Basic information

2001/0074(CNS) CNS - Consultation procedure Directive	Procedure completed
Status of third-country nationals who are long-term residents Amended by 2007/0112(COD) Amended by 2016/0223(COD) Amended by 2020/0279(COD) **Subject** 7.10 Free movement and integration of third-country nationals 7.10.08 Migration policy	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	LUDFORD Baroness Sarah (ELDR)	11/06/2001

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	MEDINA ORTEGA Manuel (PSE)	26/06/2001
EMPL Employment and Social Affairs	MANDERS Antonius (ELDR)	17/05/2001
PETI Petitions	GONZÁLEZ ÁLVAREZ Laura (GUE/NGL)	10/07/2001

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2546	2003-11-25
Justice and Home Affairs (JHA)	2504	2003-05-08
Justice and Home Affairs (JHA)	2514	2003-06-05
Justice and Home Affairs (JHA)	2455	2002-10-14

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
13/03/2001	Legislative proposal published	COM(2001)0127	Summary
14/06/2001	Committee referral announced in Parliament		
21/11/2001	Vote in committee		Summary
21/11/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0436/2001	
04/02/2002	Debate in Parliament		
05/02/2002	Decision by Parliament	T5-0030/2002	Summary
14/10/2002	Debate in Council		Summary
08/05/2003	Debate in Council		
25/11/2003	Act adopted by Council after consultation of Parliament		
25/11/2003	End of procedure in Parliament		
23/01/2004	Final act published in Official Journal		

Technical information

Procedure reference	2001/0074(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amended by 2007/0112(COD) Amended by 2016/0223(COD) Amended by 2020/0279(COD)
Legal basis	EC Treaty (after Amsterdam) EC 063
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/14700

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0436/2001	21/11/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0030/2002 OJ C 284 21.11.2002, p. 0024-0102 E	05/02/2002	Summary

European Commission

Document type	Reference	Date	Summary

Legislative proposal	COM(2001)0127 OJ C 240 28.08.2001, p. 0079 E	13/03/2001	Summary
Follow-up document	COM(2011)0585	28/09/2011	Summary
Follow-up document	COM(2019)0161	29/03/2019	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0585	13/04/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR0213/2001 OJ C 019 22.01.2002, p. 0018	19/09/2001	
EESC	Economic and Social Committee: opinion, report	CES1321/2001 OJ C 036 08.02.2002, p. 0059	17/10/2001	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2003/0109
OJ L 016 23.01.2004, p. 0044-0053 Summary

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 14/10/2002

The Council held a debate on some outstanding questions concerning the Directive on the status of third-country nationals who are long-term residents. The questions examined referred to the inclusion of refugees in the scope of the Directive, the duration of residence in a Member State that is required with a view to acquiring the status of long-term resident, the integration of third-country nationals as a condition for obtaining such status and the mobility of long-term residents. Following the debate, a large majority of delegations was of the view that refugees should be covered by the Directive, but in a separate article or chapter. Broad agreement was expressed by all delegations except one on the time-period of 5 years for acquiring permanent resident status. As regards the question of integration, a large majority of delegations favoured the possibility for Member States to set as a condition for acquiring long-term resident status that the third-country national comply with integration measures in accordance with national law. Finally, delegations agreed that the Directive should regulate and facilitate, subject to certain conditions, the mobility of the persons who have acquired long-term resident status from the Member State which has granted it to another Member State.

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 05/02/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the resolution drafted by Baroness Sarah LUDFORD (ELDR, UK) concerning the status of third-country national who are long-term residents. (Please refer to the summary dated 21/11/01). To recall, the aim of the proposal is to appropriate the national legislation and practice regarding the granting of long-term resident status to third-country nationals who are legally resident in the country in question, as well as to determine the conditions under which they made reside in an EU state other than the one which first granted them this status. Under the Commission proposal the status of long-term residence would be granted to individuals who have legally and continuously, for five years, lived in the Member State concerned. The proposal also provides for long-term residents to enjoy equal treatment with nationals in employment, education, social protection and assistance, social and tax benefits, freedom of association and the right to join trade unions. Parliament believes that this should be extended to include participation in public life at local level, exercise of cultural and religious activities as well as the right of access to the law. It is also stated that Member States shall take the necessary measures required to prevent discrimination in practice and to remedy cases of discrimination.

