

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

2004/0061(CNS) - 16/03/2004 - Legislative proposal

PURPOSE : a specific procedure for admitting third-country nationals into the EU for scientific research purposes **PROPOSED ACT** : Council Directive. **CONTENT** : this proposed Council Directive seeks to fulfil the Lisbon Agenda's pledge to make the European Union the most competitive and dynamic knowledge-based economy in the world by 2010. It proposes to do so by making it easier for third country nationals to conduct research in the European Union. As part of the Lisbon Agenda 3% of national GDP should be devoted to R&D by 2010. To realise such an ambitious target the European Research Area would need to find an estimated 700 000 extra researchers. In the tight time frame available this is not feasible. The proposed Directive, therefore, seeks to facilitate the stay of third-country researchers in the European Union to help fill the gap. Moreover, talented researchers from non-member countries would help contribute towards making Europe the most knowledge-based economy in the world. The Directive has been drawn up by the Commission's Research Directorate but in close collaboration with the Ministries for Justice and Home Affairs in the Member States. In order to offer easier access to live and work in the EU for third-country nationals the Directive has been drawn up along the following lines: - The proposed Directive provides for the introduction of a special admission mechanism for researchers from non-member countries. Significantly, it is an authorised research organisation - and not the Member State, who plays the leading role in the procedure leading to the issuing of a residence permit. The aim is to facilitate the admission and mobility of researchers by relieving the immigration authorities in the Member States of the task of checking whether the person has the necessary skills as well as the financial means to live and work in Europe. - The authorised research organisation will be responsible for signing "hosting agreements" with third-country nationals. A hosting agreement should offer guarantees such as the ability to complete the proposed research as well as funding and/or financial guarantees. The signing of a hosting agreement will automatically trigger the admission procedure. Essentially, it is a legal contract by which the organisation undertakes to host the researcher and the researcher undertakes to complete the research project on the terms laid down and subject to the issuing of a residence permit by the immigration authorities. A separate legal instrument will be needed to determine the legal status of the third-country national (i.e. employment contract, fellowship, scholarship etc.) - The admission procedure would not impinge on the powers of the Member States immigration authorities. Thus, for example, the authorised research organisation would be responsible for assessing the research to be undertaken, the financial status of the applicant, health insurance, length of stay etc. The Member States in turn would be responsible for checking the identity and travel documents of the researcher and to ascertain whether or not they present a threat to public order, public security or public health. A threat could also include the proposed research project. The admission procedures are drawn up in such a way as to ensure that trust is built up between the research organisation and the immigration authorities. - A research organisation could mean any type of public or private establishment or firm conducting research, such as a university, a laboratory, a research centre, a foundation, a firm, an international organisation or non-governmental organisation etc. Any research organisation wishing to grant hosting agreements has to be approved. Approval arrangements differ according to whether they are involved in research as a principle activity or as an ancillary activity. An additional requirement is imposed on private organisations in order to limit the risks of the procedure being abused. If a researcher stays on illegally, the research organisation would be responsible for any extra costs incurred. Any research organisation seen to be abusing their status can have their status withdrawn by the Member States. - The proposed Directive offers a broad interpretation of a "researcher". Thus, a third-country national applying for research work need not necessarily be defined as a "researcher" in their country of origin. They could also include high-level professionals, experts or young graduates. Their application must come complete with a proposed research project, its

duration, funding proposals etc. - A simplification of the conditions under which researchers can be admitted as migrants is planned. Although their tax status may vary depending on domestic law all third-country researchers will benefit from a uniform status under alien legislation. - Mobility is seen as vital to many researchers. Consequently, this Directive proposes easier mobility within the EU for non-member country researchers. The Directive allows researchers in possession of a residency permit and a passport or travel document to pursue activities related to their research project in a second Member State during the period of validity of their permit. The simplified admission procedure can easily be relaunched in the Member State in which the researcher wishes to prolong his or her research, by signing a new hosting agreement. Further, providing that he or she is in the country legally, the Directive allows for "on-the-spot" applications for a residence permit. This allows researchers to extend a short stay into a long stay. In order to speed up the procedure Member States must issue the residence permit within thirty days of the submission. - Lastly, the proposed Directive fulfils the twin principles of subsidiarity and proportionality. The Directive is binding as regards the general principles whilst giving Member States the freedom to choose the most appropriate means for applying these principles in their domestic legislation. The Directive is being proposed alongside two related Recommendations (CNS/2004/0062 and CNS/2004/0063).