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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2022) 655 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document 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)

Delegations will find attached document SWD(2022) 655 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

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)

{COM(2022) 655 final} - {SEC(2022) 201 final} - {SWD(2022) 656 final}

Executive Summary Sheet

Legislative initiative on the revision of the Single Permit Directive (2021 CWP item)

A. Need for action

Why? What is the problem being addressed?

The main objectives of the Single Permit Directive are to establish a single application procedure for a combined work and residence permit and guarantee a common set of rights for eligible third-country nationals, based on equal treatment with nationals of the Member State that grants the single permit. However, as highlighted already under the 2019 Fitness Check on legal migration and the implementation report, some outstanding issues continue to undermine the full achievement of such objectives. The key identified problems can be grouped in three areas:

1) **complex and inefficient application procedure** and **unclear rights** which in some cases prolong the procedures and decrease EU attractiveness for third country nationals;
2) **certain categories of migrants are not covered** by scope of the Directive or any other EU legal instruments; there are differing rules on admission conditions for low- and medium-skilled;
3) **workers are not sufficiently protected from exploitation**.

EU employers and migrants are negatively affected by the shortcomings of the Directive, which result in administrative burden, lengthy waiting times, and uncertainty as to applicable rules.
The **main identified driver for these problems is a regulatory failure**, i.e. weaknesses of the current overall EU regulatory framework. Many provisions of the Directive give a large margin of discretion to the Member States, allowing for diverging rules, which in turn weakens harmonisation of the rules at the EU level.

What is this initiative expected to achieve?

The general policy objectives of the initiative are:
(1) to ensure efficient management of migration;
(2) to foster competitiveness and growth in the EU;
(3) to ensure fair treatment and protection of third-country nationals legally residing in the EU.

The specific policy objectives corresponding to the problems identified are:
(1) to simplify admission procedures;
(2) to ensure greater efficiency of application procedures;
(3) to address EU labour shortages;
(4) to enhance equal treatment of third-country nationals with EU citizens;
(5) to protect third-country national workers from labour exploitation.

What is the value added of action at the EU level?

Further improvement of the common procedure established by the Directive requires EU action. The problems identified above are unlikely to disappear in the near future as they are directly related to the current legal provisions which are complex, sometimes unclear or incomplete and give a large margin of discretion to the Member States for their implementation, allowing for diverging rules.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

The Impact assessment evaluates **three policy options**, with varying levels of EU intervention:

- **Option 1** entails enhancing the implementation of the Directive by the Member States by the exchange of best practices, developing a Single Permit Handbook or recommendations, etc.
- **Option 2** foresees a legislative intervention aimed at streamlining the application procedure, and improving equal treatment rights by way of recommendations.
- **Option 3** foresees legislative changes described in Option 2, improving equal treatment rights and clarifying the personal scope of the Directive, as well as improving protection from labour exploitation.

The **preferred option** is **Option 3,** as it addresses existing shortcomings of the Directive; further streamlines procedures; strengthens equal treatment rights, clarifies the scope and improves protection against exploitation.

Who supports which option?

The **European Parliament** would support all elements of Options 2 and 3 but would expect more ambition as to establishing EU rules for low- and medium-skilled workers. The vast majority of consulted **stakeholders** (civil society, economic and social partners, experts on legal migration) is in favour of the measures included in Options 2 and 3. **Member States** have an overall preference for Option 1 as a number of them have expressed reluctance towards a revision of the Directive or any new legislation on legal migration. The preferred option presents a chance of reaching political agreement as it foresees a targeted revision to improve the overall efficiency of the Directive and protection of third-county nationals.

C. Impacts of the preferred option

What are the main benefits of the preferred option?

The preferred option will be highly effective in achieving the objectives and will benefit from good political feasibility. It will also clarify and slightly expand the scope of the current Single Permit (i.e. to beneficiaries of protection under national law), as well as strengthen the rights of third-country nationals. Furthermore, including beneficiaries of national protection in the scope of the Directive would improve legal certainty and an enhanced set of rights for those who currently do not, or only to some extent, benefit from equal treatment. With common provisions on inspections, sanctions and monitoring of employers, it would also contribute to reinforcing the protection of all third-country workers covered by the Directive against labour exploitation.

What are the main costs of the preferred options?

The estimated costs of the preferred option include:

- One-off costs for Member States between EUR 2.0 million and EUR 7.0 million in Year 1,
- Recurring costs between EUR 100,000 and EUR 12.0million annually.

The option foresees also cost-savings:

- Between EUR 200,000 and EUR 4.0 million annually for Member States.
- Between EUR 89.0 million and EUR 546.0 million annually for third-country nationals.
- Between EUR 22.0 million and EUR 101.0 million annually for employers.

How will businesses, SMEs and micro-enterprises be affected?

Businesses/employers are expected to benefit from quicker, and potentially wider, access to labour resources from third countries. The streamlining of the procedure could also encourage more employers to hire third-country workers where vacancies cannot be filled locally.

At the same time, businesses and employers may have to comply with new rules on prevention, inspections and sanctions against labour exploitation.

Will there be significant impacts on national budgets and administrations?

National authorities are expected to gain efficiencies in their application procedures due to further streamlining of their processes although they may face some initial costs when introducing the new provisions. More efficient procedures, improved equal treatment and prevention of exploitation may benefit Member States in skills matching and potentially satisfying labour shortages through migration.

Will there be other significant impacts?

Third-country nationals are expected to benefit from streamlining the procedure, which will result in potential cost reductions for them. Furthermore, by clarifying equal treatment provisions, removing the link to one employer and improving the protection against labour exploitation, the preferred option is expected to reduce the risk of exploitation by employers.

The option is expected to contribute to strengthening specific **fundamental rights**, such as: prohibition of slavery and forced labour; right to property; non-discrimination; fair and just working conditions; family and professional life and social security and social assistance.

D. Follow up

When will the policy be reviewed?

Article 15 of the Single Permit Directive already provides for r the Commission to periodically report on the application of the Directive in Member State and to propose amendments it deems necessary. This principle will also apply to the changes stemming the revision of the Directive.