

Basic information

2007/0112(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Directive

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

Amending Directive 2003/109/EC 2001/0074(CNS)

Subject

7.10 Free movement and integration of third-country nationals
7.10.04 External borders crossing and controls, visas
7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)
7.10.08 Migration policy

Procedure completed

Key players

European
Parliament

Committee responsible

LIBE

Civil Liberties, Justice and Home Affairs

Rapporteur

MORAES Claude (S&D)

Appointed

04/03/2010

Shadow rapporteur

GABRIEL Mariya (PPE)

WIKSTRÖM Cecilia (ALDE)

SARGENTINI Judith (Verts /ALE)

KIRKHOPE Timothy (ECR)

TRANTAPHYLLOIDES
Kyriacos (GUE/NGL)

Former committee responsible

LIBE

Civil Liberties, Justice and Home Affairs

Former rapporteur

ROURE Martine (PSE)

Appointed

10/09/2007

Committee for opinion

AFET

Foreign Affairs

Rapporteur for opinion

The committee decided not to give an opinion.

Appointed

DEVE

Development

The committee decided not to give an opinion.

	EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
	Former committee for opinion	Former rapporteur for opinion	Appointed
	AFET Foreign Affairs	MLADENOV Nickolay (PPE-DE)	12/09/2007
	DEVE Development	The committee decided not to give an opinion.	
	EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meetings	Date
	Justice and Home Affairs (JHA)	2783	2008-06-05
	Justice and Home Affairs (JHA)	2908	2008-11-27
	Justice and Home Affairs (JHA)	3081	2011-04-11
	Justice and Home Affairs (JHA)	2863	2008-04-18
	Justice and Home Affairs (JHA)	3043	2010-11-08
European Commission	Commission DG	Commissioner	
	Justice and Consumers	REDING Viviane	

Key events			
Date	Event	Reference	Summary
06/06/2007	Legislative proposal published	COM(2007)0298 	Summary
09/07/2007	Committee referral announced in Parliament, 1st reading		
27/03/2008	Vote in committee, 1st reading		Summary
14/04/2008	Committee report tabled for plenary, 1st reading	A6-0148/2008	
18/04/2008	Debate in Council		Summary
23/04/2008	Decision by Parliament, 1st reading	T6-0168/2008	Summary
23/04/2008	Results of vote in Parliament		
05/06/2008	Debate in Council		Summary
27/11/2008	Debate in Council		

01/12/2009	Formal reconsultation of Parliament		
02/12/2009	Additional information		Summary
08/11/2010	Debate in Council		Summary
29/11/2010	Vote in committee, 1st reading		Summary
01/12/2010	Committee report tabled for plenary, reconsultation	A7-0347/2010	
13/12/2010	Debate in Parliament		
14/12/2010	Decision by Parliament, 1st reading	T7-0463/2010	Summary
11/04/2011	Act adopted by Council after Parliament's 1st reading		
11/05/2011	Final act signed		
11/05/2011	End of procedure in Parliament		
19/05/2011	Final act published in Official Journal		

Technical information	
Procedure reference	2007/0112(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2003/109/EC 2001/0074(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 079-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/02343 LIBE/6/50576

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE402.567	19/02/2008	
Committee opinion	AFET	PE396.674	03/03/2008	
Amendments tabled in committee		PE402.800	05/03/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0148/2008	14/04/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0168/2008	23/04/2008	Summary
Committee draft report		PE443.143	30/08/2010	
Amendments tabled in committee		PE448.987	30/09/2010	
Committee final report tabled for plenary, reconsultation		A7-0347/2010	01/12/2010	
Text adopted by Parliament after reconsultation		T7-0463/2010	14/12/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00066/2010/LEX	11/05/2011	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2007)0298 	06/06/2007	Summary
Commission response to text adopted in plenary	SP(2008)3169	28/05/2008	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

[Directive 2011/0051](#)
[OJ L 132 19.05.2011, p. 0001](#)

[Summary](#)

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 05/06/2008

The Council held a **debate** on this proposal which seeks to amend Directive 2003/109/EC with a view to extending the possibility of obtaining long-term resident status to beneficiaries of international protection.

