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Committee on Employment and Social Affairs

2013/0081(COD)

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DRAFT OPINION

of the Committee on Employment and Social Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the 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
(COM(2013)0151 – C7-0080/2013 – 2013/0081(COD))

Rapporteur: Antigoni Papadopoulou

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SHORT JUSTIFICATION

The Rapporteur welcomes the aims of the present Commission's proposal to respond to its mandate by providing a useful tool to support further strengthening of social, cultural and economic relationships between the EU and third countries. She believes that this proposal serves as a good basis that needs further enrichment by extensive dialogue and exchange of views. The aim is to foster in the best possible way the transfer of skills and know-how, to promote EU competitiveness, while at the same time safeguarding the fair treatment of various groups of third-country nationals. The Rapporteur believes that better management of migration flows is essential for developing a common immigration policy in the EU and for implementing the Europe 2020 Strategy more effectively.

The present Commission's proposal takes the form of a Directive amending and recasting Council Directives 2004/114/EC and 2005/71/EC. With a view to better optimise the benefits, it updates the policy context and tries to properly tackle the risks and shortcomings identified in the implementation reports of both directives.

The amended and recast Commission's proposal aims to improve the provisions of third-country national researchers, students, school pupils, unremunerated trainees and volunteers. Moreover it aims to apply common provisions to two new categories of third-country nationals: remunerated trainees and au-pairs, for whom, there is not yet a legally accepted common regulation.

The need for improvement and for a recast Directive is reinforced by the present circumstances and challenges; today, the EU is facing important structural challenges of both demographic and economic nature. The working age population is expected to start shrinking in the following years, while the observed patterns of employment growth with emphasis on skilled labour will persist. The EU is also facing a situation of '**innovation emergency**'. Europe's yearly GDP expenditure on Research and Development (R&D) is 0.8% less than that of the US and 1.5% less than that of Japan. Whilst, the EU market remains the largest in the world, it is fragmented and not enough innovation-friendly. To meet the goal of increased investment in research and innovation and the Innovation Union flagship initiative of the Europe 2020 Strategy, Europe requires an additional estimated number of one million research jobs. Immigration from outside the EU is one source of highly skilled people, with third-country national researchers being, in particular, the group most needed. EU can actively attract well-qualified potential workers and human capital to cope with the aforesaid challenges. Fostering people-to-people contacts and mobility is part of the EU's external policy, notably vis-à-vis the countries of the European Neighbourhood Policy or the EU's strategic partners. Allowing third-country nationals to acquire skills and knowledge through a period of training in Europe encourages "brain circulation" and supports cooperation with third countries, which benefits both the sending and the receiving countries. Globalization calls for enhanced relationships between EU enterprises and foreign markets, while movements of trainees and au-pairs foster the development of human capital, resulting in mutual enrichment for the migrants, their country of origin, the host country and an improved mutual familiarity between cultures.

The Rapporteur expresses her concerns that in the absence of a clear legal framework, there is a possible risk of exploitation to which remunerated trainees, researchers and au-pairs are

particularly exposed, with the subsequent risk of unfair competition, and believes that such concerns must be adequately examined and addressed.

The Rapporteur welcomes the overall goal of the Commission's proposal to offer a coherent legal framework targeted specifically at different groups coming to the Union from third countries. She fully understands the aim to simplify and streamline the existing provisions for these different groups in a single instrument. She stresses however the complexity of such a task as there are many more added differences between these various categories of 3rd country nationals, compared to their common few shared characteristics. The Rapporteur therefore recommends a number of changes that could further strengthen the proposal and support its objectives.

Amendments

The Rapporteur examined the Commission's proposal from the employment point of view. The text proposed by the Commission, is lacking clarity and favours generalisation, by mixing together various employment relationships, differently valid for remunerated trainees, researchers, au pairs and students. Moreover, it makes no clear distinctions and references so as to strengthen the employment relationship of the groups concerned, regarding, labour contracts, social security and social protection.

Hence the Rapporteur faced a twofold dilemma, either:

a) to ask for the deletion of remunerated trainees, researchers and au pairs from this Directive, by putting forward a horizontal amendment accompanied by a justification, and asking the Commission to include these categories into a different Directive or Directives. In article 2, the Rapporteur proposes therefore, to exclude for reasons of clarity, all categories of third-country nationals already covered by other existing Directives (remunerated trainees- ICTs, EU blue card holders, seasonal and posted workers).

b) the alternative dilemma was to amend the text of the recast Directive, by filling in all the possible loopholes so as to provide a minimum level of harmonization, similar and in line with Directives, either already adopted (Blue Card, Single Permit) or still under discussion (ICTs, Seasonal workers). The opinion Rapporteur chose this option.

It is well known that the persisting financial crisis has enlarged the social and economic gap between the Member States of the European South and European North, leading to different economic and social policies across the EU. To this end, migration flows pose a pressing problem, creating an additional financial burden, when and if not efficiently regulated.

Given the current conditions of the labour market in many Member States (MS's) and the existing problems of social dumping in the Internal Market, the Rapporteur's aim is double: to strengthen labour markets to better match skills with labour market shortage and to guarantee equal treatment and non-discrimination to all categories of workers intra EU and from third countries. In order to do that, a minimum level of protection has to be guaranteed while at the same time the conditions for the entry of skilled labour force are ensured. The Rapporteur fully supports efforts for well managed and proactive migration policy to attract high skilled third country nationals to the EU. She believes however that proposals to include under mandatory categories the provisions for the remunerated trainees and au pairs should be based

on a broader regulatory framework guaranteeing social protection and equal treatment. Additional provisions regarding access to the labour market of family members of eligible persons or other provisions for extending the residence status of researchers after the finalization of their actual activities should take into consideration the subsidiarity principle and should be met without prejudice to the Member States' competence to regulate these matters.

After all, we cannot ignore the fact that the current levels of unemployment in many MS have created an unprecedented socio-economic crisis, forcing EU nationals to seek work outside the EU.

