles de l'article 4 :

1/ Statuts pouvant être pris en compte dans le calcul des 5 ans de résidence préalable :

- La France est opposée, notamment pour des raisons d'intelligibilité du droit, à l'ajout effectué au deuxième paragraphe incorporant à la période de 5 années de séjour dans l'État membre de

demande du statut RLD-UE, le séjour des étudiants, des travailleurs faisant l'objet d'un transfert intragroupe et des bénéficiaires de la protection temporaire ou d'une protection nationale (à la condition d'avoir obtenu au moment de la demande un titre de séjour compatible avec le champ d'application de la directive), dans la mesure où cela a pour conséquence *in fine* d'inclure au champ d'application de la directive des motifs de séjour qui en sont expressément exclus à l'article 3(2).

- Ces différents motifs de séjour ne peuvent en outre pas être associés à un ancrage marqué dans le pays d'accueil, ce qui explique qu'ils soient exclus du champ d'application. Leur prise en compte génère en outre des difficultés pour le calcul de la durée de résidence ouvrant droit au statut de RLD-UE. La France souligne les difficultés que la proposition actuelle engendrerait en l'absence de durée de détention minimum d'un titre de séjour rentrant dans le champ d'application de la directive pour solliciter le statut. Par exemple, un étranger qui aurait séjourné 5 années au sein de l'UE sous couvert d'un titre étudiant pourrait solliciter une CRLD-UE dès le premier changement de statut.

- Toutefois, la France soutient la proposition de la présidence pour le calcul de la durée ouvrant droit au statut de RLD-UE des périodes couvertes par des permis de séjour obtenus par des investisseurs, compte tenu du fait que certains États membres n'exigent pas nécessairement une présence physique lorsqu'ils octroient ce type de document. La France souligne que cette condition de réelle présence physique est de fait applicable à l'ensemble des personnes sollicitant un titre de séjour RLD-UE.

2/ Règles de calcul de la durée de séjour (3+2 ans) :

- La France maintient son opposition sur la dérogation au principe des 5 années de séjour dans l'État membre où est introduite la demande de statut de RLD-UE. En effet, la France est fortement attachée au maintien d'un ancrage stable du ressortissant étranger dans l'État membre où il dépose sa demande de statut de RLD-UE, car le statut de résident de longue durée se traduit par la délivrance d'un document de séjour très protecteur qui participe de l'attractivité du statut. Une durée de séjour dans l'État membre de délivrance réduite amoindrit la portée des contrôles sécuritaires qu'il est en mesure de mettre en œuvre pour s'assurer de l'absence de menace à l'ordre public.
- En outre, le contrôle de la présence réelle ainsi que la conformité du motif des 2 années de séjour passées dans un autre État membre pose dans l'état actuel et futur des outils disponibles un réel souci de mise en œuvre opérationnelle : en l'absence de système automatisé interconnecté et compte tenu de la définition limitative des motifs de séjour qui seraient pris en compte dans un premier État membre, cette vérification nécessiterait des contacts dossier par dossier, induisant de longs délais de traitement pour instruire chaque demande ainsi que des moyens en personnel supplémentaires.
- La France note l'effort fait par la présidence dans son considérant 10a, qui pour autant ne garantit aucune mise en place effective dans un temps imparti des outils appropriés de contrôle pour identifier la réalité de la présence de l'individu dans un autre Etat membre sous couvert d'un visa ou d'un permis de séjour permettant la prise en compte dans le calcul.
- **La France rappelle qu'elle souhaite conserver le système actuel de 5 ans de résidence dans l'Etat membre où la demande de titre de séjour RLD est déposée**.

Conditions d'acquisition du statut de RLD-UE : Articles 5, 17 et 18

La France salue le maintien de la prise en compte de manière optionnelle des ressources fournies par des tiers dans l'évaluation des moyens de subsistance.

En effet, il convient de ne pas rendre systématique une telle prise en compte, compte tenu du niveau de garantie moindre octroyé par des ressources provenant de tiers en ce qui concerne notamment leur nature, leur origine et leur régularité. La France est donc favorable à la « may clause » dans cet article.

Vérification du séjour antérieur dans un autre Etat membre : Article 7(2) :

- La France est fermement opposée à la rédaction de l'article 7(2) proposé par la Présidence. L'obligation pour un Etat membre de prendre une décision en cas d'absence de réponse dans le délai d'un mois d'un autre Etat membre interrogé sur la conformité des périodes de séjour légal passées sur son territoire risque d'introduire une insécurité juridique dans les décisions prises par le nouvel Etat d'accueil, dans la mesure où ce dernier ne disposera pas des éléments d'informations nécessaires pour statuer en connaissance de cause. A cet effet, la France souhaite a minima qu'une « may clause » soit introduite.
- Elle considère en outre que le délai est trop réduit pour assurer les vérifications requises, qui pourraient être tributaires de la bonne volonté du demandeur.

Retrait ou perte du statut de RLD-UE : Article 9(1) et 9(1a)

Article 9 – absence pouvant conduire au retrait du statut de RLD – UE

- La France est en accord avec l'objectif poursuivi par le texte proposé par la Présidence. La mesure consistant à mettre à la charge du ressortissant étranger la preuve de la continuité de sa résidence principale est particulièrement satisfaisante.
- Toutefois, la France s'interroge sur la formulation retenue s'agissant de l'absence pouvant conduire au retrait du statut de résident de longue durée UE pour les Etats membres qui ont choisi de délivrer un titre d'une durée supérieure à cinq ans à ce public. En France, un titre de 10 ans est délivré. L'examen de la condition de résidence au moment de la demande de renouvellement conduirait donc à vérifier une situation ancienne et n'étant plus nécessairement pertinente. Elle propose donc une rédaction alternative clarifiant le droit applicable.

Proposition de Reformulation

1 (c) […] ***if the EU long-term resident has not had his/her main residence in*** *the territory of the Union for* ***more than a third of the validity period of his 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.***~~

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*** *[…]* ***for more than a third of the validity period of his last EU long-term residence permit for specific or exceptional reasons****, shall not entail withdrawal or loss of status.*

Membres de famille : Article 15

- La France observe que le nouveau texte serait difficile à mettre en œuvre, en aboutissant à un traitement différencié pour les enfants venus par regroupement familial selon que la personne à l'origine du regroupement est titulaire ou pas du statut de RLD-UE.
- Elle rappelle que les conditions d'accès au statut de RLD-UE s'apprécient personnellement.
- Ces propositions posent des difficultés d'autant plus grandes lorsqu'elles sont articulées, d'une part, avec le mécanisme de cumul des périodes de séjour dans différents États membres et, d'autre part, avec la réduction de la durée de présence régulière requise ; elles aboutiraient à un mécanisme de quasi-reconnaissance mutuelle du regroupement familial qui n'apparaît pas opportun.
- Ainsi, la France ne partage pas l'avis de la présidence sur l'opportunité d'accorder le même statut et le même traitement à tous les enfants des résidents de longue durée – UE et souhaite que cette directive ne se substitue pas à la directive sur le regroupement familial.
- La France souhaite ainsi maintenir l'application du droit national et ne souhaite pas un statut européen harmonisé applicable à l'ensemble des mineurs.

Acquisition du statut RLD-UE dans un second Etat membre : Article 26(5)

La France est favorable à la suppression de la phrase relative à la possibilité laissée aux Etats membres de limiter à 2 ans le titre de séjour RLD-UE en cas d'acquisition du statut RLD-UE dans un second Etat membre.

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Courtesy translation

Generally speaking, France would like to thank the Presidency for the work it has done on the draft text and the numerous advances contained in the version submitted to the Member States at the IMEX on 26 July.

France is particularly satisfied with the deletion of the derogatory period of 3 years of residence on EU territory for access to long-term resident status (instead of 5 years) for beneficiaries of international protection. The maintaining of the "may clause" concerning the taking into account of resources provided by third parties in the assessment of means of subsistence also responds to a strong concern. France also supports the Presidency's proposal on the arrangements for checking the main residence, and suggests that it be reworded to make the system even more operational.

