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Committee on Civil Liberties, Justice and Home Affairs

2010/0209(COD)

22.7.2011

AMENDMENTS

29 - 280

Draft report
Salvatore Iacolino
(PE464.961v01-00)

Proposal for a directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

Proposal for a directive
(COM(2010)0378 – C7-0179/2010 – 2010/0209(COD))

Rapporteur for the opinion (*): Liisa Jaakonsaari, Committee on Employment and Social Affairs

(*): Associated committee - Rule 50 of the Rules of Procedure

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EN

United in diversity

EN

Amendment 29

Cornelia Ernst, Cornelis de Jong, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Citation 1

Text proposed by the Commission

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

Amendment

– Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(a) and (b) **and 153 (1)(a) and (b)**, thereof,

Or. en

Amendment 30

Judith Sargentini

Proposal for a directive

Citation 1

Text proposed by the Commission

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

Amendment

– Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(a) and (b) **and Article 79(5)** thereof,

Or. en

Amendment 31

Judith Sargentini

Proposal for a directive

Citation 1 a (new)

Text proposed by the Commission

Amendment

– **Having regard to the Charter of Fundamental Rights of the European Union, and in particular Article 15(3), 27, 28, 31 and 33 thereof,**

Or. en

Amendment 32
Judith Sargentini

Proposal for a directive
Citation 3 a (new)

Text proposed by the Commission

Amendment

– Having regard to Convention 102 on Social Security (Minimum Standards) of the International Labour Organisation,

Or. en

Amendment 33
Judith Sargentini

Proposal for a directive
Citation 3 b (new)

Text proposed by the Commission

Amendment

– Having regard to Convention 118 on Equality of treatment (Social Security) of the International Labour Organisation,

Or. en

Amendment 34
Cornelis de Jong

Proposal for a directive
Recital 1

Text proposed by the Commission

Amendment

(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the *field* of immigration ***which are fair towards*** third-country nationals.

(1) 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 protection of the rights of*** third-country nationals.

Amendment 35
Rolandas Paksas

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the field of immigration which are fair towards third-country nationals.

Amendment

(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the field of immigration which are fair towards third-country nationals ***and will help to prevent illegal immigration and all forms of illegal employment of third-country nationals and their exploitation in the Union.***

Or. It

Amendment 36
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’⁷ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to make it easier for third-country managers, specialists or graduate trainees to enter the Union in the framework of an intra-corporate transfer should be seen in this broader context.

Amendment

deleted

Amendment 37
Cornelis de Jong

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’⁷ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to make it easier for third-country managers, specialists *or graduate trainees* to enter the Union in the framework of an intra-corporate transfer should be seen in this broader context.

Amendment

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’⁷ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to make it easier for third-country managers *or* specialists to enter the Union in the framework of an intra-corporate transfer should be seen in this broader context.

Amendment 38
Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’⁷ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to make it easier for third-country managers, specialists *or graduate* trainees to enter the Union in the

Amendment

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framework of an intra-corporate transfer should be seen in this broader context.

the framework of an intra-corporate transfer should be seen in this broader context.

Or. en

Amendment 39
Judith Sargentini

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’⁷ sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to *make it easier* for third-country managers, specialists or graduate trainees to enter the Union in the framework of an intra-corporate transfer *should* be seen in this broader context.

Amendment

(3) The Communication from the Commission entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth sets the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Measures to *improve procedures and set a common framework for equal rights for* third-country managers, specialists or graduate trainees to enter the Union in the framework of an intra-corporate transfer *could* be seen in this broader context.

Or. en

Amendment 40
Jan Mulder

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) As a result of the globalisation of business, increasing trade and the growth and spread of multinational corporations, in recent years movements of managerial

Amendment

(5) As a result of the globalisation of business, increasing trade and the growth and spread of multinational corporations, in recent years movements of managerial

and technical employees of branches and subsidiaries of multinationals, temporarily relocated for short assignments to other units of the company, have gained momentum.

and technical employees of branches and subsidiaries of multinationals **and specialists** temporarily relocated for short assignments to other units of the company, have gained momentum.

