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STATEMENT OF THE COUNCIL'S REASONS

Subject:	Position of the Council at first reading with a view to the adoption of a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast) – Statement of the Council's reasons – Adopted by the Council on 10 March 2016

I. INTRODUCTION

On 25 March 2013, the Commission adopted a proposal for a Directive on the conditions for entry and residence for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

The European Economic and Social Committee and the Committee of the Regions adopted their opinions on the proposal respectively on 18 September 2013 and on 28-29 November 2013.

The relevant Council bodies started discussing the proposal in April 2013. On 25 February 2014, the European Parliament adopted its position at first reading. The Council was not in a position to accept the outcome of the European Parliament's first reading and, on 10 December 2014, the Permanent Representatives Committee endorsed the mandate authorising the Council to start negotiations with the European Parliament.

Following six informal trilogues between the Council and the European Parliament, on 3 and 31 March, 26 May, 16 July, 29 October and 17 November 2015, an agreement on the text was reached between the two co-legislators, assisted by the Commission. At its meeting on 26 November, the Permanent Representatives Committee endorsed the text negotiated with the European Parliament. The Council adopted its political agreement on this text at its meeting on 4 December 2015. Prior to that, the Chair of the European Parliament's LIBE Committee had, in a letter of 1 December 2015 addressed to the Chairman of COREPER, indicated that if that compromise text was to be transmitted to Parliament as Council's position at first reading, he would recommend to the members of LIBE, and subsequently to the plenary, that the Council's position be accepted without amendments in Parliament's second reading, subject to verification by the lawyer-linguists of both institutions.

The European Parliament and the Commission made a statement which will be inserted in the Council minutes.

In accordance with Articles 1 and 2 of the Protocol 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 and to the Treaty on the Functioning of the European Union, those Member States are not taking part in the adoption of the Directive and are not bound by it or subject to its application.

In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of the Directive and is not bound by it or subject to its application.

The Council adopted its position at first reading on 10 March 2016 in accordance with Article 294 of the Treaty.

II. OBJECTIVE

The proposal amends and recasts Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Directive 2005/71/EC on the conditions of admission of third-country nationals for the purposes of scientific research. The objective of this proposal is to improve the legal framework applicable to the categories of third-country nationals covered by the two above mentioned directives as well as to extend the scope of the directive to new categories of third-country nationals (remunerated trainees and au-pairs).

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

General

The negotiations took place in the policy context shaped by the March 2014 Commission Communication "An open and secure Europe: making it happen"[1] and the June 2014 European Council strategic guidelines for the further development of the area of freedom, security and justice[2]. The European Council stressed that, faced with global and European demographic trends, Europe needs to remain an attractive destination for talents and skills. For this purpose, Europe must develop strategies to maximise the opportunities of legal migration through coherent and efficient rules. Also, in the context of the Europe 2020 strategy for smart, sustainable and inclusive growth, immigration as a source of highly skilled people remains an important aspect.

The final phase of negotiations in 2015 coincided with the migration and refugee crisis. In this context it was important to conclude negotiations on this Directive thus creating more opportunities for third-country nationals to enter the EU legally. The May 2015 Commission Communication "A European Agenda on Migration"[3] called for a swift adoption of the Directive that would give students and researchers - regarded as strategically important groups - new mobility and job-seeking opportunities in the EU.

1 COM(2014) 154 final.
2 EUCO 79/14.
3 COM(2015) 240 final.

Key issues

In line with the provisions of the Joint Declaration on practical arrangements for the co-decision procedure[4], representatives of the Council, the Parliament and the Commission engaged in contacts with a view to concluding an agreement on this proposal. With a view to reconciling the position of both institutions and taking account of the agreement reached in those contacts, the Council adopts its position at first reading on a Directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing introducing the following key modifications to the Commission proposal:

Scope (Article 2)

While the Commission made all the categories mandatory in its proposal, in the Council's position only researchers, students, trainees and volunteers in the European Voluntary Service appear as mandatory categories. The categories of pupils, other volunteers and au-pairs are optional in the Council's position. This stems from the view of the Council that the main objective of the Directive is to attract highly skilled third-country nationals to the EU.