However, we must continue our efforts to achieve a balance in the revised directive as a whole. France cannot accept certain provisions that not only alter the existing balance of the "long-term resident" scheme, but also create distortions with other European or national texts, in a context of discussion on the evolution of French law.

Thus, France remains **firmly opposed to the very principle of cumulating periods of residence in different Member States** in order to assess whether the condition of legal residence has been met. The mechanism for exchanging data between Member States, which is essential for verifying the length of residence, has not yet been clarified, even though there is a major risk of fraud in the absence of a robust tool. A fortiori, the introduction of a time limit of only one month for information to be transmitted from the first to the second Member State and an obligation for the second Member State to process the application **even if the information has not been transmitted** (article 7.2) leads to an insufficiently secure procedure and major risks of abuse of the procedure.

Similarly, France cannot support the advisability of granting the same status and the same treatment to all children of EU-LTRs, whether or not they were born in the host Member State, because of both the personal

nature of access to a right of residence and the risk of confusion with the family reunification procedure. France therefore wishes to maintain the application of national law, as the harmonisation and deepening of LTR-EU status is not intended to lead to a mechanism of virtual mutual recognition of family reunification.

Finally, for the sake of consistency and legal certainty, France considers it necessary not to count, in the calculation of the 5 years of legal residence, periods spent on a ground expressly excluded from the scope of the Directive in Article 3(2).

Over and above these reservations, France would like to emphasise the quality of the Presidency's working method, which is attentive to our observations and maintains an in-depth dialogue. This is an important factor in working towards a balanced revision of the directive, taking into account the interests and concerns of all Member States.

Scope: Article 3 (with regard to recitals 7, 9 and 10)

- France welcomes the fact that persons staying solely for temporary reasons are now clearly excluded from the scope of the directive (au pairs, seasonal workers, employees posted by a service provider to provide cross-border services, cross-border service providers).
- France is therefore in favour of excluding from the scope periods linked to job-seeking, given the temporary nature of this type of residence. It therefore supports this exclusion in Article 3(2)(e), which already gives examples of categories of temporary residence that should not be included in the scope of the Directive.
- However, France has reservations about taking into account periods of residence spent under a status that does not correspond to a reason for permanent settlement (students, seasonal workers) for access to LTR - EU status.
- Lastly, France is in favour of including the beneficiaries of the UK Withdrawal Agreement within the scope of the Directive, and of their periods of residence as EU citizens being taken into account when calculating the 5-year residence requirement.

Article 4: length of residence: Article 4 (with regard to recital 10 a)

- France welcomes the significant progress made on this point and warmly thanks the Spanish Presidency for not having retained the reduction to 3 years of the period of residence required for the beneficiary of international protection.
- This will prevent them from obtaining a permanent residence permit more quickly than EU citizens, who are still subject to a 5-year residence requirement before obtaining this document.
- In the current version, the beneficiary of international protection is subject to a favourable derogation insofar as half of the period between the date of filing the application for international protection and the date of issue of the title is taken into account, which potentially makes it possible to meet the required length of stay condition more quickly.

On the other provisions of Article 4 :

France maintains its very strong objections to two essential provisions of Article 4:

1/ Status that may be taken into account in calculating the 5 years of prior residence :

- France is opposed, in particular for reasons of legal comprehensibility, to the addition made to the second paragraph incorporating into the period of 5 years of residence in the Member State of application for LTR-EU status, the residence of students, workers who are the subject of an intra-group transfer and beneficiaries of temporary protection or national protection (on condition that they

have obtained a residence permit compatible with the scope of the Directive at the time of application), insofar as this has the *ultimate* consequence of including in the scope of the Directive grounds for residence which are expressly excluded in Article 3(2).

- In addition, these different reasons for residence cannot be associated with a marked « anchoring » in the host country, which explains why they are excluded from the scope of application. Taking them into account also creates difficulties when calculating the length of residence entitling the holder to EU LTR status. France stresses the difficulties that the current proposal would cause in the absence of a minimum period of possession of a residence permit falling within the scope of the directive in order to apply for the status. For example, a foreign national who has spent 5 years in the EU on a student permit could apply for an EU LTR from the first change of status.

- However, France supports the Spanish Presidency's proposal for calculating the periods covered by residence permits obtained by investors as qualifying periods for LTR-EU status, given that some Member States do not necessarily require physical presence when granting this type of document. France stresses that this condition of actual physical presence is in fact applicable to all persons applying for an LTR-EU residence permit.

2/ Rules for calculating the length of stay (3+2 years) :

- France maintains its opposition to the derogation from the principle of 5 years' residence in the Member State where the application for LTR-EU status is submitted. France is strongly committed to ensuring that foreign nationals remain firmly rooted in the Member State in which they apply for EU-LRD status, as long-term resident status results in the issue of a highly protective residence document, which contributes to the attractiveness of the status. A shorter period of residence in the issuing Member State reduces the scope of the security checks that it is able to implement to ensure that there is no threat to public order.

- Furthermore, given the current and future state of the tools available, checking that the applicant is actually present and that the reason for the 2 years' residence in another Member State is correct poses a real problem in terms of operational implementation: in the absence of an interconnected automated system, and given the limited definition of the reasons for residence that would be taken into account in a first Member State, this check would require contacts on a case-by-case basis, resulting in long processing times to examine each application, as well as additional staff resources.

- France notes the efforts made by the Presidency in its recital 10a, which does not, however, guarantee that the appropriate control tools will be put in place within a given timeframe to identify the reality of the individual's presence in another Member State under cover of a visa or residence permit enabling them to be taken into account in the calculation.

- **France reiterates that it wishes to retain the current system of 5 years' residence in the MS where the application for an LTR residence permit is submitted.**

Conditions for acquiring RLD-EU status: Articles 5, 17 and 18

France welcomes the fact that resources provided by third parties will continue to be taken into account on an optional basis when assessing means of subsistence.

This should not be done systematically, given the lower level of guarantee provided by third-party resources in terms of their nature, origin and regularity. France is therefore in favour of the "may clause" in this article.

Verification of previous residence in another Member State: Article 7(2) :

- France is firmly opposed to the wording of Article 7(2) proposed by the Presidency. The obligation for a Member State to take a decision if another Member State fails to respond within one month to a question on the conformity of periods of legal residence spent on its territory risks introducing legal uncertainty into the decisions taken by the new host State, insofar as the latter will not have the necessary information to take a decision in full knowledge of the facts. To this end, France would at least like a "may clause" to be introduced.

- It also considers that the deadline is too short to carry out the required checks, which could depend on the goodwill of the applicant.

Withdrawal or loss of RLD-EU status: Articles 9(1) and 9(1a)

Article 9 - Absences which may lead to withdrawal of LDR - EU status

- France agrees with the objective pursued by the text proposed by the Presidency. The measure that places the burden of proof for the continuity of a foreign national's main residence on the foreign national is particularly satisfactory.

- However, France questions the wording used with regard to the absence that may lead to the withdrawal of EU long-term resident status for Member States that have chosen to issue a permit for a period of more than five years to this group. In France, a 10-year permit is issued. Examination of the residence condition at the time of application for renewal would therefore lead to verification of an old situation that is no longer necessarily relevant. It therefore proposes an alternative wording that clarifies the applicable law.

Suggested reformulation

1 (c) [...] **if the EU long-term resident has not had his/her main residence in** the territory of the Union for **more than a third of the validity period of his 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.**~~

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** [...] **for more than a third of the validity period of his last EU long-term residence permit for specific or exceptional reasons**, shall not entail withdrawal or loss of status.

Family members: Article 15

- France points out that the new text would be difficult to implement, as it would result in differentiated treatment for children who come through family reunification depending on whether or not the person responsible for the reunification has LTR-EU status.
- It points out that the conditions for access to EU-LR status are assessed on a personal basis.

