

Foreign students and researchers: New rules for mobility

The aging of the EU population and a shortage of skills, coupled with competition from other attractive destinations for the talented and the highly skilled, have created a need for more effective EU policies in this area. This is especially important because current EU legislation has been evaluated as insufficient to fully tackle the challenge.

The current state of affairs

The proposed new directive 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\(COD\)](#)) will replace two existing directives, covering all their beneficiaries and adding two new groups: remunerated trainees and au pairs. Council Directive [2004/114/EC](#) (Students Directive) regulates the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. Council Directive [2005/71/EC](#) (Researchers Directive) regulates the procedure for admitting third-country nationals for the purposes of scientific research. However, European Commission reports from 2011 on the application of these two directives showed that they need to be amended. The [Students Directive report](#) states that the Directive lacks procedural guarantees, strong mobility clauses, and provisions on access to work at the end of studies, which is especially problematic as this seems to be decisive in students' choice of destination country. The [Researchers Directive report](#) suggests that the Directive needs improvement although most of its key elements have been transposed. Improvements can be achieved through enhanced transposition, better guidance and information provision, and amendments, especially in defining researchers' rights more clearly.

The new directive

The [proposal](#) for a new directive was published on 25 March 2013. Member States would need to decide on an application for entry within 60 days. Researchers and students are allowed to stay for at least one year, and other beneficiaries for up to one year. Students and researchers are also allowed to stay in the Member State for 12 months after completing their studies/research to look for work or set up a business. Students would be allowed to work up to a limit of at least 20 hours per week. There are also special provisions for freedom of movement of researchers, students and trainees.

The European Parliament [adopted](#) its first-reading [position](#) (rapporteur: Cecilia Wikström, ALDE, Sweden) on 25 February 2014. The Parliament's amendments concerned, inter alia, adding more favourable provisions, reasons for refusal of authorisations, modifying provisions on fees and availability of information for applicants, extending the duration of stay after research or studies to 18 months, and shortening the authorisation procedure to 30 days.

The [Council](#) could not accept the Parliament's first-reading text. There were six trilogue meetings between March and November 2015 before agreement was reached. The Council subsequently adopted its position at first reading on 10 March 2016. The compromise text provides that the directive be mandatory only for researchers, students, trainees and volunteers in the [European Voluntary Service](#). It broadens the category of researchers, lowers to 15 hours per week the limit that may be set on the time students are allowed to work, supports the Commission proposal on the length of authorisations, modifies grounds for rejection of authorisation, and allows students and researchers to stay on the territory of the Member State for nine months after their research or studies are finalised. Intra-EU mobility is allowed only for researchers and students. The UK, Ireland and Denmark are not taking part. On 28 April 2016, the Civil Liberties Committee adopted its [recommendation for second reading](#), which is now due to be voted in plenary in May.