Regarding trainees, the Council decided to do away with the distinction between remunerated and unremunerated trainees, which was not considered relevant for the purposes of this Directive, and refer to the general category of trainees instead. On the other hand, the category of volunteers has been split into those volunteers participating in the European Voluntary Service and others. It is important to have harmonised rules across the EU to ensure access to the European Voluntary Service, which is part of the EUs Erasmus+ programme and has an international dimension. The importance of this approach is less obvious in the case of other volunteers. Therefore, that category is optional in the Council's position.

[4] OJ C 148, 28.5.1999, p.1.

More favourable provisions (Article 4)

The Council adds some provisions with respect to which Member States can either adopt or maintain more favourable provisions. Namely, the Council gives Member States the possibility not to require that the hosting agreement contains the title or purpose of the research activity or the research area (point (a) of Article 10(2)). Member States are also given the possibility to provide for authorisations with a longer duration than what is provided for in Article 18. The reference to Article 35 on transparency and access to information enables Member States to make more information accessible to applicants if deemed necessary. Amendment 25 of the European Parliament was thus only partially accepted by the Council given that the aim of the Directive is to harmonise the rules applied across Member States, especially when it comes to its core provisions.

Principles (Article 5)

The Council inserts an additional principle enabling Member Stats to require the applicant to present the documentary evidence required under this Directive for the purposes of admission, either in an official language of the Member State concerned or in any official language of the EU as determined by the Member State concerned. This is an important principle for Member States facilitating the work of their administrations and helping to speed up the processing of applications.

Volumes of admission (Article 6)

The Council reiterates the principle set out in Article 79(5) TFEU concerning the right of Member States to determine the volumes of admission of third-country nationals coming to their territory for the purpose of work. The Council clarifies that this principle can only apply if the specific category of third-country nationals is considered to be in an employment relationship in the Member State concerned. It, furthermore, explicitly mentions that the volumes of admission can never be applied to students, even if they are allowed to work during their studies, as by definition they apply to be admitted for the purpose of study. A similar article on volumes of admission is included in Directive 2014/66/EU[5] (the ICT Directive) and in Directive 2014/36/EU[6] (the Seasonal Workers' Directive).

General conditions for admission (Article 7)

In point (a) of paragraph (1) of Article 7, the Council considers it necessary, for the purpose of clarity, to list, in addition to the valid travel document, all possible documents that can be required for entry purposes, depending on the specific national system or the specific situation of the third-country national.

[5] OJ L 157, 27.5.2014, p.1.
[6] OJ L 94, 28.3.2014, p. 375

The Council aligns point (e) of paragraph (1) with the corresponding provisions of the ICT Directive (Article 5(5)) and the Seasonal Workers Directive (Article 5(3)) by inserting "without having recourse to the Member State's social assistance system". In addition, the Council inserts, for the purpose of clarity, an open list of sources where sufficient resources can derive from. Considering the wide range of categories covered by the Directive, such a list is useful to guide Member States in making the assessment of "sufficient resources". The Council also inserts a new provision in this Article (paragraph 3) enabling Member States to indicate a reference amount which they regard as constituting "sufficient resources". In Article 35, on transparency and access to information, the Council includes an obligation for Member States to make the information concerning the level of monthly sufficient resources easily accessible to applicants. This will provide clear information to applicants and others concerned, regarding the requirements concerning "sufficient resources" in different Member States.

The Council inserts a new paragraph 2 enabling Member States to require the applicant to provide the address of the third-country national concerned in its territory. Such a requirement is already established practice in a number of Member States and the address is needed for purposes such as communicating with the applicant or allocating administrative competence in the Member State concerned. The Council also specifies that where the address is required at the time of application and the third-country national does not yet know the future address, Member States will accept a temporary address. The requirement for the applicant to present the address is also included in the ICT Directive.