Or. en

Amendment 41
Judith Sargentini

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Or. en

Amendment 42
Cornelis de Jong

Proposal for a directive
Recital 6

Text proposed by the Commission

Amendment

(6) These intra-corporate transfers of key personnel result in new skills and knowledge, innovation and enhanced economic opportunities for the host companies, thus advancing the knowledge-based economy in Europe while fostering investment flows across the Union. Well-managed transfers from third countries also have the potential to facilitate transfers from Union to third-country companies and to put the Union in a stronger position in its relationship

deleted

with international partners. Facilitation of intra-corporate transfers enables multinational groups to tap their human resources best.

Or. en

Amendment 43
Juozas Imbrasas

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) These intra-corporate transfers of key personnel result in new skills and knowledge, innovation and enhanced economic opportunities for the host companies, thus advancing the knowledge-based economy in Europe while fostering investment flows across the Union. *Well-managed* transfers from third countries also have the potential to facilitate transfers from Union to third-country companies and to put the Union in a stronger position in its relationship with international partners. Facilitation of intra-corporate transfers enables multinational groups to tap their human resources best.

Amendment

(6) These intra-corporate transfers of key personnel result in new skills and knowledge, innovation and enhanced economic opportunities for the host companies, thus advancing the knowledge-based economy in Europe while fostering investment flows across the Union. Transfers from third countries also have the potential to facilitate transfers from Union to third-country companies and to put the Union in a stronger position in its relationship with international partners. Facilitation of intra-corporate transfers enables multinational groups to tap their human resources best.

Or. It

Amendment 44
Cornelia Ernst

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The set of rules established by this Directive is also beneficial to the migrants' countries of origin as this

Amendment

deleted

temporary migration fosters transfers of skills, knowledge, technology and know-how.

Or. en

Amendment 45
Cornelis de Jong, Thomas Händel

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) The set of rules established by this Directive is also beneficial to the migrants' countries of origin as this temporary migration fosters transfers of skills, knowledge, technology and know-how.

deleted

Or. en

Amendment 46
Judith Sargentini

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) The set of rules established by this Directive *is* also beneficial to the migrants' countries of origin as this temporary migration *fosters* transfers of skills, knowledge, technology and know-how.

(7) The set of rules established by this Directive *might* also *be* beneficial to the migrants' countries of origin as this temporary migration *could under well-set conditions foster* transfers of skills, knowledge, technology and know-how.

Or. en

Amendment 47
Rolandas Paksas

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) This Directive should be applied without prejudice to the principle of Union preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. According to that principle, the Member States should, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third-countries as regards access to their labour market.

Amendment

(8) This Directive should be applied without prejudice to the principle of Union preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. According to that principle, the Member States should, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third-countries as regards access to their labour market. ***In addition, it must be ensured that Member States do not lay down the lowest level of legal protection for intra-corporate transferees.***

Or. It

Amendment 48
Judith Sargentini

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) This Directive should be applied without prejudice to the principle of Union preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. According to that principle, the Member States should, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third-countries as regards access to their labour market.

Amendment

(8) This Directive should be applied without prejudice to the principle of Union preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. According to that principle, the Member States should, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third-countries as regards access to their labour market. ***While safeguarding the principle, this may not***

be used to deviate from the principle of equal pay for equal work, as regards both workers from EU Member States and third country nationals. This Directive should be applied in full respect of the principle of free movement for workers within the Union, abolishing any discrimination based on nationality as regards employment, remuneration and other conditions of work and employment.

Or. en

Amendment 49
Judith Sargentini

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8 a) This Directive should set conditions and rights for third country national workers in the framework of an intra-corporate transfer in full respect of the relevant ILO conventions.

Or. en

Amendment 50
Rolandas Paksas

Proposal for a directive
Recital 9

Text proposed by the Commission

Amendment

(9) This Directive establishes a transparent and simplified procedure for admission of intra-corporate transferees, based on common definitions and harmonised criteria.

