

P7_TA(2014)0122

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 *I**

European Parliament legislative resolution of 25 February 2014 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 (recast) (COM(2013)0151 – C7-0080/2013 – 2013/0081(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0151),
 - having regard to Article 294(2) and Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0080/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Greek Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 18 September 2013¹,
 - having regard to the opinion of the Committee of the Regions of 28 November 2013²,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
 - having regard to the letter of 20 September 2013 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Legal Affairs (A7-0377/2013),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those

¹ OJ C 341, 21.11.2013, p 50.

² OJ C 114, 15.4.2014, p. 42.

³ OJ C 77, 28.3.2002, p. 1.

amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2013)0081

Position of the European Parliament adopted at first reading on 25 February 2014 with a view to the adoption of Directive 2014/.../EU 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 (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular points (a) and (b) of Article 79(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 341, 21.11.2013, p. 50.

² OJ C 114, 15.4.2014, p. 42.

³ Position of the European Parliament of 25 February 2014.

Whereas:

- (1) A number of amendments are to be made to Council Directive 2004/114/EC¹ and Council Directive 2005/71/EC². In the interests of clarity, those Directives should be recast.
- (2) This Directive should respond to the need identified in the ~~implemtation~~**implementation** reports of the two Directives³ to remedy the identified weaknesses, **to ensure transparency and legal certainty** and to offer a coherent legal framework for different groups coming to the Union from third countries. It should therefore simplify and streamline the existing provisions for the different groups in a single instrument. Despite differences between the groups covered by this Directive, they also share a number of characteristics which makes it possible to address them through a common legal framework at Union level. **[Am. 1]**

¹ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12).

² Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15).

³ COM(2011) 587 final and COM(2011) 901 final.

- (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 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.
- (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.

- (5) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the fields of asylum, immigration and the protection of the rights of third-country nationals.
- (6) This Directive should also aim at fostering people-to-people contacts and mobility, as important elements of the Union's external policy, notably vis-à-vis the countries of the European Neighbourhood Policy or the Union's strategic partners. It should allow for a better contribution to the Global Approach to Migration and Mobility and its Mobility Partnerships which offer a concrete framework for dialogue and cooperation between the Member States and third countries, including in facilitating and organizing *regular* migration. **[Am. not concerning all languages]**
- (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~~ *while strengthening cultural links and enriching cultural diversity.* **[Am. 3]**

- (8) This Directive should promote the Union as an attractive location for research and innovation and advance the Union in the global competition for talent ***and, in so doing, lead to an increase in the Union's overall competitiveness and growth rates while creating jobs that make a greater contribution to GDP growth.*** Opening the Union up to third-country nationals who may be admitted for the purposes of research is also part of the Innovation Union flagship initiative. Creating an open labour market for Union researchers and for researchers from third countries was also affirmed as a key aim of the European Research Area (ERA), a unified area, in which researchers, scientific ~~knowledge~~ ***knowledge*** and technology circulate freely. [Am. 4]

- (9) It is appropriate to facilitate the admission of researchers through an admission procedure which does not depend on their legal relationship with the host research organisation and by no longer requiring a work permit in addition to a residence permit or a long-stay visa. This procedure should be based on collaboration between research organisations and the immigration authorities in the Member States. It should give the former a key role in the admission procedure with a view to facilitating and speeding up the entry and residence of third-country researchers in the Union while preserving Member States' prerogatives with respect to immigration policy. Research organisations approved in advance by the Member States should be able to sign a hosting agreement with a third-country national for the purposes of carrying out a research project. Member States should issue an authorisation on the basis of the hosting agreement if the conditions for entry and residence are met.
- (10) As the effort to be made to achieve the target of investing 3 % of GDP in research largely concerns the private sector, which must therefore recruit more researchers in the years to come, the research organisations that can be approved under this Directive should belong to either the public or private sectors.

- (11) In order to make the Union more attractive for third-country national researchers *and students*, family members of researchers *and students*, as defined in Council Directive 2003/86/EC¹, should be admitted with them. They should benefit from intra- Union mobility provisions and they should also have access to the labour market. **[Am. 5]**
- (12) Where appropriate, Member States should be encouraged to treat PhD candidates as researchers.
- (13) Implementation of this Directive should not encourage a brain drain from emerging or developing countries. Measures to support researchers' reintegration into their countries of origin should be taken in partnership with the countries of origin with a view to establishing a comprehensive migration policy.

¹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

- (14) In order to promote Europe as a whole as a world centre of excellence for studies and training, the conditions for entry and residence of those who wish to come to the Union for these purposes should be improved, *simplified and facilitated*. This is in line with the objectives of the Agenda for the modernisation of Europe's higher education systems¹, in particular within the context of the internationalisation of European higher education. The approximation of the Member States' relevant national legislation *towards more favourable rules for third-country nationals* is part of this endeavour. [Am. 6]

¹ COM(2011) 567 final.

- (15) The extension and deepening of the Bologna process launched through the Bologna Declaration¹ has led to the progressive convergence of higher education systems in participating countries but also beyond them. This is because national authorities have supported the mobility of students and academic staff, and higher education establishments have integrated it in their curricula. This needs to be reflected through improved intra-Union mobility provisions for students. Making European higher education attractive and competitive is one of the objectives of the Bologna declaration. The Bologna process led to the establishment of the European Higher Education Area. Streamlining the European higher education sector has made it more attractive for students who are third-country nationals to study in Europe. ***The involvement of numerous third countries in the Bologna process and Union student mobility programmes makes the introduction of harmonised and simplified mobility rules for nationals of the countries concerned essential.*** [Am. 7]
- (16) The duration and other conditions of preparatory courses for students covered by this Directive should be determined by Member States in accordance with their national legislation.

¹ Joint declaration of the European Ministers of Education of 19 June 1999.

- (17) Evidence of acceptance of a student by an establishment of higher education could include, among other possibilities, a letter or certificate confirming his/her enrolment.
- (18) Fellowships should be taken into account in assessing the availability of sufficient resources.
- (19) Whilst Member States had discretion on whether or not to apply Directive 2004/114/EC to school pupils, volunteers and unremunerated trainees, these groups should fall now within the scope of this Directive in order to facilitate their entry and residence and ensure their rights. This Directive should also apply to au-pairs and remunerated trainees, in order to ensure their legal rights and protection.
- (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].