In the Recitals, the Rapporteur made several amendments to ensure that third country nationals enjoy equal social rights (Recital 7), that “brain circulation” is encouraged and “brain drain” is avoided (Recital 8a). Other amendments aim at clarifying the reciprocity and legal base of hosting agreements for researchers (Recital 9a), transposing the wording of existing Directives in such a way so as to ensure the unity of family members of researchers (Recital 11) and defining the conditions for including doctoral students as researchers (Recital 12). By a series of additional amendments the following issues are addressed : salary thresholds (Recital 12a); the status of au pairs (Recitals 19, 21, 22); the employment contracts (Recital 23); the financial status of applicant and related fees for processing applications for authorizations (Recital 25); the conditions for extending the period of staying in a new Member State (Recital 31); students' access to the labour market (Recital 33, 33a, 33b, 33c); the preconditions for access to the labour market for students/researchers (Recital 34).

The EMPL Opinion Rapporteur, focused mainly on key issues included in Articles 3, 7, 12, 14, 21, 23, 24, 25, 26, 27, 28 and 31 (as there was a very tight deadline for submission of this opinion).

In Article 3 emphasis is given to clarify definitions concerning “remunerated trainees”, “au pairs”, “remuneration”, “employment”, “employer”, “family members” “higher education qualifications”, “unremunerated” trainee and “host family”.

In Article 7, the reasoning of a strict employment relationship between the researcher and the academic establishment is introduced, in order to protect both parties in question, by endorsing provisions included in existing Directives on Researchers and Blue Card.

In Article 12 the specific conditions are clarified under which an unremunerated or remunerated trainee third country national, can be granted a visa for staying in a Member State, paying special attention to the training agreement or employment contract and previous higher education qualifications.

In Article 14 emphasis is given on the distinctive status of au pairs, and the importance of a legally binding agreement with a host family, in order to safeguard their working conditions and social cover on EU ground, avoiding their exploitation. The Rapporteur stresses the need to issue specific guidelines and a special Directive to regulate the au pair industry. She deletes “maternity” in order to avoid situations of abuse of the regulation and extends the host family's responsibility to provide emergency help to au pairs.

In Article 21, the rights to equal treatment of third-country national researchers are

safeguarded as regards branches of social security.

In Article 23, underlines that the maximum allowed working hours per week or days or months per year for working students shall not be less than 10h per week.

In Article 24, the Rapporteur supports the view that issues such as extending the residence status of researchers and students to other MS should be optional and remain at the Member State's absolute competency. At the same time, there should be an adequate minimum level of harmonization in terms of volume of admissions-quotas.

In Article 25, the Rapporteur supports that the derogations to the right to family reunification, introduced, should not contradict to the idea of "brain drain" in the 3rd countries of origin and should always be in line with the values and principles recognised by the Member States.

Gender-neutral terminology is introduced in Articles 27 and 28 concerning on the rights for researchers and students covered by Union programmes to mobility and residence in a second Member State.

In Article 31, The Rapporteur reinforces the idea of equal treatment as regards the fees that the applicants should pay for their applications; these fees should be proportionate to their financial status or capacity, with special focus paid on the unremunerated categories such as the unpaid trainees and au pairs.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) This Directive should contribute to the Stockholm Programme's aim to approximate national legislation on the conditions for entry and residence of third-country nationals. Immigration from outside the Union **is one** source of highly skilled people, and in particular students

Amendment

(3) This Directive should contribute to the Stockholm Programme's aim to approximate national legislation on the conditions for entry and residence of third-country nationals. ***Migration from within the Union and*** immigration from outside the Union ***could be a*** source of highly

and researchers are increasingly sought after. They play an important role to form the Union's key asset – human capital - in ensuring smart, sustainable and inclusive growth, and therefore contribute to the achievement of the objectives of the Europe 2020 Strategy.

skilled people, and in particular students and researchers are increasingly sought after. They **could** play an important role to form the Union's key asset – human capital - in ensuring smart, sustainable and inclusive growth, and therefore contribute to the achievement of the objectives of the Europe 2020 Strategy.

Or. en

Amendment 2

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) The shortcomings highlighted in the implementation reports of the two Directives concern mainly admission conditions, rights, procedural safeguards, students' access to the labour market during studies, intra-Union mobility provisions as well as a lack of harmonization, as coverage of some groups, such as volunteers, school pupils and unremunerated trainees was left optional to Member States. Subsequent wider consultations have also pointed to the need for better job-seeking possibilities for researchers and students and better protection of au-pairs and remunerated trainees which are not covered by the current instruments.

Amendment

(4) The shortcomings highlighted in the implementation reports of the two Directives **on third-country nationals** concern mainly admission conditions, rights, procedural safeguards, students' access to the labour market during studies, intra-Union mobility provisions as well as a lack of **a minimum level of** harmonization, as coverage of some groups, such as volunteers, school pupils and unremunerated trainees was left optional to Member States. Subsequent wider consultations have also pointed to the need for better job-seeking possibilities for researchers and students and better protection of au-pairs and remunerated trainees which are not covered by the current instruments.

Or. en

Amendment 3

Proposal for a directive

Recital 7

Text proposed by the Commission

Amendment

(7) Migration for the purposes set out in this Directive *should* promote the generation and acquisition of knowledge and skills. *It constitutes a form of mutual enrichment for the migrants concerned, their country of origin and the host Member State and helps to promote better familiarity among cultures.*

(7) *Implementation of this Directive could* promote the *mutual* generation and acquisition of knowledge and skills *of students, remunerated and unremunerated trainees, researchers, volunteers and "au-pairs"; moreover, researchers, remunerated trainees and "au pairs", should enjoy, during their stay, equal social rights with nationals of the host Member State.*

Or. en

Justification

Wording mirrors Council Directive 2005/71/ p2§(15)

Amendment 4

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) *Implementation of this Directive should not encourage a brain drain from emerging or developing countries; therefore, back-up measures should be taken and mechanisms should be established to support researchers' reintegration into their countries of origin. Allowing third-country nationals to acquire skills and knowledge through a period of training in Europe should encourage "brain circulation" for mutual benefits and not for brain drain against third-countries of origin.*

Or. en

Justification

Allowing third-country nationals to acquire skills and knowledge through a period of training in Europe should encourage "brain circulation" for mutual benefits and not for brain drain

against third-countries of origin.

