

# Scientific research: admission to the Community by third-country national researchers, improving mobility

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The Commission presents a report on the application of Directive 2005/71/EC on a specific procedure for admitting third- country nationals for the purposes of scientific research.

To recall, the overall aim of the Directive is to reduce obstacles to the entry and residence in the EU of third-country national researchers and to grant them intra-EU mobility rights. The Directive introduced a mechanism that was new to the then existing EU acquis in the area of migration. Specifically approved research organisations could conclude hosting agreements with researchers on the basis of which a researcher would no longer require a work permit in addition to a residence permit.

This report assesses the application of the Directive.

The legal analysis shows that **Member States have transposed most of the key elements** of the Directive, be it the approval of research organisations, hosting agreements or application procedures. However, the report sets out the **need for improvement in certain areas** - through enhanced transposition, possible amendments to the Directive and better guidance and information provision.

**Definitions:** basic definitions such as 'researcher' and 'research organisation' need to gain a **uniform understanding in all Member States** bound by the Directive. While a majority of Member States have defined 'research' and 'research organisation' in line with the Directive, less than half of Member States have done so for the definition of 'researcher'. To complete the European Research Area and increase the attractiveness of Europe as a research destination, it is important that all Member States interpret and apply the definitions in a uniform way.

**Researchers' rights:** Member States' effective implementation of the Directive is paramount, in particular by providing **clear and unambiguous definitions of researchers' rights**, safeguarding them in the event of the withdrawal of a research organisation's approval, and by making clear distinctions between permits for researchers and other types of permits. The directive provides for the lapsing of the hosting agreement if a researcher is not admitted to the country or if the legal relationship between the researcher and the research organisation is terminated. Most Member States have complied. The transposition is incomplete in 2 Member States, where the lapsing of researchers' residence permits is regulated rather than the lapsing of their hosting agreements.

**Possible amendments to the Directive:** the report points to a number of areas in which the Directive may need to be amended. These include:

- **clear definitions regarding the legal quality and format of hosting agreements** : in the hosting agreement the researcher undertakes to complete the research project and the research organisation undertakes to host the researcher for that purpose. Member States have addressed this provision in different ways, with the majority of countries applying only the hosting agreement, others requiring an employment contract instead of or in addition to the hosting agreement while 2 countries require only an employment contract;
- **a more uniform way of updating and publishing the list of research organisations** : in some Member States there are no legal obligations to publish the list, and others publish the list only in

official documents which can be difficult to access. 'Regular update' is interpreted in different ways, with some updates being done only on an annual basis;

- **laying down of time limits for deciding on an application:** Member States are required to adopt a decision on a researcher's admission as soon as possible and - where appropriate - to provide for accelerated procedures. Transposition is fully compliant in most countries, with some using the wording of the Directive whereas others set explicit time limits and 5 Member States have no provision.

The reinforced [Global Approach to Migration and Mobility](#) (GAMM) provides an appropriate context to strengthen the application of the Directive. The partnership frameworks under the GAMM, in particular mobility partnerships, will offer opportunities to attract researchers from key partner regions such as the Southern and Eastern Neighbourhood.

The need to improve and promote the Directive is underlined also by the low numbers of researchers admitted under the Directive (6,945 in 2010, many coming from India, China, the United States, the Russian Federation and Japan). This is in stark contrast to the challenges at stake. In order to meet the Europe 2020 target of increasing R&D investment to 3% of GDP, **one million additional researchers will be needed**. The Council calls for larger numbers of talented people to be attracted to and encouraged to remain within the European Research Area.

Attention should also be given to the objective set in the Strategy for **equality between women and men 2010-2015**, as there is still a large gender imbalance among researchers.

Improvements can be made in several ways. **Provision of information and raising awareness** of the possibilities the Directive offers are important and the Commission is playing its part, mainly through the EURAXESS portal and the network of EURAXESS Service Centres as well as the Immigration Portal. Moreover, the **mobility partnerships** and other cooperation tools and partnership frameworks under the GAMM will be used to further improve the provision of information and awareness raising to priority partner countries.