(9) This Directive establishes a transparent and simplified procedure for admission of intra-corporate transferees, based on common definitions and harmonised criteria *and ensures legal certainty, legality and fair and equal treatment of workers from third countries.*

Amendment 51
Cornelis de Jong

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) For the purpose of this Directive, intra-corporate transferees encompass managers, specialists **and graduate trainees** with a higher education qualification. Their definition builds on specific commitments of the Union under the General Agreement on Trade in Services⁹ (GATS) and bilateral trade agreements. Those commitments undertaken under the General Agreement on Trade in Services do not cover conditions of entry, stay and work. Therefore, this Directive complements and facilitates the application of those commitments. However, the scope of the intra-corporate transfers covered by this Directive is broader than that implied by trade commitments, as the transfers do not necessarily take place within the services sector and may originate in a third country which is not party to a trade agreement.

Amendment

(10) For the purpose of this Directive, intra-corporate transferees encompass managers **and** specialists with a higher education qualification. Their definition builds on specific commitments of the Union under the General Agreement on Trade in Services⁹ (GATS) and bilateral trade agreements. Those commitments undertaken under the General Agreement on Trade in Services do not cover conditions of entry, stay and work. Therefore, this Directive complements and facilitates the application of those commitments. However, the scope of the intra-corporate transfers covered by this Directive is broader than that implied by trade commitments, as the transfers do not necessarily take place within the services sector and may originate in a third country which is not party to a trade agreement.

Or. en

Amendment 52
Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) For the purpose of this Directive, intra-corporate transferees encompass managers, specialists and **graduate** trainees

Amendment

(10) For the purpose of this Directive, intra-corporate transferees encompass managers, specialists and **professional**

with a higher education qualification. Their definition builds on specific commitments of the Union under the General Agreement on Trade in Services⁹ (GATS) and bilateral trade agreements. Those commitments undertaken under the General Agreement on Trade in Services do not cover conditions of entry, stay and work. Therefore, this Directive complements and facilitates the application of those commitments. However, the scope of the intra-corporate transfers covered by this Directive is broader than that implied by trade commitments, as the transfers do not necessarily take place within the services sector and may originate in a third country which is not party to a trade agreement.

trainees with a higher education qualification. Their definition builds on specific commitments of the Union under the General Agreement on Trade in Services⁹ (GATS) and bilateral trade agreements. Those commitments undertaken under the General Agreement on Trade in Services do not cover conditions of entry, stay and work. Therefore, this Directive complements and facilitates the application of those commitments. However, the scope of the intra-corporate transfers covered by this Directive is broader than that implied by trade commitments, as the transfers do not necessarily take place within the services sector and may originate in a third country which is not party to a trade agreement.

Or. en

Amendment 53
Renate Weber

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States may require the transferee to have been employed within the same group of undertakings for at least 12 months prior to the transfer.

deleted

Or. en

Justification

The undertaking itself should decide whether someone is suitable for an ICT to one of its entities in a Member State. The requirement of having been employed within the same group of undertakings 12 months preceding the date of the ICT only creates an extra administrative hurdle. Besides, its optional nature runs the risk to distort the level playing field, hereby

undermining one of the key objectives of this instrument, i.e. the simplification of the rules by creating a harmonised procedure.

Amendment 54
Kinga Göncz

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States may require the transferee to have been employed within the same group of undertakings for at least 12 months prior to the transfer.

deleted

Or. en

Amendment 55
Sari Essayah

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States may require the transferee to have been employed within the same group of undertakings for at least 12 months prior to the transfer.

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States may require the transferee to have been employed within the same group of undertakings for at least 6 months prior to the transfer.

Or. en

Amendment 56
Cornelis de Jong

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States **may** require the transferee to have been employed within the same group of undertakings for at least 12 months prior to the transfer.