- (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 received¹.
- (22) Once all the general and specific conditions for admission are fulfilled, Member States should issue an authorisation, i.e. a long stay visa and/or residence permit, within specified time limits, *which should not be hampered or invalidated by additional requirements*. If a Member State issues a residence permit on its territory only and all the conditions of this Directive relating to admission are fulfilled, the Member State should grant the third-country national concerned the requisite visas. **[Am. 8]**
- (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.

¹ Council of Europe European Agreement on "au pair" Placement, Article 8.

- (24) The different periods of duration regarding authorisations under this Directive should reflect the specific nature of the stay of each group.
- (25) Member States ~~may charge applicants for processing applications for authorisations. The fees~~ *should consider waiving fees for entry and residence of third-country nationals for the purposes of this Directive. Should Member States require third-country nationals to pay fees, those* should be proportionate to the purpose of the stay *and should not constitute an obstacle to the objectives of the Directive.* [Am. 9]
- (26) The rights granted to third-country nationals under this Directive should not depend on whether the authorisation is in the form of a long stay visa or a residence permit.
- (27) The term admission covers the entry and residence of third-country nationals to and in a Member State, for the purposes set out in this Directive.
- (28) Admission may be refused on duly justified grounds. In particular, admission could be refused if a Member State considers, based on an assessment of the facts, in an individual case, that the third-country national concerned is a potential threat to public policy, *or* public security ~~or public health.~~ [Am. 10]

- (29) In case of doubts concerning the grounds of the application for admission, Member States should be able to require all the evidence necessary to assess its coherence, in particular on the basis of the applicant's intended studies or training, in order to fight against abuse and misuse of the procedure set out in this Directive.
- (30) National authorities should inform third-country nationals who apply for admission to the Member States under this Directive of a decision on the application. They should do so in writing as soon as possible and, at the latest within ~~60~~ **30** days, ~~or, as soon as possible and at the latest within 30 days in the case of researchers and students covered by Union programmes including mobility measures,~~ starting from the date of the application.
- Member States should inform the applicant as soon as possible of any further information they need for processing the application. In the event that national law provides for an administrative appeal against a negative decision, national authorities should inform the applicant of their decision within 30 days starting from the date when the appeal was lodged. [Am. 11]***

- (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 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].

- (32) Union immigration rules and Union programmes including mobility measures should complement each other more. Third-country national researchers, ~~and~~ students, *volunteers*, *trainees* covered by such Union programmes should be entitled to move to the *different* Member States ~~foreseen~~ on the basis of the authorisation granted by the first Member State, as long as the full list of those Member States is known before entry into the Union. Such an authorisation should allow them to exercise mobility without the need to provide any additional information or to complete any other application procedures. ~~Member States are encouraged to facilitate the intra-Union mobility of third-country national volunteers where volunteering programmes cover more than one Member State.~~ [Am. 12]
- (33) In order to allow third-country national students to better cover part of the cost of their studies, they should be given ~~increased~~ *full* 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~~ *apply as* 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.~~ [Am. 13]

- (34) As part of the drive to ensure a well-qualified workforce for the future, ~~Member States should allow~~ ***and to respect and value the work and overall contribution of*** students who graduate in the Union, ***Member States should allow those students*** 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. **[Am. 14]**
- (35) The provisions of this Directive are without prejudice to the competence of the Member States to regulate the volumes of admission of third-country nationals for the purpose of work.

- (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 Council¹. More favourable rights to equal treatment with nationals of the host Member State as regards branches of social security as defined in Regulation (EC) No 883/2004 of the European Parliament and of the Council² 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 *students*, 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.
- [Am. 15]**

¹ 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 (OJ L 343, 23.12.2011, p. 1).

² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

- (37) This Directive should not in any circumstances affect the application of Council Regulation (EC) No 1030/2002¹.
- (38) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 of the Treaty on European Union.
- (39) The Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, property, birth, disability, age or sexual orientation.
- (40) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

¹ Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

- (41) Since the objective of this Directive, namely to determine the conditions of entry and residence of third-country nationals for the purposes of research study, pupil exchange, unremunerated or remunerated training, voluntary service or au pairing, cannot be sufficiently achieved by the Member States and can, by reason of its scale or effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that article, this Directive does not go beyond what is necessary to achieve that objective.
- (42) Each Member State should ensure that the fullest possible set of regularly updated information is made available to the general public, notably on the Internet, about the research organisations, approved under this Directive, with which researchers could conclude a hosting agreement, and on the conditions and procedures for entry into and residence on its territory for the purposes of carrying out research, as adopted under this Directive as well as information about the establishments defined in this Directive, courses of study to which third-country nationals may be admitted and the conditions and procedures for entry into and residence on its territory for those purposes.

- (42a) *Each Member State has a duty to inform third-country nationals of the rules applicable to their particular case so as to ensure transparency and legal certainty and thus encourage them to come to the Union. All the information that is relevant to the procedure, including general documentation about studies, exchange or research programmes but also specific information about applicants' rights and obligations, should therefore be provided in a manner that is easily accessible and understandable by third-country nationals. [Am. 16]*
- (43) [In accordance with Articles 1 and 2 of the Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union and without prejudice to Article 4 of the said Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.]
- (44) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of this Directive, and is not bound by it or subject to its application.

- (45) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment compared to the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.
- (46) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directives set out in Annex I, Part B,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I
GENERAL PROVISIONS

Article 1

Subject matter

This Directive determines:

- (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;
- (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;
- (c) the conditions of entry and residence of third-country national researchers in Member States other than the Member State which first grants the third-country national an authorisation on the basis of this Directive.

Article 2

Scope

1. This Directive applies to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of research, studies, pupil exchange, remunerated or unremunerated training, voluntary service or au pairing.
2. This Directive shall not apply to third-country nationals:
 - (a) residing in a Member State as asylum-seekers, or under subsidiary forms of protection, or under temporary protection schemes;
 - (b) whose expulsion has been suspended for reasons of fact or of law;
 - (c) who are family members of Union citizens who have exercised their right to free movement within the Union;
 - (d) who enjoy long-term resident status in a Member State in accordance with Council Directive 2003/109/EC¹ and exercise their right to reside in another Member State in order to study or receive vocational training;

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

- (e) considered under the national legislation of the Member State concerned as self-employed persons;
- (f) who, together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of citizens of the Union under agreements either between the Union and the Member States or between the Union and third countries;
- (g) trainees who come to the Union in the context of an intra-corporate transfer under [Directive 2013/xx/EU on intra-corporate transfers].