Amendment 5

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In principle, the admission procedure for researchers should be based on a reciprocal legally binding and valid hosting agreement between the third-country national researcher and the host research organisation and being defined by an employment relationship according to the law in force in a Member State and/or governed by the law in force in a Member State. Therefore, a work permit in addition to the residence permit must be required.

Or. en

Amendment 6

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) In order to make the Union more attractive for third-country national researchers, family members of researchers, as defined in Council Directive 2003/86/EC of 22 September 2003 on the right *to* family reunification, ***should be admitted with them. They should benefit from*** intra- Union mobility provisions ***and they should also have*** access to the labour market.

(11) In order to make the Union more attractive for ***highly educated and qualified*** third-country national researchers, ***supporting the unity of family members of the researchers is essential;*** family members of researchers ***should be able to enjoy*** as defined in Council Directive 2003/86/EC of 22 September 2003, the right ***of*** family reunification ***and*** intra-Union mobility provisions. Access to the labour market ***granted to family members of eligible third-country nationals should be met without prejudice to Member States' competence to regulate***

it, taking into account the situation of their labour markets. Member States are encouraged to introduce integration conditions and measures, such as language learning. However, the right to family reunification should not be granted as an extra incentive encouraging a brain drain in the third-countries of origin.

Or. en

Justification

Wording mirrors the one used in the Blue Card Directive

Amendment 7

**Proposal for a directive
Recital 12**

Text proposed by the Commission

(12) *Where appropriate, Member States* should be *encouraged to treat PhD candidates* as researchers.

Amendment

(12) *Traditional avenues of admission, such as employment and traineeship, should be maintained for doctoral students carrying out research as students; under special circumstances, namely when their academic expertise in specific research areas could be of added value for EU programs for innovation and growth, these doctoral students could be treated by Member States as* researchers.

Or. en

Justification

The Commission's wording is too general, it needs to be more specifically defined by using new wording in accordance with Council Directive 2005/71/EC.

Amendment 8

**Proposal for a directive
Recital 12 a (new)**

Text proposed by the Commission

Amendment

(12a) This Directive should provide for a flexible demand-driven entry system especially for researchers and remunerated trainees, based on objective criteria, such as a minimum salary threshold comparable with the salary levels in the Member States, and on academic qualifications. The definition of a common minimum denominator for the salary threshold is necessary to ensure a minimum level of harmonisation in the admission conditions throughout the Community. The salary threshold determines a minimum level while Member States may define a higher salary threshold. Member States should fix their threshold in accordance with the situation and organisation of their respective labour markets and their general immigration policies.

Or. en

Justification

Provision similar to the Blue Card Directive and the Posting of Workers Directive.

Amendment 9

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) However, it is considered that the reference made to third-country nationals au pairs in this Directive is limited in scope to have much effect in terms of harmonisation; therefore, there should be a targeted and specified proposal for a separate Directive on their case in the European Union.

Or. en

Justification

There should be a minimum level of harmonisation as far as the "au pairs" is concerned defined by this Directive but specified by a separate Directive exclusively focusing on this category.

Amendment 10

**Proposal for a directive
Recital 20**

Text proposed by the Commission

Amendment

(20) Remunerated trainees who come to work in the Union in the context of an intra-corporate transfer should not be covered by this Directive, as they fall under the scope of [Directive 2013/xx/EU on intra-corporate transfers].

deleted

Or. en

Justification

Imported under Article 2, where there is a clear reference on "trainees" under the ICT'S Directive - intra corporate transfers are not covered by this Directive.

Amendment 11

**Proposal for a directive
Recital 21**

Text proposed by the Commission

Amendment

(21) As currently at Union level there is no legal framework regarding third-country national au-pairs to ensure their fair treatment, provisions should be introduced to address their specific needs as a particularly vulnerable group. This Directive should foresee conditions to be fulfilled by both the au-pair and the host family, in particular as regards the agreement between them which should ***include elements such as the pocket money to be received.***

(21) An 'au pair' belongs neither to the student category nor to the worker category but to a special category which has features of both; it is therefore necessary to issue guidelines which would ensure that the distinctive status of au pairs is recognized and safeguarded, their working conditions and social cover are fixed and that the au-pair industry is appropriately regulated at national and international level. As currently at Union level there is no legal framework regarding third-country national au-pairs to ensure

their fair treatment, provisions should be introduced to address their specific needs as a particularly vulnerable group. This Directive should foresee conditions to be fulfilled by both the au-pair and the host family, in particular as regards the agreement between them which should *be legally binding, giving au pairs adequate social protection¹, clearly stating their rights, responsibilities and nature of duties, working hours per week, amount of pocket money to be received and exempting them from being potential victims of human trafficking and sexual exploitation²*.

¹ *European Social Charter*

² *GAATW paper and EP policy department C Note on Abused Domestic Workers in Europe: Au pairs*

Or. en

Justification

Au pairs constitute a special category which has features of both the worker and the student categories; it is therefore appropriate to adopt special provisions in their regard.

Amendment 12

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Authorisations should mention the status of the third-country national concerned, *and* the respective Union programmes including mobility measures. Member States may indicate additional information in paper format or electronically, provided this does not amount to additional conditions.

Amendment

(23) Authorisations should mention the *legal and marital* status of the third-country national concerned, *possible employment contracts, unremunerated traineeship offers, nature of studies and voluntary work agreed as well as* the respective Union *research or other* programmes including mobility measures. Member States may indicate additional information in paper format or electronically, provided this does not

amount to additional conditions.

Or. en

Justification

The abovementioned legal and marital status refers to the citizenship of the person and his/her marital position directly related to the right to family reunification.

Amendment 13

**Proposal for a directive
Recital 25**

Text proposed by the Commission

(25) Member States may charge applicants for processing applications for authorisations. The fees should be proportionate to the purpose of the stay.