The debate focused on the **scope of the Directive**. A majority of delegations could support the inclusion of both refugees and **beneficiaries of subsidiary protection** in the scope of the directive, without any difference of treatment between the categories. But some delegations argued for a broader scope of the directive to include other forms of protection granted by Member States, while others were in favour of limiting the scope to refugees only.

The Slovenian Presidency, noting that the necessary unanimity to adopt the directive could not be obtained today, concluded that the negotiations on this file should continue under the French Presidency.

To recall, Council Directive 2003/109/EC determines the status of third-country nationals who are long-term residents (residing more than 5 years in a member state). At the time of adoption of that directive, the Council welcomed the Commission commitment to follow it up with a proposal for the extension of long-term resident status to refugees and persons benefiting from subsidiary protection. The new Commission proposal, presented in June 2007, fulfils that commitment.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 06/06/2007 - Legislative proposal

PURPOSE: to extend the scope of Directive 2003/109/EC by including "beneficiaries of international protection".

PROPOSED ACT: Council Directive.

BACKGROUND: Directive 2003/109/EC (see [CNS/2001/0074](#)) provides for the integration of third-country nationals who are long-term residents in the Member States. In 2001, the Commission had proposed that refugees should be able to qualify for long-term resident status after 5 years of legal and continuous residence in a Member States. However, it was finally decided to exclude refugees from the scope of the Directive. Thus, refugees as well as beneficiaries of international protection, are currently not entitled to long-term resident status. In the Joint Statement from the Council and the Commission, made at the JHA Council of 8 May 2003, it was agreed that the Commission would table a proposal for a Directive on the extension of long-term resident status to refugees and persons under subsidiary protection, taking into account the study on transfer of protection status.

CONTENT: the purpose of this proposal, therefore, is to amend Council Directive 2003/109/EC "concerning the status of third-country national who are long-term residents", by extending its scope to include "beneficiaries of international protection". "Beneficiaries of international protection" or beneficiaries of subsidiary protection are defined by Council Directive 2004/83/EC as "third country nationals or stateless persons who have been granted refugee or subsidiary protection status". By extending the scope of Directive 2003/109/EC, beneficiaries of international protection will be entitled to the same legal certainty and rights as those enjoyed by EU nationals after five years of legal residence.

In summary, the Commission is proposing the following amendments to the Directive:

Long term resident status in a first Member State: Beneficiaries of international protection will be able to acquire long-term resident status in the Member State which has granted them protection subject to the **same conditions as other third country nationals**. In addition, beneficiaries of international protection who obtain long-term resident status should be able to enjoy the rights and benefits attached to this status and should be subject to the same restrictions and limitations of these rights. The initial grant of protection will require respect for the principle of non-refoulement, in the event of withdrawal or loss of the long-term resident status in the first Member State.

Residence, and long-term resident status, in a second Member State: to recall, Chapter III of Directive 2003/109/EC sets out the conditions under which long-term residents may exercise their right of residence in another EU Member States. The Commission proposes that these conditions apply, in full, to beneficiaries of international protection who have been granted long-term residence. Beneficiaries of international protection applying under Article 23 of Directive 2003/109/EC for long-term resident status in a different Member State from that which granted them international protection should also be obliged to comply with all relevant conditions required by Directive 2003/109/EC.

No Community mechanism on "transfer of responsibility" for protection under the amended Directive: Directive 2003/109/EC only grants, under certain conditions, the right to take up residence in a second Member States to those who have been granted long-term residency. It does not extend to beneficiaries of international protection. The Commission proposes that this issue remain outside the scope of the amended Directive. As a result, requests for transfer of protection remain governed by the 1951 Geneva Convention and by the European Agreement on transfer of responsibility for refugees concluded in the framework of the Council of Europe.