- These proposals pose all the greater difficulties when combined with the mechanism for accumulating periods of residence in different Member States and the reduction in the period of lawful presence required; they would result in a mechanism of virtual mutual recognition of family reunification, which does not seem appropriate.

- France does not share the Presidency's view on the desirability of granting the same status and treatment to all children of long-term EU residents, and would like this directive not to replace the directive on family reunification.
- France wishes to maintain the application of national law and does not want a harmonised European statute applicable to all minors.

Acquisition of RLD-EU status in a second Member State: Article 26(5)

France is in favour of deleting the sentence concerning the possibility for Member States to limit the RLD-EU residence permit to 2 years in the event of acquiring RLD-EU status in a second Member State.

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GERMANY

Preliminary remarks

We would like to thank the Presidency for its comprehensive third compromise text. Germany reserves the right to make further comments as the discussions progress.

Recitals

Recital 8

Germany agrees.

Recital 9

Germany agrees.

Recital 9a

Germany agrees.

Recital 10

Germany agrees.

Recital 10a

Germany agrees. In our view the provisions on the practical implementation for the control of the conditions constitute a right first step. See our comments on Article 4 (2) (a).

Recital 11

Germany agrees provided that the addition „according to national law“ regarding the resources made available by a third party is included. The sentence should then be as follows:

~~However, Aas [held by the Court of Justice in case C-302/18]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 according to national law provided that, in the light of the individual circumstances of the applicant concerned, they are considered to be stable, regular and sufficient.

Recital 12

Germany agrees.

Recital 17

Germany agrees.

Recital 27

See our comments on Article 15.

Article 3

Germany agrees.

Article 4

Paragraph 1

We understand that the insertions of subparagraphs 2 and 3 in Art. 4 (1) do not intend to change the content. However, the new subparagraphs 2 and 3 create the misunderstanding that other periods with a national visa or residence permit are not taken into account. From our point of view, the previous version (second compromise proposal) should therefore be retained.

We still need clarification on subparagraph 4. It is decisive for us that residence permits due to investments are not taken into account in any way for EU long-term residence status. We therefore ask the Presidency to explain how - on the basis of the present broad wording - the inclusion of residence permits based on investments can be effectively excluded.

Paragraph 1a

We are in favour of reducing the period of previous residence required for beneficiaries of international protection.

Paragraph 2

We generally agree with Article 4 (2) in the current version. However, we still have the following comments on Article 4 (2) (a):

- Trainees pursuant to Directive 2016/801 should also be included to avoid splitting up the groups of persons covered by that directive.

- The question how the exchange of information between Member States is to be guaranteed in practice has not yet been finally clarified. The comments of the Commission on "EU-MOBIL" and in particular on VIS have, from our point of view, shown that an exchange of information for the control of conditions cannot be satisfactorily made possible with a larger number of cases on this basis. According to information from the National Contact Point, it would be helpful in the near term if all Member States actually used the "EU-MOBIL" area provided by the Commission for this purpose on the EMN IES (European Migration Network Information Exchange System) platform. We therefore welcome the mention of "EU-MOBIL" in recital 10a. We would also appreciate it if the Commission follows the request in recital 10a and in Article 4 (2) (a) at the end and provides the respective “appropriate tools” for controlling the cumulation of previous residence times by Member States in a timely manner.

Paragraph 3a

Germany agrees.

Article 5

Germany agrees provided that the addition „according to national law“ is included in Art. 5 (1) (a). The sentence should then be as follows:

> **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 according to national law.**

Article 7

Germany agrees with Art. 7 (1).

In our view, the addition in Art. 7 (2) at the end ("the Member State where the application was lodged shall make a decision according to the documentation provided by the applicant.") means that regularly the application will be rejected, since information that was requested and therefore considered necessary to decide on the application is ultimately not available and the applicant cannot obtain the necessary information from the other Member State either. We could therefore also accept a deletion of this addition. We ask the Presidency to clarify whether our view is legally correct.

Article 9

Paragraph 1

The regulatory approach from the previous version (second compromise proposal) has basically been kept. We still support this approach.

However, the newly added sentence on the constellation that proof of the Long-Term Residence EU is issued for more than five years should be deleted. The period of five years within which an absence of 18 months is allowed should not be shortened. In our opinion, the reference period should always be five years, regardless of the period of validity of the document.

Paragraph 1a

The newly added Article 9 (1a) should be deleted. From our point of view, the conditions that can lead to the termination should always be checked if there are concrete indications.

Paragraph 2

Germany agrees.

Article 15

In principle, we agree with this version. From our point of view, the regulations on status and rights should be the same to all children of EU long-term residents. For legally secure implementation, we ask for an assessment by the Legal Service of the Council.
In addition, we suggest a provision for the period of validity of residence permits for children of EU long-term residents. This provision could be such that minor children of EU long-term residents, after the first extension of their temporary residence permit, are at least granted a temporary residence permit valid up to the age of 18.

GREECE

Recital 9: EL considers that the wording of recital 9 should be redrafted, as it would not be appropriate, at least in terms of policy, to state that the amendments to the Directive aim also "*to limit the attractiveness of investor residence schemes*". We would therefore propose the following wording: «*Due to the fact ~~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*». The proposed wording explains that, due to the fact that not all MS have adopted national investor schemes, it will not be possible that the respective residence periods in a MS are cumulated in order to apply for the LTR status in another MS.

Recital 9a: EL agrees with the proposed recital on Brexit and the possibility of cumulation of residence years.

0a: EL considers that, both in the recital and the respective provision of the Directive, it should be made clear that the European Commission will 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 in close cooperation with the MSs. We should not forget that migration authorities of the MSs will be the final users of the available tools, so it is very important for the success of the system that European Commission will cooperate closely with MSs.

Recital 11: EL expresses reservation on the reference to the term "third parties", as we consider that only close family members should be able to contribute in order for the applicant to fulfill the respective income requirement (see also comment on article 5). El also believes that the Decision of the ECJ is referring to the Directive in force; therefore, if the Council wishes to safeguard the implementation of the Directive and avoid any misuse or fraud, we may amend the main provision in order not to have any reference to "third parties".

Article 3

a) EL agrees with the additions in article 3.

b) Par. 2 (e): EL considers that for reasons of legal clarity a citation should be added to article 25 par. 1 of Directive 2016/801 (proposed rewording: "job search according to par.1 of article 25 of Directive 2016/801).

Article 4

Par. 1: EL expresses a reservation of substance on the mandatory calculation of the long stay visa periods, as it should be optional (may clause).There are cases were a TCN enters under a national (D) visa to the territory of the MS, and he/she applies for the respective residence permit at the end of the validity of the national visa to extend his/her legal residence. So, we consider that in those cases, the period of the visa should not be taken into consideration in the calculation of the five-year period. In addition, EL considers that in terms of implementation, migration authorities will not be able to apply easily the cumulation of the national visa periods, as those data are not included (in most of the cases) into the migration IT systems, but are available only at the respective systems of the Ministries of Foreign Affairs (competent visa authorities).

Also, EL expresses a reservation on the issue of taking into consideration the duration of residence for the purpose of vocational training *(reference to Article 3 (2), subpar.a)*. Regarding the last subpar., EL supports the rewording of the provision (deletion of *appropriate control mechanisms)*, but it should be noted that each MS should conduct appropriate controls for all types of residence permits in order to ensure that the requirement of "legal and continuous residence" of third-country nationals is fulfilled and that there should be no discrimination against those who hold a residence permit for investment purposes. In other words, all applicants should be examined on the basis of the same mechanisms and criteria.

Moreover, EL considers that the reference to beneficiaries of temporary protection is interesting and could be examined also in the frame of the general discussion, still on-going, on the future of the temporary protection for citizens of Ukraine.

Par. 1a: EL expresses a reservation of substance, regarding the deletion of the proposed provision on the condition of the required three-year period of legal and continuous residence for the beneficiaries of international protection, in order to have access to the LTR status.

