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NOTE

From:	General Secretariat of the Council
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast)

For the purpose of discussions in the IMEX (admission) meeting on 9 November 2022, delegations will find in the Annex a Presidency compromise text on the above-mentioned proposal.

Changes compared to the Commission's proposal are marked in **bold underlined** for additions and ~~strikethrough~~ for deletions.

2022/0131 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast)

PUBLIC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 27, 3.2.2009, p. 114.

2 OJ C 257, 9.10.2008, p. 20.

3 Position of the European Parliament of 24 March 2011 (not yet published in the Official Journal) and position of the Council at first reading of 24 November 2011 (not yet published in the Official Journal). Position of the European Parliament of 13 December 2011 (not yet published in the Official Journal).

Whereas:

(1) A number of amendments are to be made to Directive 2011/98/EU of the European Parliament and of the Council[1]. In the interests of clarity, that Directive should be recast.

(2) Provisions for a single application procedure leading to a combined title encompassing both residence and work permits within a single administrative act will contribute to simplifying and harmonising the rules currently applicable in Member States.

(3) In order to allow initial entry into their territory, Member States should be able to issue a single permit or, if they issue single permits only after entry, a visa. Member States should issue such single permits or visas in a timely manner.

(4) A set of rules governing the procedure for examination of the application for a single permit should be laid down. That procedure should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.

(5) The provisions of this Directive should be without prejudice to the competence of the Member States to regulate the admission, including the volumes of admission, of third-country nationals for the purpose of work.

[1] Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (OJ L 343, 23.12.2011, p. 1).

(6) This Directive should cover employment relationships between third-country workers and employers. Where a Member State's national law allows admission of third-country nationals through temporary work agencies established on its territory and which have an employment relationship with the worker, such ~~agencies~~ **third country nationals** should not be excluded from the scope of this Directive, **and all provisions of this Directive concerning employers should equally apply to such agencies.**

(7) Posted third-country nationals subject to Directive 96/71/EC of the European Parliament and of the Council[1] should not be covered by this Directive. This should not prevent third-country nationals who are legally residing and working in a Member State and posted to another Member State from continuing to enjoy equal treatment with respect to nationals of the Member State of origin for the duration of their posting, in respect of those terms and conditions of employment which are not affected by the application of Directive 96/71/EC .

~~(8) Third-country nationals who are beneficiaries of protection in accordance with national law, international obligations or the practice of a Member State should be covered by the scope of this Directive in order to be granted an enhanced set of rights.~~

(~~9~~**8**) Third-country nationals who have acquired long-term resident status in accordance with Council Directive 2003/109/EC [2] should not be covered by this Directive given their globally more privileged status and their specific type of residence permit 'long-term resident-EU'.

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[1] Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

[2] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

(~~10~~**9**) Third-country nationals who have been admitted to the territory of a Member State to work on a seasonal basis and have applied for admission or have been admitted to the territory of a Member State in accordance with Directive 2014/36/EU of the European Parliament and of the Council[1] should not be covered by this Directive given that they fall within the scope of Directive 2014/36/EU, which establishes a specific regime .

The obligation on the Member States to determine whether the application is to be submitted by a third-country national or by his or her employer should be without prejudice to any arrangements requiring both to be involved in the procedure. The Member States should allow the application for a single permit to be submitted both in the Member State of destination and from a third country.

(~~12~~**10**) The provisions of this Directive on the single application procedure and on the single permit should not concern uniform or long-stay visas. ~~with the exception of the obligation for Member States to issue the requisite visa within the deadline of four months set out to adopt a decision on the Single Permit.~~ **Where a visa is required, Member States should grant the third-country national every facility to obtain the requisite visa to obtain the single permit and should ensure that the competent authorities effectively cooperate for that purpose.**

(1~~3~~**1**) The deadline for adopting a decision on the application should include ~~both the time required for issuing a visa where needed, and~~ the time required to comply with the checks of the labour market situations. **Member States should endeavour to issue the requisite visa for obtaining the single permit within the same deadline.**

[1] Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94, 28.3.2014, p. 375).