The Council inserts paragraphs 4 and 5 to specify where and by whom applications for authorisations can be submitted. In the Commission's proposal, the corresponding provisions appeared in the Article on specific conditions for researchers. The Council moves them to the Article on general conditions making them applicable to all the categories covered by this Directive. As far as the substance is concerned, the Commission proposal provides that applications shall be considered and examined when the third-country national concerned is residing outside the territory of the Member State to which he or she wishes to be admitted. The Council agreed, taking into account Amendment 28 of the European Parliament, that applications shall also be considered and examined when the third-country national is already residing in that Member State as holder of a valid residence permit or long-stay visa.

The Council inserts a new paragraph 6 stating that third-country nationals who are considered to pose a threat to public policy, public security or public health shall not be admitted under this Directive. In the Commission proposal, a similar provision appears in paragraph 1 of this Article concerning the evidence and proof the applicant is requested to provide as part of the application. The Council considers that this provision should rather appear as a ground for inadmissibility with the burden of proof being on Member States. A similar approach is being used in the ICT Directive (Article 5(8)) and the Seasonal Workers Directive (Article 6(4)).

Approval of host entities (Articles 9 and 15)

While the Commission proposal provided for an obligatory approval procedure for research organisations and no approval procedure for the host entities receiving other categories, the Council decided to apply the same approach to all the host entities. The Council agrees that Member States are free to decide whether they will require that admission under this Directive will take place through approved host entities or not.

In the case of research organisations, for example, Member States are free to require the approval of public and/or private research organisations or they can decide that no approval is required. This leaves Member States sufficient flexibility to adopt the best approach taking into account their legal systems.

As part of this approach, the Council position provides that Member States shall apply a facilitated procedure for all third-country nationals applying to be admitted through approved host entities (paragraph 3 of Article 8; paragraph 3 of Article 11). Such applicants shall be exempted from presenting some of the documents or evidence required under this Directive. Another element of facilitation is that a decision on an application submitted through approved host entities should be taken within 60 days at the latest (paragraph 2 of Article 34), the standard deadline being 90 days. When setting up such a procedure, the Council took into consideration the spirit of Amendment 57 of the European Parliament concerning a fast-track procedure.

The category of researchers (Articles 3, 8, 9, 10)

The Council broadens the definition of researchers in Article 3 by adding that, in addition to holding a degree giving access to doctoral programmes, they can also be holders of a doctoral degree.

In Article 8 concerning the specific admission conditions for researchers, the Council adds a clarification that the financial responsibility of the research organisation is limited until the starting date of the permit for job-searching or entrepreneurship issued in accordance with Article 25 (paragraph 2). From the moment such a permit is issued, the third-country national concerned will no longer be considered a researcher under this Directive.

In Article 10 on hosting agreements, the Council amends the Commission position by setting out that Member States may provide that contracts shall be considered equivalent to hosting agreements in the application of this Directive provided they contain the same elements as hosting agreements (paragraph 1). This modification stems from the current practice in some Member States.

As far as the content of hosting agreements is concerned, the Council converts some of the mandatory provisions into optional ones. It is left to Member States to decide whether they will require some of the information to be contained in the hosting agreement or not (points (a) and (b) of paragraph 3). The Council considers it important to minimise the administrative burden placed on research organisations.

The Council also adds a requirement for the hosting agreement to contain information on the intended mobility in second Member States in case that is known at the time of application in the first Member State (point (e) of paragraph 2). Such information is considered important in the context of the mobility scheme devised for researchers under this Directive (Articles 28 and 29).

The category of students (Articles 3, 11 and 24)

In the definition of a student in Article 3, the Council adds a specification that the full-time course of study in the EU, for which the student is admitted, can also include a period of training as part of these studies. In Article 11 on the specific admission conditions for students, the Council adds a requirement for the applicant to provide evidence, if the Member State so requires, that the third-country national will have sufficient resources to cover the study costs. This is considered necessary because study costs refer to books, study material, etc. that are neither covered by the requirement for sufficient resources in Article 7 (covering subsistence and travel costs) nor by the fees charged by the higher education institution as referred to in point (b) of paragraph 1 of Article 11.