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States **should** require the transferee to have been employed within the same group of undertakings for at least 12 months - **without interruption** - prior to the transfer.

Or. en

Amendment 57
Vilija Blinkevičiūtė, Liisa Jaakonsaari

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States **may** require the transferee to have been employed within the same group of undertakings for at least 12 months prior to the transfer.

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States **should** require the transferee to have been employed within the same group of undertakings for at least 12 months **without interruption** prior to the transfer.

Or. en

Amendment 58
Judith Sargentini

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member States **may** require the transferee to have been employed within the same group of undertakings for at least

Amendment

(12) In order to ensure that the skills of the intra-corporate transferee are specific to the host entity, Member State **should** require the transferee to have been employed within the same group of undertakings for

12 months prior to the transfer.

at least 12 months prior to the transfer.

Or. en

Amendment 59
Mario Borghezio

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) As intra-corporate transfers consist of temporary migration, the applicant should provide evidence that the third-country national will **be able to** transfer back to an entity belonging to the same group and established in a third country at the end of the assignment. That evidence **may** consist of the relevant provisions under the work contract. An assignment letter **should** be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

Amendment

(13) As intra-corporate transfers consist of temporary migration, the applicant should provide evidence that the third-country national will transfer back to an entity belonging to the same group and established in a third country at the end of the assignment. That evidence **must** consist of the relevant provisions under the work contract. An assignment letter **must** be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

Or. it

Amendment 60
Hubert Pirker

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) As intra-corporate transfers **consist of temporary migration**, the applicant should provide evidence that the third-country national will **be able to** transfer back to an entity belonging to the same group and established in a third country at the end of

Amendment

(13) As intra-corporate transfers **are linked to a limited residence and work permit in each Member State**, the applicant should provide evidence that the third-country national will transfer back to an entity belonging to the same group and

the assignment. That evidence may consist of the relevant provisions under the work contract. An assignment letter should be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

established in a third country at the end of the assignment, ***in accordance with the contract that he/she has with the group.*** That evidence may consist of the relevant provisions under the work contract. An assignment letter should be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications ***and the experience*** needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

Or. de

Amendment 61
Renate Weber

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) As intra-corporate transfers consist of temporary migration, the applicant should provide evidence that the third-country national will be able to transfer back to an entity belonging to the same group and established in a third country at the end of the assignment. That evidence may consist of the relevant provisions under the work contract. An assignment letter should be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

Amendment

(13) An assignment letter should be produced providing evidence that the third-country national manager or specialist possesses the professional qualifications needed in the Member State to which they have been admitted to occupy the post or the regulated profession.

Or. en

Justification

This creates the false illusion that an ongoing working relationship can be guaranteed, which

is not the case.

Amendment 62
Cornelis de Jong

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) Third-country nationals who apply to be admitted as graduate trainees should provide evidence of the higher education qualifications required, namely of any diploma, certificate or other evidence of formal qualifications attesting the successful completion of a post-secondary higher education programme of at least three years. In addition, they must present a training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

deleted

Or. en

Amendment 63
Mario Borghezio

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) Third-country nationals who apply to be admitted as graduate trainees should provide evidence of the higher education qualifications required, namely of ***any*** diploma, certificate or ***other*** evidence of formal qualifications attesting the successful completion of a post-secondary higher education programme of at least three years. In addition, they must present a

(14) Third-country nationals who apply to be admitted as graduate trainees should provide evidence of the higher education qualifications required, namely of ***a*** diploma, certificate or evidence of formal qualifications attesting the successful completion of a post-secondary higher education programme of at least three years. In addition, they must present a

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training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

Or. it

Amendment 64
Marie-Christine Vergiat

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Third-country nationals who apply to be admitted as graduate trainees should provide evidence of the **higher education** qualifications required, namely of any diploma, certificate or other evidence of formal qualifications attesting the successful completion of a **post-secondary higher** education programme **of at least three years**. In addition, they must present a training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

Amendment

(14) Third-country nationals who apply to be admitted as graduate trainees should provide evidence of the qualifications required, namely of any diploma, certificate or other evidence of formal qualifications attesting *to* the successful completion of a **general secondary, technical or vocational** education programme. In addition, they must present a training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

Or. fr

Justification

It is unfair to make traineeships available only to those who have successfully completed a post-secondary higher education programme of at least three years.