(14**2**) To this end, Member States should only carry out one substantial check of the documentation submitted by the applicant for the issuing of both a single permit and**, where applicable,** the requisite visa **to obtain the permit** in order to avoid duplication of work and prolonging the procedures. Furthermore, Member States should require applicants to submit the relevant documentation only once.

(15**3**) The designation of the competent authority under this Directive should be without prejudice to the role and responsibilities of other authorities and, where applicable, the social partners, with regard to the examination of, and the decision on, the application.

(16**4**) The deadline for adopting a decision on the application should, however, not include the time required for the recognition of professional qualifications . This Directive should be without prejudice to national procedures on the recognition of diplomas.

(17**5**) The single permit should be drawn up in accordance with Council Regulation (EC) No 1030/2002[1], enabling Member States to enter further information, in particular as to whether or not the person is permitted to work. A Member State should indicate, inter alia, for the purpose of better control of migration, not only on the single permit but also on all the issued residence permits, the information relating to the permission to work, irrespective of the type of the permit or the residence permit on the basis of which the third-country national has been admitted to the territory and has been given access to the labour market of that Member State.

(18**6**) The provisions of this Directive on residence permits for purposes other than work should apply only to the format of such permits and should be without prejudice to Union or national rules on admission procedures and on procedures for issuing such permits.

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

PUBLIC

(19**7**) The provisions of this Directive on the single permit and on the residence permit issued for purposes other than work should not prevent Member States from issuing an additional paper document in order to be able to give more precise information on the employment relationship for which the format of the residence permit leaves insufficient space. Such a document can serve to prevent the exploitation of third-country nationals and combat illegal employment but should be optional for Member States and should not serve as a substitute for a work permit thereby compromising the concept of the single permit. Technical possibilities offered by Article 4 of Regulation (EC) No 1030/2002 and point (a)20 of the Annex thereto can also be used to store such information in an electronic format.

(20**18**) The conditions and criteria on the basis of which an application to issue, amend or renew a single permit can be rejected, or on the basis of which the single permit can be withdrawn, should be objective and should be laid down in national law including the obligation to respect the principle of Union preference as expressed in particular in the relevant provisions of the 2003 and 2005 Acts of Accession. Rejection and withdrawal decisions should be duly reasoned.

(21**9**) Third-country nationals who are in possession of a valid travel document and a single permit issued by a Member State applying the Schengen *acquis* in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen *acquis* in full, for a period up to three months in any six-month period in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council[1] and Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders[2] (Schengen Convention).

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

2 OJ L 239, 22.9.2000, p. 19.

(22**0**) In the absence of horizontal Union legislation, the rights of third-country nationals vary, depending on the Member State in which they work and on their nationality. With a view to developing further a coherent immigration policy and narrowing the rights gap between citizens of the Union and third-country nationals legally working in a Member State and complementing the existing immigration *acquis*, a set of rights should be laid down in order, in particular, to specify the fields in which equal treatment between a Member State's own nationals and such third-country nationals who are not yet long-term residents is provided. Such provisions are intended to establish a minimum level playing field within the Union, to recognise that such third-country nationals contribute to the Union economy through their work and tax payments and to serve as a safeguard to reduce unfair competition between a Member State's own nationals and third-country nationals resulting from the possible exploitation of the latter. A third–country worker in this Directive should be defined, without prejudice to the interpretation of the concept of employment relationship in other provisions of Union law, as a third-country national who has been admitted to the territory of a Member State, who is legally residing and who is allowed, in the context of a paid relationship, to work there in accordance with national law or practice.

PUBLIC

(23**1**) All third-country nationals who are legally residing and working in Member States should enjoy at least a common set of rights based on equal treatment with the nationals of their respective host Member State, irrespective of the initial purpose of or basis for admission. The right to equal treatment in the fields covered by this Directive should be granted not only to those third-country nationals who have been admitted to a Member State to work but also to those who have been admitted for other purposes and have been given access to the labour market of that Member State in accordance with other provisions of Union or national law, including family members of a third-country worker who are admitted to the Member State in accordance with Council Directive 2003/86/EC [1]; third-country nationals who are admitted to the territory of a Member State in accordance with Directive (EU) 2016/801 of the European Parliament and of the Council[2].