EL stresses that during the previous meeting in June, there was no vast majority in favor of one or the other position, so as to justify the decision to be proposed the deletion of the provision.

Consequently, EL would like to request from the Presidency to reconsider the specific provision, thus **to be retained in the text and discussed at a higher political level**. In addition, EL supports its position, as was also developed in previous comments, arguing that the three - year provision would contribute to the substantial integration of beneficiaries of international protection in the MS, taking into account that other preconditions must me also met (e.g. stable and regular resources, etc.) for obtaining the LTR status. In this respect, we should not forget that the current, but also the new proposal, allows MSs to put in force a number of tools and criteria in order to avoid misuse of the system by the beneficiaries of international protection (income, residence, integration criteria). Also it should be noted that, based on the new proposal, the beneficiaries of international protection are already treated differently from other categories of third country nationals, as the proposed introduction of a provision for the possibility of accumulating periods of residence in other MS, sets the beneficiaries of international protection de facto in less favorable position, as they do not have the right for long term mobility in another MS and, in this respect, they are not able to cumulate periods off residence in other MSs.

Finally, in the broader context of discussions on the Pact, EL constructively cooperates, taking into account the general approach reached for AMMR and APR Regulation in the JHA Council in June and the three-year provision for beneficiaries of international protection could contribute to the sharing of responsibilities between MS, as well as to the balance of the asylum system, while the Screening and Eurodac Regulations provide for enhanced procedures regarding the responsibility of first line MS.

Par. 2, sub. a: EL supports the cumulation of periods in different MS as a measure to facilitate access to LTR status.

In relation to researchers, it is proposed to add a citation to Article 17 of the Directive 2016/801. Furthermore, **EL expresses a scrutiny reservation regarding the inclusion of national residence permits for highly qualified employment** (other than an EU Blue Cards), taking into account that it is very probable that this will be the cause of considerable additional administrative burden for the competent authorities of the MS.

In relation to the TCNs holders of a Single Permit, EL expresses reservation in terms of implementation. Single permit is not an EU residence status, but rather a national employment status for TCNs, associated with an agreed EU level of rights. According to the Single Permit Directive, there is no specific reference of the Directive to the residence permit (residence card); therefore, it will be very difficult for the migration authorities to cumulate the respective periods of residence to other MSs.

In addition, EL proposes that a provision is introduced in the Directive, according to which, the "appropriate tools" for the exchange of information between MS **will be jointly decided between the Commission and the MS** and again expresses a reservation of substance on the mandatory calculation of the long stay visa periods (see also comments to the respective recital).

Par. 3a: EL agrees with the provision (previous par.5) concerning the beneficiaries international protection and with the calculation of the total period from the submission of the application until the granting of international protection, which is also related to par. 1a.

Par. 5a: EL, as mentioned in previous comments, expresses a reservation of substance on the paragraph, which has an obligatory nature (…such a situation **shall not** be taken into account…), as it could be seen as a "punitive" provision for beneficiaries of international protection. Also, this is a new provision in relevant legal texts, as it is not foreseen in similar cases (i.e. cases of other TCNs who reside legally and move to a MS other than the one that granted the relevant residence permit); therefore its purpose needs to be clarified. In addition, the phrase "beyond his/her control", is difficult to prove, thereby making the provision vague. Also, in legal terms, this provision interferes with the right of the member state to decide on the granting or not of the status to a TCN in accordance with the criteria of article 5.

Article 5:

Par. 1, subpar. a: Regarding the sentence "*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*", EL considers that the above wording relativizes the criterion of stable and regular resources for obtaining the LTR permit, as it becomes indicative and not obligatory, and it is crucial that the connection between "reference amount" and "minimum income level" is clarified.

Furthermore, EL notes that the transformation of the provision into a "may clause" regarding "third parties" is positive. However, it should be clarified that the provision refers exclusively to family members of the applicant who have their residence in the territory of the MS and not to third parties in general. In this respect, we need also to clarify what will happen in case there are two applicants for the status (family members), which are both close to the income criterion, but each one of them cannot fulfil the criterion on their own: can the one family member contribute to the other and vice versa or not? Please note that those are real cases, which need to be clarified.

Article 7:

Par. 1: EL agrees with the may clause on the issue of the appropriate accommodation.

Par. 2: EL considers that the term "exceptional circumstances" needs to be examined as it is quite restrictive for public services, regarding for the cases it covers; therefore, it is proposed to focus on the complexity of each application as the main criterion for extending the time - period for examination of the application by the competent authorities of the MS.

Par. 4: EL would like the provision to be clarified in relation to its aim and **whether or not the financial resources for the acquisition of status will ultimately be examined or not for holders of national residence permits of permanent or unlimited validity**. EL proposes that the provision becomes a "may" clause, in order for each MS to examine /decide whether it is necessary or not, to require that the applicant provides evidence of the conditions provided for in Article 5 (1) and (2a).

EL, as of 1.1.2024, under the new Migration Code (l.5038/2023), will give the possibility to TCNs, who have been granted a ten-year residence permit to have their residence permit automatically converted (upon its expiration) into a LTR permit, **subject only to periods of absence** (less than 6 consecutive months and does not exceed totally 10 months within last five-year period), while integration criteria are considered to be fulfilled in principle after twelve years of residence in Greece. Therefore, EL proposes the following wording: "…Article 14, that **MS may not** ~~shall not~~ require the applicant to give evidence of the conditions provided for in Article 5(1) and (2a)" and the deletion of the sentence "if the compliance….residence permit", as it is vague.

Article 9:

Par. 1,(c): EL agrees with the 18 months noting, however, that **the reference to five years should be based on the validity date of the residence permit and not on its issuance date** (the validity of a residence permit is based in all cases to the date of the application).

As for the term "main residence", EL proposes to review the wording of the provision by the Presidency, so **that a combination of "main residence" and "absence" is attempted**, within the framework of the previous EL comments (*EL mainly prefers the term "absence" instead of "main residence". If it is decided to add also the notion of "main residence", the respective factors (e.g., "employment, fulfillment of tax obligations") should be included in the present article and not to the recital and that the MS, within the framework of implementing the Directive, is competent to set into force the respective factors. In the event that the use of the term "absence" in place of the term "main residence" cannot be chosen, then it is proposed to the Presidency to consider the use of a combination of these two terms*).

Article 15:

Par. 1: EL notes that there are two cases: children born outside the EU (whose status is regulated by the relevant Directive for family reunification) and those born in the MS (national provisions), and, therefore, there is a need for a **single type of residence permit for children of a LTR born in the MS** (e.g. for family reunification and for the same duration as the sponsor's), with the relevant clarifications provided for in the text.

HUNGARY

Hungary does not support the recast of the Directive in principle. In the area of legal migration, we oppose any kind of harmonization, as facilitating migration should be the sole decision of each Member State.

In **Article 4(3a)**, please confirm the reference, as Article 3(1) provides for the scope, without a period. In our understanding, the correct reference would be para. (1) within Article 4.

In the context of BIPs, it is emphasized that Hungary opposed the reduction of the 5-year residence period, as integration cannot be cumulated in our view. Nor do we support the aspiration that the 3-year period should be sufficient for refugees. We consider it not reasonable to put refugees in a more favorable situation than other residents as regards the acquisition of LTR status. We support to maintain the general rule of five years within the directive, including BIPs, since there is already an improvement in their access to this status, namely, the accumulation of the entire period being an applicant, that will be counted for this five-year requirement.

In **Article 5(1)**, the highlighted and underlined phrase (*Member States, where necessary, may also consider resources made available by third parties*) is considered supportable if it is an option, but not mandatory for the MS and it is specified who is covered by the term 'third party'.

In addition, we do not support the transfer of the provision on accommodation from Article 5 to Article 7, as proof of accommodation should be a condition for the granting of status.

