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PROPOSAL

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 655 final
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)

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

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Brussels, 27.4.2022
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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)

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Reasons for and objectives of the proposal

This proposal aims at amending Directive 2011/98/EU[1] 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 ('the Single Permit Directive'). This proposal is part the 'Skills and talent' package of measures proposed as a follow-up to the Commission's Communication on a New Pact on Migration and Asylum[2] (hereinafter "the Pact"), adopted on 23 September 2020, which underlined the need to address the main shortcomings of the EU policy on legal migration, with the overall objective of attracting skills and talent the EU needs. The recast of the Single Permit Directive is part of these measures, with the objective, as set out in the Pact, 'to look at ways to simplify and clarify the scope of the legislation'. The package also includes the recast of Directive 2003/109/EC on long-term residents[3] and an accompanying Communication setting out a new approach towards an ambitious and sustainable EU legal migration policy, attracting talents in our economies and creating safe channels to reach Europe[4].

The vast majority of migrants arrive in Europe legally. In 2019, the EU Member States issued more than three million first residence permits to third-country nationals, of which over one million were for employment purposes.

In 2019[5], 2 984 261 single permit decisions[6] were reported by Member States, of which 1 212 952 were for issuing first permits. The other decisions were for renewing or changing permits. Of all the permits issued in 2019, 1 172 028 (39 %) were issued for remunerated activities, 928 483 (31 %) for family reasons, 395 428 (13 %) for education and training and 368 509 (12 %) for other reasons based on available statistics[7].

The main objectives of the Single Permit Directive are to establish a single application procedure for a combined work and residence permit and to 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 full achievement of the objectives.

The proposal aims to streamline the application procedure and make it more effective. Currently, the overall duration of application procedures[8] deters employers from international recruitment. Reducing this duration is expected to help increase the EU's attractiveness and address EU labour shortages. The proposal also includes new requirements to strengthen the

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1 OJ L 343 of 23.12.2011, p. 1.
2 COM/2020/609 final
3 COM/2022/650.
4 COM/2022/657.
5 Source: Eurostat (migr_ressing).
6 As far as the reporting of statistics is concerned the 'Single Permit' is understood as a residence permit that includes both those that reside for the purpose of work and those admitted for other reasons, but have the right to work. The statistical definition of 'Single Permit' corresponds to Article 2(c), Directive 2011/98/EU.
7 The reason for issuing the permit is not available for about 4% of total single permits issued in 2019. Given the changes in migration flows in 2020 due to the Covid-19 pandemic, statistics for 2019 have been used in the analysis.
8 The practical-application study of the fitness check shows that the time required to apply for a visa sometimes extends the overall procedure considerably, in some cases by as much as 3 months.

safeguards and equal treatment of nationals of non-EU countries as compared to EU citizens and improve their protection from labour exploitation. This will facilitate labour matching and reduce vulnerability to labour exploitation.

During the 10 years of application of the Directive, the Commission has received a number of complaints on its implementation by the Member States (in particular on failure to comply with statutory deadlines for issuing a single permit, or issues relating to social security). Some complaints were followed up by infringement proceedings. The evaluation of the Directive under the fitness check on legal migration[9] (hereinafter: fitness check) adopted in 2019 and the implementation report[10], also adopted in 2019, identified a number of personal and material gaps, inconsistencies and shortcomings as along with practical issues arising from the application of the Directive by the Member States. The fitness check, in particular, recommended in its conclusions 'considering putting forward legislative measures to tackle the inconsistencies, gaps and other shortcomings identified, so as to simplify, streamline, complete and generally improve EU legislation'.

The European Parliament, in its Resolution of 21 May 2021 on new avenues for legal labour migration[11], welcomed the Commission's planned review of the Single Permit Directive, suggesting that 'to reach a broader category of workers, the scope and the application of the directive should be expanded'.

1.2. Consistency with existing policy provisions in the policy area

This proposal is consistent with the Commission's New Pact on Migration and Asylum[12], adopted on 23 September 2020, which underlined the need to address the main shortcomings of EU policy on legal migration, responding to the overall objective of attracting the skills and talent the EU needs.

This proposal is complementary to other instruments adopted in the area of legal migration, in particular those Directives that regulate residence statuses: the EU Blue Card Directive 2009/50/EC on highly-qualified workers[13], the long term residents Directive 2003/109/EC[14], Directive (EU) 2016/801 on students and researchers[15], Directive 2003/86/EC on family reunification[16] (hereinafter: legal migration Directives), and Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection[17].

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9 See the executive summary of the Fitness Check in Annex 7 and the full report: https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en#:~:text

10 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0160&from=EN

11 European Parliament resolution of 20 May 2021 on new avenues for legal labour migration (2020/2010(INI))

12 COM/2020/609 final.

13 Revised by Directive (EU) 2021/1883 of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC (OJ L 382, 28.10.2021, p. 1).

14 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. The recast of the Long-term residents Directive is also part of the Skills and Talent package, see (COM).

15 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).

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

17 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

This proposal is consistent with the 2021-2027 action plan on integration and inclusion[18] which provides a common policy framework to help Member States as they further develop and strengthen their national integration policies for third-country nationals and persons with a migrant background, including EU long-term residents.

1.3. Consistency with other Union policies

This proposal supports the objectives of the Commission's Communication of 27 May 2020 entitled 'Europe's moment: Repair and Prepare for the Next Generation', which sets out the EU's path to recovery towards a greener, digital and more resilient economy and society. Improving and adapting skills, knowledge and competencies is a key part of this. Measures to improve the application procedure for a single permit and equal treatment rights are to be seen in this broader context.