In order to allow students to cover part of the cost of their studies they shall be entitled, in accordance with Article 24, to have access to the labour market of the Member State where the studies are undertaken. The Council modifies the Commission proposal by setting the minimum amount of hours that students are allowed to work per week at 15, a balanced compromise taking into account the different national practices. The Council maintains the principle that Member States should be able to take into account the situation of their labour markets (paragraph 3) without the addition suggested by the European Parliament in Amendment 46. The labour market test always concerns a specific job and, therefore, cannot be done in a systematic manner. However, in order to meet the concerns of the European Parliament, Recital 52 of the Council position explains that access of students to the labour market should be the general rule and Member States should take the situation in their labour markets into account only in exceptional circumstances.

The category of school pupils (Articles 3, 12)

This is an optional category in the Council's position. In the definition of a school pupil in Article 3, the Council adds further details in order to cater for different national systems. Thus, a programme of secondary education can either be recognised (or not) at a state or regional level and it can either correspond to lower secondary or upper secondary education. The Council broadens the definition by adding that school pupils can also be admitted for educational projects in addition to exchange schemes as suggested by the Commission. The former does not require an exchange of pupils. In point (e) of paragraph 1 of Article 12 on the specific admission conditions for school pupils, the Council adds a possibility for school pupils to be accommodated, in addition to a family, also in a special accommodation facility within the education establishment or any other facility meeting the required conditions.

The category of trainees (Articles 3, 13)

As far as the definition of a trainee is concerned, the Council narrows it down by adding a requirement that a trainee must be someone who either holds a degree of higher education or who is studying for a higher education degree. This is in line with the view of the Council that the primary aim of this Directive is to target highly skilled third-country nationals. At the same time, the Council does away with the distinction between unremunerated and remunerated trainees and opts for a general category of trainees. In the specific admission conditions for trainees in Article 13, the Council adds a number of requirements to be met by the third-country national concerned. This purpose of the Council is to put in place sufficient safeguards to make sure that no abuses take place when admitting this category of third-country nationals to the territory of the EU. Member States consider that there is a risk that trainees can be used to substitute employees with worse conditions and terms of employment.

Therefore, the Council adds in point (a) of paragraph 1 that the training agreement has to provide for a theoretical and practical training, and that Member States may require that the terms of the agreement meet the requirements in national law, collective agreements or practices.

In line with the changes made in the definition of a trainee, the Council adds, in Article 13, a requirement for evidence to be presented that the third-country national has obtained a higher education degree within the two years preceding the date of application for a traineeship or that he or she is pursuing a course of study that leads to a higher education degree (point b of paragraph 1). In addition, Member States may require that the traineeship is in the same field and at the same qualification level as the higher education degree or the course being pursued (paragraph 2). This requirement runs counter to the intention of the European Parliament that, with its Amendment 32, deleted such a condition.

The Council also adds that the applicant shall provide evidence, if the Member State so requires, that the third-country national has sufficient resources to cover the training costs, that the host entity accepts responsibility for the trainee throughout the stay and of the fact that the accommodation meets the required conditions if the trainee is accommodated by the host entity. The Council adds a possibility, similarly to the one set out in the case of researchers, for Member States to require that a host entity assumes financial responsibility for a trainee in case he or she remains illegally in the territory of the Member State concerned (paragraph 4). Whereas the Commission proposal states that Member States may require the host entity to declare that the third-country national is not filling a job, the Council goes a bit further enabling Member State to require the host entity to substantiate that the traineeship does not replace a job (paragraph 3).