Amendment 65
Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Third-country nationals who apply to be admitted as **graduate** trainees should provide evidence of the higher education qualifications required, namely of any diploma, certificate or other evidence of formal qualifications attesting the successful completion of a post-secondary higher education programme of at least three years. In addition, they must present a training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

Amendment

(14) Third-country nationals who apply to be admitted as **professional** trainees should provide evidence of the higher education qualifications required, namely of any diploma, certificate or other evidence of formal qualifications attesting the successful completion of a post-secondary higher education programme of at least three years. In addition, they must present a training agreement, including a description of the training programme, its duration and the conditions in which the trainees will be supervised, proving that they will benefit from genuine training and not be used as normal workers.

Or. en

Amendment 66
Cornelia Ernst, Thomas Händel

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Unless this condition conflicts with the principle of Union preference as expressed in the relevant provisions of the Acts of Accession, no labour market test should be required, since this criterion would be in contradiction with the purpose of setting up a transparent and simplified scheme for admission of intra-corporate transferees.

Amendment

deleted

Or. en

Amendment 67
Mario Borghezio

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Unless this condition conflicts with the principle of Union preference **as expressed in the relevant provisions of the Acts of Accession**, no labour market test should be required, **since this criterion would be in contradiction with the purpose of setting up a transparent and simplified scheme for admission of intra-corporate transferees.**

Amendment

(15) Unless this condition conflicts with the principle of Union preference, no labour market test should be required.

Or. it

Amendment 68
Rolandas Paksas

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Unless this condition conflicts with the principle of Union preference as expressed in the relevant provisions of the Acts of Accession, no labour market test should be required, since this criterion would be in contradiction with the purpose of setting up a transparent and simplified scheme for admission of intra-corporate transferees.

Amendment

(15) Unless this condition conflicts with the principle of Union preference as expressed in the relevant provisions of the Acts of Accession, no labour market test should be required, since this criterion would be in contradiction with the purpose of setting up a transparent and simplified scheme for admission of intra-corporate transferees. ***Member States or their authorities may perform labour market tests at their own discretion and investigate whether particular posts could not be filled by people who are seeking employment on the labour market of the Union.***

Or. It

Amendment 69
Marie-Christine Vergiat

Proposal for a directive
Recital 17

Text proposed by the Commission

Amendment

(17) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals entering their territory for the purposes of intra-corporate transfer and not to grant residence permits for employment in general or for certain professions, economic sectors or regions.

deleted

Or. fr

Amendment 70
Salvatore Iacolino

Proposal for a directive
Recital 17

Text proposed by the Commission

Amendment

(17) This Directive ***should be*** without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals entering their territory for the purposes of intra-corporate transfer and not to grant residence permits for employment in general or for certain professions, economic sectors or regions.

(17) ***Pursuant to Article 79(5) TFEU***, this Directive ***is*** without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals entering their territory for the purposes of intra-corporate transfer and not to grant residence permits for employment in general or for certain professions, economic sectors or regions.

Or. it

Justification

Article 79 of the Treaty of Lisbon concerning immigration policies makes it clear that determining volumes of admission of third-country nationals coming into the Member States remains the sole preserve of the latter.

Amendment 71
Rolandas Paksas

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals entering their territory for the purposes of intra-corporate transfer and not to grant residence permits for employment in general or for certain professions, economic sectors or regions.

Amendment

(17) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals entering their territory for the purposes of intra-corporate transfer and not to grant residence permits for employment in general or for certain professions, economic sectors or regions.
In accordance with the principles of subsidiarity and multi-tier government, Member States should consult local and regional authorities before taking any decision on the number and qualifications of third-country nationals to be admitted to their territory.