The proposal is also in line with the European Skills Agenda[19], which called for a more strategic approach to legal migration, oriented towards better attracting and keeping talent. This requires improved labour matching, clear immigration procedures and greater efficiency in the recognition of third-country nationals' competences on the EU labour market.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

2.1. Legal basis

The legal basis of the proposal is Article 79(2) TFEU, which empowers the European Parliament and the Council to act in accordance with the ordinary legislative procedure and to adopt measures on: (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits; and (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States.

2.2. Subsidiarity (for non-exclusive competence)

The principle of subsidiarity applies since this is an area of shared competence[20]. A subsidiarity check was carried out in the impact assessment conducted for the first proposal on the Single Permit in 2007 (COM (2007) 638 final). The need for a common EU framework on legal migration is linked to the abolition of internal border controls within the EU and the creation of the Schengen area.

The fitness check showed that the legal migration Directives, including the Single Permit Directive, have had a number of positive effects that would not have been achieved by Member States acting alone, such as a degree of harmonisation of conditions, procedures and rights, helping to create a level playing field across Member States; simplified administrative procedures; improved legal certainty and predictability for third-country nationals, employers, and administrations; improved recognition of the rights of third-country nationals (namely the right to be treated on an equal basis with nationals in a number of important areas, such as

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a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

18 COM(2020) 758 final.

19 COM(2020) 274 final.

20 However, any measure proposed in the area of legal migration "shall not affect the right of Member States to determine volumes of admission of TCNs coming from third countries to their territory in order to seek work, whether employed or self-employed" (Article 79(5) TFEU).

working conditions, access to education and training and social security benefits, and procedural rights); and improved intra-EU mobility.

The recast of the Single Permit Directive aims to further simplify the procedure and enhance the equal-treatment rights and protection of third-country workers legally residing in the EU. In particular, procedures streamlined and shortened at the EU level will benefit both third-country nationals and their potential employers all over the EU, while improved rights will contribute to ensuring a level-playing field for third-country workers in different Member States and mitigating the risk of social dumping. Differences in implementation of the Directive have shown that if Member States act alone, there is a risk that differences in the treatment of third-country nationals in different Member States will continue and will not be further reduced or clarified. This could lead to continued distortion of competition within the single market between Member States that grant more rights than others, or have less cumbersome procedures for granting single permits.

2.3. Proportionality

The amendments to the Single Permit Directive introduced by this proposal are limited and targeted, aiming at effectively addressing the main shortcomings identified in the implementation and evaluation of the Directive. The proposed amendments are limited to those aspects that Member States cannot achieve satisfactorily on their own and where the administrative burden on stakeholders would not be disproportionate to the objectives to be achieved, as the measures would only update or complement the already existing procedures.

The administrative burden imposed on Member State in terms of change of legislation would be moderate as the Single Permit Directive already exists and the burden would be outweighed by the benefits.

In the light of the above, the proposal does not go beyond what is necessary in order to achieve the stated objectives.

2.4. Choice of the instrument

This proposal is intended to provide for targeted amendments to the Directive to address certain identified shortcomings. Since the proposed instrument is to recast the Single Permit Directive, the same legal instrument is the most appropriate. It sets binding minimum standards but, at the same time, gives Member States the necessary flexibility.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

3.1. Ex-post evaluations/fitness checks of existing legislation

The fitness check on the EU Legislation on Legal Migration[21] adopted on 29 March 2019 presents an in-depth evaluation with a view to assessing whether the EU legal migration framework is still fit for purpose, identifying inconsistencies and gaps and looking for possible ways to streamline and simplify the existing rules. The evaluation of the Directive under the fitness check and the implementation report[22], also adopted in 2019, identified a number of personal and material gaps, inconsistencies and shortcomings as well as practical issues arising from the application of the Directive by the Member States.

[21] SWD(2019) 1055 final.

[22] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0160&from=EN

As noted above, the fitness check recommended in its conclusions 'considering putting forward legislative measures to tackle the inconsistencies, gaps and other shortcomings identified, so as to simplify, streamline, complete and generally improve EU legislation'.The main problems identified can be grouped into three areas:

(1) complex and inefficient application procedure and unclear rights in some cases prolong the procedures and decrease the EU's attractiveness for third country nationals;

(2) certain categories of migrants are not covered by the scope of the Directive or any other EU legal instruments;

(3) workers are not sufficiently protected from exploitation.

4. STAKEHOLDER CONSULTATIONS

A wide consultation, including a public consultation, was conducted as part of the fitness check on legal migration[23]. Between 23 September and 30 December 2020, another online public consultation on the future of legal migration was conducted via the Commission's 'Have your say' portal[24].

Targeted consultations, asking more technical questions on the recast of the Directive, took place in the first half of 2021. Some of these consultations were carried out by the Commission independently and some in the context of a study commissioned to an external contractor. Ad hoc queries were also launched under the impact assessment to the members of the European Migration Network.

Replies to the two above-mentioned public consultations came from EU citizens, organisations and third-country nationals (residing inside or outside the EU), business associations and organisations, non-governmental organisations, academic/research institutions, trade unions, ministries and public service entities. Targeted consultations included competent authorities in the Member States, business associations and organisations, non-governmental organisations, academia, legal practitioners, think tanks and public service entities.

The main problems identified in the consultations have been taken into account and addressed in the proposal.