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 25/11/2003 - Final act

PURPOSE: to establish certain rules on the status of third-country nationals who are long-term residents in Member States.

LEGISLATIVE ACT: Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

CONTENT: The aim of this Directive is the integration of third-country nationals who are long-term residents in the Member States. Such integration is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty. The main provisions of the directive are as follows:

- the main criterion for acquiring the status of long-term resident is the duration of residence in the territory of a Member State . Residence must be both legal and continuous in order to show that the person has put down roots in the country. Provision is made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis;

- to acquire long-term resident status, third-country nationals must prove that they have adequate resources and sickness insurance, to avoid becoming a burden for the Member State. Member States, when making an assessment of the possession of stable and regular resources may take into account factors such as contributions to the pension system and fulfilment of tax obligations;

- moreover, third-country nationals who wish to acquire and maintain long-term resident status must not constitute a threat to public policy or public security. The notion of public policy may cover a conviction for committing a serious crime;

- economic considerations are not a ground for refusing to grant long-term resident status and will not be considered as interfering with the relevant conditions;

- the Directive lays down a set of rules governing the procedures for the examination of application for long-term resident status. Those procedures should be effective and manageable, as well as being transparent and fair, in order to offer appropriate legal certainty to those concerned. They must not constitute a means of hindering the exercise of the right of residence;

- the acquisition of long-term resident status will be certified by residence permits enabling those concerned to prove their legal status easily and immediately. Such residence permits must satisfy high-level technical standards, notably as regards protection against falsification and counterfeiting, in order to avoid abuses;

- long-term residents must enjoy equality of treatment with citizens of the Member State in a wide range of economic and social matters, under the relevant conditions defined by the Directive;

- with regard to social assistance, the possibility of limiting the benefits for long-term residents to core benefits is to be understood in the sense that this notion covers at least minimum income support, assistance in case of illness, pregnancy, parental assistance and long-term care. The modalities for granting such benefits will be determined by national law.

- Member States remain subject to the obligation to afford access for minors to the educational system under conditions similar to those laid down for their nationals;

- the notion of study grants in the field of vocational training does not cover measures which are financed under social assistance schemes. Moreover, access to study grants may be dependent on the fact that the person who applies for such grants fulfils on his/her own the conditions for acquiring long-term resident status. As regards the issuing of study grants, Member States may take into account the fact that Union citizens may benefit from this same advantage in the country of origin.

- in order to ensure protection to long-term residents against expulsion Member States should provide for effective legal redress;

- certain Member States issue permits with unlimited validity on conditions that are more favourable than those provided for by this Directive. This Directive provides that permits issued on more favourable terms do not confer the right to reside in other Member States;

- the directive provides that the right of residence in another Member State may be exercised in order to work in an employed or self-employed capacity, to study or even to settle without exercising any form of economic activity;

- family members are able to settle in another Member State with a long-term resident in order to preserve family unity and to avoid hindering the exercise of the long-term resident's right of residence. With regard to the family members who may be authorised to accompany or to join the long-term residents, Member States must pay special attention to the situation of disabled adult children and of first-degree relatives in the direct ascending line who are dependent on them;

- to avoid rendering the right of residence nugatory, long-term residents will enjoy in the second Member State the same treatment, under the conditions defined by this Directive, they enjoy in the Member State in which they acquired the status. The granting of benefits under social assistance is without prejudice to the possibility for the Member States to withdraw the residence permit if the person concerned no longer fulfils the requirements set;

- third-country nationals are granted the possibility of acquiring long-term resident status in the Member State where they have moved and have decided to settle under comparable conditions to those required for its acquisition in the first Member State;

- the United Kingdom, Ireland and Denmark do not take part in the adoption of this Directive, and are not bound by it or subject to its application.

ENTRY INTO FORCE: 23/01/2004.

DATE OF TRANSPOSITION: 23/01/2006.