Respecting the principle of non-refoulement by the second Member State: Since the proposal does not deal with the transfer of responsibility for international protection, the Commission points out that it is important to safeguard respect for the principle of non-refoulement in the second Member States. It is important, therefore, that the authorities of the second Member State are fully aware that a long-term resident applying for residence in the territory of that Member State was granted international protection in another Member States. To this end, the Commission proposes that this information be mentioned on the long-term residence permit.

Readmission of a third country national with long-term resident status:

- for the cases where a long-term resident status has not yet been granted in the second Member State, Article 22 of Directive 2003/109/EC should also be amended so that the removal from the second Member State of long-term residents whose permits contain the remark stating that they are beneficiaries of international protection in another Member State - and who therefore may still have protection needs - is possible only to the first Member State;
- for the case where a long-term resident status was granted in the second Member State, Article 12 should be amended so as to provide that where the authorities of the second Member State consider the adoption of an expulsion measure, they are obliged to consult the authorities of the Member State which granted the protection to the person concerned. If this Member State confirms that the person is still a beneficiary of international protection, expulsion from the second Member State will only be possible to the Member State which originally granted the protection to the person concerned.

However, both cases of readmission should be without prejudice to the provisions of Article 21(2) of Directive 2004/83/EC, regarding the exceptions to the protection from refoulement.

Furthermore, in order to facilitate the necessary information exchange between Member States, Article 25 should be amended accordingly so as to allow the use of the network of national contact points also for that purpose.

On a final point, the United Kingdom, Ireland and Denmark are not bound by Directive 2003/109/EC.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 08/11/2010

Ministers continued work on the establishment of a Common European Asylum System (CEAS) on the basis of a discussion paper which presents the state of play in relation to the discussions regarding a package of six legislative proposals which EU Member States have committed to adopt by 2012.

It relates to the following proposals:

- this proposal for the extension of the Long-Term Residents Directive to beneficiaries of international protection;
- [the recast of the 'Qualification' Directive](#);
- [the recast of the EUODAC Regulation](#);
- [the recast of the 'Dublin' Regulation](#);
- [the establishment of a European Asylum Support Office \(EASO\)](#);
- [the amendment of Decision No 573/2007/EC](#) establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions (already adopted).

As regards the extension of the scope of the Long-Term Residents Directive, the discussion paper indicates that, since June 2010, the **compromise already reached in the Council on this proposal** – dating from 2008 and on the basis of which the required unanimity required at the time could be almost achieved – **was confirmed**.

In his draft report, which was presented on 28 September in the LIBE Committee, the European Parliament's rapporteur accepted to a large extent the Council compromise. On the basis of discussions with Member States in the JHA-Counsellors group, and of constructive contacts with the rapporteur and the shadow rapporteurs (a first informal trilogue took place on 12 October), most of the outstanding issues were resolved at a technical level. On the remaining issues where Council and Parliament still disagree, a – possibly final – trilogue was to take place on 9 November.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 18/04/2008

The Council held a **debate** on this proposal on the basis of a **questionnaire** circulated by the Presidency.

Council Directive 2003/109/EC (the LTR Directive) determines the status of third-country nationals who are long-term residents (residing more than five years in a member state). At the time of the adoption of that directive, the Council welcomed the Commission commitment to follow it up with a proposal for the extension of long-term resident status to refugees and persons benefiting from subsidiary protection. The new Commission proposal, submitted in June 2007, is a response to that commitment.

The Presidency asked Ministers to address the following questions:

- (a) Do delegations wish to include beneficiaries of international protection, i.e. recognised refugee status and beneficiaries of subsidiary protection status under Directive 83/2004/EC, in the scope of the LTR Directive?
- (b) Do delegations agree that other forms of protection granted by Member States on humanitarian grounds should also be included in the scope of the LTR Directive?
- (c) Do delegations wish to treat recognised refugees and beneficiaries of subsidiary protection equally for purposes of the duration of residence?

A majority of delegations could support the inclusion of both refugees and beneficiaries of subsidiary protection in the scope of the Directive, without any difference of treatment between the categories.