4.1. Collection and use of expertise

The impact assessment on the recast of the Directive was supported by the study carried out by an external contractor[25]. Furthermore, a number of expert groups were consulted on the recast of the Directive: the Expert Group on the Views of Migrants in the field of Migration, Asylum and Integration on 2 March 2021, the European Network of Public Employment Services on 10 March 2021, the Commission Informal Expert Group on Economic Migration

23 https://ec.europa.eu/home-affairs/system/files/2019-03/201903_legal-migration-check-annex-3aii-icf_201806.pdf

24 https://ec.europa.eu/home-affairs/content/public-consultation-future-eu-legal-migration_en

25 ICF, Study in support of the Impact assessments on the revision of Directive 2003/109/EC and Directive 2011/98/EU, 2021.

on 14 April 2021, and the EU Legal Migration Practitioners' Network on 29 April 2021. The European Migration Network was also consulted with an ad-hoc query[26].

4.2. Impact assessment

In line with its 'Better Regulation' policy, in the preparation of the proposal the Commission conducted an impact assessment. The impact assessment evaluated three policy options, with varying levels of EU intervention:

Option 1: actions to improve the effectiveness of the Directive. This policy option would involve new non-legislative actions aiming to enhance the implementation of the Directive, such as performing comparative analyses and targeted studies on specific aspects of the implementation of the Directive, and developing non-binding guidelines on the interpretation of the provisions of the Directive in the form of a Single Permit Directive Handbook; and recommendations on aspects currently not deemed to be covered by the single permit procedure; and promoting innovative approaches.

Option 2: Basic legislative revision of the Directive. This policy option would aim to simplify the application procedure and clarify which categories of third-country workers are covered by the Directive, as well as to cover beneficiaries of protection in accordance with national law. This option would also provide for the adoption of soft law measures (e.g. recommendations) to improve and harmonise the implementation of equal treatment rights provided for by the Single Permit Directive.

Option 3: Legislative revision of the Directive as in Option 2 plus regulating rights and protection. This option would include the legislative changes foreseen in Option 2 and, in addition, would aim to improve and clarify some equal treatment rights (access to housing, family benefits), ensure the permit is not linked to only one employer so as to avoid excessively frequent changes to the permit, and improve protection from labour exploitation by legislative action.

On the basis of an assessment of the social and economic impacts, the effectiveness and efficiency of the policy options, and their political feasibility and stakeholder acceptance, the preferred option is **Option 3**.

Option 3 involves a large set of policy measures that would address existing shortcomings of the Directive, further simplify and streamline the single application procedure, strengthening equal treatment rights, and further improve the Directive's coherence with the wider EU legal migration law by clarifying the categories of third-country workers not covered by the Directive. In addition, Option 3 expands the personal scope of the Directive to beneficiaries of protection under national law who are currently not fully covered by the equal treatment provisions, and the extends material scope of the Directive to include provisions on labour inspections, monitoring and penalties against employers in the event of infringements of national provisions adopted pursuant to this Directive.

The impact assessment showed that Option 3 will be highly effective in achieving the objectives and in reconciling a large part of the views expressed in the stakeholder consultations. Option 3 furthermore has the potential to bring societal benefits, as including beneficiaries of protection in accordance with national law in the Directive's scope would grant them an enhanced set of rights as these third-country nationals currently do not, or only

[26] EMN (2021) Ad Hoc Query 2021.36 to support an impact assessment study on the revision of the Single Permit Directive.

to some extent, benefit from equal treatment. It would also contribute to reinforcing the protection of all third-country workers covered by the Directive against exploitation. Therefore, Option 3 strikes a good balance between extending the personal and material scope of the Directive and further simplification.

Furthermore, the preferred policy option would best respond to the recommendations of the fitness check and the objectives of the Commission's Pact on Migration and Asylum. It would also ensure coherence with the case law of the Court of Justice of the European Union[27]. While the Pact announced that the review of the Directive would look at ways to simplify and clarify the scope of the legislation, including admission and residence conditions for low and medium skilled workers, the option of including such conditions was rejected at an early stage of the Impact Assessment process.

Moreover, the scope of the Directive already covers all third-country nationals, regardless of the level of their skills, with regard to the single permit procedure and the attached rights. The majority of the consulted stakeholders expressed scepticism about the need of regulating admission conditions of low and medium-skilled workers as in their view they are sufficiently addressed by national legislation and the single permit procedure. Furthermore, experts have expressed the view that as the Directive is a horizontal 'procedural' Directive, it is not the appropriate legal instrument to introduce admission conditions only for specific categories of workers.

Opinion of the Regulatory Scrutiny Board

On 22 September 2021, the impact assessment was submitted to the Regulatory Scrutiny Board (RSB) and a meeting was held on 20 October 2021. The Board issued a positive opinion with reservations on 25 October 2021. The Board pointed to a number of aspects of the impact assessment that should be addressed. Specifically, the Board requested further clarification on the narrow scope of the initiative, which could raise unfounded expectations as to the likely impact of the proposed measures. Furthermore, the Board requested more detail on the core differences in policy choices between the options, and better analysis of whether alternative approaches to the proposed measures are possible. The Board also asked for clarifications on how the proposed measures would affect the domestic labour markets and administrative systems of Member States.

These and other more detailed comments provided by the Board were addressed in the final version of the impact assessment, which, for instance, contains an improved depiction of the possible impacts of the proposed targeted measures on the attractiveness of the EU labour market as a whole, as well as on the Member States' domestic labour markets and administrative systems. The policy options have been revised to follow the thematic areas identified in the problem definition. The Board's comments have also been accounted for in the proposed directive that follows.