Regarding **Article 9(1)**, we note that the controlling of the conditions of main residence by the national authority is extremely difficult and raise concerns about the extent to which it will be effectively verified in practice. It may be easier to check absence from the territory of the Member States (especially after the EES has been launched) than the main place of residence. Thus, we propose that the control of the absence from the territory of the Member States should be included in the text as a ground for withdrawal. And, if other Member States consider it feasible to check the conditions of main residence, we suggest that this withdrawal option should be included at most as an alternative. (W*e suggest to reintroduce the text deleted from the compromise text IMEX LTR of 28.06.2023 (st10528/1/23 REV 1): in the event of absence from the territory of the Union for more than 18 (or 24) months within a period of five years...)*

Amendment of **Article 15(1)** can only be accepted if the place of birth is limited to the territory of the Union. As an additional condition for dependent children, it is proposed to consider to specify that the person holding an EC permanent residence permit or his/her spouse has parental custody. (The term "dependent" is in our view a broader concept, meaning only financial dependence, which could lead to abuse.)

IRELAND

General Comment

Ireland would like to enter a scrutiny reservation on the entire text, as we are currently consulting internally on various aspects of the proposal.

Article 4

Ireland's preference is to have a specified period of time spent as a Beneficiary of International Protection set out in the Directive, rather than having the entire period as an applicant being counted towards the five year period. We are in support of postponing the decision on the period of time to a later date and incorporating "xxx years" as set out in the discussion paper.

ITALY

The Italian delegation wishes to thank the Spanish Presidency for the compromise text presented, which goes into the right direction. Nonetheless, few improvements of the compromise text could still be introduced. In this connection, Italy has the pleasure to submit the following contribution.

Article 4 (duration of residence)

Italy can support the changes proposed in new subparagraph of Art 4.1 which clarify which permits, among those excluded from the scope in art. 3.2) do count to add to the total period of five years. Italy also agrees with the proposed amendments to art. 4.2(a) concerning the inclusion of additional residence permits, since the extension to other categories would make it possible to avoid unequal treatment between third-country nationals holding different permits, thus further promoting their integration into the EU.

In relation to the accumulations of periods of residence in different Member States, Italy underlines once again that it supports the proposed accumulation provided that the European Commission make really available to Member States adequate and efficient IT tools that allow them (easily and without creating additional administrative burdens) to verify and promptly exchange the necessary information, as an essential prerequisite for the implementation of the new provisions envisaged by the recast proposal, given that the EU-mobile (as Italy has been repeatedly pointed out) is not currently adequate to meet these needs. (P.S.: the document illustrating how - according to the oral presentation made by the Commission expert during the IMEX (Adm.) meeting of 26 July - the VIS system can be used for these purposes has not yet been shared with the delegations or published on the delegates portal).

With regard to **beneficiaries of international protection** (BIPs) and the number of years of legal and continuous residence required to qualify as EU long-term residents, as indicated at the IMEX meeting of 28 June, Italy is in favor of the reduction to three years for BIPs.

Indeed, the proposal of the Spanish Presidency referred to in art. 4.3.a (maintain the general rule of five years within the directive also for BIPs, but counting the entire period being an applicant) does not constitute an improvement for Italy (which already makes use of the faculty of calculating the 5 years starting from the date of lodging of the asylum application). However, if in the end this proposal should prevail in the Council, Italy requires a specific reference in the text which clarifies that, once the 5 years have been completed, the BIPs can acquire the LTR without having to wait for the expiry of the five-year residence permit for asylum granted to them

Article 9 (Withdrawal or loss of status)

As regards the changes propossed in art. 9.1(c) Italy believes that they represent an improvement compared to the previous compromise text. However it would in any case be better to specify that absence from the EU territory results in withdrawal or loss of status after a continuous period. In fact, if MS had to really consider the different periods of absence of the TCN over the 5 years to arrive at the calculation of 18 months, as there is still no system that registers entry and exit even for holders of residence permits it would not be possible to carry out the necessary checks.

Article 15 (Family members of EU long-term residents)

Italy agrees with the Presidency on the convenience of providing all the children of the EU Long term resident the same status and treatment. As for the preference requested in the Presidency discussion document between a national or harmonized regime in this regard, a regime harmonized at EU level would be preferable for Italy, given the vulnerability of the category.

LITHUANIA

Article 4.1

1. We would agree that beneficiaries of temporary protection should have half of their period of residence counted towards the 5-year period of residence in one Member State. We take this view because currently the provisions for granting temporary protection are rather loose, and we are faced with cases where a person who has been granted a permit in Lithuania returns back to the country of origin or goes to live in another Member State, where he/she also applies for temporary protection.

2. We do not see any added value in mentioning "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." Any TCN need to be checked if he complies with the conditions for accuiring EU long term resident status. Such mention could be justified only if diferent conditions would be applied for the mentioned category.

Article 4.2

1. We could support cumulating periods of residence in other MS then TCN had an EU BC, ICT, researchers, and their family members as well as UK nationals. We have some doubts about students and their family members. As for TCN who are family member of EU citizens, we are not sure if it would be in line with the directive 2004/38/EC.

2. We do not agree with the inclusion of beneficiaries of temporary protection because the definition of temporary protection (i.e. an exceptional arrangement whereby, in the event of a mass influx or threat of mass influx of displaced persons from third countries who are unable to return to their country of origin, such persons are granted immediate and temporary protection, in particular in cases of danger, (e.g. the asylum system will not be able to cope with this influx without undermining its effective functioning for the benefit of the persons concerned and other persons seeking protection) determines its exclusive application and is of a very temporary nature, so that the inclusion of holders of such status would not be consistent with the position that the centre of interest is a particular MS, such persons would simply be forced to leave their own country and seek temporary protection elsewhere. In other words, beneficiaries of temporary protection have not chosen the EU with the intention of becoming EU residents, but rather as a result of the circumstances of having to leave their country of origin.

3. We do not agree in any form (may or shall) with the inclusion of periods spent as a holder of single permit as it would mean a big numbers of TCN, who could use such possibilities and this would create a big administrative burden to both MS.

4. In our opinion, the suggestion to use EU mobile tool or VIS (just information foreseen in VIS regulation) is not suitable in order to implement the possibility to cumulate periods of residence in different MS's. Therefore the presidency proposal to commit the European Commission to make available to Member States an adequate tool to carry out this verification without excessive administrative burden is not sufficient as well, as the date of entry into force of the provision allowing to cumulate periods of residence in different MS's should be related to the possibility to use an adequate tool to carry out verification needed.

5. We could support the provision in 3a.

Article 5

We could support amendments in this Article, but would like to have an explanation of "where needed".

Article 9

We could support amendments in this Article, but in our opinion all residence periods should be checked while counting absence periods and wording in 9.1.c 1 para should be improved.

Article 15

In our opinion, all the children of the EU Long term resident should be granted the same status and this question should be regulated in national law.

MALTA

General Comment

Malta maintains a scrutiny reservation on the overall compromise text and is proposing the following comments:

Recital 9

Malta objects to the following wording: "With the aim to limit the attractiveness of investor residence schemes and in account of the fact that not all Member States have regulated this category of residence permits,…" and calls for its deletion as follows:

~~**With the aim to limit the attractiveness of investor residence schemes and in 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.**

Justification: Although, in principle Malta agrees that periods of residence granted on the basis of any kind of investment in another Member States should not be taken into account, Malta fails to subscribe with the reasoning behind such an exclusion. Indeed, the legal basis of the legislative proposal (Article 79(2) TFEU) does not grant the legislator with the powers to decide on the attractiveness of legitimate national schemes which were designed to be fully in line with Article 79(4) TFEU.

Recital 10

With regard to recital (10), periods of residence spent as a student, or under national residence schemes, should not count towards the period spent in a Member State relevant for the allocation of LTR status, or at least not in their entirety. Reservations are also expressed in relation to Article 4(5), which also deals with this concept. One possibility would be to count, for the purposes of LTR, only 50% of the time spent as a student, under national residence schemes etc.