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 28/09/2011 - Follow-up document

In accordance with the requirements of Directive 2003/109/EC, the Commission presents a report on the application of the Directive concerning the status of third-country nationals who are long-term residents (LTRs). Such residents are granted a secure residence status, including a set of uniform rights which are as close as possible to those enjoyed by the citizens of the EU and, under certain conditions, the right to reside in other Member States. The Directive promotes the principle of non-discrimination and lays down for the first time provisions to facilitate mobility from one Member State to another. It applies to more than half a million third-country nationals in 24 Member States. Its scope was recently extended to beneficiaries of international protection by the amending Directive 2011/51/EU.

The report gives an overview of the transposition and implementation of the Directive by Member States and identifies problematic issues. It has been drawn up on the basis of a study conducted on behalf of the Commission and other sources, including a number of ad-hoc queries launched through the European Migration Network, individual complaints, questions, petitions, discussions with Member States on practical issues arising from application of the Directive and other studies.

Transposition: Member States had to comply with the Directive by 23 January 2006. In 2007, the Commission initiated infringement proceedings against 20 Member States for not having implemented the Directive in time or for not having properly informed the Commission of the adoption of national legislation implementing the Directive. Judgments were handed down by the European Court of Justice against three Member States (Spain, Portugal and Luxembourg).

Implementation: the report discusses the implementation by Member States of the provisions of the Directive, including personal scope, the requirement for lawful residence of 5 years, resources and sickness insurance, integration requirements, public order and public security, documentary evidence, loss of status and right to equal treatment.

The Commission states that the **weak impact of the LTR Directive in many Member States is to be deplored**. In 2009, around four fifths of these third-country nationals having LTR status were living in four Member States: Estonia (187 400), Austria (166 600), Czech Republic (49 200) and Italy (45 200). In France and Germany, only 2 000 third-country residents had acquired the LTR permit. Moreover, the available data indicates that **only small numbers of LTR third-country nationals have made use of this new avenue for mobility within the EU so far** (fewer than 50 per Member State). Even though third-country nationals residing for more than 5 years do not automatically meet the conditions for being granted LTR status (for example, because they do not meet the income requirement) or may qualify for citizenship and prefer to acquire such status, the difference between potential LTRs and those granted this specific status is important.

This report reveals a **general lack of information among third-country nationals about the status of LTR** and the rights attached to it, as well as many deficiencies in the transposition of the Directive, which may be summarised as follows:

- **Restrictive interpretation of the scope**: the Directive applies to third-country nationals lawfully residing in the territory of a Member State . However, a series of exclusions are provided for. Specific problems arise with respect to the exclusion of third-country nationals who have been admitted solely on temporary grounds. Some Member States apply a very broad reading of the exception contained in the provision and define the status of certain categories of third-country nationals as temporary, even though their residence permit may be renewed for a potentially indefinite period, without any definite time limit and regardless of the total duration of residence in the Member State. Artists, athletes, ministers of religion, social workers, researchers, family members of permanent third-country nationals, low skilled migrant workers or other third-country nationals whose stay is unduly labelled 'temporary' may thereby be excluded from EU long-term residence status in Austria, Cyprus, Greece, Italy, and Poland. This restriction of the personal scope of the Directive seriously affects the 'effet utile' of the Directive. This issue is the subject of a preliminary referral to the European Court of Justice by the Dutch Raad van State in case C-502/10 (M. Singh).
- **Additional conditions for admission, such as high fees:** the report cites the Member States in which fees range from EUR 260 to EUR 600 and states that htis can be seen as problematic. This issue is the subject of an infringement procedure before the Court of Justice.
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Illegal obstacles to intra-EU mobility: such mobility is much enhanced in those Member States where LTRs who obtained that status in another Member State are exempted from the labour market test (and in some cases from the work permit requirement as well), namely in Belgium, Cyprus, Hungary, Latvia, Poland, Portugal and Sweden. In Italy, Romania and Slovenia, national quotas - as distinct from those provided for by Article 14(4)35 - apply. The conformity of these quotas with the Directive depends on whether they are based on a labour market assessment. Therefore, the Italian quotas broken down by nationality appear to be in breach of the Directive.