On the basis of the debate, the Presidency will prepare a compromise text which will be discussed by Coreper in the next few weeks.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 14/12/2010 - Text adopted by Parliament after reconsultation

The European Parliament adopted by 561 votes to 29, with 61 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Equality of treatment: beneficiaries of international protection who are long-term residents should enjoy equality of treatment with citizens of the Member State of residence in a wide range of economic and social matters, under certain conditions, so that long-term resident status constitutes a genuine instrument for the integration of long-term residents in the society in which they live. This equality of treatment of beneficiaries of international protection in the Member State which granted them international protection should be without prejudice to the rights and benefits guaranteed under Directive 2004/83/EC and under the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967 (the Geneva Convention).

Calculation of the duration of legal residence: new technical provisions have been added to clarify this issue. Regarding persons to whom international protection status has been granted, at least half of the period between the date on which the application for international protection was lodged, and on the basis of which that status was granted, and the date on which the residence permit referred to in Directive 2004/83/EC is granted, or the whole period if it exceeds 18 months, shall be taken into account in the calculation of the period (5 years according to the proposal).

Long-stay residence permits: long-term residence permit: with regard to the remark relating to international protection in the residence permit, a second Member State must consult the Member State mentioned in the remark as to whether the long term resident no longer qualifies for international protection. The Member State mentioned in the remark shall reply to the consultation no later than one month after receiving the request from the second Member State. Where the international protection has been withdrawn by a final decision, the second Member State shall not enter the remark.

Transfer of the responsibility of international protection: the transfer of responsibility for protection of beneficiaries of international protection is outside the scope of this Directive.

Withdrawal or loss of status: it is provided that Member States may withdraw the long-term resident status in the event of the revocation, ending or refusal to renew international protection status as prescribed by Directive 2004/83/EC if the long-term resident status was obtained on the basis of international protection status.

Protection against expulsion and non-refoulement: where a Member State intends to expel a beneficiary of international protection who has acquired long-term resident status in that Member State, the person concerned should enjoy the protection against refoulement guaranteed by Directive 2004/83/EC and the Geneva Convention. For that purpose, where the person concerned enjoys an international protection status in another Member State, it is necessary to provide, unless refoulement is permitted under the provisions of Directive 2004/83/EC, that he/she may be expelled only to the Member State which granted the international protection status and that that Member State is obliged to readmit him/her. The same safeguards should apply to a beneficiary of international protection who has taken up residence but has not yet obtained long-term resident status in a second Member State.

Additional safeguards: where the expulsion of a beneficiary of international protection outside the EU territory is permitted under the provisions of Directive 2004/83/EC, Member States shall ensure that all information is obtained from relevant sources including, where appropriate, from the Member State that granted international protection, and is thoroughly assessed with a view to guaranteeing that the decision to expel him/her is in line with the Charter of Fundamental Rights of the European Union.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 11/05/2011 - Final act

PURPOSE: to extend the scope of the EU Directive concerning the status of third-country nationals who are long-term residents to beneficiaries of international protection.

LEGISLATIVE ACT: Directive 2011/51/EU of the European Parliament and of the Council amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

CONTENT: the European Parliament and the Council adopted, following an agreement reached at first reading (following a reconsultation after the entry into force of the Lisbon Treaty) a directive extending the EU's rules regarding the status of third-country nationals who are long-term residents to refugees and other beneficiaries of international protection and amending [Council Directive 2003/109/EC](#) regarding long-term residents.

Principle: with the entry into force of the Directive, refugees and other beneficiaries of international protection within the meaning of [Council Directive 2004/83/EC](#) on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted will be granted the status of long-term resident on the same basis as other nationals of third countries residing legally on the EU's territory for more than five years. This status will be granted to them by the Member State which initially granted them international protection.

Beneficiaries of international protection who are granted the status of long-term resident will, like all the other national of third countries benefiting from this status, enjoy a certain number of rights:

- the right to move freely around the EU and, in particular, **the right to become a resident in another EU Member State**, as well as,
- under certain conditions, to enjoy **equality of treatment with citizens of the Member State of residence** in a wide range of economic and social matters, such as education, access to the labour market and social security contributions.