Recital 10a

Malta underlines the need for the Commission to provide appropriate tools for the identification of the types of residence permits and long-stay visas included for the purposes of accumulation under the Directive and their validity in other Member States. The EU Mobile tool is not a compulsory tool and the proposed text implies that it is compulsory to exchanging information on the cumulation of residency periods in other Member States.

Article 3(2)(e)

Under this Article, the job search period of Article 25(1) of Directive 2016/801/EU has been expressly excluded from the scope on the understanding that it is a temporary permit. Malta would like to seek

clarification on whether TCNs residing on temporary grounds, such as students, who would have spent 4 years in a Member State and immediately undergo a 9-month job search prior to switching to Single Permit, would have their 4 years spent in a Member State taken into consideration for LTR eligibility.

Article 4(1)

Regarding the fourth sub paragraph which reads as follows:

Member States shall ensure that the requirement of legal and continuous residence is 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.

Malta questions the need for a specific mention of applications of TCNs holding a residence permit granted on the basis of any kind of investment since all applications need to fulfil the requirement of legal and continuous residence.

Malta welcomes the deletion of the 3-year period required for beneficiaries of international protection.

Article 4(3)

Malta is not in agreement with the accumulation of periods of residence in other Member States for the granting of LTR. In addition to the large administrative burdens arising from the implementation of said provisions, Malta believes that for integration purposes the applicant should spend 5 years in the Member State in which he is applying for such status. In a spirit of compromise, Malta could consider accumulation of periods of residence only in relation to highly qualified persons.

Article 5(1), Article 17(2)(a) and Recital 11

Malta calls for clarity on the possibility to set a minimum wage in line with national law which should be maintained, however Article 5(1) then sets out that Member States may not impose a minimum income level.

This should be clearly set out that if the applicant cannot prove, income of the minimum wage and sufficient resources for family members, Member States may refuse the application.

Article 5(2a)

Malta calls for the deleted text to be maintained under Article 5 instead of shifting it to Article 7 for legal certainty that having an appropriate accommodation remains a condition for the acquisition of LTR status.

Article 15(1)

Malta expresses its concern on the provision of different statuses for family members of EU-LTRs, namely children born/adopted in the territory of the EU versus the rest of family members. Malta prefers that the determination of the permits to be granted to different family members is left up to national law.

Article 15 (4)

Malta would like to seek clarification as to whether, with the removal of the time limit, Member States would maintain the possibility to carry out labour market tests and to regulate according to national law the conditions under which family members shall exercise an employed or self-employed activity.

POLAND

1. SCOPE AND DURATION OF RESIDENCE (ART. 3 – 4, RECITALS: 9,9A, 10, 10A)

Art. 3 (Scope): PL is flexible and **can accept a new wording** of the Article 3(2). Greece's suggestion to introduce a reference to Directive 2018/801 to clarify the case of the *job search* is in our view could be considered.

Art. 4 (1) subparagraph 1 (Period of stay required) – Strong support

The Polish Government **considers as appropriate that a 5-year legal and continuous stay remains the basic general criterion** for the acquisition of EU long-term resident status. We recognise that this status should be granted only to persons genuinely rooted in a Member State. Therefore the period required should be long enough – TCNs should have the opportunity to establish ties with the country and integrate into its society. We do not question that the process of integration in certain cases, i.e. within certain social groups or due to socio-cultural convergence, can be faster, as we experience this ourselves when it comes to Ukrainian citizens, but as a rule it is a process that requires time and effort, on both sides. We were pleased to note that the wording of the art. 4 (1) subparagraph 1 was maintained. We welcome the general consensus of Member States on this issue.

Art. 4 (1) subparagraphs 2 and 3 (concerning students, trainees, intra-corporate transferees, beneficiaries of temporary protection and other forms of protection) – No reservations / Support

Art. 4 (1) subparagraph 4 (ensuring that the continuous residence condition is met) – No reservations / Flexibility

We support the aim of strengthening the control of the course of residence in order to prevent from acquiring resident status the persons who have not actually resided in the territory of a Member State during the required period of time and are therefore not sufficiently rooted in the Member State. **The wording proposed by ES PRES better suits us – it refers to the objective to be achieved** – it is about ensuring that resident status may be granted only to those of TCNs who meet the requirement of legal and continuous residence in a factual manner, with particular regard to the situation of investors.

Deletion of the derogation concerning beneficiaries of international protection (in relation with art. 4 par. 3a) – Strong support (requirement of 5 years stay)

As part of the creation of incentives to remain in the responsible state, Poland was willing to take the position to not object to the proposal that beneficiaries of international protection, as a special category, could apply for EU long-term resident status after only 3 rather years of legal and continuous residence, provided that the reduction of the time required to obtain EU resident status would entail a change in the way this time is being calculated. This meant for PL, in fact, a choice between taking into account the entire duration of stay in the asylum procedure or reducing the period of residence required from 5 to 3 years, as **the hybrid of those two solutions was considered as not acceptable.** Once it was established that there is no possibility to get any concessions concerning the reference to the period of asylum procedure and after reviewing the positions of other MSs, Poland has revised its initial position.

As we do not consider it appropriate that the period required for obtaining long-term resident status for beneficiaries of international protection should be 3 years, where the entire stay in the asylum procedure (100%) would be counted, we therefore strongly support the deletion of the paragraph 1a. Postponing discussions on this issue is in our view pointless, as long as it does not entail the concrete changes we expect.

Art. 4 (3) (cumulating periods) – No reservation (* except the reference to SPD)

We welcome maintaining the possibility of cumulative stays in the other MSs, in line with the "2 + 3 " rule. We consider the possibility of cumulating periods of residence in different Member States as an important tool of strengthening EU resident status and intra-EU mobility. We see the period of 2 years as optimal and we are of the position to not accept any attempts of extending that period.

As regards of the inclusion of the following categories to art. 4 (3) (a):

- highly qualified workers (other than BC holders)
- students
- beneficiaries of the Withdrawal Agreement
- beneficiaries of the temporary protection
- family members of the EU citizens
- family members of the expanded list of categories of TCNs benefitting from possibility to accumulate periods of stay in the MSs

— we do not raise any objections and we may accept that they are subject to the principle of cumulative stay.

However, **we have a critical approach** towards opening the possibility of cumulation of residence to holders of permits issued in accordance with **the SPD.**

One of the recast goals is to strive for harmonization of regulations governing EU long-term resident status, and we consider opening this possibility contradicts that goal. This directive establishes a single procedure and defines a range of specific rights to offer equal treatment to the non-EU workers covered by the directive, but conditions of admission MSs determine themselves. In the case of migration directives, but not a case of single permit, a uniform annotation on residence permits will allow proper identification of permits that may be subject to cumulative residency.

Also the nature of the categories listed in subparagraph a) is specific – on the list we may find the categories that EU is focused on to attract and remain (students, HQWs, researchers + family members) or due to their specific status is ready to grant them a better treatment (beneficiaries of the Brexit, beneficiaries of the temporary protection, family members). SPD seems to be in that context **a non-matching element.**

We want to underline as well that the provision of paragraph 3 (a) subparagraph 2 **effects not only the MSs which decides to benefit from such a possibility ("may" clause), but also on the countries in which the foreigner resided** on the basis of a single permit, under Directive 2011/98/EC.

In that regard, we would like to note that Poland, together with the neighbouring Germany, is, and according to Eurostat forecasts, in the near future will also remain the country issuing the biggest number of single permits. This two countries together are forecast to issue more than 40 % of the total number of single permits issued in the entire EU in 2023. Poland issues about 1/4 of the EU average of single permits issued yearly. This means that Poland (but also i.a. Germany or Croatia) will possibly **bear a disproportionate burden of information exchange**. We are not able to assess the scale at this point, but, as a typically transit country, we are concerned about triggering this possibility.

We support the principle of cumulative stays *per se* but we do not agree to include reference to SPD, even with "may" clause. We are in favour of testing this principle on a smaller scale and on the categories that EU has the particular interest to attract and remain.

Recitals 8, 9, 9a, 10 and 10a – No reservation.