4.3. Regulatory fitness and simplification

This proposal aims to simplify the application procedure by allowing the applications to be lodged both in the Member State of destination and from a third country, as well as establishing that the time limit of four months laid down in the Directive covers the issuance of the requisite visa referred to in Article 4(3) and the time needed by the competent authorities to check the labour market situation. On the basis of the proposed amendments, the single permit would also give the right to the third-country national to change employer

[27] Case C-302/19 - Istituto nazionale della previdenza sociale (INPS) v WS. Judgment of the Court of 25 of November 2020.

during the period of its validity, which should also contribute to lowering administrative burden by limiting the need for repeated applications in case of a change of employment. Furthermore, the proposal aims to improve some equal treatment rights and clarify which categories of third-country workers are covered by the Directive. In addition, the proposal extends the scope of the Directive to beneficiaries of protection in accordance with national law and improves the protection of third-country workers by introducing provisions on facilitating complaints, monitoring and penalties. The proposal introduces new provisions with a view to improving the protection of third country workers who may be dissuaded from lodging complaints against their employers for fear of losing their residence permit, by ensuring that at least for a period of three months following unemployment, the third country national can reside legally in the Member State.

This proposal was included in Annex II of the 2021 Commission work programme[28], therefore it is part of the regulatory fitness programme (REFIT). The Fit for Future Platform also issued its opinion on how to simplify and reduce unnecessary burdens, including by modernising existing EU legislation through digitalisation, which is reflected in the proposal. The opinion was adopted on 10 December 2021. The Platform made the following two recommendations:

Suggestion 1: Streamline and digitalise the single permit application and visa applications to reduce the administrative burden and costs on applicants and authorities.

Suggestion 2: Simplifying procedures on change of employer and increasing ownership of workers will provide concrete benefits to national administrations and applicants.

These suggestions have been followed up in:

Article 4, which establishes that the Member States should allow an application for a single permit to be made both in the Member State of destination and from a third country, and requires Member States to issue the requisite visa where the requirements specified by EU or national law are fulfilled.

Article 5, which establishes that the time limit of 4 months laid down in the Directive covers the issuance of the requisite visa referred to in Article 4(3). This time limit must also cover the time needed by the competent authorities to check the labour market situation before a decision on the single permit is adopted.

Article 11, which provides that the single permit shall not be withdrawn in the event of unemployment of its holder. Member States shall allow the third-country national to stay in their territory for at least 3 months during the validity of the permit.

The first suggestion of the Platform also addresses digitalisation of the submission of applications for issuing permits for residence and work. The current proposal does not address this complex aspect and focuses instead on streamlining and simplifying procedures. However, digitalisation can help speed up the processing of applications and thereby reduce costs for applicants and employers. It would also enable job matching and reduce the risks of undeclared work. The Commission will therefore follow the experience with the digitalisation of Schengen visas in this context and carry out technical work within its relevant networks to discuss the opportunities that digitalisation could bring and further explore its benefits and impacts.

[28] https://ec.europa.eu/info/sites/default/files/2021_commission_work_programme_annexes_en.pdf

REFIT Cost Savings – Preferred Option		
Description	***Amount***	***Comments***
Cost savings from less application costs	Up to EUR 11.0 million per year (over a 10-year period)	Third-country nationals
	Up to 3.0 million per year (over a 10-year period)	Employers
Cost savings from less time spent on processing applications	EUR 89.0 million – EUR 278.0 million per year (over a ten-year period)	Third-country nationals
	EUR 22.0 million – EUR 70.0 million per year	Employers[29]
	EUR 200,000 – EUR 4.0 million (over a ten-year period)	National authorities[30].
Cost savings from lower travel costs	Up to EUR 137.0 million per year (over a 10-year period)	Third-country nationals
Cost savings (lower intermediary fees)	Up to EUR 106.0 million per year (over a 10-year period)	Third-country nationals
	Up to EUR 25.0 million per year (over a 10-year period)	Third-country nationals
Cost savings (reduction in other application-related fees – e.g. certification fees, translation of documents, etc.)	Up to EUR 14.0 million per year (over a 10-year period).	Third-country nationals
	Up to EUR 4.0 million per year (over a 10-year period).	Third-country nationals

4.4. Fundamental rights

THIS PROPOSAL IS CONSISTENT WITH THE CHARTER OF FUNDAMENTAL RIGHTS AND ENHANCES SOME OF THE RIGHTS ENSHRINED THEREIN. IN PARTICULAR, IT CONTRIBUTES TO STRENGTHENING SPECIFIC FUNDAMENTAL RIGHTS, SUCH AS: THE PROHIBITION OF SLAVERY AND FORCED LABOUR (ARTICLE 5); THE RIGHT TO PROPERTY (ARTICLE 17); EQUALITY (ARTICLE 20); FAIR AND JUST WORKING

[29] The wide range obtained is due to differences in the extent of cost savings estimated across policy actions/ measures associated with the preferred option (driven in part by differing assumptions around the number of affected applicants/ applications across these measures).

[30] A reduction in administrative burden / cost savings can be expected in the medium-to-long term as the benefits of a more streamlined application procedure start to become apparent – savings will accrue as a result of fewer resources (staff and time) required on the processing of applications and, hence, used more efficiently across the organisations.

CONDITIONS (ARTICLE 31); FAMILY AND PROFESSIONAL LIFE (ARTICLE 33) AND SOCIAL SECURITY AND SOCIAL ASSISTANCE (ARTICLE 34).5. BUDGETARY IMPLICATIONS

There are no implications for the European Union budget.

6. OTHER ELEMENTS

6.1. Implementation plans and monitoring, evaluation and reporting arrangements

The Commission will verify the correct and effective transposition into national laws of all participating Member States. Throughout the implementation phase the Commission will organise regular contact committee meetings with all Member States to discuss and clarify any issues that may arise during the transposition phase. The Commission will periodically present to the European Parliament and the Council a report evaluating the implementation, functioning and impact of the Single Permit Directive.

