

# Third-country nationals: conditions of entry and residence for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

## Recast

2013/0081(COD) - 11/05/2016 - Final act

**PURPOSE:** to adopt new rules with a view to making the EU more attractive for students and researchers from third countries.

**LEGISLATIVE ACT:** Directive (EU) 2016/801 of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing

**CONTENT:** this Directive consists of a **recast of Council directives 2004/114/EC and 2005/71/EC**. It aims to establish a coherent legal framework for different categories of third- country nationals who wish to come to the EU. It provides for **harmonised conditions of entry and residence in the EU** for researchers, students, trainees and volunteers taking part in the European Voluntary Service from third countries.

The Directive aims to **make the European Union an attractive place for research and innovation**, and to advance it in the global competition for talent, leading to strengthening its competitiveness, boosting growth and creating jobs.

**Scope:** the Directive's application is **mandatory** for third-country nationals applying to enter or who have entered the territory of a Member State for the purpose of research, studies, training or voluntary service in the European Voluntary Service.

Member States **have the option** of applying the Directive's provisions to third country nationals wishing to enter for the purposes of participating in a school exchange scheme, or educational project, volunteers not covered by the European Voluntary Service and au pairs.

Regarding trainees, the Directive abolishes the distinction between remunerated and unremunerated trainees.

**General admission conditions:** the directive lists all the documents that can be required for entry, depending on the specific national system or the specific situation of the third-country national.

If so requested by the Member State, the applicant must provide evidence that during the planned stay, he will have **sufficient resources** to cover subsistence costs without having recourse to the Member State's social assistance system, and return travel costs.

The Directive gives Member States the option to require the applicant to provide the address where he or she will be residing on its territory. It **makes it obligatory for Member States to examine applications** also when the third-country national concerned is already residing in that Member State.

**Approval of host entities:** Member States shall be **free to decide** whether they will require that admission under this Directive will take place through approved host entities or not.

The Directive makes the approval procedure for research organisations optional, and also introduces an optional approval procedure for higher education institutions, education establishments, and organisations responsible for a voluntary service scheme or entities hosting trainees. In case a Member State introduces such procedures, applications are facilitated.

**Authorisations and duration of stay:** the Directive provides for authorisations of:

- **a minimum of two years for students and researchers covered by programmes** (instead of one year for those not covered by programmes);
- **one year maximum** for au pairs;
- **a maximum of six months for trainees.** If the duration of the agreement is longer than six months, the duration of the validity of the authorisation may correspond to the period concerned in accordance with national law.

**Grounds for rejection:** the Directive aligns to a great extent, the grounds for rejection to those of the [Intra Corporate Transferee Directive](#). Furthermore, it allows member States to reject an application where the Member State has evidence or serious and objective grounds to establish that the third-country national would **reside for purposes other than those for which he or she applies to be admitted.**

Similarly to the grounds for rejection, the Directive, to a great extent, aligns the grounds for withdrawal or non-renewal to those of the Intra Corporate Transferee Directive.

**Specific conditions for trainees:** apart from presenting a training agreement, which provides for a theoretical and practical training, with a host entity, the applicant must prove of having obtained a higher education degree **within the two years preceding the date of application** or of pursuing a course of study that leads to a higher education degree.

Member States may require the traineeship to be **in the same field** and at the **same qualification level** as the higher education degree or the course of study followed.

**Economic activities by students:** students from third countries will have access to the labour market to **15 hours per week** outside the time allocated for studying.

**Job-searching/setting-up of a business:** the Directive provides for the possibility for researchers and students to stay on the territory of the Member State that had issued them an authorisation under the Directive, to seek employment or set up a business for a period of at least **9 months after the end of their research or studies.**

Member States may also require that the employment a third-country national is seeking or the business he or she is in the process of setting up corresponds to the level of research or of studies completed. Regarding students, the Directive gives Member States the possibility of applying these provisions only to those having **achieved a minimum level of academic degree** (which must not be higher than level 7 of the European Qualifications Framework, i.e. Masters level).

**Intra-EU mobility:** third-country nationals conducting research or following studies in one member State may, in certain cases, **enter another Member State for the purposes of carrying out part of their research or studies on notification.** This is a simplified procedure, thanks to which students and researchers can move to a second Member State on the basis of the authorisation of the first Member State:

- **for researchers**, this procedure applies in the case of short-term mobility (up to **6 months**). For mobility going beyond this period, the Member State can apply either the notification procedure, or alternatively an application procedure. Researchers' family members are entitled to move with the researcher on the basis of the same rules;
- **students** who hold a valid authorisation issued by the first Member State and who are covered by a Union that comprises mobility measures are entitled to enter and stay in order to carry out part of their studies in a higher education institution in one or several second Member States for a period **up to 360 days per Member State.**

Procedural guarantees: the Directive provides a maximum period of 90 days for Member States to decide on applications, except when the admission procedure is related to an approved host entity. In this case, the deadline is 60 days.

ENTRY INTO FORCE: 22.5.2016.

TRANSPOSITION: by 23.5.2018.