In the context of the recital 10a **PL would like to encourage ES PRES to consider** the proposal made at the last meeting regarding **the adoption of a transitional period** for the cumulative residency regulations until the EC secures appropriate tools for MS to exchange information smoothly. Establishing such a transition period could also potentially convince some MSs that are still hesitating and not feeling comfortable with the current wording to support the provisions of Article 3.

2. APPROPRIATE ACCOMODATION (art. 5.1, art. 7) AND RESOURCES FROM THIRD COUNTRIES (5, 17, 18)

- No reservation / Flexibility

3. ABCENCE WHICH MAY CONDUCT TO A WITHDRAWAL OF THE LTR STATUS (ART. 9, RECITAL 17)

Art. 9 (1), (1a), (2) – <u>No reservation / Support (option 1)</u>

The amendments protecting against the loss of EU resident status by extending the authorised absence from the territory of the Union without the consequence of withdrawing the status, **Poland considers as desirable** to strengthen circular migration and increase the overall attractiveness of the EU as a place for foreigners from third countries to settle.

We maintain our acceptance for the establishment of permissible period of absence of **18 months.** We also may accept setting the limit of 24 months, as proposed by the Commission, if it would be necessary in the course of further negotiations.

We welcome ES PRES proposals for provisions to protect against abuses. The adoption of a five-year framework for the total (sum up) absence period, in our opinion, will enhance the effectiveness of the withdrawal of permits in cases of abuses – where stays in the EU are only occasional. PL supports the concept of the "main residence" – in our view, this approach creates fewer problems in terms of gathering evidence and gives more certainty of proving abuses.

4. FAMILY MEMBERS OF EU LONG-TERM RESIDENTS (ART. 15, RECITAL 27)

Recital 27 in relation to art. 15 – Reservation

Recital 27 uses the term 'dependent children'. In the context of clarifying that term, it refers to Articles 4(1) and 4 (2) of Directive 2003/86/EC. Article 4 (2) provides a "may clause" - its implementation is thus not mandatory for MSs ("*Member States **may**, by law or regulation, **authorise** the entry and residence* [….]). Therefore, how should this reference be understood? In case the goal of PRES is to expand the understanding and application by countries that have not yet implemented this optional provision, we cannot support that approach.

ROMANIA

- **Recital 8, 9 and 10 -** we can agree with the current version of the text;

- **Recital 9a-** we could support the proposed text if "*certain periods*" refers to the 2 years foreseen in art.4(2)(a);

- **Recital 10a-** we can support PRES ES proposal, with the mention that it is desirable that, in addition to the EU Mobile tool, electronic correspondence between designated contact points can also be used;

- **Recital 11, art.5(a), art.17(2)(a) and art.18(4)(c)–** we reiterate the previously points of view, meaning: regarding the possibility that resources can be made available by a third party - "*also made available by a third party*", we support the fact that stable and regular resources, especially the proof of maintenance means, can be made only by the applicant's family member. We consider it appropriate, at the same time, the oportunity of indicating a reference amount to prove stable resources, similar to the provision regarding the condition for obtaining the long term status in the first member state;

- **Art. 3** - we can agree with PRES ES, but we request clarifications regarding the "*job search*" terminology introduced in paragraph 2 (e);

- **Art.4(1) second paragraph -** we can agree;

- **Art.4(1) third paragraph** – we have a scrutiny reservation as we need clarifications on what is meant by "*a form of protection other than international protection*", especially since the paragraph already refers to temporary protection;

- **Art.4(1)** ***paragraph 4***- we are of the opinion that this paragraph does not bring any aded value to the text, thus we consider it appropriate to maintain the previous wording of the text that establishes the general idea of a control mechanism, ensuring the verification of the legality and continuity of the stay;

- **Art.4(2)** – we can support PRES ES proposal, including regarding the cumulation of single permits that have at least 1 year of validity, but only if the last wording from letter (a)[1] is also taken into account;

- ***Art 4(3a)***- regarding the period of stay for beneficiaries of international protection, we appreciate that, although the example given by PRES ES in document 11990/23 – pg.8 is quite clear, we could rather support the second possibility exposed, that of postponement of the debate, inclusion in art. 4 paragraph 1 and establishment of a concrete term;

- **Art.7(1) and (2) second paragraph -** - we can support the new text, including the wording *"may"* which allows the inclusion in the national legislation of the request for proof of living space**;**

[1] "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".

- **Art.9 and Recital 17-** we can agree with the compromise version that exemplifies the term *"main residence"* and what is meant by it. At the same time, we specify that we can support version "**a**"[2] related to art. 9 of the working **document 1990/23-rev,** however reiterating what was mentioned at the previous meetings in the sense that the currently existing form is more appropriate, and the calculation of an absence of 18 months in a period of 5 years, it would also make it difficult to exchange data provided for in art. 9(5) forth paragraph of the proposed version. The mention comes in consideration of the fact that it must be established whether the LTR beneficiary has left the EU territory or only the MS territory during the periods of absence, especially since, as a rule, a LTR beneficiary can circulate in the EU territory for 90 days in a 180-day period without a visa or a permit, other than the LTR, in this respect. As PRES ES explains in working document 1190/23, in the proposed version, an LTR could be absent a maximum of 3.6 months/year, thus making the task of those analyzing the period of absence more difficult.

- **Art.15 and Recital 27**- we can agree with the proposed text, with the mention that in the situation where only one parent benefits from LTR, , the consent of the other parent should be requested;

[2] Absence from the territory of the Union for more than 18 months within a period of five years from the date of issue of the last EU-long-term residence permit

- **Art.26-** we appreciate that obtaining LTR status in the second member state after only 3 years could only be accepted if the amendment to art. 4 of the proposal is agreed (Thus, it could be considered that 2 years as a LTR beneficiary in the first member state cumulate with 3 years prior to filing the application in the second Member State as currently proposed). We reiterate the fact that it is not clear what the derogation from paragraph 3 refers to. It seems that in the proposal, an LTR with a temporary residence permit in the second member state benefits from the provisions of art.12 and art.24 without any derogation, instead once the LTR status is obtained these "benefits" are limited. Regarding paragraph 4, it is unclear why only in the second member state can the LTR status be terminated if the national does not have sufficient resources or health insurance and only in the two years remaining until the 5-year deadline is reached.

  Also in relation to art. 26, we consider that the loss of LTR status in the first MS should be clarified after 3 years instead of 5 years (art. 9 paragraph 5), if in paragraph 3 of art. 26 the second MS is not obliged to ensure the right to social assistance, aid for studies, etc. until the completion of 5 years of continuous and legal stay.

THE NETHERLANDS

Article 4, paragraph 2:

The Netherlands wants to delete the categories of beneficiaries of temporary protection and the holders of a Single Permit.

Explanation

If the Netherlands would agree with cumulation of periods of residence in other Member States, it should be restricted to highly skilled, covered by an EU-directive with provisions on intra-EU mobilty.

Article 5, par. 1, sub a / Article 17, par. 2, sub a / Article 18, par. 4, sub c

- ´Where needed´ could be deleted

Explanation

The Netherlands is very happy with the may-clause regarding the resources made available by third parties. Because it is a may-provision, the words ´where needed´ are somewhat confusing and redundant. So the Netherlands would prefer the deletion of these words.

- **Addition to paragraph 1, sub a**

Member States may decide that the condition of this paragraph is not applicable to third-country nationals who have resided legally for at least ten years on their territory.

Explanation:

In the Netherlands third-country nationals who have legally resided for 10 years on its territory can obtain a national permanent residence permit. The reason is that otherwise third-country nationals with insufficient income should always be dependent on a temporary residence permit which is much more uncertain. A temporary residence permit can be withdrawn if the holder no longer meets the admission criteria. This uncertainty could have bad effects on the integration of the third-country national and his family members. For this reason the Netherlands gives them the opportunity to receive a national permanent residence permit after ten years.