The category of volunteers (Articles 14)

In the Council's position volunteers participating in the European Voluntary Service appear as a mandatory category whereas other volunteers remain an optional category. As far as the conditions of admission of volunteers are concerned, the Council accepts in spirit Amendment 33 of the European Parliament concerning the content of the agreement with the host entity that has to be provided (point (a) of paragraph 1 of Article 14). In addition, the Council considers it necessary to insert, just like in the case of school pupils and trainees, the possibility for Member States to require evidence that the accommodation meets the conditions set by the Member State concerned if the third-country national is accommodated by the host entity (point (b) of paragraph 1). Since this is already existing practice in several Member States, the Council adds a possibility for Member States to determine a minimum and maximum age limit for third-country nationals who apply to be admitted to a voluntary service scheme (paragraph 2). This shall, however, be without prejudice to the rules of the European Voluntary Service. In order to ensure compatibility with the requirements under the European Voluntary Service scheme, the Council states that applicants to that scheme are exempted from the requirement to present evidence under some provisions of this Directive (paragraph 3).

The category of au-pairs (Article 16)

This is an optional category in the Council's position. In Article 16 on the specific admission conditions for au-pairs, the Council fully accepts the content of Amendments 34 and 35 of the European Parliament concerning the rights and obligations of au-pairs. Here the Council goes even further and specifies that the maximum number of hours of au-pair duties per week shall not exceed 25 (paragraph 5 of Article 16). However, the Council slightly modifies the minimum age of au-pairs which is set at 17 in the Commission's proposal and at 18 in the Council's position. This follows the current practice in several Member States.

The Council also adds several requirements for the admission of au-pairs. Namely, Member States are free to ask the third-country national to provide evidence of basic knowledge of the language of the host country, of secondary education or professional qualifications (paragraph 2). Reflecting the current practice in some Member States, the Council provides that Member States can determine that the placement of au-pairs can only be carried out by an organisation mediating au-pairs (paragraph 3). The Council also adds a possibility for Member States to require the members of the host family to be of different nationality than the third-country national au-pair and not to have any family links with the au-pair (paragraph 4). Member States are also free to set a minimum sum of money as pocket money to be paid to the au-pair (paragraph 6).

Authorisations to be granted under this Directive (Articles 17, 18 and 19)

In Article 17, the Council adds further details to the initial Commission proposal concerning the various terms to be entered on the authorisations. Here the Council adopts an approach similar to the one used in the Seasonal Workers' Directive.

The Council follows the approach of the Commission when it comes to the length of the authorisations issued for researchers, students, school pupils, au-pairs and volunteers (Article 18) and rejects thus Amendment 37 of the European Parliament. The Council complements the Commission proposal by explicitly stating that Member States may allow for the renewal of the authorisations of school pupils and au-pairs under certain conditions. In addition, the Council position provides that the duration of the authorisation for researchers and students, who are covered by Union or multilateral programmes that comprise mobility measures, shall be at least two years or equal to the duration of the hosting agreement or studies in case this is shorter (provided certain conditions are met). This provision was added in order to further facilitate the stay of this group of third-country nationals in the EU.

As far as trainees are concerned, the Council modifies the Commission proposal by setting out that the duration of the authorisation shall be for a maximum period of six months. Member States may, however, provide for a longer duration corresponding to the duration of the training agreement in accordance with national law. This is related to the position of the Council that additional safeguards are needed for this category of third-country nationals.

In Article 19, concerning additional information, the Council adds references to pieces of information that can be indicated as additional information either on a residence permit or a long-stay visa. In this context, the wording suggested by Amendment 39 of the European Parliament is rejected as superfluous by the Council.

Grounds for rejection and for withdrawal or non-renewal of an authorisation (Articles 20 and 21)

When it comes to the grounds for rejection, the Council position follows the spirit of Amendment 40 of the European Parliament and converts a number of the mandatory grounds for rejection into optional ones (points (a), (c), (d) of paragraph 2 of Article 20). The wording in some of those provisions has, however, been aligned with the one in the corresponding provisions of the ICT and Seasonal Workers' Directives.

