

Migration policy: single application procedure for a single permit to reside and work, common set of rights for third-country workers

2007/0229(COD) - 24/03/2011 - Text adopted by Parliament after reconsultation

The European Parliament adopted by 311 votes to 216, with 81 abstentions, a legislative resolution on the 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.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Purpose: the purpose of this Directive is to determine :

- 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
- 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**.

The provisions of this Directive are **without prejudice to the Member States' powers concerning the admission of third-country nationals to their labour markets**.

Definitions: among the amended definitions, there is that of the ‘**third-country worker**’ which means any third-country national who has been admitted to the territory of a Member State, is legally resident and is allowed to work under national law and/or in accordance with national practice in that Member State.

‘**Working conditions**’ in this Directive are to be understood to cover at least pay and dismissal, health and safety at the workplace, working time and leave taking into account collective agreements in force.

‘**Single permit**’ means a **residence permit** issued by the authorities of a Member State allowing a third-country national to stay legally in its territory in order to work there.

Scope of application: the Directive would apply to:

- third-country nationals seeking to reside in the territory of a Member State in order to work there
- third-country nationals who have been admitted for purposes other than work under national or Union law, are allowed to work and are issued a residence permit in accordance with [Regulation \(EC\) No 1030/2002](#);
- third-country nationals who have been admitted for the purpose of work under national or Union law.

This Directive shall not apply to the following groups of third-country nationals:

- **posted workers** (this should not prevent third-country nationals who are legally resident and lawfully employed 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);
- who have applied for admission or have been admitted to the territory of a Member State to work as **intra-corporate transferees**;
- who have applied for admission or have been admitted to the territory of a Member State to work on a seasonal basis or as au pairs;
- 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 or who are beneficiaries of international protection or have applied for international protection and whose application has not yet given rise to a final decision;
- who have applied for admission or have been admitted to the territory of a Member State as **self-employed workers or as seafarers**.

It is also specified that the Member States may decide whether or not this Directive should apply to third-country nationals who have been either authorised to work on its territory for a period not exceeding six months or admitted for the purpose of study. In any event, the provisions of this Directive shall not apply to third-country nationals who are authorised to work **on the basis of a visa**.

Application by employer: Member States would determine whether applications for a single permit are to be made by the third-country national or by his or her **employer**. If the application is to be submitted by the third-country national, Member States shall allow the application to be introduced from a third country or, if provided for by national law, on the territory of the Member State in which he or she is already legally present.

The single application procedure shall be without prejudice to the visa procedure which may be required for initial entry. Where the conditions provided for are met, Member States shall issue a single permit 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.

Information supporting the application for a single permit: Member States shall provide, upon request, adequate information to the third-country national and the future employer on the documents required to make a complete application. If the information or documents supporting 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 and may set a reasonable deadline to provide them. If additional information or documents have not been provided within the deadline, the application may be rejected.

Single permit: when issuing the single permit, **Member States shall not issue any additional permits** as proof of the access given to the labour market.

Reasons for rejecting an application: reasons shall be given in the written notification for a decision rejecting the application for a single permit, not modifying or not renewing the single permit, or withdrawing the single permit on the basis of criteria provided for by national or Union law. Any such decision shall be open to a **legal challenge** in the Member State concerned.

Inadmissibility of an application: an application may be considered as inadmissible on the grounds of volumes of admission of third-country nationals coming for employment and therefore has not to be processed.

Right to equal treatment: in accordance with the principles underlying the Directive, third-country workers shall enjoy equal treatment with nationals of the Member State where they reside with regard to working conditions, including pay and dismissal as well as health and safety at the workplace, working time, holidays, in accordance with the relevant national procedures. Branches of social security such as those defined by [Regulation \(EC\) No 883/2004](#) also apply.

Restrictions with respect to the principle of equal treatment: the Directive provides for a number of **derogations** to the principle of equal treatment. Nevertheless, this Directive should not confer on third-country workers more rights than those already provided in the existing Union legislation in the field of social security for third-country nationals who have cross-border elements between Member States. Equal treatment of third-country workers does not cover measures in the field of **vocational training** which are financed under social assistance schemes.

This Directive, furthermore, should not grant rights in relation to situations which lie outside the scope of Union legislation, for example family members residing in a third country. This Directive grants rights only in relation to those family members who join the third-country worker to reside in any Member State on the basis of **family reunification** or to those family members who already reside legally in the given Member State. Because Union law does not limit the power of the Member States to organise their social security schemes, **it is for each Member State to lay down the conditions under which social security benefits are granted**, as well as the amount of such benefits and the period for which they are granted.

Derogations also exist to restrict equal treatment in certain fields, e.g. access to social housing and advice services or certain tax benefits. Member States may decide that only those third-country nationals authorised to work on their territory for more than six months may benefit from family allowances.

Member States should at least **give equal treatment** to those third-country nationals who are in employment or who after a period of employment are registered as unemployed after a minimum employment period of six months.

More favourable provisions: this Directive should be applied without prejudice to more favourable provisions contained in Union law and international instruments.

It should be noted that this position follows on from the rejection in plenary of a previous position by 350 against to 306 for and 25 abstentions.