Amendment

(25) Member States may charge applicants for processing applications for authorisations. The fees should be proportionate to the purpose of the stay ***and the financial status of the applicant, and there should be the possibility of reimbursement by the host entity or family, in the case of unremunerated trainees and au pairs.***

Or. en

Amendment 14

**Proposal for a directive
Recital 31**

Text proposed by the Commission

(31) ***The intra-Union mobility of third-country national researchers, students and remunerated trainees should be facilitated.*** For researchers, this Directive should improve the rules ***relating to the*** period for which the authorisation granted by the first Member State ***should*** cover stays in a second Member State without requiring a new hosting agreement. Improvements should be made regarding

Amendment

(31) For researchers, this Directive should improve the rules ***regarding the possibility of extension of the explicitly defined*** period for which the authorisation granted by the first Member State ***could*** cover stays in a second Member State without requiring a new hosting agreement; ***this would require however the assent of the new Member State provided that such an extension was included in the original***

the situation of students, and the new group of remunerated trainees, by allowing them to stay in a second Member State for periods lasting between three and six months, provided that they fulfil the general conditions laid down in this Directive. For third-country national trainees coming to the Union as intra-corporate transferees, specific intra-Union mobility provisions designed according to the nature of their transfer should apply in accordance with [Directive 2013/xx/EU on intra-corporate transfers].

employment contract as part of the specific needs of the research program followed. Improvements should be made regarding the situation of students, and the new group of remunerated trainees, by allowing them to stay in a second Member State for ***clearly defined*** periods lasting between three and six months, provided that they fulfil the general conditions laid down in this Directive ***and that adequate measures are in place to avoid possible risks of abuses.*** For third-country national trainees coming to the Union as intra-corporate transferees, specific intra-Union mobility provisions designed according to the nature of their transfer should apply in accordance with [Directive 2013/xx/EU on intra-corporate transfers].

Or. en

Amendment 15

Proposal for a directive Recital 33

Text proposed by the Commission

(33) In order to allow third-country national students to ***better*** cover part of the cost of their studies, they should be given ***increased*** access to the labour market ***under the conditions set out in this Directive, meaning a minimum of 20 hours per week. The principle of access for students to the labour market should be a general rule. However, in exceptional circumstances*** Member States should be able to ***take into account the*** situation of their national labour markets, ***although this must not risk entirely negating the right to work*** .

Amendment

(33) In order to allow third-country national students to cover part of the cost of their studies, they should be given ***similar opportunities and*** access to the labour market ***as those enjoyed respectively by EU national students: taking into account that*** Member States should be able to ***evaluate*** the ***existing*** situation of their ***own*** national labour markets ***and give prior authorisation for a work permit to students who wish to exercise an economic activity. Access to the labour market should be met without prejudice to Member States' competence to regulate this access.***

Or. en

Amendment 16

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) The authorisation and admission of third-country national students at schools and universities should not exclude possibilities for part time employment, provided that it does not impair education as the main purpose for residence.

Or. en

Amendment 17

Proposal for a directive Recital 33 b (new)

Text proposed by the Commission

Amendment

(33b) The possibility for employment exceeding 10 hours per week should not be excluded, but could only be permitted if no equally qualified unemployed person registered with the Member's State Employment Service can be recruited by the potential employer.

Or. en

Amendment 18

Proposal for a directive Recital 33 c (new)

Text proposed by the Commission

Amendment

(33c) Employment for students should be permitted and monitored by the respective establishment in cooperation with the

Member's State Employment Service; a successful completion of their academic tasks should be a precondition for employment, especially under the scope of this Directive.

Or. en

Justification

A clarification concerning the status of the third-country national, as a student and as a part-time worker and the responsibility of the establishment is missing

Amendment 19

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) As part of the drive to ensure a well-qualified workforce for the future, Member States should allow students who graduate in the Union to remain on their territory with the intention to identify work opportunities or to set up a business for **12 months** after expiry of the initial authorisation. They should also allow researchers to do so upon completion of their research project **as defined in** the hosting agreement. This should not **amount to** an automatic right of access to the labour market or to set up a **business**. **They may be requested** to provide evidence in accordance with Article 24.

Amendment

(34) As part of the drive to ensure a well-qualified workforce for the future, Member States should **have the discretion to** allow students who graduate in the Union to remain on their territory with the intention to identify work opportunities or to set up a business for **6 months** after expiry of the initial authorisation. They should also **be able to** allow researchers to do so upon completion of their research project **depending on** the hosting agreement, **the employment contract and the conditions in the labour market of the individual Member State**. This should not **mean** an automatic right of access to the labour market or to set up a **business but a decision resting on the Member States under certain preconditions, and the request** to provide evidence in accordance with Article 24.

Or. en

Amendment 20

Proposal for a directive Recital 36

Text proposed by the Commission

(36) To make the Union more attractive for third-country national researchers, students, pupils, trainees, volunteers and au pairs, it is important to ensure their fair treatment in accordance with Article 79 of the Treaty. ***These groups are entitled to equal treatment with nationals of the host Member State under Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State²⁴. More favourable*** rights to equal treatment with nationals of the host Member State as regards branches of social security ***as*** defined in Regulation No 883/2004 on the coordination of social security schemes should be maintained for third-country national researchers, in addition to the rights granted under Directive 2011/98/EU. Currently the latter foresees a possibility for Member States to limit equal treatment with regard to branches of social security, including family benefits, and this possibility of limitation could affect researchers. In addition, independently on whether Union or national law of the host Member State gives third-country national school pupils, volunteers, unremunerated trainees and au-pairs access to the labour market, they should enjoy equal treatment rights with nationals of the host Member State as regards access to goods and services and the supply of goods and services made available to the public.

Amendment

(36) To make the Union more attractive for third-country national researchers, students, pupils, trainees, volunteers and au pairs, it is important to ensure their fair treatment in accordance with Article 79 of the Treaty. Rights to equal treatment with nationals of the host Member State as regards branches of social security ***are*** defined in Regulation No 883/2004 on the coordination of social security schemes ***and*** should be maintained for third-country national researchers, in addition to the rights granted under Directive 2011/98/EU. Currently the latter foresees a possibility for Member States to limit equal treatment with regard to branches of social security, including family benefits, and this possibility of limitation could affect researchers. In addition, independently on whether Union or national law of the host Member State gives third-country national school pupils, volunteers, unremunerated trainees and au-pairs access to the labour market, they should enjoy equal treatment rights with nationals of the host Member State as regards access to goods and services and the supply of goods and services made available to the public.