In granting these rights to beneficiaries of international protection and refugees, the Member States accord these persons a genuine instrument to facilitate their integration into the society in which they live.

Method of calculation of the required five-year period: the directive lays down how the required period of five years in order to be granted status of long-term resident should be calculated:

- the basic rule is that at least half of the period between the date on which the application for international protection was lodged and the date on which this protection was granted;
- In exceptional circumstances, when the asylum procedure exceeds 18 months, the whole period should be taken into account.

Long-stay residence permits – EU: where a Member State issues a long-term resident's EU residence permit to a third-country national to whom it granted international protection, it shall enter the following remark in that long-term resident's EU residence permit, under the heading "Remarks": "International protection granted by [name of the Member State] on [date]". Where a long-term resident's EU residence permit is issued by a second Member State to a third-country national who already has a long-term resident's EU residence permit issued by another Member State which contains the remark described above, the second Member State shall enter the same remark in the long-term resident's EU residence permit. Specific provisions are laid down in this regard as well as in regard to modification to the EU long-stay residence permit in the event of the transfer of responsibility for the international protection of the long-term resident from the first to the second Member State.

Expulsion: the directive provides for the possibility, under certain circumstances, to withdraw the long-term residence status of a third country national and to expel him in accordance with international obligations. Where a Member State intends to expel, on a ground provided for in Directive 2003/109/EC, a beneficiary of international protection who has acquired long-term resident status in that Member State, that person should enjoy the **protection against refoulement** guaranteed under Directive 2004/83/EC and under Article 33 of the Geneva Convention. For that purpose, where the person enjoys international protection in a Member State other than the one in which that person is currently residing as a long-term resident, it is necessary to provide, unless refoulement is permitted under Directive 2004/83/EC, that that person may be expelled only to the Member State which granted international protection and that that Member State is obliged to readmit that person. In this latter case, Member States will have to expel the person from the territory of the EU and ensure, before so doing, that all information is obtained from relevant sources, including, where appropriate, from the Member State that granted international protection, and that it is thoroughly assessed with a view to guaranteeing that the decision to expel that beneficiary is in accordance with the EU's Charter of Fundamental Rights.

It should be noted that the transfer of responsibility for protection of beneficiaries of international protection is outside the scope of this Directive.

Territorial provisions: the application of this directive does not concern the United Kingdom, Ireland and Denmark.

ENTRY INTO FORCE: 20.05.2011.

TRANSPOSITION IN THE MEMBER STATES: 20.05.2013.

Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection

2007/0112(COD) - 23/04/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 587 votes to 42 with 31 abstentions, a legislative resolution amending the proposal for a Council directive amending Directive 2003/109/EC to extend its scope to beneficiaries of international protection. The report was tabled for consideration in plenary by Martine **ROURE** (PES, FR) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

The main amendments, adopted in the framework of the consultation procedure, are as follows:

-the time spent processing the application should be taken into account in calculating the five years of residence preceding application for long-term residence status. The period between the date on which the first application for international protection is lodged, including where this first application is an application for temporary protection where the latter precedes access to international protection, and the date on which the residence permit is granted shall be taken into account in the calculation;

-beneficiaries of international protection to be exempted from the **material conditions** (stable resources and sickness insurance) for the granting of long-term resident status, in recognition of the vulnerability of their situation;

-**national integration conditions** may be applied to beneficiaries of international protection, by a reasoned decision in accordance with Directive 2004/83/EC, only after individual consideration of their case, bearing in mind their particularly vulnerable situation;

-where a Member State decides to expel a long-term resident whose long-term resident's EC residence permit contains the remark that the holder was granted international protection, it shall contact the Member State that granted international protection in order to confirm the status of long-term resident. Parliament added that the Member State that granted international protection must respond in writing to the Member State that made the request within a maximum of one month. The decision to expel the long-term resident may not be taken until the response of the Member State that granted international protection has been received. The long-term resident may, in accordance with the **principle of non-refoulement**, only be expelled to this Member State, which shall immediately readmit without formalities the long-term resident and his/her family members.