Or. It

Amendment 72
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Member States should provide for appropriate penalties, such as financial penalties, to be imposed in the event of failure to comply with the conditions laid down in this Directive. The penalties could be imposed on the host entity.

Amendment

(18) Member States should provide for appropriate penalties, such as financial penalties, to be imposed in the event of failure to comply with the conditions laid down in this Directive ***or of the falsification of evidence and documents.*** The penalties could be imposed on the host entity.

Or. de

Justification

Linguistic adjustment of the rapporteur's amendment No 4: the requirement regarding falsification concerns evidence and documents which must be provided in the context of this Directive. The Amendment aims to clarify those cases in which penalties shall be imposed.

Amendment 73 Judith Sargentini

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Member States should provide for appropriate penalties, such as financial penalties, to be imposed in the event of failure to comply with the conditions laid down in this Directive. The penalties could be imposed on the host entity.

Amendment

(18) Member States should provide for appropriate penalties, such as financial penalties, to be imposed in the event of failure to comply with the conditions laid down in this Directive ***as well as the necessary labour inspection to ensure compliance.*** The penalties could be imposed on the host entity. ***All sanctions should be adequate, proportionate and dissuasive. The worker and his family have the right to stay in the host Member State until the end of such proceedings.***

Or. en

Amendment 74 Rolandas Paksas

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Provision for a single procedure leading to one combined title, encompassing both residence and work permit, should contribute to simplifying the rules currently applicable in Member States

Amendment

(19) Provision for a single procedure leading to one combined title, encompassing both residence and work permit, should contribute to simplifying the rules currently applicable in Member States ***and reducing the tax payable by, and the administrative burden on, the host entity.***

Amendment 75
Hubert Pirker

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) A fast-track procedure may be set up for groups of undertakings which have been recognised for that purpose. Recognition *should* be granted on the basis of objective criteria made publicly available by the Member State and ensuring equal treatment between applicants. It should be granted for a maximum of three years, as the criteria need to be reassessed on a regular basis. Such recognition should be restricted to transnational corporations presenting credentials showing their ability to comply with their obligations and supplying information about the expected intra-corporate transfers. Any major change affecting the ability of the corporation to meet those obligations and any complementary information on future transfers should be reported without delay to the relevant authority. Appropriate sanctions such as financial sanctions, the possibility of withdrawing recognition, and rejections of future applications for permit should be provided for.

Amendment

(20) A fast-track procedure may be set up for groups of undertakings which have been recognised for that purpose. Recognition *shall* be granted on the basis of objective criteria made publicly available by the Member State and ensuring equal treatment between applicants. It should be granted for a maximum of three years, as the criteria need to be reassessed on a regular basis. Such recognition should be restricted to transnational corporations presenting credentials showing their ability to comply with their obligations and supplying information about the expected intra-corporate transfers. Any major change affecting the ability of the corporation to meet those obligations and any complementary information on future transfers should be reported without delay to the relevant authority. Appropriate sanctions such as financial sanctions, the possibility of withdrawing recognition, and rejections of future applications for permit should be provided for.

Or. de

Amendment 76
Birgit Sippel, Vilija Blinkevičiūtė

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) A fast-track procedure may be set up for groups of undertakings which have been recognised for that purpose. Recognition should be granted on the basis of objective criteria made publicly available by the Member State and ensuring equal treatment between applicants. It should be granted for a maximum of three years, as the criteria need to be reassessed on a regular basis. Such recognition should be restricted to transnational corporations presenting credentials showing their ability to comply with their obligations and supplying information about the expected intra-corporate transfers. Any major change affecting the ability of the corporation to meet those obligations and any complementary information on future transfers should be reported without delay to the relevant authority. Appropriate sanctions such as financial sanctions, the possibility of withdrawing recognition, and rejections of future applications for permit should be provided for.