(24**2**) The right to equal treatment in specified fields should be strictly linked to the third-country national's legal residence and the access given to the labour market in a Member State, which are enshrined in the single permit encompassing the authorisation to reside and work and in residence permits issued for other purposes containing information on the permission to work.

(25**3**) Working conditions as referred to in this Directive should cover at least pay and dismissal, health and safety at the workplace, working time and leave taking into account collective agreements in force.

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

2 Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

(2~~6~~**4**) A Member State should recognise professional qualifications acquired by a third-country national in another Member State in the same way as those of citizens of the Union and should take into account qualifications acquired in a third country in accordance with Directive 2005/36/EC of the European Parliament and of the Council [1]. The right to equal treatment accorded to third-country workers as regards recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures should be without prejudice to the competence of Member States to admit such third-country workers to their labour market.

Third-country workers should enjoy equal treatment as regards social security. Branches of social security are defined in Regulation (EC) No 883/2004 of the European Parliament and of the Council [2]. The provisions on equal treatment concerning social security in this Directive should also apply to workers admitted to a Member State directly from a third country. Nevertheless, this Directive should not confer on third-country workers more rights than those already provided in existing Union law in the field of social security for third-country nationals who are in cross-border situations.

Notwithstanding the above, as held by the Court of Justice in its judgment in case C-302/19, paragraph 39), a Member State may not refuse or reduce the social security benefit to the holder of a single permit on the grounds that some or all of his family members reside not in its territory, but in a third country, if it grants that benefit to its own nationals irrespective of the place of residence of their family members.

[1] Directive 2005/36/EC on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

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

(2~~8~~**5**) Member States should ensure at least equal treatment of third-country nationals who are in employment or who, after a minimum period of employment, are registered as unemployed. Any restrictions to the equal treatment in the field of social security under this Directive should be without prejudice to the rights conferred pursuant to Regulation (EU) No 1231/2010 of the European Parliament and of the Council [1].

(2~~9~~**6**) Union law does not limit the power of the Member States to organise their social security schemes. It is for each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted. However, when exercising that power, Member States should comply with Union law.

(3~~0~~**27**) Equal treatment of third-country workers should not apply to measures in the field of vocational training which are financed under social assistance schemes.

(3~~1~~**28**) To reinforce the equal treatment of third-country workers, Member States should provide for effective, proportionate and dissuasive penalties against employers in the event of infringements of national provisions adopted pursuant to this Directive, in particular with regard to working conditions, freedom of association and affiliation and access to social security benefits.

(3~~2~~**9**) To ensure the proper enforcement of this Directive, Member States should ensure that appropriate mechanisms are in place for the monitoring of employers and that, where appropriate, effective and adequate inspections are carried out on their respective territories. The selection of employers to be inspected should be based primarily on a risk assessment to be carried out by the competent authorities in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement.

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[1] Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1*)*.

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(33**0**) Member States should also put in place effective mechanisms through which third-country workers may seek legal redress and lodge complaints directly or through third parties having, in accordance with the criteria laid down by the national law, a legitimate interest in ensuring compliance with this Directive, such as trade unions or other associations, or competent authorities. That is considered necessary to address situations where third-country workers are unaware of the existence of enforcement mechanisms or hesitant to use them in their own name, for example out of fear of possible consequences.

(34**1**) The single permit should authorise the third-country national to change the employer during the period of its validity. Member States should be able to require a notification of the change and to check the labour market situation where a change of employer takes place. **Moreover, Member States should be able to require that the change of employer does not entail a change of the occupational sector or of the substantial characteristics of the occupation for which the single permit was issued. In order to prevent potential abuse, and protect the legitimate interests of employers investing resources in recruitment and training of third country workers, Member States should also be able to set a minimum period of time for which the single permit holder is required to work for the first employer before changing employer. This minimum period should not exceed nine months. The single permit holder should be allowed to communicate the intended change of employer to the competent authorities before the expiration of that minimum period. In exceptional and duly justified cases, for example in case of exploitation of the single permit holder by the first employer, Member States should allow the change of employer before the expiration of that minimum period.** The single permit should not be withdrawn during a period of at least ~~three~~ **two** months in the event of the unemployment of its holder.

