

# Single Permit Directive. Recast

2022/0131(COD) - 27/04/2022 - Legislative proposal

**PURPOSE:** to recast the Directive 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.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

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

According to available statistics, of all 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 purposes and 368 509 (12%) for other reasons.

The evaluation of the Directive in the context of the 2019 fitness check of EU legislation on legal migration and its implementation reports identified **several gaps in the personal and material scope, inconsistencies and shortcomings**, as well as practical problems arising from the application of the Directive by Member States. During the ten years of application of the Directive, the Commission has received several complaints about its implementation by Member States (e.g. failure to comply with the legal deadlines for issuing a single permit or problems related to social security).

This proposal aims to **streamline the single permit application procedure and make it more efficient**. Currently, the overall length of the application procedures discourages employers from recruiting from abroad. Reducing this time should help to increase the attractiveness of the EU and address the labour shortages that the EU faces. It is also important to **strengthen safeguards and equal treatment** between third-country nationals and EU citizens, and to better protect the former against labour exploitation.

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, 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 package also includes the recast of Directive 2003/109/EC on long-term residents.

**CONTENT:** the Commission proposes to **update the Single Permit Directive** in order to further streamline the application procedure for a combined residence and work permit, and to strengthen guarantees for equal treatment and protection against labour exploitation.

## *Scope of application*

Several changes in the recast proposal aim to clarify the scope of Directive 2011/98/EU, and in particular the exclusions from the scope. Third-country workers posted from another Member State are excluded from the scope as they are not considered as belonging to the labour market of the Member State to which they are posted. The Directive would also not apply to third-country nationals who have been admitted to the territory of a Member State to work as intra-corporate transferees or as seasonal workers.

The proposal extends the personal scope of the Directive to **persons enjoying protection under national law** who are currently not fully covered by the provisions on equal treatment.

### *Single application procedure*

The recast proposal provides that Member States should allow for a single application for a permit to be made both in the Member State of destination and from a third country and requires Member States to issue the required visa when the requirements laid down by Union or national law are met.

Furthermore, the **four-month period** for the adoption of a decision should also include the issuing of the required entry visa and the time needed to carry out the labour market situation before deciding on an application for a single permit.

### *Rights on the basis of the single permit*

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. The proposal has been clarified 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.

### *Equal treatment*

The proposed amendments clarify that equal treatment will apply to access to private housing and that any restrictions introduced by Member States may only concern access to public housing. They clarify the provisions regarding access to social security coverage and specify that third-country nationals who are authorised to work under a visa would be entitled to family benefits if they work in the Member State concerned for a period exceeding six months.

### *Monitoring, risk assessment, inspections and penalties and facilitation of complaints*

Member States should provide for effective, proportionate and dissuasive sanctions against employers for failure to comply with national provisions adopted pursuant to the Directive, in particular as regards working conditions, freedom of association and membership and access to social security benefits. These measures should include monitoring, risk assessment and, where appropriate, inspection.

In order to improve compliance with the Directive, redress mechanisms would be set up. They should be open not only to single permit holders, but also to third parties who, in accordance with the criteria established by national law, have a legitimate interest in ensuring compliance with the Directive.