In addition, the Council adds a new mandatory ground which is related to the approval procedure devised for host entities in this Directive (point (c) of paragraph 1). The Council also inserts several new optional grounds for rejection. It deems important that Member States are able to reject an application if the host entity or the host family does not meet the terms of employment as provided for by applicable laws, collective agreements or practices of the Member State concerned (point (b) of paragraph 2). This provision aims to protect third-country nationals from exploitation and to avoid social dumping. Point (e) of paragraph 2 concerning a situation where a host entity has gone out of business is taken over from the ICT Directive. The Council also inserts a ground that enables a Member State to reject an application where it establishes that the third-country national would reside for purposes other than for which he or she applies to be admitted (point (f) of paragraph 2). The objective of this ground is to enable Member States to fight against abuse and misuse of the procedures set out in this Directive. The Council also adds a possibility for Member States to reject an application after having conducted a labour market test as it is important for Member States to be able to manage their labour markets (paragraph 3).

As a safeguard for applicants and respecting the views of the European Parliament, the Council adds that any decision to reject an application shall take account of the specific circumstances of the case and respect the principle of proportionality (paragraph 4).

The grounds for withdrawal or non-renewal (Article 21) to a large extent mirror the ones for rejection with some differences. The ground referring to a situation where a third-country national resides for purposes other than those for which he or she was authorised to reside (point (d) of paragraph 1) remains a mandatory one in the Council's position while the European Parliament in its position had made it an optional provision. On the other hand, the Council accepts the ideas of the European Parliament and adds that when considering withdrawing the authorisation of a student for lack of progress in studies, the Member State concerned may consult the host entity on this matter (paragraph 3). The Council also accepts the Parliament's amendment according to which a student shall be allowed to submit an application to a different higher education institution to be able to complete his or her studies where withdrawal or non-renewal is considered for reasons that do not concern the student (paragraph 6). When it comes to the possibility to refuse renewal as a result of the labour market test (paragraph 5), the Council took into consideration the concerns expressed by the European Parliament and excluded researchers who continue to be employed by the same host entity. The Parliament's amendment concerning public policy and public security grounds (paragraph 4) was not accepted by the Council. The wording in Recital 36 was considered sufficient in this context.

Right to equal treatment (Article 22)

Regarding equal treatment with nationals of the host Member State, the Council position modifies the Commission proposal. It follows closely Article 12 (Right to Equal Treatment) of Directive 2011/98/EU (the Single Permit Directive) as this Directive covers all third-country nationals that are legally residing and are either working or allowed to work in a Member State.

According to the Council position, essentially the rights set out in Article 12 of the Single Permit Directive together with the possible restrictions provided therein apply to researchers and students, as well as trainees, volunteers and au-pairs when they are considered to be in an employment relationship in the Member State concerned. In this context, researchers are always considered to be in employment and they are entitled to the related rights as set out in the Single Permit Directive. The Council rejects Amendment 43 of the European Parliament according to which the restrictions set out in the Single Permit Directive concerning education and vocational training as well as branches of social security should not apply to researchers and students.

Regarding the rights of trainees, volunteers and au-pairs who are not considered to be in an employment relationship in the Member State concerned, the Council position goes further than Amendment 44 of the European Parliament and states that, in addition to equal treatment in relation to access to goods and services, they are also entitled to equal treatment in relation to recognition of diplomas, certificates and other professional qualifications.

Stay for the purpose of job-searching or entrepreneurship for researchers and students (Article 25)

The Council position provides for the possibility for researchers and students to stay on the territory of the Member State that had issued them an authorisation under this Directive, to seek employment or set up a business for a period of at least 9 months. The Council thus rejects the European Parliament amendment for this provision. The period of 9 months is regarded sufficient in order to find employment or set up a business. The period after which the Member State concerned may require third-country nationals to prove that they have a genuine chance of being engaged or of launching a business is a minimum of 3 months in the Council's position, which differs from the amendment of the European Parliament. The Council adds a possibility for Member States to require that the employment the third-country national is seeking or the business he or she is in the process of setting up corresponds to the level of research or of studies completed.