Article 3

Definitions

For the purposes of this Directive:

- (a) ‘third-country national’ means a person who is not a citizen of the Union within the meaning of Article 20(1) of the Treaty;

- (b) ‘researcher’ means a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required;
- (c) ‘student’ means a third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to its national legislation;
- (d) ‘school pupil’ means a third-country national admitted to the territory of a Member State to follow a recognised programme of secondary education in the context of an exchange scheme operated by an organisation recognised for that purpose by the Member State in accordance with its national legislation or administrative practice;

- (e) 'unremunerated trainee' means a third-country national who has been admitted to the territory of a Member State for a training period without remuneration in accordance with the national legislation of the Member State concerned;
- (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 the national legislation of the Member State concerned;
- (g) 'volunteer' means a third-country national admitted to the territory of a Member State to participate in a recognised voluntary service scheme;
- (ga) 'volunteering provider' means an organisation responsible for the voluntary service scheme to which the third-country national is assigned. Such organisations and groups are independent and self-governing as other non-profit entities, such as public authorities. They are active in the public arena and their activity is aimed, at least in part, at contributing to the public good¹; [Am. 17]**

¹

Communication from the Commission on Promoting the Role of Voluntary Organisations and Foundations in Europe, COM(1997)0241.

- (h) 'voluntary service scheme' means a programme of activities of practical solidarity, based on a scheme recognised by the Member State or the Union, pursuing objectives of general interest *for a non-profit cause*; **[Am. 18]**
- (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 *in exchange for light housework and taking care of children*; **[Am. not concerning all languages]**
- (j) 'research' means creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications;
- (k) 'research organisation' means any public or private organisation which conducts research and which has been approved for the purposes of this Directive by a Member State in accordance with the latter's legislation or administrative practice;

- (l) 'educational establishment' means a public or private establishment recognised by the host Member State and/or whose courses of study are recognised in accordance with its national legislation or administrative practice on the basis of transparent criteria for the purposes set out in this Directive;
- (la) 'host entity' means the educational establishment, research organisation, enterprise or vocational training establishment, organisation operating pupil exchanges or organisation responsible for the voluntary service scheme to which the third-country national is assigned, regardless of its legal form, established in accordance with national law in the territory of a Member State; [Am. 20]***
- (lb) 'host family' means the family 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 an agreement concluded between the host family and the au-pair; [Am. 21]***
- (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;

- (n) 'employment' means the exercise of activities covering ~~whatever~~ **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; [Am. 22]
- (na) 'employer' means any natural person or any legal entity, for or under the direction and/or supervision of whom or which the employment is undertaken; [Am. 23]***
- (nb) 'family members' means third-country nationals as defined in Article 4 of Directive 2003/86/EC; [Am. 24]***
- (o) 'first Member State' means the Member State which first grants a third-country national an authorisation on the basis of this Directive;
- (p) 'second Member State' means any Member State other than the first Member State;
- (q) 'Union programmes including mobility measures' means Union funded programmes promoting inward mobility of third country nationals to the Union;

- (r) 'authorisation' means a residence permit issued by the authorities of a Member State allowing a third-country national to stay legally on its territory, in accordance with Article 1(2)(a) of Regulation (EC) No 1030/2002 or a long-stay visa;
- (s) 'long-stay visa' means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Convention or issued in accordance with the national law of Member States that do not fully implement the Schengen acquis.

Article 4

More favourable provisions

1. This Directive shall be without prejudice to more favourable provisions of:
 - (a) bilateral or multilateral agreements concluded between the Union or the Union and its Member States and one or more third countries; or
 - (b) bilateral or multilateral agreements concluded between one or more Member States and one or more third countries.

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 *16, 17, 18, 19, 20*, 21, 22, 23, 24, 25, *26, 27, 28*, ~~and 29~~, *30, 31, 32, 33 and 34*, especially in the context of Mobility Partnerships. **[Am. 25]**

CHAPTER II

ADMISSION

Article 5

Principle

1. The admission of a third-country national under this Directive shall be subject to the verification of documentary evidence showing that he/she meets the general conditions laid down in Article 6 and the specific conditions in whichever of Articles 7 to 14 applies to the relevant category.
2. Once all the general and specific conditions for admission are fulfilled, applicants shall be entitled to a long-stay visa and/or residence permit. If a Member State issues residence permits only on its territory and not elsewhere and all the admission conditions laid down in this Directive are fulfilled, the Member State concerned shall issue the third country national the requisite visa.

Article 6
General conditions

A third-country national who applies to be admitted for the purposes set out in this Directive shall:

- (a) present a valid travel document as determined by national legislation; Member States may require the period of validity of the travel document to cover at least the duration of the planned stay;
- (b) if he/she is a minor under the national legislation of the host Member State, present a parental authorisation or equivalent for the planned stay;
- (c) have sickness insurance for all risks normally covered for nationals of the Member State concerned;
- (d) not be ~~regarded~~ as a threat to public policy, public security or public health; **[Am. 26]**
- (e) provide proof, if the Member State so requests, that he/she has paid the fee for processing the application on the basis of Article 31;

- (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 not be necessary if the third-country national concerned can prove that he/she is in receipt of a grant or scholarship, that he/she has received an undertaking of sponsorship from a host family or a firm offer of work or that an organisation operating pupil exchanges or the voluntary service scheme declares itself responsible for the subsistence of the pupil or the volunteer throughout the period of his/her stay in the Member State in question. [Am. 27]***

Article 7

Specific conditions for researchers

1. In addition to the general conditions laid down in Article 6, a third-country national who applies to be admitted for the purpose of carrying out research shall:
 - (a) present a hosting agreement signed with a research organisation in accordance with Article 9(1) and Article 9(2);

- (b) where appropriate, present a statement of financial responsibility issued by the research organisation in accordance with Article 9(3).
2. Member States may check the terms upon which the hosting agreement has been based and concluded.
 3. Once the checks referred to in paragraphs 1 and 2 have been positively concluded, researchers shall be admitted to the territory of the Member State to carry out the hosting agreement.
 4. Applications from third-country nationals wishing to pursue research in the Union shall be considered and examined when the third-country national concerned is residing outside the territory of the Member State to which he/she wishes to be admitted.
 5. Member States ~~may accept~~ **shall examine**, in accordance with their national legislation, an application submitted when the third-country national concerned is already in their territory. **[Am. 28]**
 6. Member States shall determine whether applications for authorisations are to be made by the researcher or by the research organisation concerned.