Or. en

Amendment 21

Proposal for a directive Article 1 – point a

Text proposed by the Commission

(a) the conditions of entry and residence of third-country nationals to the territory of the Member States for a period exceeding 90 days for the purposes of research , studies, pupil exchange, remunerated and unremunerated training , voluntary service au pairing ;

Amendment

(a) the conditions of entry and residence **and work** of third-country nationals to the territory of the Member States for a period exceeding 90 days for the purposes of research , studies, pupil exchange, remunerated and unremunerated training **or** voluntary service au pairing;

Or. en

Amendment 22

Proposal for a directive Article 1 – point b

Text proposed by the Commission

(b) the conditions of entry and residence of third-country national students and remunerated trainees for a period exceeding 90 days in Member States other than the Member State which first grants the third-country national an authorisation on the basis of this Directive;

Amendment

(b) the conditions of entry and residence **and work** of third-country national students and remunerated trainees for a period exceeding 90 days in Member States other than the Member State which first grants the third-country national an authorisation on the basis of this Directive;

Or. en

Amendment 23

Proposal for a directive Article 1 – point c

Text proposed by the Commission

(c) the conditions of entry and residence of third-country national researchers in

Amendment

(c) the conditions of entry and residence **and work** of third-country national

Member States other than the Member State which first grants the third-country national an authorisation on the basis of this Directive.

researchers in Member States other than the Member State which first grants the third-country national an authorisation on the basis of this Directive.

Or. en

Amendment 24

Proposal for a directive

Article 2 – paragraph 2 – point g

Text proposed by the Commission

(g) trainees who come to the Union in the context of an intra-corporate transfer under [Directive 2013/xx/EU on intra-corporate transfers].

Amendment

(g) **remunerated** trainees who come to the Union in the context of an intra-corporate transfer **and fall** under **the scope of** [Directive 2013/xx/EU on intra-corporate transfers].

Or. en

Amendment 25

Proposal for a directive

Article 2 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) who apply for authorisation to reside and to enter in a Member State as "EU Blue card holders", within the meaning of Directive 2009/50/EC, in order to work as highly qualified employees in the territory of a Member State;

Or. en

Amendment 26

Proposal for a directive

Article 2 – paragraph 2 – point g b (new)

Text proposed by the Commission

Amendment

(gb) who have been admitted to the territory of a Member State as seasonal workers;

Or. en

Amendment 27

Proposal for a directive

Article 2 – paragraph 2 – point g c (new)

Text proposed by the Commission

Amendment

(gc) who are covered by Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services¹ as long as they are posted on the territory of the Member State concerned

¹ OJ L 18, 21.1.1997, p. 22.

Or. en

Justification

Categories already treated by other Directives should be excluded from this one for reasons of clarity

Amendment 28

Proposal for a directive

Article 3 – point f

Text proposed by the Commission

Amendment

(f) 'remunerated trainee' means a third-country national who has been admitted to the territory of a Member State for a training period in return for which he/she receives remuneration in accordance with

(f) 'remunerated trainee' means a third-country national ***with previous relevant education or qualifications, who is an employee in training for career development purposes, working under an***

the national legislation of the Member State concerned;

employment contract and who has been admitted to the territory of a Member State for a training period in return for which he/she receives remuneration in accordance with the national legislation of the Member State concerned ***or applicable collective agreement***;

Or. en

Justification

The definition as it is, does not mention the objective of being a paid trainee and a reference to the employment relationship, which remuneration entails.

Amendment 29

Proposal for a directive Article 3 – point i

Text proposed by the Commission

(i) ‘au pair’ means a third-country ***national*** who is temporarily received by a family in the territory of a Member State ***in exchange for light housework and taking care of children in order to improve his/her*** linguistic skills and ***his/her*** knowledge of the host country;

Amendment

(i) ‘au pair’ means a ***young*** third-country ***adult aged 18 to 30 years***, who is temporarily received by a ***host*** family in the territory of a Member State, ***for a defined period of time during which, he/she improves his/her education, linguistic skills and cultural*** knowledge of the host country, ***in exchange for minor household work and as child minding.***

Or. en

Justification

Wording in accordance with the one used in the European Agreement of Council of Europe 1968, by the International Au pair Association and which can be found in an EP policy report on the issue.

Amendment 30

Proposal for a directive Article 3 – point m

PE516.703v01-00

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Text proposed by the Commission

(m) 'remuneration' means the **payment, whatever form it takes, received in consideration for** the services performed and being considered under national legislation or established practice as a constituent element of an employment relationship;

Amendment

(m) 'remuneration' means the **wage or salary and any other consideration, whether in cash or in kind, which a worker receives directly in respect of his employment from his employer and which is equivalent to** the services performed and being considered under national legislation **or applicable collective agreement** or established practice as a constituent element of an employment relationship;

Or. en

Justification

The definition is weak, especially for the purposes of this Directive, which includes issues on au pairs. Not to mention the need to stress the employment relationship.

Amendment 31

Proposal for a directive
Article 3 – point n

Text proposed by the Commission

(n) 'employment' means the exercise of activities covering **whatever** form of labour or work regulated under national law or established practice for and under the direction and supervision of an employer;

Amendment

(n) 'employment' means the exercise of activities covering **a** form of labour or work regulated under national law or **applicable collective agreement or** established practice for and under the direction and supervision of an employer; **it signifies a legal contract between two parties, the employer and the employee, through which reciprocal rights and obligations are created between the employee and the employer;**

Or. en

Amendment 32

Proposal for a directive Article 3 – point n a (new)

Text proposed by the Commission

Amendment

(na) 'employer' means any natural person or any legal entity, for or under the direction and/or supervision of whom the employment is undertaken¹;

¹ *Directive 2009/52/EC*

Or. en

Amendment 33

Proposal for a directive Article 3 – point n b (new)

Text proposed by the Commission

Amendment

(nb) 'family members' means third-country nationals as defined in Article 4 of Directive 2003/86/EC;

Or. en

Amendment 34

Proposal for a directive Article 3 – point n c (new)

Text proposed by the Commission

Amendment

(nc) 'higher education qualification' means any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary

higher education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution by the State in which it is situated. For the purposes of this Directive, a higher education qualification shall be taken into account, on condition that the studies needed to acquire it lasted at least three years, giving access to a doctoral degrees and programmes¹.