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(35**2**) This Directive should be applied without prejudice to more favourable provisions contained in Union law and applicable international instruments.

(36**3**) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation in particular in accordance with Council Directive 2000/43/EC [1] and Council Directive 2000/78/EC [2].

(37**4**) Since the objectives of this Directive, namely laying down a single application procedure for issuing a single permit for third-country nationals to work in the territory of a Member State and a common set of rights for third-country workers legally residing in a Member State, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(38**5**) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union in accordance with Article 6(1) of the TEU.

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[1] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

[2] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

(3~~9~~**6**) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article s 3 and 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and are not bound by it or subject to its application.

[OR]

[In accordance with Article 4a of the Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, Ireland has notified [, by letter of …,] its wish to take part in the adoption and application of Directive.]

(4~~0~~**37**) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

(4~~1~~**38**) The obligation to transpose this Directive into national law should be limited to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.

(4~~2~~**39**) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex I, Part B,

HAVE ADOPTED THIS DIRECTIVE:

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CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Directive lays down:

   (a) a single application procedure for issuing a single permit for third-country nationals to reside for the purpose of work in the territory of a Member State, in order to simplify the procedures for their admission and to facilitate the control of their status;

   (b) a common set of rights to third-country workers legally residing in a Member State, irrespective of the purposes for which they were initially admitted to the territory of that Member State, based on equal treatment with nationals of that Member State.

2. ~~This Directive shall not affect the Member States' powers concerning the volume of admission of third-country nationals coming from third countries to seek employment.~~ **This Directive shall not affect the right of Member States to determine volumes of admission of third-country nationals in accordance with Article 79(5) TFEU.**

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

(a) 'third-country national' means a person who is not a citizen of the Union within the meaning of Article 20(1) TFEU;

(b) 'third-country worker' means a third-country national who has been admitted to the territory of a Member State and who is legally residing and is allowed to work in the context of a~~n~~ **paid** employment relationship in that Member State in accordance with national law or practice;

~~(c) 'employer' means any natural person or any legal entity, including temporary work agencies, for or under the direction and/or supervision of whom the employment is undertaken;~~

(~~d~~**c**) 'single permit' means a residence permit issued by the authorities of a Member State allowing a third-country national to reside legally in its territory for the purpose of work;

(~~e~~**d**) 'single application procedure' means any procedure leading, on the basis of a single application made by a third-country national, or by his or her employer, for the authorisation of residence and work in the territory of a Member State, to a decision ruling on that application for the single permit.

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Article 3

Scope

1. This Directive shall apply to:

   (a) third-country nationals who apply to reside in a Member State for the purpose of work;

   (b) third-country nationals who have been admitted to a Member State for purposes other than work in accordance with Union or national law, who are allowed to work and who hold a residence permit in accordance with Regulation (EC) No 1030/2002; and

   (c) third-country nationals who have been admitted to a Member State for the purpose of work in accordance with Union or national law.

2. This Directive shall not apply to third-country nationals:

   (a) who are family members of citizens of the Union who have exercised, or are exercising, their right to free movement within the Union in accordance with Directive 2004/38/EC of the European Parliament and of the Council [1];

   (b) who, together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of citizens of the Union under agreements either between the Union and the Member States or between the Union and third countries;

[1] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

(c) who are covered by Directive 96/71/EC as long as they are posted on the territory of the Member State concerned;

(d) who have applied for admission or have been admitted to the territory of a Member State to work as intra-corporate transferees in accordance with Directive 2014/66/EU of the European Parliament and of the Council [1] ;

(e) who have applied for admission or have been admitted to the territory of a Member State as seasonal workers in accordance with Directive 2014/36/EU or au pairs**.** ~~in accordance with Directive (EU) 2016/801~~;

(f) who are authorised to reside in a Member State on the basis of temporary protection, or who have applied for authorisation to reside there on that basis and are awaiting a decision on their status;

(g) who are beneficiaries of international protection under Directive 2011/95/EU of the European Parliament and of the Council[2] or who have applied for international protection under that Directive and whose application has not been the subject of a final decision;

(h) who are beneficiaries of protection in accordance with national law, international obligations or the practice of a Member State or have applied for protection in accordance with national law, international obligations or the practice of a Member State and whose application has not been the subject of a final decision;

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1 Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1).