The application of the Single Permit Directive will be monitored against the main policy objectives using a number of relevant and measurable indicators based on easily available, accepted and credible data sources. The communication of more types of information is made mandatory in the proposed recast Directive to improve its timely provision and reliability. Official statistics from Eurostat and Member States will continue to be used as much as possible to monitor the number of single permits issued, while existing EU agencies and networks, such as the Fundamental Rights Agency and the European Migration Network, can be used to undertake punctual research into themes related to single permit. The Commission will also continue making use of the existing expert groups that contributed to the impact assessment.

6.2. Explanatory documents (for directives)

The proposed recast Directive has a wider personal scope as regards the third-country nationals that it covers. The proposal also contains a larger number of legal obligations compared to the existing Directive 2011/98/EU. In addition, the proposal includes provisions not yet covered in a mandatory way by the current legal framework. Therefore, Member States will need to provide explanatory documents, including a correlation table between national provisions and the Directive, accompanying the notification of transposition measures to ensure that the transposition measures that the Member States have added to existing legislation can be clearly identified.

6.3. Detailed explanation of the specific provisions of the proposal

CHAPTER I – GENERAL PROVISIONS

Articles 1 – 3

This Chapter sets out the subject matter, definitions, and scope of the proposal. The proposal introduces a definition of employer which includes employment or temporary work agencies to increase legal certainty and reinforce the protection of third-country workers.

A number of amendments in the proposal for a recast aim to clarify the scope of Directive 2011/98/EU, and in particular the exceptions from the scope of the Directive provided for in an exhaustive manner in Article 3(2). With regard to posted workers, a reference has been introduced to Council Directive 1996/71/EC. Posted third-country workers from another Member State are excluded from the scope as they are not considered part of the labour

market of the Member State to which they are posted. In addition, references have been added to directives that were adopted after the entry into force of the Directive[31], such as the Directive on Intra-corporate Transferees and the Seasonal Workers Directive[32]. Only third-country workers covered by these two directives are excluded from the scope of Directive 2011/98/EU. The current Article 3(2)(h) excludes from the scope third-country nationals who are beneficiaries of protection in accordance with national law, international obligations or the practice of a Member State. It is currently not clear whether, if allowed to work, those third-country nationals are covered by the procedure of Chapter II and the equal treatment provisions of Chapter III. It is therefore proposed to include this category of third country nationals in the scope of the Directive by deleting Article 3(2)(h).

CHAPTER II – A single application procedure and a single permit

Article 4 - Single application procedure

Article 4 of the Directive regulates key aspects of the single application procedure.

In line with Article 4(1), an application to issue, amend or renew a single permit should be submitted through a single application procedure. Currently, if the application is to be submitted by a third country national, Member States shall allow the application to be introduced from a third country or, if provided for by national law, in the territory of the Member State in which the third country national is legally present. In order to facilitate the procedure for the applicant, the proposal for a recast Directive provides for that the Member States should allow the application for a single permit to be made both in the Member State of destination and from a third country.

According to the current Article 4(3), the single application procedure is without prejudice to the visa procedures that may be required for initial entry. In order to align with other legal migration Directives, the proposal for a recast requires Member States to issue the requisite visa where the requirements laid down by Union or national law concerning the issuance of a single permit and the visa are fulfilled. The aim of this amendment is to avoid that the issuing of the entry visa is rejected or delayed if the requirements for issuing a single permit are fulfilled.

Article 5 - Competent authority

Article 5 provides for a number of procedural safeguards during the application procedure and the adoption of the decision on the single permit. In accordance with the current provisions, where applications for a single permit can only be lodged in the destination Member States, the procedure to first obtain an entry visa can significantly extend the duration of the overall procedure. The proposal for a recast directive establishes that the time limit of four months laid down in the Directive covers also the issuance of the requisite visa referred to in Article

[31] 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).

[32] 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 L157 of 27.5.2014 p. 1. Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94 of 28 March 2014, p. 1).

4(3). This time limit must also cover the time needed by the competent authorities to check the labour market situation before a decision on the single permit is adopted.

Articles 6 and 7 regulate the format requirements for the single permit and the residence permits issued for purposes other than work. No amendments are introduced with respect to Directive 2011/98/EU.

Article 8 provides for certain procedural guarantees given to the applicant of the permit, namely the obligation to state reasons in writing for decisions rejecting an application to issue, amend or renew a permit, as well as the guarantee that written information will be provided about the authority with which the applicant may lodge an appeal and the time limits. No amendments are introduced with respect to Directive 2011/98/EU.

Article 9 - Access to information

Article 9 obliges Member States to provide, upon request, adequate information to the third country national and the future employer on the documents required to make a complete application. The proposal for a recast introduces a provision regulating in more detail the information that must be provided by the competent authority including information on the rights, obligations and procedural safeguards of the third-country nationals.

Article 10 - Fees

Article 10 allows Member States to require applicants to pay fees, where appropriate, for processing applications. The recast requires Member States to establish fees that are proportionate and based on the services provided for processing and issuing permits.

Article 11 - Rights on the basis of the single permit

Points (a) to (d) of Article 11 establish the rights granted on the basis of the single permit: entry and residence, free access to the entire territory, the right to exercise the specific employment activity authorised and the right to be informed about the holder's own rights.