Amendment

(20) A fast-track procedure may be set up for groups of undertakings which have been recognised for that purpose ***in accordance with Directive 2009/38/EC***. Recognition should be granted on the basis of objective criteria made publicly available by the Member State and ensuring equal treatment between applicants. It should be granted for a maximum of three years, as the criteria need to be reassessed on a regular basis. Such recognition should be restricted to transnational corporations presenting credentials showing their ability to comply with their obligations and supplying information about the expected intra-corporate transfers. Any major change affecting the ability of the corporation to meet those obligations and any complementary information on future transfers should be reported without delay to the relevant authority. Appropriate sanctions such as financial sanctions, the possibility of withdrawing recognition, and rejections of future applications for permit should be provided for.

Or. en

Amendment 77
Birgit Sippel, Vilija Blinkevičiūtė

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) A group of undertakings within which a third-country national may be temporarily transferred should have a genuine activity and should not only serve the purpose of transferring workers.

Amendment 78
Cornelis de Jong

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) Once a Member State has decided to admit a third-country national fulfilling the criteria laid down in this Directive, the third-country national should receive a specific residence permit (an intra-corporate transferee permit) allowing the holder to carry out, under certain conditions, their assignment in diverse entities belonging to the same transnational corporation, including entities located in another Member State.

Amendment

(21) Once a Member State has decided to admit a third-country national fulfilling the criteria laid down in this Directive, the third-country national should receive a specific residence permit (an intra-corporate transferee permit) allowing the holder to carry out, under certain conditions, their assignment in diverse entities belonging to the same transnational corporation, including entities located in another Member State, ***provided that this second Member State does not reject the initial application on grounds of the employer or the host entity having been sanctioned in conformity with national law for undeclared work, illegal employment and/or non-observance of obligations of an employer by the national labour and social regulations, or on grounds of volumes of admission of third-country nationals.***

Amendment 79
Marie-Christine Vergiat

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) Once a Member State has decided to admit a third-country national fulfilling the criteria laid down in this Directive, the

Amendment

(21) Once a Member State has decided to admit a third-country national fulfilling the criteria laid down in this Directive, the

third-country national should receive a specific residence permit (an intra-corporate transferee permit) allowing the holder to carry out, under certain conditions, their assignment in diverse entities belonging to the same transnational corporation, including entities located in another Member State.

third-country national should receive a specific residence permit (an intra-corporate transferee permit) allowing the holder to carry out, under certain conditions, their assignment in diverse entities belonging to the same transnational corporation, including entities located in another Member State. ***Any third-country national with a valid travel document and a work permit issued pursuant to this Directive by a Member State, as well as members of his or her family within the meaning of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification¹, should be entitled to enter and move freely around the EU Member States during the period of residence of the person concerned.***

¹ OJ L 251, 3.10.2003, p. 12.

Or. fr

Justification

It should be reiterated that free movement within the EU and between the Member States also applies to authorised third-country nationals who have been granted specific residence permits under this Directive.

Amendment 80
Birgit Sippel, Vilija Blinkevičiūtė

Proposal for a directive
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Member States may require employers of intra-corporate transferees to pay for the cost of travel from the intra-corporate transferees' place of origin to the places of work in the Member State concerned and the return journey; the visa fee and, if applicable, any service fees related to the visa; the cost of sickness

insurance referred to in this Directive.

Or. en

Amendment 81

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) In order to make the specific set of rules put in place by this Directive more attractive and to allow it to produce all expected benefits for competitiveness of business in the Union, third-country national intra-corporate transferees should be granted favourable conditions for family reunification in the Member State which first grants the residence permit on the basis of this Directive. This right would indeed remove an important obstacle to potential intra-corporate transferees for accepting an assignment. In order to preserve family unity, family members should be able to join the intra-corporate transferee in *another Member State under the conditions determined by the national law of such* Member State.