¹ OJ L 155, 18.6.2009, p.21

Or. en

Amendment 35

Proposal for a directive Article 3 – point n d (new)

Text proposed by the Commission

Amendment

(nd) 'host family' means the family, including also single-parent families, typically having at least one child under the age of 18 living under the same roof, temporarily receiving the au-pair and letting him/her share its daily family life in the territory of a Member State on the basis of a legally binding agreement concluded between the host family and the au-pair;

Or. en

Justification

The reference to single-parent families is missing and according to the Council of Europe and other policy studies, there is a limit age for the family kids as well, since being a child minder is one of the reasons why someone would need an au pair. The agreement should be legally binding to avoid cases of exploitation and unfair treatment.

Amendment 36

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies *with respect to Articles 21, 22, 23, 24, 25 and 29, especially in the context of Mobility Partnerships.*

Amendment

2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.

Or. en

Amendment 37

Proposal for a directive Article 6 – point f

Text proposed by the Commission

(f) provide the evidence requested by the Member State that during his/her stay he/she will have sufficient resources to cover his/her subsistence, training and return travel costs, without prejudice to an individual examination of each case.

Amendment

(f) provide the evidence requested by the Member State that during his/her stay he/she will have sufficient resources to cover his/her subsistence, training and return travel costs, without prejudice to an individual examination of each case. ***The provision of such evidence shall be necessary even if the third-country national is in receipt of a grant or scholarship, or has received an undertaking of sponsorship from a host family or a firm offer of work;***

Or. en

Justification

The possibility of grants, scholarships and sponsorships should be mentioned and always declared by the third-country national, for tax related reasons and better control from the side of the Member States administration.

Amendment 38

Proposal for a directive Article 6 – point f a (new)

Text proposed by the Commission

Amendment

(fa) provide his/her address in the territory of the Member-State concerned;

Or. en

Justification

Mirrors wording used in other Directives on third-countries nationals

Amendment 39

Proposal for a directive Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) present a hosting agreement signed with a research organisation in accordance with Article 9(1) and Article 9(2);

(a) present a ***valid*** hosting agreement, ***including a valid work contract or a binding job offer as a researcher, provided for in national law, and*** signed with a research organisation in accordance with Article 9(1) and Article 9(2);

Or. en

Amendment 40

Proposal for a directive Article 7 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) present a valid travel document, according to Article 6, and present evidence of having or, if provided for by national law, having applied for a sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods

where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or resulting from, the work contract;

Or. en

Amendment 41

Proposal for a directive

Article 7 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) present a valid confirmation, obtained by the research organization concerned, of having the required academic qualifications to be accepted as a researcher in a specific field for the purposes of a research project;

Or. en

Amendment 42

Proposal for a directive

Article 7 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States may accept, in accordance with their national legislation, an application submitted when the third-country national concerned is already in their territory.

5. Member States may accept, in accordance with their national legislation, an application submitted when the third-country national concerned is already in their territory *for the purpose of completing his/her doctoral degree.*

Or. en

Amendment 43

Proposal for a directive Article 7 – paragraph 6

Text proposed by the Commission

6. **Member States shall determine whether** applications for authorisations are to be made by the **researcher or by the research organisation concerned.**

Amendment

6. Applications for authorisations are to be made by the **research organisation concerned in full cooperation and agreement with the prospective researcher.**

Or. en

Amendment 44

Proposal for a directive Article 7 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Before taking the decision on an application or hosting agreement, and when considering renewals or authorisations pursuant to Article 6 and 16 during the first year of legal employment a researcher, Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for filling a vacancy.

Or. en

Amendment 45

Proposal for a directive Article 7 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. Where the conditions of family reunification are relevant and fulfilled, the third-country national researcher

shall declare it and present legal documentation for its family members in parallel with the application for authorization.

Or. en

Justification

Wording similar to Directives on Researchers, Blue Card, Family reunification and on sanctions against employers of illegally staying third-country nationals

Amendment 46

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point e

Text proposed by the Commission

Amendment

(e) *information on the legal* relationship between the research organisation and the researcher;

(e) *specification of the employment* relationship between the research organisation and the researcher;

Or. en

Amendment 47

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point f

Text proposed by the Commission

Amendment

(f) *information on* the working conditions of the researcher.

(f) *specification of* the working conditions *and social security protection* of the researcher,

Or. en

Amendment 48

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) information on the researcher's qualifications in the light of the research scope and objectives;

Or. en

Amendment 49

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point f b (new)

Text proposed by the Commission

Amendment

(fb) evidence of having or having applied for a sickness insurance for all the risks covered for nationals in the particular Member State.

Or. en

Amendment 50

Proposal for a directive

Article 12 – title

Text proposed by the Commission

Amendment

Specific conditions for trainees

Specific conditions for ***unremunerated or remunerated*** trainees

Or. en

Amendment 51

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) ***have*** signed ***a*** training agreement,

(a) ***provide evidence of a*** signed training

approved if need be by the relevant authority in the Member State concerned in accordance with its national legislation or administrative practice, for a placement with a public- or private-sector enterprise or vocational training establishment recognised by the Member State in accordance with its national legislation or administrative practice.

agreement *or employment contract*, approved if need be by the relevant authority in the Member State concerned in accordance with its national legislation or administrative practice, for a placement with a public- or private-sector enterprise or vocational training establishment recognised by the Member State in accordance with its national legislation or administrative practice.

Or. en

Amendment 52

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) prove, if the Member State so requires, that they have previous relevant education *or* qualifications or professional *experience* to benefit from the work experience.

Amendment

(b) prove, if the Member State so requires, that they have previous relevant *higher* education qualifications or professional *qualifications* to benefit from the work experience,

Or. en

Amendment 53

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) provide evidence that during his/her stay he/she will have sufficient resources to cover his/her subsistence, training and return travel costs. The Member State shall make public the minimum monthly resources required for the purposes of this provision, without prejudice to individual examination of each case.

Amendment 54

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The agreement referred to in point (a) shall describe the training programme, specify its duration, the conditions under which the trainee is supervised in the performance of this programme, his/her working hours, the legal relationship with the host entity and, where the trainee is remunerated, the remuneration granted to him/her.