Article 8

Approval of research organisations

1. Any research organisation wishing to host a researcher under the admission procedure laid down in this Directive shall first be approved for that purpose by the Member State concerned.
2. The approval of the research organisations shall be in accordance with procedures set out in the national law or administrative practice of the Member States. Applications for approval by both public and private organisations shall be made in accordance with those procedures and be based on their statutory tasks or corporate purposes as appropriate and on proof that they conduct research.

The approval granted to a research organisation shall be for a minimum period of five years. In exceptional cases, Member States may grant approval for a shorter period.

3. Member States may require, in accordance with national legislation, a written undertaking of the research organisation that in cases where a researcher remains illegally in the territory of the Member State concerned, the said organisation is responsible for reimbursing the costs related to his/her stay and return incurred by public funds. The financial responsibility of the research organisation shall end at the latest six months after the termination of the hosting agreement.
4. Member States may provide that, within two months of the date of expiry of the hosting agreement concerned, the approved organisation shall provide the competent authorities designated for the purpose by the Member States with confirmation that the work has been carried out for each of the research projects in respect of which a hosting agreement has been signed pursuant to Article 9.
5. The competent authorities in each Member State shall publish and update lists of the research organisations approved for the purposes of this Directive whenever a change is made to those lists.

6. A Member State may, among other measures, refuse to renew or decide to withdraw the approval of a research organisation which no longer meets the conditions laid down in paragraphs 2, 3 and 4 or in cases where the approval has been fraudulently acquired or where a research organisation has signed a hosting agreement with a third-country national fraudulently or negligently. Where approval has been refused or withdrawn, the organisation concerned may be banned from reapplying for approval up to five years from the date of publication of the decision on withdrawal or non-renewal.
7. Member States may determine in their national legislation the consequences of the withdrawal of the approval or refusal to renew the approval for the existing hosting agreements, concluded in accordance with Article 9, as well as the consequences for the residence permits of the researchers concerned.

Article 9

Hosting agreement

1. A research organisation wishing to host a researcher shall sign a hosting agreement with the latter provided that the conditions laid down in Articles 6 and 7 are met.

The hosting agreement shall contain at least the following elements:

- (a) the title and purpose of the research project;
- (b) an undertaking by the researcher to complete the research project;
- (c) confirmation by the organisation that it undertakes to host the researcher so that he or she can complete the research project;
- (d) the start and end date of the research project;
- (e) information on the legal relationship between the research organisation and the researcher;
- (f) information on the working conditions of the researcher.

2. Research organisations may sign hosting agreements only if the following conditions are met:

- (a) the research project has been accepted by the relevant authorities in the organisation, after examination of:

- (i) the purpose and duration of the research, and the availability of the necessary financial resources for it to be carried out;
- (ii) the researcher's qualifications in the light of the research objectives, as evidenced by a certified copy of his/her qualification in accordance with Article 2(b).

3. Once the hosting agreement is signed, the research organisation may be required, in accordance with national legislation, to provide the researcher with an individual statement that for costs within the meaning of Article 8(3) financial responsibility has been assumed.
4. The hosting agreement shall automatically lapse when the researcher is not admitted or when the legal relationship between the researcher and the research organisation is terminated.
5. Research organisations shall promptly inform the authority designated for the purpose by the Member States of any occurrence likely to prevent implementation of the hosting agreement.

Article 10

Specific conditions for students

1. In addition to the general conditions laid down in Article 6, a third-country national who applies to be admitted for the purpose of study shall:
 - (a) provide evidence that he/she has been accepted by an establishment of higher education to follow a course of study;
 - (b) provide evidence, if the Member State so requires, that he/she has paid the fees charged by the establishment ;
 - (c) provide evidence, if the Member State so requires, of sufficient knowledge of the language of the course to be followed by him/her.
2. Students who automatically qualify for sickness insurance for all risks normally covered for the nationals of the Member State concerned as a result of enrolment at an establishment shall be presumed to meet the condition laid down in Article 6(1)(c).

Article 11

Specific conditions for school pupils

4. A third-country national who applies to be admitted in a pupil exchange scheme shall, in addition to the general conditions laid down in Article 6:
- (a) not be below the minimum age nor above the maximum age set by the Member State concerned;
 - (b) provide evidence of acceptance by a secondary education establishment;
 - (c) provide evidence of participation in a recognised pupil exchange scheme programme operated by an organisation recognised for that purpose by the Member State concerned in accordance with its national legislation or administrative practice;
 - (d) provide evidence that the pupil exchange organisation accepts responsibility for him/her throughout his/her period of presence in the territory of the Member State concerned, in particular as regards subsistence, study, healthcare and return travel costs;

- (e) be accommodated throughout his/her stay by a family meeting the conditions set by the Member State concerned and selected in accordance with the rules of the pupil exchange scheme in which he/she is participating.

~~2. Member States may confine the admission of school pupils participating in an exchange scheme to nationals of third countries which offer the same possibility for their own nationals. [Am. 29]~~

Article 12

Specific conditions for *unremunerated and remunerated* trainees [Am. 30]

1. A third-country national who applies to be admitted as an unremunerated or remunerated trainee shall, in addition to the general conditions laid down in Article 6:
 - (a) ~~have~~ *provide evidence of a signed a training 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. [Am. 31]

~~(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.~~

[Am. 32]

(c) receive, if the Member State so requires, basic language training so as to acquire the knowledge needed for the purposes of the placement.

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.

