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

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The Commission presents a report on Directive 2011/98/EU 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 report gives an overview of the transposition and implementation of the Directive by 24 Member States and identifies possible problematic issues. The report, initially envisaged to be presented by 25 December 2016, was postponed to coincide with the adoption of the Commission's comprehensive evaluation of the legal migration regulatory framework (fitness check).

The main findings were as follows:

Subject matter

The report noted that, overall, the Directive's subject matter has been correctly reflected in the national legislation of all Member States. In general terms, 23 Member States transposed the Directive through amendments to their existing national legislation, that is to say mainly by altering the acts regulating the entry and residence of third country nationals. In Malta, a special self-standing law was adopted to transpose the Directive.

Fees

Member States require applicants to pay fees, where appropriate, for handling applications in accordance with the Directive. Such fees are levied by all Member States for processing the application. In some cases, the Commission takes the view that the fees are excessively high.

Export of pensions

Thirteen Member States allow for the transfer of pensions (covering old age, invalidity and survivors' benefits) to third countries. Nationals and third country nationals are treated equally in this regard. Problems were identified in Slovenia, France, the Netherlands and Bulgaria.

Single application procedure

An application to issue, amend or renew a single permit shall be submitted through a single application procedure. In the majority of Member States the relevant application may be submitted only by the third country national, in two Member States only by the employer (BG and IT) and in several others by either the third country national or the employer.

In some Member States permits are not issued through a single administrative act. Instead, the applicable national procedures involve duplication of submission of documentation and/or long procedures. In some Member States an employment clearance is a first step before the third country national can apply for a

visa. The employment clearance is generally requested by the employer (FR, RO, ES, BG, PT). For other Member States (e.g. LV and LT), the registration of the vacancy by the employer is required before the issuance of the visa for the third country national to enter the country.

These multiple step procedures could hamper compliance with the Directive if such procedures, and the time needed to complete them, were considered to be outside the single application procedure and therefore the four-month deadline established by the Directive. In particular, employment authorisations should be considered part of the single application procedure when the required clearance relates to a specific third country national and for a concrete position.

One stop shop

A key aspect of the Directive is the establishment of a 'one-stop-shop' mechanism at national level. This is particularly important when dealing with the organisational structure of governmental institutions where the issue of work and residence permits for third country nationals is under the responsibility of different authorities. All Member States have stepped up their efforts to set up this type of mechanism. However, there are still problematic issues with the procedure. The remaining problems mainly relate to the multiple administrative steps required, the time needed to obtain the entry visas and labour market clearance and the respect of certain procedural safeguards.

Extended rights

The Directive also guarantees to third country nationals who are holders of a single permit an extended set of rights and promotes the principle of non-discrimination. Equal treatment provisions are a key element of the EU legal migration framework. Most Member States have complied with the provisions on equal treatment and a limited use has been made of the provisions allowing certain rights to be restricted. This report reveals, however, certain deficiencies in the transposition of the Directive (for example, restrictive interpretation of equal treatment provisions in a few Member States) which should lead to further steps being taken at EU and national levels. Finally, the fitness check on legal migration showed a lack of information among third country nationals about the possibility of obtaining a single permit and the rights attached to it.

Conclusions

The report concluded that the Commission will continue its efforts to ensure that the Directive is correctly transposed and implemented across the EU. In order to achieve this result, the Commission will make full use of its powers under the Treaty, including by launching infringement procedures, where necessary.

At the same time, the Commission will continue working with the Member States at the technical level. Some legal and technical issues could be further discussed and clarified, such as visa and labour market test requirements, equal treatment coverage and issues related to the format of the permits and the information it should contain. Moreover, single permit holders should be better informed about their rights under the Directive.

The Commission will make the best use of existing websites, mainly via the updated Immigration Portal and will encourage and support Member States in launching awareness-raising campaigns to inform potential applicants of rights and procedures to obtain the single permit.