The recast proposal introduces new provisions (Article 11, paragraphs 2-4) aiming at improving the protection of third-country workers. On the basis of the proposed amendments, the single permit would give the right to the third-country national to change employer during the period of its validity. Member States should be able to require a notification of the change and be able to check the labour market situation in case a change of employer takes place. Paragraph 4 has been added to ensure that Member States that withdraw the single permit following the loss of employment allow third-country workers to remain in their territory for at least three months during the validity of the permit, in case the single permit holder loses his/her job.

Article 12 - Equal treatment

Under the terms of Article 12 of Directive 2011/98/EU, single permit holders enjoy equal treatment with nationals in a number of areas, including working conditions, freedom of association, social security benefits, education and training, recognition of academic and professional qualifications, tax benefits, access to goods and services and employment advice services. However, the same article allows restrictions to equal treatment in respect of some areas.

In the current Article 12, the reference to equal treatment with regard to "procedures for obtaining housing as provided by national law, without prejudice to the freedom of contract" and its relation to the exemption of Article 12(2)(d)(ii) (allowing Member States to restrict access to housing) is unclear, in particular as to whether it includes access to private housing. The proposed amendment clarifies that equal treatment applies to access to private housing and that possible restrictions by Member States may concern only access to public housing.

In addition, Article 12(1)(e) provides for equal treatment with regard to access to social security coverage, as defined in Regulation (EC) No 883/2004[33] which includes family benefits. In a recent judgment referring to Italian legislation[34], the European Court of Justice found that a national provision under which, for the purpose of determining entitlement to a social security benefit, the family members of the holder of a single permit who did not reside in the territory of that Member State but in a third country were not be taken into account when determining entitlement to a social security benefit, whereas account was taken of family members of nationals of that Member State residing in a third country, was not compatible with EU law. The proposal for a recast brings Recital 24 of Directive 2011/98/EU in line with this judgment by removing the last two sentences according to which the Directive should grant rights only in relation to family members who join third-country workers to reside in a Member State. It is also proposed to remove the reference to third country nationals who are allowed to work on the basis of a visa in the second paragraph of Article 12(2)(b) on restrictions to access to family benefits. This would mean that third-country nationals who are allowed to work on the basis of a visa are entitled to family benefits if they work in the Member State concerned for a period exceeding 6 months.

Articles 13-14 - Monitoring, risk assessment, inspections and penalties and facilitation of complaints

New articles are introduced to reinforce the equal treatment provisions. 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. Such measures should include monitoring, risk assessment and, where appropriate, inspections.

To make enforcement more effective, complaints mechanisms should be put in place. They should be open not only to single permit holders, but also to third parties which have, in accordance with the criteria laid down by the national law, a legitimate interest in ensuring compliance with this Directive as well as competent authorities of the Member States when provided for by national law. This is so because evidence suggests that third country nationals are often either not aware of the existence of such mechanisms or they are hesitant to use them in their own name, as they are afraid of the consequences in terms of the existing and/or future employment possibilities.

Article 14 - Information to the general public

[33] 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.

[34] Case C-302/19 - Istituto nazionale della previdenza sociale (INPS) v WS. Judgment of the Court of 25 of November 2020.

The proposal for a recast Directive lays down more detailed obligations on Member States with regard to information to the general public. The revised measures include the obligation to provide information on the documentary evidence needed for an application and on entry and residence conditions, including the rights, obligations and procedural safeguards of the third-country nationals.

Articles 15-18

These Articles lay down the rules on reporting, contact points, transposition, entry into force and addressees, as already provided for in Directive 2011/98/EU.

Article 19 provides that the proposal formally repeals the existing Directive 2011/98/EU on the Single Permit.

↓ 2011/98/EU

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)

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[35],

Having regard to the opinion of the Committee of the Regions[36],

Acting in accordance with the ordinary legislative procedure[37],

Whereas:

⇩ new

(1) A number of amendments are to be made to Directive 2011/98/EU of the European Parliament and of the Council[38]. In the interests of clarity, that Directive should be recast.

↓ 2011/98/EU recital 1 (adapted)

~~For the gradual establishment of an area of freedom, security and justice, the Treaty on the Functioning of the European Union (TFEU) provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals.~~

35 OJ C 27, 3.2.2009, p. 114.

36 OJ C 257, 9.10.2008, p. 20.

37 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).

38 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).

↓ 2011/98/EU recital 2 (adapted)

~~The European Council, at its special meeting in Tampere on 15 and 16 October 1999, acknowledged the need for harmonisation of national law governing the conditions for admission and residence of third-country nationals. In this context, it stated in particular that the European Union should ensure fair treatment of third-country nationals who are legally residing in the territory of the Member States and that a more vigorous integration policy should aim to grant them rights and obligations comparable to those of citizens of the Union. The European Council accordingly asked the Council to adopt the legal instruments on the basis of Commission proposals. The need for achieving the objectives defined at Tampere was reaffirmed by the Stockholm Programme, which was adopted by the European Council at its meeting of 10 and 11 December 2009.~~

↓ 2011/98/EU recital 3 (adapted)

(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. ~~Such procedural simplification has already been introduced by several Member States and has made for a more efficient procedure both for the migrants and for their employers, and has allowed easier controls of the legality of their residence and employment.~~

↓ 2011/98/EU recital 4

(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.

↓ 2011/98/EU recital 5

(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.

↓ 2011/98/EU recital 6

(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.

⇩ new

(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 should not be excluded from the scope of this Directive.

↓ 2011/98/EU recital 7 (adapted)

(7) Posted third-country nationals ⌦ subject to Directive 96/71/EC of the European Parliament and of the Council[39] ⌫ 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 ~~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~~[40].

⇩ new

(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.