The report also discusses the **watering down of the right of equal treatment and protection against expulsion**.

These problems should lead to further steps being taken, at EU and national levels.

Steps to be taken: the Commission will increase its efforts to ensure that the Directive is correctly transposed and implemented across the EU, making full use of its powers under the Treaty and launching infringement proceedings when necessary. Five years after the deadline for the transposition of the Directive, it is now high time to put it to full use. At the same time, the Commission will continue working with Member States at the technical level, and clarify certain issues such as: integration measures and conditions; specific rules on the admission of LTR in the second Member State; protection against expulsion; and exchange of information between Member States.

Moreover, LTRs should be better informed about their rights under the Directive. The Commission will make the best use of existing websites, mainly via the future Immigration Portal, and is considering preparing a simplified guide for LTRs. The Commission could also encourage and support Member States in launching awareness-raising campaigns to inform LTRs of their rights.

Lastly, in order to promote LTR status, advance the integration of third-country nationals and improve the functioning of internal market, amendments to the Directive could also be considered, such as:

- taking better account of temporary stays in the calculation of the 5-year period;
- further encouraging circular migration through more flexible arrangements as regards periods of absence of the EU territory, in line with the EU Blue Card scheme;
- facilitating access to the labour market of the second Member State; and
- further simplifying the acquisition of LTR status in the second Member State.

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 13/03/2001 - Legislative proposal

PURPOSE: to present a Commission proposal concerning the status of third-country nationals who are long-term residents. CONTENT: This proposal is part of a broader effort on immigration which the Commission has been making for several years now (e.g. proposal for a Council Regulation amending Regulation 1408/71/EC). The Commission will be presenting a fresh proposal for a Directive recasting the existing legislation in a single instrument with the primary objective of facilitating freedom of movement and residence, reducing bureaucracy, better regulating the status of family members of citizens of the Union and defining the possibilities for refusing or withdrawing the right of residence. The proposal will be brought forward in the first half of 2001. With regard to the current proposal, to permit fair treatment of third-country nationals and promote their full integration, as called for by the Tampere European Council in October 1999, the Commission considers that there should be a common status of long-term resident so that all third-country nationals residing legally can acquire it and enjoy it on much the same terms in all the Member States. Criteria must therefore be determined for the acquisition of the status and the rights that go with it, on the basis of equal treatment with citizens of the Union in the spirit of the Tampere conclusions. For the sake of certainty as to the law governing third-country nationals, it is essential that acquisition of the status should not be left to Member States' discretion where the conditions are actually met. The status will be available to all third-country nationals who reside legally in the territory of a Member State on a long-term basis. This category covers refugees with recognised status under the Geneva Convention and third-country nationals who are members of the family of a citizen of the Union. The only excluded categories are those who are not intending to actually settle, in particular persons resident in order to study or to engage in a seasonal occupation and those enjoying temporary protection. Lastly, persons enjoying a subsidiary or additional form of protection are not within the scope of the proposal as these concepts have not been harmonised in the Community. Long-term residents enjoying the status will enjoy equal treatment in a series of respects, ranging from access to employment and self-employed activity to education and vocational training and social protection and assistance. They will also have enhanced protection against expulsion. This proposal however, does not address voting rights and access to nationality as they are a matter for national powers. This proposal preserves a very tight link between actual legal residence in a Member State and acquisition of long-term resident status; putting down roots in a Member State is regarded as sine qua non for acquiring the status provided for by the proposed Directive, which establishes equal treatment with nationals of the Member State in a wide range of aspects of economic and social life and offers the possibility of residing in other Union Member States. This proposal is a first step towards giving effect to Article 63(4) of the EC Treaty, which can be used as a legal basis for other specific instruments for the mobility of the admissionof third-country nationals not wishing to settle on a long terms basis. In its proposals on the admission of third-country nationals for the purposes of working in an employed or self-employed capacity, studying or vocational training or non-gainful activities, the Commission will provide as necessary for appropriate forms of mobility between the Union Member States.