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

(**i**~~h~~) who are long-term residents in accordance with Directive 2003/109/EC;

(**j**~~i~~) whose removal has been suspended on the basis of fact or law;

(**k**~~j~~) who have applied for admission or who have been admitted to the territory of a Member State as self-employed workers;

(**l**~~k~~) who have applied for admission or have been admitted as seafarers for employment or work in any capacity on board of a ship registered in or sailing under the flag of a Member State.

3. Member States may decide that Chapter II does not apply to third-country nationals who have been either authorised to work in the territory of a Member State for a period not exceeding six months or who have been admitted to a Member State for the purpose of study.

4. Chapter II shall not apply to third-country nationals who are allowed to work on the basis of a visa.

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CHAPTER II

SINGLE APPLICATION PROCEDURE AND SINGLE PERMIT

Article 4

Single application procedure

1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall determine whether applications for a single permit are to be submitted by the third-country national or by the third-country national's employer. **Alternatively, Member States may allow applications to be made by either of the two.** ~~Member States may also decide to allow an application from either of the two. If the application is to be submitted by the third-country national, Member States shall allow the application to be introduced both from a third country and in the territory of the Member State in which the third-country national is legally present.~~

2. An application for a single permit shall be considered and examined either when the third-country national concerned is residing outside the territory of the Member State to which he or she wishes to be admitted, or when he or she is already residing in the territory of that Member State as holder of a valid residence permit or long-stay visa. By way of derogation, a Member State may accept, in accordance with its national law, an application for a single permit submitted by a third-country national who is not in possession of a valid residence permit or long-stay visa but is legally present in its territory.

3. ~~2.~~ Member States shall examine an application submitted under paragraph 1 and shall adopt a decision to issue, amend or renew the single permit if the applicant fulfils the requirements laid down by Union or national law. A decision to issue, amend or renew the single permit shall constitute a single administrative act combining a residence permit and a work permit.

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4. ~~3.~~ Provided that the requirements laid down by Union or national law are fulfilled and where a Member State issues single permits only on its territory, the Member State concerned shall issue the third country national with the requisite visa **to obtain a single permit**.

5. ~~4.~~ Member States shall issue a single permit, where the conditions provided for are met, to third-country nationals who apply for admission and to third-country nationals already admitted who apply to renew or modify their residence permit after the entry into force of the national implementing provisions.

Article 5

Competent authority

1. Member States shall designate the authority competent to receive the application and to issue the single permit.

2. The competent authority shall adopt a decision on the complete application as soon as possible and in any event within four months of the date on which the application was lodged.

   The time limit referred to in the first subparagraph shall cover checking the labour market situation ~~and issuing the requisite visa referred to in Article 4(3)~~. The time limit may be extended in exceptional **and duly justified** circumstances~~,~~ linked to the complexity of the ~~examination of the~~ application **or the checking of the labour market situation.**

   Where no decision is taken within the time limit provided for in this paragraph, any consequences shall be determined by national law.

3. The competent authority shall notify the decision to the applicant in writing in accordance with the notification procedures laid down in the relevant national law.

4. If the information or documents in support of the application are incomplete according to the criteria specified in national law, the competent authority shall notify the applicant in writing of the additional information or documents required, setting a reasonable deadline to provide them. The time limit referred to in paragraph 2 shall be suspended until the competent authority or other relevant authorities have received the additional information required. If the additional information or documents is not provided within the deadline set, the competent authority may reject the application.

Article 6

Single permit

1. Member States shall issue a single permit using the uniform format as laid down in Regulation (EC) No 1030/2002 and shall indicate the information relating to the permission to work in accordance with points (a)12 and 16 of the Annex thereto.

   Member States may indicate additional information related to the employment relationship of the third-country national (such as the name and address of the employer, place of work, type of work, working hours, remuneration) in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and in point (a)20 of the Annex thereto.

2. When issuing the single permit Member States shall not issue additional permits as proof of authorisation to access the labour market.