↓ 2011/98/EU recital 8 (adapted)

(9) Third-country nationals who have acquired long-term resident status in accordance with Council Directive 2003/109/EC ~~of 25 November 2003 on the status of third-country nationals who are long-term residents~~[41] should not be covered by this Directive given their ⌦ globally ⌫ more privileged status and their specific type of residence permit 'long-term resident-EU'.

↓ 2011/98/EU recital 9
⇨ new

(10) 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[42] ⇦ should not be covered by this Directive given ⇨ that they fall within the scope of Directive 2014/36/EU, which establishes a specific regime ⇦ ~~their temporary status~~.

39 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).

40 ~~OJ L 18, 21.1.1997, p. 1.~~

41 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).

42 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).

↓ 2011/98/EU recital 10 (adapted)
⇨ new

~~(11)~~ The obligation on the Member States to determine whether the application is to be ~~made~~ ⌦ 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 ~~decide whether~~ ⇨ allow ⇦ the application for a single permit ~~is~~ to be ~~made~~ ⌦ submitted ⌫ ⇨ both ⇦ in the Member State of destination ~~or~~ ⇨ and ⇦ from a third country. ~~In cases where the third-country national is not allowed to make an application from a third country, Member States should ensure that the application may be made by the employer in the Member State of destination.~~

↓ 2011/98/EU recital 11
⇨ new

(12) 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 ⇦.

↓ 2011/98/EU recital 13
⇨ new

(13) The deadline for adopting a decision on the application should ~~not include the time required for the recognition of professional qualifications or the time required for issuing a visa~~ ⇨ 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.⇦ ~~This Directive should be without prejudice to national procedures on the recognition of diplomas.~~

⇩ new

(14) 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 the requisite visa in order to avoid duplication of work and prolonging the procedures. Furthermore, Member States should require applicants to submit the relevant documentation only once.

↓ 2011/98/EU recital 12

(15) 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.

↓ 2011/98/EU recital 13 (adapted)

(16) The deadline for adopting a decision on the application should, ⌦ however ⌫ , not include the time required for the recognition of professional qualifications ~~or the time~~

~~required for issuing a visa~~. This Directive should be without prejudice to national procedures on the recognition of diplomas.

↓ 2011/98/EU recital 14 (adapted)

(17) The single permit should be drawn up in accordance with Council Regulation (EC) No 1030/2002~~, of 13 June 2002 laying down a uniform format for residence permits for third-country nationals~~[43], 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 ⌫ ~~title~~ 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.

↓ 2011/98/EU recital 15

(18) 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.

↓ 2011/98/EU recital 16

(19) 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~~16~~ of the Annex thereto can also be used to store such information in an electronic format.

↓ 2011/98/EU recital 17

(20) 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.

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[43] 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).

↓ 2011/98/EU recital 18

(21) 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[44] ~~Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)~~[45] 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[46] (Schengen Convention).

↓ 2011/98/EU recital 19

(22) 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.

↓ 2011/98/EU recital 20 (adapted)

(23) 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 ⊠ ~~specified~~ by this Directive should be granted not only to those third-country nationals who have

44 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).

45 ~~(OJ L 105, 13.4.2006, p. 1).~~

46 OJ L 239, 22.9.2000, p. 19.

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 ~~of 22 September 2003 on the right to family reunification~~[47]; 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[48]~~Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service~~[49];~~and researchers admitted in accordance with Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research~~[50].

↓ 2011/98/EU recital 21

(24) 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.

↓ 2011/98/EU recital 22

(25) 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.

↓ 2011/98/EU recital 23

(26) 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 ~~of 7 September 2005 on the recognition of professional qualifications~~[51]. 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.

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

48 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).

49 ~~OJ L 375, 23.12.2004, p. 12.~~

50 ~~OJ L 289, 3.11.2005, p. 15.~~

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

↓ 2011/98/EU recital 24

~~(27)~~ 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 ~~of 29 April 2004 on the coordination of social security systems~~[52]. 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. ~~This Directive, furthermore, should not grant rights in relation to situations which lie outside the scope of Union law, such as in relation to family members residing in a third country. This Directive should grant rights only in relation to family members who join third-country workers to reside in a Member State on the basis of family reunification or family members who already reside legally in that Member State.~~

↓ 2011/98/EU recital 25

(28) 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 ~~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~~[53].

↓ 2011/98/EU recital 26

(29) Union law does not limit the power of the Member States to organise their social security schemes. ~~In the absence of harmonisation at Union level,~~ 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.

↓ 2011/98/EU recital 27

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

52 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).

53 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).

⇩ new

(31) 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.

(32) 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.

(33) 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) 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. The single permit should not be withdrawn during a period of at least three months in the event of the unemployment of its holder.

🡻 2011/98/EU recital 28

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

🡻 2011/98/EU recital 29

(36) 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 ~~of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin~~[54]

[54] 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).

and Council Directive 2000/78/EC ~~of 27 November 2000 establishing a general framework for equal treatment in employment and occupation~~[55].

↓ 2011/98/EU recital 30

(37) 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.

↓ 2011/98/EU recital 31

(38) 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.

↓ 2011/98/EU recital 32 (adapted)

~~In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.~~

↓ 2011/98/EU recital 33 (adapted) ⇨ new

(39) In accordance with Articles 1 and 2 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 ⇨ s 3 and ⇦ 4 of that Protocol, ⇨ Ireland ⇦ ~~those Member States are~~ ⇨ 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~~s~~ ⇨ 4a ⇦ ~~1 and 2~~ 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

[55] 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).

Functioning of the European Union ⌫ (TFEU), and without prejudice to Article 4 of that Protocol, ~~those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application~~ ⇨ Ireland has notified [, by letter of …,] its wish to take part in the adoption and application of Directive. ⇦]

🡻 2011/98/EU recital 34

(40) 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~~.~~

⇩ new

(41) 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.