Because a national permanent residence permit has more favourable conditions in this regard than the long-term resident permit, it would be desirable to give Member States this opportunity in the long-term residence directive.

Article 7, paragraph 1

If appropriate accommodation should be a facultative ground for refusal (what the Netherlands can agree with), the provision concerned should be included in Article 5 about the conditions for acquiring EU long-term resident status.

Article 7, paragraph 2

The phrase: ´ If the competent authorities of the Member State….. according to the documentation provided by the applicant´ should be deleted.

Explanation

In case of accumulation of periods of legal residence in other Member States, the Member State which decides on the application for the LTR-status, should only take these periods of residents in account if he has the necessary information from the other Member State(s). Otherwise there is the risk that the applicant will be granted the LTR-status on the basis of unjust or incomplete information.

Article 9, paragraph 1a

The Netherlands prefers the deletion of this paragraph.

Explanation

This paragraph suggests that a Member State may only check if the conditions of paragraph 1, sub c, are fulfilled if there is reasonable doubts. So a Member State firstly should proof that there is doubts before checking the conditions concerned. According to the Netherlands a Member State should always have the right to check if the conditions are fulfilled, also in cases where there is no reasonable doubt.

Article 9, paragraph 6

The phrase ´unless more than three years … loss of the EU long-term resident status´ should be replaced by ´unless he has been absent from the territory of the EU and has lost the long-term resident status´.

Explanation

In the proposal of the Presidency the third country national could be outside the territory of the EU and receive again the LID-status without the obligation of a new integration test. In nine years a lot can change, so the Netherlands prefers a shorter period of absence of at most six years after which the former long term resident could regain the LID-status without an integration test.

Article 15, par. 1

Concerning the equal rights for dependant children, whether they are born in the Member State of elsewhere, the Netherlands could understand and agree with this principle. However on one issue equal treatment is not possible. Children born in the Netherlands do not need to submit a valid travel document/passport with the application, children born elsewhere should do this.

If this could be clarified in a considerans (for example: same treatment granted to dependent children of a LTR irrespective where they are born, does not mean that a Member State cannot require the submission of a valid travel document/passport with the application of a residence permit by a child residing outside the territory of a Member State) the Netherlands does not have a problem

THE SLOVAK REPUBLIC

As a follow-up to the IMEX admissions WP on 26 July, please find below written comments from SK regarding the latest changes made to the document **11994//1/23 REV 1**:

Article 4 (Duration of residence)

As a general remark: the proposed scope in the latest compromise text seems to be too broad. The Slovak Republic (SK) rather prefers the previous SE PRES proposal which was clearer, simpler and quite sufficient in terms of the categories it covered.

As stated during the last IMEX meeting:

- As far as the **student categories** are concerned, SK is in favor of counting the half period of studies (as it used to be).

- In the case of **family members of UK citizens**, we see purpose here only if the family member is staying as an independent person, i.e. without a sponsor (i.e. without a EU citizen).

- As regards to the **category of UK citizens under the Withdrawal Agreement**, we have a question: We would like to hear why UK citizens should also be included in the scope of this Directive. We believe that their status granted under the Withdrawal Agreement (WA), which refers to Directive 2004/38/EU and thus the right to permanent residence after 5 years, guarantees them greater legal protection than the EU long-term residence status. We are also concerned that this change could lead to complications and potential legal uncertainty for UK citizens in relation to their residence status in the MS of the EU.

- Finally, the Slovak Republic maintains its **red line** regarding beneficiaries of international protection (*as stated also in our written contributions to the **doc. ST 10528/23 REV 1).*** **SK therefore welcomes the last changes regarding the category of beneficiaries of international protection** *(as concerns deletion of 3 years)***.** At the same time, when calculating the period for granting long-term residence to this category (para 3a), **we are in favour of counting the half of the length of stay f**rom the submission of the asylum application as under Article 26 of the Qualification Regulation.

Article 9 (Withdrawal or loss of LTR status - period of absence in the EU)

Even though the Slovak Republic welcomes the change regarding the shortened absence period from 24 to 18 months, **we still believe the absence period should be a maximum of 12 months**. This may also serve as a better starting point for negotiations with EP, in the event that EP requires a longer period of time.

In addition, the SK recognizes the effort that was made by the Presidency to address challenges associated with the lack of appropriate instruments to check for the absence in the new paragraph 1a. Still, we would welcome to set up a simple electronic system - a tool in which it would be possible to verify quickly and easily the period of absence. An example of this could be the establishment of a system similar to the registration platform for Ukrainian refugees, which is in operation and in which it is relatively easy to verify their stay in a particular MS.

Articles 5, 17, 18 (Resources made available by third parties)

The Slovak Republic can understand the Presidency compromise by introducing a "may" clause in this Article, however in principle SK **cannot support the acceptance of financial resources from third parties.** The main reason is the difficulty of verifying and controlling the origin of these funds. We also believe that the best way for successful integration is if the person concerned is able to provide for themselves or other family members from their own financial resources.

Article 15 (Family members of EU long-term residents)

The Slovak Republic welcomes the Presidency effort to find a compromise. We are still in the process of assessing our concerns regarding possible abuse of this provision, especially in the case of adoptions of children born outside the European Union. As a result, we are in favor of maintaining the original text of the directive and applying the original rules.

SWEDEN

Article 3

SE can accept the PRES proposal but would appreciate a clarification on the possible effects a period as a job-searcher (i.e. a period of residence that is excluded from the scope of the Directive) would have on the calculation of the five-year period of legal and continuous residence referred to in Article 4(1).

Article 4

Paragraph 1

SE supports a requirement of 5 years of legal and continuous residence for all categories, including beneficiaries of protection.

Paragraph 3

When it comes to cumulation of residence in different Member States, SE would like to see a less extensive list of categories than the one proposed by the PRES. Especially in the absence of well-functioning systems for exchange of information between Member States. It is also unclear if the VIS-system will be an effective tool to ensure legal and continuous residence in other Member States. It could also be wise to "save" certain categories for the trialogue phase, in order to reach a compromise with the European Parliament that is acceptable to Member States.

SE has no strong objections concerning the possibility for Member States to accept cumulation of residence in other Member States with a Single Permit. However, including optional categories in this provision will result in different rules in different Member States, which makes the LTR-system fragmented and difficult to comprehend for the public. Also, the Single Permit Directive only harmonizes the labour migration process in the EU. There is no common format for single permits, which makes them easy to identify, and no common admission criteria for such permits.

Paragraph 3a

Should the reference to Article 3 be deleted here? Since the period referred to (the required 5 years) is stated in paragraph 1 of Article 4.

Article 5

SE would appreciate more guidance from the PRES and CLS on the effects of the added text "where needed" in paragraph 1 (a). Is this a reflection of the current legal praxis or is the purpose to give Member States more flexibility than today when it comes to resources from third parties?

Article 15

The issue of children of long-term residents who are born in the EU is complicated and SE is not convinced that it should be addressed in the LTR-Directive when it is not regulated in other directives on legal migration. Is there a problem with the current legal situation that needs to be resolved? Are children of long-term residents, regardless of place of birth, not granted similar treatment in Member States today?

If this issue should be addressed at EU-level, the proposal by the PRES needs further clarification and discussions. Member States should for example be able to have similar requirements and safeguards in place for all children (in line with Directive 2003/86/EC). The PRES proposal seems to assume that children born in the Member State are granted a better status and treatment according to national law or practices than those who fall under Directive 2003/86/EC. If the purpose is to avoid treating children within the same family differently, the text could perhaps be shorter and allow Member States some flexibility when it comes to the kind of permit and treatment granted (respecting applicable rules in Directive 2003/86/EC, of course), please see a draft proposal below.

SE also questions the use of the term "dependent children", considering the wording of Directive 2003/86/EC where this term is expressly used in relation to some but not all children of third-country nationals. For legal certainty a direct reference to the relevant provisions in that Directive could be considered in this provision.

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

Children of an EU long-term resident shall receive similar conditions and treatment, regardless of their place of birth.