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

Article 13

Specific conditions for volunteers

A third-country national who applies to be admitted to a voluntary service scheme shall, in addition to the general conditions laid down in Article 6:

- (a) produce an agreement with the organisation responsible in the Member State concerned for the voluntary service scheme/*project* in which he/she is participating, ~~giving a description of~~ *which specifies the name, purpose and start and end date of the voluntary service project, the volunteer's* tasks, the conditions in which he/she is supervised in the performance of those tasks, his/her working hours, the resources available to cover his/her travel, subsistence, accommodation costs and pocket money throughout his/her stay and, if appropriate, the training he/she will receive to help him/her perform his/her service; [Am. 33]
- (b) provide evidence that the organisation responsible for the voluntary service scheme in which he/she is participating has subscribed to a third-party insurance policy;
- (c) and, if the host Member State specifically requires it, receive a basic introduction to the language, history and political and social structures of that Member State.

Article 14

Specific conditions for au-pairs

A third-country national who applies to be admitted for the purpose of working as an au-pair shall, in addition to the general conditions laid down in Article 6:

- (a) be at least 17 but not more than 30 or, except in individually justified cases, more than 30 years of age;
- (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; [Am. 34]
- (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 ***on the hours dedicated to*** ~~allowing him/her to attend courses,~~ and participation in day-to-day family duties, ***indicating the maximum hours per day which may be dedicated to participation in such duties, including the grant of at least one full free day per week and allowing him/her to attend courses.*** [Am. 35]

CHAPTER III
AUTHORISATIONS AND DURATION OF RESIDENCE

Article 15

Authorisations

Long-stay visas and residence permits shall bear the title "researcher", "student", "volunteer", "school pupil", "remunerated trainee", "unremunerated trainee" or "au pair". For third-country national researchers and students coming to the Union under a specific Union programme including mobility measures, the authorisation shall mention the specific programme.

After successful authorisation and grant of a visa, the host entity shall be registered with an accreditation system, in order to facilitate future application procedures. [Am. 36]

Article 16

Duration of residence

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.

2. Member States shall issue an authorisation for students ***which shall be*** for a period of at least one year ~~and~~ ***or, when the duration of their studies is longer than one year, for the whole duration of their studies and where appropriate*** shall renew it if the conditions laid down in Articles 6 and 10 are still met. ~~If the period of studies is scheduled to last less than one year, the authorisation shall be issued for the duration of the studies.~~ **[Am. 37]**
3. For school pupils and au pairs, Member States shall issue an authorisation ***covering the whole duration of the pupil exchange scheme or of the agreement between the host family and the au pair*** for a maximum period of one year. **[Am. 38]**
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.

5. An authorisation issued to volunteers shall be issued for a period of no more than one year. In exceptional cases, if the duration of the relevant programme is longer than one year, the duration of the validity of the required authorisation may correspond to the period concerned.
6. In cases where Member States allow entry and residence on the basis of a long-stay visa, a residence permit shall be issued with the first extension of the initial stay. Where the validity of the long-stay visa is shorter than the authorised duration of stay, the long-stay visa shall be replaced by a residence permit without additional formalities before the expiry of the visa.

Article 17

Additional information

Member States may indicate additional information related to the stay of the third-country national, such as the full list of Member States that the researcher or student *has declared that he/she* intends to go to *in accordance with Article 27(1)(a)*, in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and in point (a) 16 of the Annex thereto. [Am. 39]

CHAPTER IV

Grounds for refusal, withdrawal or non-renewal of authorisations

Article 18

Grounds for ~~rejection~~**refusal** of an ~~application~~**authorisation**

1. Member States shall ~~reject an application~~ **refuse an authorisation** in the following cases:
 - (a) where the general conditions laid down in Article 6 **or** the relevant specific conditions laid down in Articles 7 and 10 to 16 are not met;
 - (b) where the documents presented have been fraudulently acquired, falsified or tampered with;
 - ~~(c) where the host entity or educational establishment was established in the sole purpose of facilitating entry;~~
 - ~~(d) where the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment or does not meet the legal obligations regarding social security and/or taxation set out in national law or has filed for bankruptcy or is otherwise insolvent;~~

~~(e) where the host family, or, if applicable, any intermediary organisation involved in the placement of the au-pair, has been sanctioned in conformity with national law for breach of the conditions and/or objectives of au-pair placements and/or illegal employment.~~

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. *refuse an authorisation in the following cases:*

- (a) where the host entity has been sanctioned in accordance with national law for undeclared work and/or illegal employment or does not meet the legal obligations regarding social security and/or taxation set out in national law or has filed for bankruptcy or is otherwise insolvent;*
- (b) where the host family, or, if applicable, any intermediary organisation involved in the placement of the au-pair, has been sanctioned in accordance with national law for breach of the conditions and/or objectives of au-pair placements and/or illegal employment;*

(c) where the host entity or educational establishment was established for the sole purpose of facilitating entry. [Am. 40]

Article 19

Grounds for withdrawal ***or non-renewal*** of an authorisation

1. Member States shall withdraw ***or refuse to renew*** an authorisation in the following cases:

(a) where the holder no longer meets the general conditions laid down in Article 6 or the relevant specific conditions laid down in Articles 7, 10 to 14 or 16;

(ab) where authorisations and documents presented have been fraudulently acquired, falsified or tampered with;

~~***(b)***~~ where the third-country national is residing for purposes other than those for which he/she was authorised to reside;

~~***(c)***~~ where the host entity was established for the sole purpose of facilitating entry;

2. ***Member States may withdraw or refuse to renew an authorisation in the following cases:***

- (~~ea~~) where the host entity does not meet the legal obligations regarding social security and/or taxation set out in national law or has filed for bankruptcy or is otherwise insolvent. ***In the event of this occurring during a course of study, reasonable time should be given for the student to find an equivalent course to enable the completion of his/her studies;***
- (~~eb~~) where the host family, or, if applicable, any intermediary organisation involved for the placement of the au-pair, ***entity*** has been sanctioned in conformity ***accordance*** with national law for breach of the conditions and/or objectives of au-pair placements and/or for illegal employment ***undeclared work and/or illegal employment or does not meet the legal obligations regarding social security and/or taxation set out in national law or has filed for bankruptcy or is otherwise insolvent;***
- (c) ***where the host entity was established for the sole purpose of facilitating entry;***