PUBLIC

Article 7

Residence permits issued for purposes other than work

1. When issuing residence permits for purposes other than work in accordance with Regulation (EC) No 1030/2002 Member States shall indicate the information relating to the permission to work irrespective of the type of the permit.

   Member States may indicate additional information related to the employment relationship of the third-country national (such as the name and address of the employer, place of work, type of work, working hours, remuneration) in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and point (a)20 of the Annex thereto.

2. When issuing residence permits in accordance with Regulation (EC) No 1030/2002, Member States shall not issue additional permits as proof of authorisation to access the labour market.

Article 8

Procedural guarantees

1. Reasons shall be given in the written notification of a decision rejecting an application to issue, amend or renew a single permit, or a decision withdrawing a single permit on the basis of criteria provided for by Union or national law.

2. A decision rejecting the application to issue, amend or renew or withdrawing a single permit shall be open to legal challenge in the Member State concerned, in accordance with national law. The written notification referred to in paragraph 1 shall specify the court or administrative authority where the person concerned may lodge an appeal and the time limit therefor.

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3. An application may be considered as inadmissible on the grounds of volume of admission of third-country nationals coming from third countries for employment and, on that basis, need not to be processed.

Article 9

Access to information

Member States shall make easily accessible, and provide upon request**, to the third-country national and the future employer**:

(a) adequate information ~~to the third-country national and the future employer~~ on all the documentary evidence needed for an application;

(b) information on entry and residence conditions, including the rights, obligations and procedural safeguards of the third-country nationals and of their family members.

Article 10

Fees

~~Member States may require applicants to pay fees, where appropriate, for processing applications in accordance with this Directive. The level of such fees shall be proportionate and shall be based on the services actually provided for the processing of applications and the issuance of permits.~~
Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of fees imposed by a Member State for the processing of applications shall not be disproportionate or excessive.

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Article 11

Rights on the basis of the single permit

1. Where a single permit has been issued **in accordance with national law**, it shall authorise, during its period of validity, its holder at least to:

   (a) enter and reside in the territory of the Member State issuing the single permit, provided that the holder meets all admission requirements in accordance with national law;

   (b) have free access to the entire territory of the Member State issuing the single permit within the limits provided for by national law;

   (c) exercise the specific employment activity authorised under the single permit in accordance with national law;

   (d) be informed about the holder's own rights linked to the permit conferred by this Directive and/or by national law.

2. ~~Within the period of validity referred to in paragraph 1~~Member States shall allow a single permit holder to be employed by a different employer than the first employer with whom the permit holder concluded a contract of employment. **Member States may require, in accordance with national law, that the change of employer be subject to the following conditions:**

~~3. Within the period of validity referred to in paragraph 1, Member States may:~~

   (a) require that a change of employer be communicated to the competent authorities in the Member State concerned, ~~in accordance with procedures laid down in national law,~~

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(b) require that a change of employer be subject to a check of the labour market situation~~.~~**;**

(c) require that a change of employer not entail a change of occupational sector or substantial characteristics of the occupation for which the single permit was issued,

(d) set out a minimum period of time for which the single permit holder is required to work for the first employer; this minimum period of time shall not exceed nine months.

The right of the single permit holder to pursue such a change of employer may be suspended for a maximum of ~~30~~**60** days while the Member State concerned checks the labour market situation and verifies that the requirements laid down by Union or national law are fulfilled. The Member State concerned may oppose the change of employment within those ~~30~~**60** days.

3~~4~~. ~~Within the period of validity referred to in paragraph 1,~~ ~~t~~**The single permit holder and/or the employer, as the case may be, shall communicate the beginning and, where appropriate, the end of any period of unemployment to the competent authorities of the Member State of residence in accordance with the relevant national procedures.**

The single permit shall not be withdrawn during a period of at least ~~three~~ **two** months in the event of unemployment of its holder.

Member States shall allow the third-country national to stay in their territory until the competent authorities have **assessed the fulfilment of the conditions set out in paragraph 2,** ~~taken a decision in accordance with paragraph 3, point (b), as relevant,~~ even if that period of at least **two** ~~three~~ months expired.