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 29/03/2019 - Follow-up document

The Commission presents its second report on the implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (LTR). As a reminder, the first report in 2011 on the implementation of the Directive revealed a general lack of information among third-country nationals about the EU long-term residence (LTR) status and the rights attached to it, as well as a number of shortcomings in the transposition of the Directive into national law (for example, restrictive interpretation of its scope, additional conditions for admission, high administrative fees, illegal obstacles to intra-EU mobility, watering down of the right of equal treatment and protection against expulsion).

The original exclusion of refugees from the scope of the Directive was lifted in 2011. However, the Directive still does not apply to third-country nationals who have a form of protection other than the one laid down in the Asylum Qualification Directive. The question as to how national protection statuses should be distinguished from other national legal residence statuses has not been fully clarified so far by the case-law of the European Court of Justice or national courts.

Findings

The report states that since 2011, the implementation state of play of the long-term residents Directive across the EU has improved, thanks to the numerous infringement cases launched by the Commission and judgements issued by the European Court of Justice. The 2011 report highlighted the low impact that the Directive had had in many Member States, with few EU LTR permits issued, and 80% of them issued by only four Member States. In 2017, though a higher general uptake can be reported (3 055 411 EU LTR permits compared to 1 208 557 in 2008), the same four countries account for an even higher percentage of EU LTR permits issued (90%), with Italy having issued around 73% of them. This low uptake can be attributed to the lack of information available about the LTR status among not only third-country nationals but also the national migration administrations; and to the "competition" with long-established national schemes, which are allowed under the Directive (21 Member States out of 25 have retained their national schemes).

The Directive's main objectives are to:

- constitute a genuine instrument for the integration of third-country nationals who are settled on a long-term basis in the Member States; and

- contribute to the effective attainment of an internal market.

On the first objective, most Member States have not actively promoted the use of the EU LTR status, and continue to almost exclusively issue national long-term residence permits unless third-country nationals explicitly ask for the EU permit. In 2017, in the 25 Member States bound by the Directive there were around 3.1 million third country nationals holding a EU LTR permit, compared to around 7.1 million holding a national long-term residence permit. However, as highlighted by academic literature, if it was ascertained that the national immigration authorities actively promoted the national permit instead of the EU permit, this would undermine the point of the Directive.

The Commission will monitor this aspect of the implementation of the Directive and will encourage the Member States to take up the EU LTR permit as an instrument that is beneficial to the integration of third-country nationals.

On the second objective, the way that most Member States have implemented the intra-EU mobility provisions of the Directive has not really contributed to the attainment of the EU internal market. Only few long-term residents have exercised the right to move to other Member States. This is also because in some cases exercising this right is subject to as many conditions as the ones for a new application for a residence permit, or the competent national administrations do not have enough knowledge of the procedures.

In addition, the following points should be noted:

Conditions for acquiring long-term resident status: as clarified by the European Court of Justice with reference to the Family Reunification Directive, Member States may not impose a minimum income level below which all applications will be refused, irrespective of an actual examination of the individual case. This interpretation can also be applied to this Directive.

Application fees: the Directive does not contain any provisions on application fees. However, the 2011 report highlighted the fact that excessively high fees should be regarded as contrary to the principle of proportionality and as equivalent to an unlawful additional condition for admission endangering the "*effet utile*" of the Directive. This was confirmed by the ECJ in two judgements of 2012 and 2015 (*C-508/10 (Commission v. Netherlands),* and *C-309/14 (CGIL & INCA*)) respectively. On the basis of this, the Commission launched infringement procedures on disproportionate fees against a number of Member States: the Netherlands, Italy, Bulgaria, and Greece and Portugal. All cases were closed after remedial action, except proceedings against Portugal, which remains open.

Equal treatment: as highlighted in the 2011 report, several Member States have not adopted specific transposition measures of the equal treatment principle in their immigration legislation. The Commission has received numerous complaints on this issue and has taken action against some Member States. In 2018 the Commission launched infringement proceedings against Hungary with regard to a national law barring long-term residents access to the veterinary profession.

The Commission will encourage Member States to improve the implementation of the intra-EU mobility provisions by promoting the cooperation and exchange of information between national authorities, and will continue to monitor the implementation of the Directive.