- (d) where the host family, or, if applicable, any intermediary organisation involved for the placement of the au-pair, has been sanctioned in accordance with national law for breach of the conditions and/or objectives of au-pair placements and/or for illegal employment;**
- (e) where the third-country national is residing for purposes other than those for which he/she was authorised to reside;**
- (f) for students, where the time limits imposed on access to economic activities under Article 23 are not respected; ~~or if the respective student does.~~
- (g) for students, where they do not make acceptable progress in the relevant studies in accordance with national legislation or administrative practice. *The Member State concerned may withdraw or refuse to renew an authorisation on this ground only by a decision stating specific reasons based on the evaluation of the educational establishment, which shall be consulted on the student's progress, save when the establishment fails to respond to a request for an opinion within a reasonable period of time;***

~~2. Member States may withdraw an authorisation~~

(h) for reasons of public policy, public security or public health. *Public policy or public security grounds shall be based exclusively on the personal conduct of the third-country national concerned. Public health grounds shall be based on an objective analysis of genuine risks and shall not be applied in a discriminatory way when compared to nationals of the Member State concerned.*

2a. *When a Member State withdraws an authorisation on one of the grounds under paragraph 2(a), (b) or (c), the third-country national shall be entitled to stay on the territory of that Member State if he/she finds another host entity or host family in order to finish his/her studies or research or for another purpose for which the authorisation was granted. [Am. 41]*

Article 20

Grounds for non-renewal of an authorisation

- ~~1. Member States may refuse to renew an authorisation in the following cases:~~
 - ~~(a) where the authorisation and documents presented have been fraudulently acquired, falsified or tampered with;~~
 - ~~(b) where it appears that the holder no longer meets the general conditions for entry and residence laid down in Article 6 and the relevant specific conditions laid down in Articles 7, 9 and 10;~~
 - ~~(c) for students, where the time limits imposed on access to economic activities under Article 23 are not respected or where the student does not make acceptable progress in the relevant studies in accordance with national legislation or administrative practice.~~
- ~~2. Member States may refuse to renew an authorisation on grounds of public policy, public security and public health. [Am. 42]~~

CHAPTER V

RIGHTS

Article 21

Equal treatment

1. By way of derogation from Article 12(2)(a) **and** (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 (EC) No 883/2004. **[Am. 43]**
2. **Students, School school** pupils, volunteers, unremunerated trainees and au pairs, irrespective of whether they are allowed to work in accordance with Union or national law, shall be entitled to equal treatment in relation to access to goods and services and the supply of goods and services made available to the public, except procedures for obtaining housing as provided for by national law. **[Am. 44]**

- 2a. ***Third-country nationals falling within the scope of this Directive and being authorised to enter and stay on the territory of a Member State on the basis of a long-stay visa shall be entitled to equal treatment with nationals of the host Member State as regards the rights referred to in paragraphs 1 and 2 of this Article. [Am. 45]***

Article 22

Teaching by researchers

Researchers admitted under this Directive may teach in accordance with national legislation..

Member States may set a maximum number of hours or of days for the activity of teaching.

Article 23

Economic activities by students

1. Outside their study time and subject to the rules and conditions applicable to the relevant activity in the host Member State, students shall be entitled to be employed and may be entitled to exercise self-employed economic activity. The situation of the labour market in the host Member State may be taken into account, ***but not in a systematic manner which could result in students being excluded from the labour market.*** [Am. 46]

2. Where necessary, Member States shall grant students and/or employers prior authorisation in accordance with national legislation.
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.
4. Member States may require students to report, in advance or otherwise, to an authority designated by the Member State concerned, that they are engaging in an economic activity. Their employers may also be subject to a reporting obligation, in advance or otherwise.

Article 24

Job-searching and entrepreneurship for researchers and students

- 1.** 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~~ **18** 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~~ **six** and less than ~~6~~ **nine** 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~~ **nine** 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.
- 2.** *Member States shall issue an authorisation for the purposes of paragraph 1 of this Article to the third-country national concerned and, where relevant, to his/her family members in accordance with their national law, provided that the conditions laid down in points (a) and (c) to (f) of Article 6 are fulfilled. [Am. 47]*

Article 25

Researchers' *and students'* family members

1. By way of derogation from Article 3(1) and Article 8 of Directive 2003/86/EC, family reunification shall not be made dependent on the holder of the authorisation to stay for the purposes of research *or studies* having reasonable prospects of obtaining the right of permanent residence and having a minimum period of residence.
2. By way of derogation from the last subparagraph of Article 4(1) and Article 7(2) of Directive 2003/86/EC, the integration conditions and measures referred to in those provisions may only be applied after the persons concerned have been granted family reunification.
3. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, authorisations for family members shall be granted, where the conditions for family reunification are fulfilled, within 90 days from the date on which the application was lodged, and 60 days from the date of the initial application for family members of third-country national researchers *and students* covered by the relevant Union programmes including mobility measures.

4. By way of derogation from Article 13(2) and (3) of Directive 2003/86/EC, the duration of validity of the authorisation of family members shall be the same as that of the authorisation granted to the researcher *or the student* insofar as the period of validity of their travel documents allows it.
 5. By way of derogation from the second sentence of Article 14(2) of Directive 2003/86/EC, Member States shall not apply any time limit in respect of access to the labour market.
- [Am. 48]**

CHAPTER VI
MOBILITY BETWEEN MEMBER STATES

Article 26

Right to mobility between Member States for researchers, students, *volunteers*, ~~and remunerated~~
trainees

1. A third-country national who has been admitted as a researcher under this Directive shall be allowed to carry out part of his/her research in another Member State under the conditions as set out in this Article.

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 public health in the second Member State.

If the researcher stays in another Member State for more than six months, Member States may require a new hosting agreement to carry out the research in that Member State. If Member States require an authorisation in order to exercise mobility, such authorisations shall be granted in accordance with the procedural guarantees specified in Article ~~30~~ **29**. Member States shall not require researchers to leave the territory in order to submit applications for authorisations.