Amendment

The agreement referred to in point (a) shall describe the training programme, specify its duration, the conditions under which the trainee is supervised in the performance of this programme, his/her working hours, the legal relationship with the host entity and, where the trainee is remunerated, the remuneration granted to him/her ***and all other terms and conditions of employment, including benefits and social security protection.***

Amendment 55

Proposal for a directive

Article 12 – paragraph 2

Text proposed by the Commission

2. Member States may require the host entity to declare that the third country national is not filling a job.

Amendment

2. Member States may require the host entity to declare that the third country national is not filling a job, ***in order to ensure that foreign workers are not exploited as "cheap labour" in order to increase profit margins of companies, thus promoting social dumping.***

Amendment 56

Proposal for a directive Article 14 – point a

Text proposed by the Commission

(a) be at least **17** but not more than 30 *or, except in individually justified cases, more than 30 years of age*;

Amendment

(a) be at least **18 or have reached the legal age according to their national law, permitted to enter into contracts, but not more than 30**;

Or. en

Justification

As noted in the definition of the au pair, situations of minors being exploited are to be avoided and 18 is the legal age for the majority of the States and the age which he/she is legally permitted to enter into contracts without adult consent. Attention should be paid however to third-countries national law on the legal age, at which most of the rights of adulthood are assumed.

Amendment 57

Proposal for a directive Article 14 – point b

Text proposed by the Commission

(b) provide evidence that the host family accepts responsibility for him/her throughout his/her period of presence in the territory of the Member State concerned, in particular with regard to subsistence, accommodation, healthcare, **maternity** or accident risks;

Amendment

(b) provide evidence that the host family accepts responsibility for him/her throughout his/her period of presence in the territory of the Member State concerned, in particular with regard to subsistence, accommodation, healthcare or accident risks **by providing emergency help when needed**;

Or. en

Justification

"Maternity" should be deleted so as to avoid situations of abuse of the Directive. Emergency help is fundamental when travelling abroad, and it means help during an unexpected incident, such as an accident etc

Amendment 58

Proposal for a directive Article 14 – point c

Text proposed by the Commission

(c) **produce an** agreement between the au-pair and the host family defining his/her rights and obligations, including specifications about the pocket money to be received **and** adequate arrangements allowing him/her to attend courses, and participation in day-to-day family duties.

Amendment

(c) **present a legally binding employment contract which states the rights and contractual obligations of the au pair and the host family, on the basis of that the au pair receives board and lodging in exchange of services such as light household work and childcare in the host family and** agreement between the au-pair and the host family **clearly** defining his/her rights and obligations, including specifications about the pocket money **allowance** to be received, adequate arrangements allowing him/her to attend courses, **including the grant of at least one full free day per week**, and participation in day-to-day family **duties, indicating the maximum hours per day which may be dedicated to the participation in such** duties.

Or. en

Justification

See GAATW (Global Alliance Against Traffic in Women), Working Paper 2013, "Au Pair : Challenges to safe Migration and Decent Work"

Amendment 59

Proposal for a directive Article 14 – point c – subparagraph 1a (new)

Text proposed by the Commission

Amendment

The minimum pocket money allowance should be set up at national level making it equivalent to at least the minimum wage in comparable sectors of work in host countries and be valid to all au pairs (without prejudice of better conditions)

Amendment 60

Proposal for a directive

Article 14 – point c – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

Maximum working hours must not exceed 25 hours a week, with a daily maximum of five hours and at least one full day off per week or 8 hours daily and two full days per week.

Or. en

Amendment 61

Proposal for a directive

Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

A mechanism shall be established at national level which enables au pairs to change their host family and, in the event of a sudden termination of the contract, an au pair will be given 1 month to find a new host family, in which case he/she must apply for a new residence permit too. The au pair is allowed to stay as a guest with the new host family while awaiting the reply from the immigration service. The immigration authorities will take into account the reasons for changing the host family when issuing the new residence permit.

Or. en

Amendment 62

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall issue an authorisation for researchers for a period of at least one year and shall renew it if the conditions laid down in Articles 6, 7 and 9 are still met. If the research project is scheduled to last less than one year, the authorisation shall be issued for the duration of the project.

Amendment

1. Member States shall issue an authorisation ***including a residence and a work permit*** for researchers for a period of at least one year and shall renew it if the conditions laid down in Articles 6, 7 and 9 are still met. If the research project is scheduled to last less than one year, the authorisation shall be issued for the duration of the project.

Or. en

Amendment 63

Proposal for a directive Article 16 – paragraph 4

Text proposed by the Commission

4. The period of validity of an authorisation issued to trainees shall correspond to the duration of the placement or shall be for a maximum of one year. In exceptional cases, it may be renewed, once only and in the form of a permit and exclusively for such time as is needed to acquire a vocational qualification recognised by a Member State in accordance with its national legislation or administrative practice, provided the holder still meets the conditions laid down in Articles 6 and 12.

Amendment

4. The period of validity of an authorisation issued to trainees ***or a residence and work permit issued to remunerated trainees*** shall correspond to the duration of the placement or shall be for a maximum of one year. In exceptional cases, it may be renewed, once only and in the form of a permit and exclusively for such time as is needed to acquire a vocational qualification recognised by a Member State in accordance with its national legislation or administrative practice, provided the holder still meets the conditions laid down in Articles 6 and 12.

Or. en

Amendment 64

Proposal for a directive Article 18 – paragraph 2

Text proposed by the Commission

2. **Member** States *may* reject an application if the host entity *appears to have* deliberately eliminated the positions it is trying to fill through the new application within the 12 months immediately preceding the date of the application.

Amendment

2. States *shall* reject an application if the host entity *has* deliberately eliminated the positions it is trying to fill through the new application within the 12 months immediately preceding the date of the application.

Or. en

Amendment 65

Proposal for a directive Article 21 – paragraph - 1 (new)

Text proposed by the Commission

Amendment

-1. Third-country national researchers, students, pupils, trainees, volunteers and au pairs are entitled to equal treatment with nationals of the host Member State under Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

Or. en

Amendment 66

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

1. By way of derogation from Article 12(2)(b) of Directive 2011/98/EU, third-country national researchers shall be entitled to equal treatment with nationals of the host Member State as regards branches of social security, including family benefits, as defined in Regulation No 883/2004 on the coordination of social security schemes.