CHAPTER III

RIGHT TO EQUAL TREATMENT

Article 12

Right to equal treatment

1. Third-country workers as referred to in Article 3(1), points (b) and (c) shall enjoy equal treatment with nationals of the Member State where they reside with regard to:

   (a) working conditions, including pay and dismissal as well as health and safety at the workplace;

   (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

   (c) education and **vocational** training;

   (d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;

   (e) branches of social security, as defined in Regulation (EC) No 883/2004;

   (f) tax benefits, in so far as the worker is deemed to be resident for tax purposes in the Member State concerned;

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(g) access to goods and services and the supply of goods and services made available to the public including procedures for obtaining ~~access to public and private~~ housing as provided by national law, without prejudice to the freedom of contract in accordance with Union and national law;

(h) advice services afforded by employment offices.

2. Member States may restrict equal treatment:

(a) under paragraph 1, point (c), by:

(i) limiting its application to those third-country workers who are in employment or who have been employed and who are registered as unemployed;

(ii) excluding those third-country workers who have been admitted to their territory in conformity with Directive 2016/801/EU;

(iii) excluding study and maintenance grants and loans or other grants and loans;

(iv) laying down specific prerequisites including language proficiency and the payment of tuition fees, in accordance with national law, with respect to access to university and post-secondary education and training and to vocational education and training which is not directly linked to the specific employment activity;

(b) by limiting the rights conferred on third-country workers under paragraph 1, point (e), but shall not restrict such rights for third-country workers who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed.

In addition, Member States may decide that paragraph 1, point (e), with regard to family benefits shall not apply to third-country nationals who have been authorised to work in the territory of a Member State for a period not exceeding six months, to third-country nationals who have been admitted for the purpose of study.

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(c) under paragraph 1, point (f), with respect to tax benefits by limiting its application to cases where the registered or usual place of residence of the family members of the third-country worker for whom he/she claims benefits, lies in the territory of the Member State concerned.

(d) under paragraph 1, point (g) , by:

(i) limiting its application to those third-country workers who are in employment;

(ii) restricting access to ~~public~~ housing;

3. The right to equal treatment laid down in paragraph 1 shall be without prejudice to the right of the Member State to withdraw or to refuse to renew the residence permit issued under this Directive, the residence permit issued for purposes other than work, or any other authorisation to work in a Member State.

4. Third-country workers moving to a third country, or their survivors who reside in a third country and who derive rights from those workers, shall receive, in relation to old age, invalidity and death, statutory pensions based on those workers' previous employment and acquired in accordance with the legislation referred to in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as the nationals of the Member States concerned when they move to a third country.

Article 13

Monitoring, risk assessment, inspections and penalties

1. Member States shall provide for measures to prevent possible infringements ~~by employers~~ of national provisions adopted pursuant to Article 12. Preventive measures shall include monitoring, assessment and, where appropriate, inspections in accordance with national law or administrative practice.

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2. Member States shall lay down the rules on penalties applicable to infringements ~~by employers~~ of national provisions adopted pursuant to Article 12. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

3. Member States shall ensure that services in charge of inspection of labour or other competent authorities and, where provided for under national law in respect of national workers, organisations representing workers' interests have access to the workplace.

Article 14

Facilitation of complaints and legal redress

1. Member States shall ensure that there are effective mechanisms through which third-country workers may lodge complaints against their employers:

   (a) directly; or

   (b) through third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive; or

   (c) through a competent authority of the Member State when provided for by national law.

2. Member States shall ensure that third parties referred to in paragraph 1, point (b) may engage either on behalf of or in support of a third-country worker, with his or her approval, in any judicial and/or administrative procedures aimed at enforcing compliance with this Directive.

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3. Member States shall ensure that third-country workers have the same access as nationals of the Member State where they reside with regard to:

(a) measures protecting against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking; or to

(b) any judicial and/or administrative procedure aimed at enforcing compliance with this Directive.

CHAPTER IV

FINAL PROVISIONS

Article 15

More favourable provisions

1. This Directive shall apply without prejudice to more favourable provisions of:

(a) Union law, including bilateral and multilateral agreements between the Union, or the Union and its Member States, on the one hand and one or more third countries on the other; and

(b) bilateral or multilateral agreements between one or more Member States and one or more third countries.