2. For periods exceeding three months, but not exceeding six months, a third-country national who has been admitted as a student, **volunteer**, or as a ~~remunerated~~ trainee under this Directive shall be allowed to carry out part of his/her studies/traineeship/**volunteer activity** 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:

- (a) a valid travel document;
- (b) proof of sickness insurance for all risks normally covered for the nationals of the Member State concerned;
- (c) proof that he/she has been accepted by an establishment of higher education or a training *or a volunteer* host entity;
- (d) evidence that during his/her stay he/she will have sufficient resources to cover his/her subsistence, study and return travel costs.

3. For the mobility of students, *volunteers* and trainees from the first Member State to a second Member State, the authorities of the second Member State shall inform the authorities of the first Member State on their decision. The cooperation procedures set out in Article 32 shall apply.

4. For a third-country national who has been admitted as a student, transfers to a second Member State exceeding six months may be granted under the same conditions as those applied for mobility for a period exceeding three months but less than six months. If Member States require a new application for an authorisation to exercise mobility for a period exceeding six months, such authorisations shall be granted in accordance with Article 29.
5. Member States shall not require students, *volunteers or trainees* to leave the territory in order to submit applications for authorisations for mobility between Member States.
[Am. 49]

Article 27

Rights for researchers, *volunteers, unremunerated and remunerated trainees* and students covered by Union programmes including mobility measures

1. Member States shall grant third-country nationals, who have been admitted as researchers, *volunteers, unremunerated or remunerated trainees* or students under this Directive and who are covered by Union programmes including mobility measures, an authorization covering the whole duration of their stay in the Member States concerned where:

- (a) the full list of Member States that the researcher, *volunteer, unremunerated or remunerated trainee* or student *has declared that he/she* intends to go to is known prior to entry to the first Member State;
- (b) in the case of students, the applicant can provide evidence of acceptance by the relevant *educational* establishment ~~of higher education~~ to follow a course of study;
- (ba) *in the case of volunteers, the applicant can provide evidence of acceptance by the relevant volunteering provider organisation or programme, such as the European Voluntary Service;***
- (bb) *in the case of trainees, the applicant can provide evidence of acceptance by the relevant host entity.***

2. The authorisation shall be granted by the first Member State that the researcher, *volunteer*, *unremunerated or remunerated trainee* or student resides in.
3. Where the full list of Member States is not known prior to entry into the first Member State:
 - (a) for researchers, the conditions as set out in Article 26 for stays in another Member States for periods of up to six months shall apply;
 - (b) for students, *unremunerated or remunerated trainees and volunteers*, the conditions as set out in Article 26 for stays in another Member States for periods between three and six months shall apply. **[Am. 50]**

Article 28

Residence in the second Member State for family members

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*. **[Am. not concerning all languages]**
2. No later than one month after entering the territory of the second Member State, the family members concerned or the researcher, in accordance with national law, shall submit an application for a residence permit as a family member to the competent authorities of that Member State.

In cases where the residence permit of the family members issued by the first Member State expires during the procedure or no longer entitles the holder to reside legally on the territory of the second Member State, Member States shall allow the person to stay in their territory, if necessary by issuing national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on their territory with the researcher until a decision on the application has been taken by the competent authorities of the second Member State.

3. The second Member State may require the family members concerned to present with their application for a residence permit:
 - (a) their residence permit in the first Member State and a valid travel document, or their certified copies, as well as a visa, if required;
 - (b) evidence that they have resided as members of the family of the researcher in the first Member State;
 - (c) evidence that they have a sickness insurance covering all risks in the second Member State, or that the researcher has such insurance for them.

4. The second Member State may require the researcher to provide evidence that the holder:
 - (a) has an accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards in the Member State concerned;
 - (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. **[Am. not concerning all languages]**

Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.

CHAPTER VII

PROCEDURE AND TRANSPARENCY

Article 29

Procedural guarantees and transparency

1. The competent authorities of the Member States shall decide on the complete application for an authorisation and shall notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned, as soon as possible and at the latest within ~~60~~ **30** days from the date on which the application was lodged, ~~and within 30 days in the case of third-country national researchers and students covered by Union programmes including mobility measures.~~ ***In the event that their national law provides for the possibility of an appeal before an administrative authority, the competent authorities of the Member States shall decide on the appeal at the latest within 30 days from the date on which the appeal was lodged.*** [Am. 53]

2. If the information supplied in support of the application is inadequate, the competent authorities shall inform the applicant of any further information they need and, ***when registering the application***, indicate a reasonable deadline to complete the application. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information required. **[Am. 54]**
3. Any decision ~~rejecting~~ ***refusing*** an application ***authorisation*** ~~for an authorisation~~ shall be notified to the third-country national concerned in accordance with the notification procedures provided for under the relevant national legislation. The notification shall specify the possible redress procedures available, the national court or authority with which the person concerned may lodge an appeal and the time limit for taking action ***and provide all relevant practical information which facilitates the exercise of his/her right.*** **[Am. 55]**
4. Where an ~~application~~ ***authorisation*** is ~~rejected~~ ***refused*** or an authorisation issued in accordance with this Directive is withdrawn, the person concerned shall have the right to mount a legal challenge before the authorities of the Member State concerned. **[Am. 56]**

Article 29a

Fast-track procedure for issuing residence permits or visas to students, school pupils and researchers

An agreement on the establishment of a fast-track admission procedure allowing residence permits or visas to be issued in the name of the third-country national concerned may be concluded between the authority of a Member State with responsibility for the entry and residence of students, school pupils or researchers who are third-country nationals and an educational establishment, an organisation operating pupil exchange schemes which has been recognised for this purpose or a research organisation which has been approved by the Member State concerned in accordance with its national legislation or administrative practice. [Am. 57]

Article 30

Transparency and access to information

Member States shall make available *easily accessible and understandable* information on entry and residence conditions for third-country nationals falling under the scope of this Directive, including the minimum monthly resources required, rights, all documentary evidence needed for an application and the applicable fees. Member States shall make available information on the research organisations approved under Article 8. [Am. 58]

Article 31

Fees

Member States may require ~~applicants to pay~~ **payment of** fees for the processing of **handling** applications in accordance with this Directive. The ~~amount~~ **level** of such fees shall not ~~endanger~~ **be excessive or disproportionate in a way that would hinder** the fulfilment of its objectives. **Where those fees are paid by the third-country national, that third-country national shall be entitled to be reimbursed by the host entity or the host family respectively.** [Am. 59]

CHAPTER VIII

FINAL PROVISIONS

Article 32

Contact points

1. Member States shall appoint contact points which shall be responsible for receiving and transmitting the information needed to implement Articles 26 and 27.
2. Member States shall provide appropriate cooperation in exchanges of the information referred to in paragraph 1.