The Council also enables Member States to set a minimum level of degree (which cannot be higher than a Master's degree or the equivalent) that students must have achieved in order to benefit from this right. According to the Council position, Member States can require that a host entity provides either a confirmation of the completion of a research activity or evidence of having obtained a higher education diploma. If such evidence is not available before the expiry of an authorisation that had been granted for the purpose of research or studies, the third-country national shall be allowed to stay on the territory of the Member State concerned in order to submit such evidence within reasonable time.

The Council additionally provides for grounds of rejection of an application submitted as well as grounds for withdrawal of the residence permit issued in accordance with this Article (paragraphs 4 and 8).

Intra-EU mobility (Articles 27, 28, 29, 30 and 31)

In the position of the Council, intra-EU mobility is only allowed for researchers and students. This position differs from the amendment of the European Parliament. For reasons of consistency, the mobility scheme in the ICT Directive was taken as an example when devising the details of intra-EU mobility for these two categories.

The Council divides the mobility of researchers into short-term mobility and long-term mobility. In the framework of short-term mobility, researchers who hold a valid authorisation issued for that purpose by the first Member State, are entitled to stay in order to carry out part of their research in any research organisation in one or several second Member States for a period of up to 180 days in any 360-day period on the basis of that authorisation and a valid travel document subject to the conditions set out in this Directive. The second Member State may require to be notified of the short-term mobility of the researcher in accordance with the procedure set out in Article 28. The second Member State may require the notification to include the documents and information provided for in that Article or it may decide not to require that. There is a possibility for the second Member State to object to the notification. In response to practical concerns voiced by several Member States in connection with the notification procedure, the Council position includes a possibility for the second Member State to issue a document to the researcher attesting that he or she is entitled to stay on its territory.

For the long-term mobility of researchers (for more than 180 days per Member State), the second Member State may either decide to apply the notification procedure designed for short-term mobility allowing the researcher to stay on its territory on the basis of the authorisation issued by the first Member State, or require that an application for long-term mobility is submitted in accordance with the procedure set out in Article 29. As a result of that application, the second Member State issues an authorisation to the researcher if all the required conditions are met. The application procedure for long-term mobility is a lighter one when compared to the procedure for the initial application in the first Member State. Researchers' family members are entitled to accompany the researcher in one or several second Member States and the mobility scheme devised for them mirrors the one of researchers (Article 30).

When it comes to the mobility of students, the Council distinguishes between students covered by EU or multilateral programme comprising mobility measures, or by an agreement between two or more higher education institutions and the so called individual students not covered by any programmes or agreements. The former are entitled to enter and stay in order to carry our part of their studies in a higher education institution in one or several second Member States for a period of up to 360 days per Member State subject to the conditions set out in Article 31. The scheme for their mobility is similar to the one designed for short-term mobility of researchers, i.e. a possibility for the second Member States to require a notification. Individual students, on the other hand, have to submit an application for an authorisation to enter and stay in a second Member States for the purpose of studies. The application procedure in this case is exactly the same as for initial applications in the first Member State.

Following the example of the ICT Directive, the Council inserts a new Article 32 on safeguards and sanctions in cases of mobility, which sets out further details concerning the evidence to be provided in certain cases related to mobility (e.g. when a student or a researcher needs to cross a Schengen border in the course of mobility or when they do not fulfil the conditions of mobility any longer).

Fees (Article 36)

The Council position adds that Member States may require fees for the handling of notifications in addition to the handling of applications. Member States consider that the handling of notifications in the context of the intra-EU mobility procedure also involves certain administrative costs. Furthermore, Member States may issue documents to third-country nationals as a result of that procedure.

IV. CONCLUSION

The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission. The adoption of the Directive 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 will be of great importance in order to increase the attractiveness of the EU for talents and skills.