(42) 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,

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🡻 2011/98/EU (adapted)
⇨ new

HAVE ADOPTED THIS DIRECTIVE:

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; ~~and~~

   (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 ⌫ ~~is without prejudice to~~ the Member States' powers concerning the ⌦ volume of ⌫ admission of third-country nationals ⌦ coming from third countries to seek employment ⌫ ~~to their labour markets~~.

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 paid~~ ⇨ an employment ⇦ relationship in that Member State in accordance with national law or practice;

⇩ new

(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;

🡻 2011/98/EU

(d~~e~~) '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.

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 ~~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~~[56];

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[56] 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).

(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;

↓ 2011/98/EU (adapted)

(c) who are ~~posted for~~ ⌦ 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 ⌫ ~~in the framework of an intra-corporate transfer~~[57] ;

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

↓ 2011/98/EU

(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[58] ~~Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted~~[59] 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;~~

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

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

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

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57 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).

58 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).

59 ~~OJ L 304, 30.9.2004, p. 12.~~

(k~~l~~) 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.

CHAPTER II

SINGLE APPLICATION PROCEDURE AND SINGLE PERMIT

Article 4

Single application procedure

↓ 2011/98/EU (adapted)
⇨ new

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 ~~made~~ ⌦ submitted ⌫ by the third-country national or by the third-country national's employer. 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 ⇦ ~~or, if provided for by national law,~~ in the territory of the Member State in which the third-country national is legally present.

2. Member States shall examine an application ~~made~~ ⌦ submitted ⌫ under paragraph 1 and shall adopt a decision to issue, amend or renew the single permit if the applicant fulfils the requirements ~~specified~~ ⌦ 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.

~~3. The single application procedure shall be without prejudice to the visa procedure which may be required for initial entry.~~

⇩ new

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.

↓ 2011/98/EU

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.

↓ 2011/98/EU (adapted)
⇨ new

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 circumstances, linked to the complexity of the examination of the application.

↓ 2011/98/EU

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~~7.5-9~~ 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~~16~~ 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.

Article 7

Residence permits issued for purposes other than work

↓ 2011/98/EU (adapted)

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.

↓ 2011/98/EU

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~~16~~ 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.

↓ 2011/98/EU (adapted)
⇨ new

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:

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

⇩ new

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

🡻 2011/98/EU (adapted)

Article 10

Fees

Member States may require applicants to pay fees, where appropriate, for ⌦ processing ⌫ ~~handling~~ applications in accordance with this Directive. The level of such fees shall be proportionate and ~~may~~ ⌦ shall ⌫ be based on the services actually provided for the processing of applications and the issuance of permits.

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.

⇩ new

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.

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,

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

The right of the single permit holder to pursue such a change of employer may be suspended for a maximum of 30 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 days.

4. Within the period of validity referred to in paragraph 1, the single permit shall not be withdrawn during a period of at least three 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 taken a decision in accordance with paragraph 3, point (b), as relevant, even if that period of at least three months expired.

↓ 2011/98/EU

CHAPTER III

RIGHT TO EQUAL TREATMENT

Article 12

Right to equal treatment

1. Third-country workers as referred to in ~~points (b) and (c) of~~ 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;

↓ 2011/98/EU
⇨ new

(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;

↓ 2011/98/EU

(h) advice services afforded by employment offices.

2. Member States may restrict equal treatment:

(a) under ~~point (c) of~~ 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~~2004/114/EC~~;

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

↓ 2011/98/EU
⇨ new

(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;

↓ 2011/98/EU

(b) by limiting the rights conferred on third-country workers under ~~point (c) of~~ 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 ~~point (c) of~~ 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~~, or to third-country nationals who are allowed to work on the basis of a visa.~~

(c) under ~~point (f) of~~ 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 ~~point (g) of~~ paragraph 1, point (g) , by:

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

↓ 2011/98/EU
⇨ new

(ii) restricting access to ⇨ public ⇦ housing;

↓ 2011/98/EU

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.

⇩ new

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.

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.

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.

↓ 2011/98/EU

CHAPTER IV

FINAL PROVISIONS

Article 15~~13~~

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.

↓ 2011/98/EU
⇨ new

Article 16~~14~~

Information to the general public

Each Member State shall make ~~available~~ ⇨ 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;

⇩ new

(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.

↓ 2011/98/EU (adapted)
⇨ new

Article 17~~15~~

Reporting

1. Periodically, and for the first time ⌦ no later than […] ⌫ ~~25 December 2016~~, 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.

2. Annually, and for the first time ~~by 25 December 2014~~ ⌦ 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 ~~of 11 July 2007 on Community statistics on migration and international protection~~[60]. ⇨ Those statistics shall relate to reference periods of one calendar year, be disaggregated by type of decision, reason, length of validity and citizenship and be transmitted within six months after the end of the reference period. ⇦

↓ 2011/98/EU (adapted)

Article 18~~16~~

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 ⌫ ~~this Directive~~ by ⌦ [two years after the entry into force] ⌫ ~~25 December 2013~~. They shall ~~forthwith~~ ⌦ immediately ⌫ communicate ⌦ the text of those measures ⌫ to the Commission ~~the text of those provisions~~.

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. ~~The methods of making such reference shall be laid down by Member States.~~ ⌦ They shall also include a statement that references in existing laws, regulations and administrative provisions to the directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.⌫

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

[60] 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).

⌦ *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~~17~~

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)]. ⌫

↓ 2011/98/EU

Article 21~~18~~

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*