2a. *Member States shall facilitate the application procedure by allowing third-country nationals to apply and to be able to complete the procedure for any Member State in the embassy or consulate of the Member State which is most convenient for the applicant.*
[Am. 60]

Article 33

Statistics

Annually, and the first time no later than [...] Member States shall, in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council¹, communicate to the Commission statistics on the volumes of third-country nationals who have been granted authorisations. In addition, and as far as possible, statistics shall be communicated to the Commission on volumes of third-country nationals whose authorisations have been renewed or withdrawn, during the previous calendar year, indicating their citizenship. Statistics on the admitted family members of researchers shall be communicated in the same manner.

The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission within six months of the end of the reference year. The first reference year shall be [...]

¹ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

Article 34

Reporting

Periodically, and for the first time by [five years after the date of transposition of this Directive], the Commission shall evaluate the application of this Directive and report to the European Parliament and the Council on the application of this Directive in the Member States and propose amendments if appropriate.

Article 35

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 36

Repeal

Directives 2005/71/EC and 2004/114/EC are repealed with effect from [day after the date set out in the first subparagraph of Article 35(1) of this Directive], without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 37

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 38

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at

For the European Parliament

The President

For the Council

The President

ANNEX I

Part A

Repealed Directive with list of its successive amendments
(referred to in Article 37)

Directive 2004/114/EC of the European Parliament and of the Council	(OJ L 375, 23.12.2004, p. 12)
Directive 2005/71/EC of the European Parliament and of the Council	(OJ L 289, 3.11.2005, p. 15)

Part B

List of time-limits for transposition into national law [and application]
(referred to in Article 36)

Directive	Time-limit for transposition	Date of application
2004/114/EC	12.1.2007	
2005/71/EC	12.10.2007	

ANNEX II
Correlation Table

Directive 2004/114/EC	Directive 2005/71/EC	This Directive
Article 1 (a)		Article 1 (a)
Article 1 (b)		-
-		Article 1 (b) and (c)
Article 2 introductory wording		Article 3 introductory wording
Article 2 (a)		Article 3 (a)
Article 2 (b)		Article 3 (c)
Article 2 (c)		Article 3 (d)
Article 2 (d)		Article 3 (e)
-		Article 3 (f) and (g)
Article 2 (e)		Article 3 (l)
Article 2 (f)		Article 3 (h)
Article 2 (g)		-
-		Article 3 (i)
-		Article 3 (m) to (s)
Article 3 (1)		Article 2 (1)
Article 3 (2)		Article 2 (2) (a) to (e)
-		Article 2 (2) (f) and (g)
Article 4		Article 4

Article 5		Article 5 (1)
-		Article 5 (2)
Article 6 (1)		Article 6 (a) to (e)
-		Article 6 (f)
Article 6 (2)		-
-		Article 7
Article 7 (1) introductory wording		Article 10 (1) introductory wording
Article 7 (1) (a)		Article 10 (1) (a)
Article 7 (1) (b) and (c)		-
Article 7 (1) (d)		Article 10 (1) (b)
Article 7 (2)		Article 10 (2)
-		Article 10 (3)
Article 8		-
-		Article 11
Article 9 (1) and (2)		Article 12 (1) and (2)
Article 10 introductory wording		Article 13 (1) introductory wording
Article 10 (a)		Article 13 (1) (a)
Article 10 (b) and (c)		-
-		Article 12 (1) (b)
-		Article 12 (2)

Article 11 introductory wording		Article 14 (1) introductory wording
Article 11 (a)		-
Article 11 (b)		Article 13 (1) (a)
Article 11 (c)		Article 13 (1) (b)
Article 11 (d)		Article 13 (1) (c)
Articles 12 to 15		-
-		Articles 14, 15 and 16
Article 16 (1)		Article 20 (1) introductory wording
-		Article 20 (1) (a) to (c)
Article 16 (2)		Article 20 (2)
-		Article 21
Article 17 (1) first subparagraph		Article 23 (1)
Article 17 (1) second subparagraph		Article 23 (2)
Article 17 (2)		Article 23 (3)
Article 17 (3)		-
Article 17 (4)		Article 23 (4)
-		Articles 15, 24, 25, 27
-		Article 17
Article 18 (1)		-

-		Article 29 (1)
Article 18 (2), (3) and (4)		Article 29 (2), (3) and (4)
Article 19		-
-		Article 30
Article 20		Article 31
-		Articles 32 and 33
Article 21		Article 34
Articles 22 to 25		-
-		Articles 35, 36 and 37
Article 26		Article 38
-		Annexes I and II
	Article 1	-
	Article 2 introductory wording	-
	Article 2 (a)	Article 3 (a)
	Article 2 (b)	Article 3 (i)
	Article 2 (c)	Article 3 (k)
	Article 2 (d)	Article 3 (b)
	Article 2 (e)	-
	Articles 3 and 4	-
	Article 5	Article 8

	Article 6 (1)	Article 9 (1)
	-	Article 9 (1) (a) to (f)
	Article 6 (2) (a)	Article 9 (2) (a)
	Article 6 (2) (a), (b) and (c)	-
	Article 6 (3), (4) and (5)	Article 9 (3), (4) and (5)
	Article 7	-
	Article 8	Article 16 (1)
	Article 9	-
	Article 10 (1)	Article 19 (2) (a)
	-	Article 19 (2) (b)
	Article 10 (2)	-
	Article 11 (1) and (2)	Article 22
	Article 12 introductory wording	-
	Article 12 (a)	-
	Article 12 (b)	-
	Article 12 (c)	Article 21 (1)
	Article 12 (d)	-
	Article 12 (e)	-
	-	Article 21 (2)
	Article 13 (1)	Article 26 (1)
	Article 13 (2)	Article 26 (1)

	Article 13 (3) and (5)	Article 26 (1)
	Article 13 (4)	-
	-	Article 26 (2), (3) and (4)
	Articles 14 to 21	-