Amendment

1. By way of derogation from Article **12(2)(a) and** 12(2)(b) of Directive 2011/98/EU, third-country national researchers **and students** shall be entitled to equal treatment with nationals of the host Member State as regards **education and vocational training and** branches of social security, including family benefits, as defined in Regulation No 883/2004 on the coordination of social security schemes.

Or. en

Amendment 67

**Proposal for a directive
Article 23 – paragraph 3**

Text proposed by the Commission

3. Each Member State shall determine the maximum number of hours per week or days or months per year allowed for such an activity, which shall not be less than **20** hours per week, or the equivalent in days or months per year.

Amendment

3. Each Member State shall determine the maximum number of hours per week or days or months per year allowed for such an activity, which shall not be less than **10** hours per week, or the equivalent in days or months per year.

Or. en

Amendment 68

**Proposal for a directive
Article 24**

Text proposed by the Commission

After finalisation of research or studies in the Member State, **third-country nationals shall be entitled to stay on the territory of the Member State** for a period of **12**

Amendment

Any possible provision for extending the residence status of researchers and students after **the** finalisation of **their actual activities** (research or studies) in the

months in order to look for work or set up a business , if the conditions laid down in points (a) and (c) to (f) of Article 6 are still fulfilled. In a period of more than 3 and less than 6 months, third-country nationals may be requested to provide evidence that they continue to seek employment or are in the process of setting up a business. After a period of 6 months, third-country nationals may additionally be requested to provide evidence that they have a genuine chance of being engaged or of launching a business.

Member State, *for which a residence permit has been granted should be optional and remain at Member States' absolute competency together with the duration of this period.* Member States are advised to consider an extension for a period of 6 months *for these third-country nationals* in order to look for work or set up a business , if the conditions laid down in points (a) and (c) to (f) of Article 6 are still fulfilled. In a period of more than 3 and less than 6 months, third-country nationals may be requested to provide evidence that they continue to seek employment or are in the process of setting up a business. After a period of 6 months, third-country nationals may additionally be requested to provide evidence that they have a genuine chance of being engaged or of launching a business.

Or. en

Justification

Period extension: the rapporteur does not agree with the 12 month's period and proposes 6 months instead as it is considered to be sufficient for the purpose indicated.

Amendment 69

Proposal for a directive Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Harmonised quotas should be introduced in the admission numbers of each different category of applicants/ applications receiving authorisation for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing, as a measure to avoid risks of abuse and fraud by country level institutions and organisations and should be agreed according to the Member States' capability to respond,

based on their economic, employment and educational conditions.

Or. en

Justification

As provided by Recital 35

Amendment 70

**Proposal for a directive
Article 25 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. These derogations to the right to family reunification should not contradict to the idea of "brain drain" in the third countries of origin, as already stated in the Directive. Moreover, this right should be in compliance with the values and the principles recognised by the Member States; such compliance justifies the possible taking of restrictive measures according to the Recital 11 of the Directive 2003/86/EC.

Or. en

Amendment 71

**Proposal for a directive
Article 26 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Amendment

If the researcher stays in another Member State for a period of up to six months, the research may be carried out on the basis of the hosting agreement concluded in the first Member State, provided that he has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or public

If the researcher stays in another Member State for a period of up to six months, the research may be carried out on the basis of the hosting agreement concluded in the first Member State, provided that he/*she* has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or

health in the second Member State.

public health in the second Member State.

Or. en

Justification

Gender-equality

Amendment 72

Proposal for a directive

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

For periods exceeding three months, but not exceeding six months, a third-country national who has been admitted as a student or as a remunerated trainee under this Directive **shall be** allowed to carry out part of his/her studies/traineeship in another Member State provided that before his or her transfer to that Member State, he/she has submitted the following to the competent authority of the second Member State:

Amendment

For periods exceeding three months, but not exceeding six months, a third-country national who has been admitted as a student, or as a remunerated trainee **or as a researcher** under this Directive **may be** allowed to carry out part of his/her studies/traineeship in another Member State provided that before his or her transfer to that Member State, he/she has submitted the following to the competent authority of the second Member State **for validation and approval:**

Or. en

Amendment 73

Proposal for a directive

Article 26 – paragraph 2– point c a (new)

Text proposed by the Commission

Amendment

(ca) a valid document confirmation, including a social behavioural assessment, obtained by the previous service acquired, of having the required academic qualifications to be accepted as a student, researcher or remunerated trainee in a specific field for the purposes of a research project, studies and training.

Amendment 74

Proposal for a directive

Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) the full list of Member States that the researcher or student intends to go to is known prior to entry to the first Member State;

Amendment

(a) the full list of Member States that the researcher or student **has declared that he/she** intends to go to is known prior to entry to the first Member State;

Or. en

Justification

Gender-neutral terminology should be used

Amendment 75

Proposal for a directive

Article 28 – paragraph 1

Text proposed by the Commission

1. When a researcher moves to a second Member State in accordance with Articles 26 and 27, and when the family was already constituted in the first Member State, the members of his family shall be authorised to accompany or join him.

Amendment

1. When a researcher moves to a second Member State in accordance with Articles 26 and 27, and when the family was already constituted in the first Member State, the members of his/**her** family shall be authorised to accompany or join him/**her, according to case-by-case analysis.**

Or. en

Justification

Gender-neutral terminology should be used

Amendment 76

Proposal for a directive Article 28 – paragraph 3 – point b

Text proposed by the Commission

(b) *evidence that they have resided as members of the family of the researcher in the first Member State;*

Amendment

(b) *has stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance of the Member State concerned.*

Or. en

Amendment 77

Proposal for a directive Article 31 – paragraph 1

Text proposed by the Commission

Member States may require applicants to pay fees for the processing of applications in accordance with this Directive. *The amount* of such fees shall not *endanger the fulfilment of its objectives.*

Amendment

Member States may require applicants to pay fees for the processing of applications in accordance with this Directive. *The level* of such fees shall not *be excessive and disproportionate to their financial status/capacity, especially for the unremunerated categories, such as trainees and au pairs.*

Or. en

Justification

Court of Justice judgement in the case C-508/10 Commission v Netherlands stated that the level of fees shall not be excessive or disproportionate. For categories of unremunerated persons there should be a kind of state facilitation; this is the essence of a European welfare state.