2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.

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Article 16

Information to the general public

Each Member State shall make easily accessible to the general public a regularly updated set of information:

(a) concerning the conditions of third-country nationals' admission to and residence in its territory in order to work there;

(b) on all the documentary evidence needed for the application;

(c) on entry and residence conditions, including the rights, obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive.

Article 17

Reporting

1. Periodically, and for the first time no later than […] , the Commission shall present a report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose amendments it deems necessary.

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2. Annually, and for the first time no later than [ ], Member States shall communicate to the Commission (Eurostat) statistics on the volumes of third-country nationals who have been granted a single permit during the previous calendar year, in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council [1]. Those statistics shall relate to reference periods of one calendar year, be disaggregated by **citizenship, length of validity of permits, sex and age and, where available, by occupation, the size of the employer's undertaking and economic sector** ~~type of decision, reason, length of validity and citizenship~~ and be transmitted within six months after the end of the reference period.

Article 18

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 point (c), Article 3(2), Article 4(1) and (3), Article 5(2), second subparagraph, Article 7(1), Article 9, Article 11(2) to (4), Article 12(1), point (g), Article 12(2), point (b) second paragraph, Article 12, point (d)(ii), Article 13, Article 14 and Article 16 by [two years after the entry into force] . They shall immediately communicate the text of those measures to the Commission .

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

[1] Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

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

Article 19

Repeal

Directive 2011/98/EU listed in Part A of Annex I, is repealed with effect from *[day after the date set out in the first subparagraph of Article 18(1) of this Directive]*, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directive set out in Part B of Annex I.

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

Article 20

Entry into force and application

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

Article 1, Article 2 points (a) and (b), Article 2, points (d) and (e), Article 3(1), Article 3(2), points (a), (b), (f) and (h) to (k), Article 3(3) and (4), Article 4(2) and (4), Article 5(1), (3) and (4), Article 6, Article 7(2), Article 8, Article 10, Article 11(1), Article 12(1) points (a) to (f) and (h), (2), points (a), (c), (d) and (i), (3) and (4), and Article 15, shall apply from [the day after the date in the first subparagraph of Article 18(1)].

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Article 21

Addressees

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

Done at Brussels,

For the European Parliament *For the Council*

The President The President

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ANNEX I

Part A

Repealed Directive

(referred to in Article 19)

Directive 2011/98/EU of
the European Parliament and of the Council
(OJ L 343, 23.12.2011, p. 1)

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Part B

Time-limits for transposition into national law

(referred to in Article 19)

Directive	Time-limit for transposition
2011/98/EU	25 December 2013

ANNEX II

CORRELATION TABLE

Directive 2011/98/EU	This Directive
Article 1	Article 1
Article 2 introductory wording, points (a) and (b)	Article 2 introductory wording, points (a) and (b)
-	Article 2 point (c)
Article 2 points (c) and (d)	Article 2 points (d) and (e)
Article 3(1)	Article 3(1)
Article 3(2) points (a) to (g)	Article 3(2) points (a) to (g)
Article 3(2) point (h)	-
Article 3(2) point (i)	Article 3(2) point (h)
Article 3(2) point (j)	Article 3(2) point (i)
Article 3(2) point (k)	Article 3(2) point (j)
Article 3(2) point (l)	Article 3(2) point (k)
Article 3(3) and (4)	Article 3(3) and (4)
Article 4(1) and (2)	Article 4(1) and (2)
Article 4(3)	-
-	Article 4(3)
Article 4(4)	Article 4(4)
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9(a)
-	Article 9(b)

PUBLIC

Directive 2011/98/EU	This Directive
Article 10	Article 10
Article 11	Article 11(1)
-	Article 11(2) to (4)
Article 12	Article 12
-	Article 13
-	Article 14
Article 13	Article 15
Article 14	Article 16(a)
-	Article 16(b) and (c)
Article 15	Article 17
Article 16	Article 18
-	Article 19
Article 17	Article 20
Article 18	Article 21
-	Annex I
-	Annex II

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