



EU Insight – Removing obstacles for long-term stays in the EU

On 25 March 2013, the European Commission presented its [proposal for a single new directive](#) which aims at making it easier and more attractive for non-EU students, researchers and other groups to enter and stay in the EU for periods exceeding three months. In combining and improving the current two directives the Commission sets out to remove obstacles facing third-country nationals when planning a long-term stay in the EU – an important step to establish Europe as a world centre for excellence and attract bright minds from outside the EU.

Background and shortcomings

Currently, two directives regulate the migration flows of students and researchers from third-countries: [Directive 2005/71/EC](#) (12 Oct. 2005) and [Directive 2004/114/EC](#) (13 Dec. 2004). The first one covers the “procedure for admitting third-country nationals for the purposes of scientific research”, while the 2004 directive lays down “the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service”.

But in 2011, the implementation reports¹ for these two directives revealed profound weaknesses: These shortcomings concern key issues such as admission procedures including visas, rights (including mobility aspects) and procedural safeguards. The current rules are insufficiently clear or binding, not always fully coherent with (and supportive of) existing EU funding programmes (e.g. mobility measures such as [Marie Curie](#) or [Erasmus Mundus](#)), and sometimes fail to address the practical difficulties that applicants face. Furthermore, the personal scope of the current framework is limited. Therefore, the reports came to the conclusion that amendments and improvements are necessary.

This conclusion is reinforced by the fact that the policy context of today is very different to that in which the Directives were adopted. Human capital is one of Europe’s key assets in the context of the [Europe 2020 Strategy](#) and the need to ensure smart, sustainable and inclusive growth. Immigration from outside the EU is one source of highly skilled people, and third-country national students and researchers in particular are groups which are increasingly sought after.

The new proposal – Objectives and Amendments

The new proposal does not only address the shortcomings identified in the implementation reports but also the task of the European Union to “develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to

¹ [Executive summary of the impact assessment for the Directive 2005/71/EC](#) and [Report on the application of Directive 2004/114/EC](#).



combat, illegal immigration and trafficking in human beings”, as stated in Article 79 (1) of the ‘Treaty on the Functioning of the European Union’.

Specific objectives were identified in light of the problems outlined above:

- to improve the conditions of admission by better linking obtaining the relevant authorisations and improving decision-making processes for these authorisations;
- making provisions clearer and binding for the other groups they apply to;
- to strengthen the link between provisions on Union programmes including mobility measures such as Erasmus Mundus and Marie Curie Fellowships;
- to improve procedural guarantees, such as time limits for decisions on applications (60-day time limit for Member States authorities);
- to improve access to seek employment and the labour market, both for students during their studies as well as to give researchers and students the possibility to remain on the territory under certain conditions after finishing their studies or research to identify job opportunities (although this will not amount to an automatic right to work, as granting a work permit remains a national responsibility);
- to facilitate intra-EU mobility (through simpler and more flexible rules);
- to set out coherent provisions ensuring the protection of au pairs and remunerated trainees (who are not yet covered by the existing EU legislation).

What next?

The proposed Directive which is presented in the form of a recast now needs to be discussed and agreed upon by the European Parliament and the Council of the EU. The Commission hopes for the new rules to take effect as of 2016.

Sources:

- (1) [“Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing”](#) (2013/0081 (COD)).
- (2) [“Commission Staff Working Document: Executive Summary of the Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing; Recasting and amending Directives 2004/114/EC and 2005/71/EC”](#) (COM(2013) 151 final; SWD(2013) 77 final).
- (3) [“Treaty on the Functioning of the European Union, Article 79 \(1\)”](#).
- (4) European Commission: [Press Release “Making the EU more attractive for foreign students and researchers”](#), 25 March 2013.