Amendment

(24) In order to make the specific set of rules put in place by this Directive more attractive and to allow it to produce all expected benefits for competitiveness of business in the Union, third-country national intra-corporate transferees should be granted favourable conditions for family reunification in the Member State which first grants the residence permit on the basis of this Directive. This right would indeed remove an important obstacle to potential intra-corporate transferees for accepting an assignment. In order to preserve family unity, family members should be able to join the intra-corporate transferee in *any other* Member State.

Or. en

Amendment 82

Kinga Göncz

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) In order to make the specific set of rules put in place by this Directive more attractive and to allow it to produce all

Amendment

(24) In order to make the specific set of rules put in place by this Directive more attractive and to allow it to produce all

expected benefits for competitiveness of business in the Union, third-country national intra-corporate transferees should be granted favourable conditions for family reunification in the Member State which first grants the residence permit on the basis of this Directive. This right would indeed remove an important obstacle to potential intra-corporate transferees for accepting an assignment. In order to preserve family unity, family members should be able to join the intra-corporate transferee in another Member State under the conditions determined by the national law of such Member State.

expected benefits for competitiveness of business in the Union, third-country national intra-corporate transferees should be granted favourable conditions for family reunification in the Member State which first grants the residence permit on the basis of this Directive. This right would indeed remove an important obstacle to potential intra-corporate transferees for accepting an assignment. In order to preserve family unity, family members should be able to join the intra-corporate transferee in another Member State under the conditions determined by the national law of such Member State, ***and their access to the labour market should also be facilitated.***

Or. en

Amendment 83
Marie-Christine Vergiat

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Amendment

(27) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ***and the European Social Charter adopted by the Council of Europe on 18 October 1961 and revised on 3 May 1996.***

Or. fr

Amendment 84
Judith Sargentini

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Amendment

(27) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, ***and the relevant ILO Conventions, such as Convention 102 on Social Security (Minimum Standards), Convention 118 on Equality of treatment (Social Security), Convention 143 on Migrant Workers and Convention 97 on Migration for Employment of the International Labour Organisation.***

Or. en

Amendment 85
Marie-Christine Vergiat

Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families adopted by the UN General Assembly on 18 December 1990 is the most extensive legal framework on the protection of the rights of migrant workers and their families, providing guidelines for States with a view to ensuring that migrants' rights are upheld in the drawing-up and implementation of migrant labour policies. The EU Member States should ensure that the fundamental rights of migrant workers and their families are upheld and should be called upon to ratify the above-mentioned international convention.

Or. fr

Amendment 86
Judith Sargentini

Proposal for a directive
Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) Whatever the law applicable to the employment relationship, at least the laws, regulations and provisions of the place of work apply.

Or. en

Amendment 87
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 1 – point a

Text proposed by the Commission

Amendment

(a) the conditions of entry to and residence ***for more than three months*** in the territory of the Member States of third-country nationals and of their family members in the framework of an intra-corporate transfer;

(a) the conditions of entry to and residence ***and work permission*** in the territory of the Member States of third-country nationals and of their family members in the framework of an intra-corporate transfer;

Or. en

Amendment 88
Judith Sargentini

Proposal for a directive
Article 1 – point a

Text proposed by the Commission

Amendment

(a) the conditions of entry to and residence for ***more than three months*** in the territory of the Member States of third-country

(a) the conditions of entry to and residence for ***up to three years*** in the territory of the Member States of third-country ***national***

nationals and of their family members in the framework of an intra-corporate transfer;

workers and of their family members in the framework of an intra-corporate transfer;

Or. en

Amendment 89

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Article 1 – point b

Text proposed by the Commission

(b) the conditions of entry to and residence **for more than three months** of third-country nationals, referred to in point (a), in Member States other than the Member State which first grants the third-country national a residence permit on the basis of this Directive.

Amendment

(b) the conditions of entry to and residence of third-country nationals, referred to in point (a), in Member States other than the Member State which first grants the third-country national a residence permit on the basis of this Directive.

Or. en

Amendment 90

Judith Sargentini

Proposal for a directive

Article 1 – point b

Text proposed by the Commission

(b) the conditions of entry to and residence for more than three months of third-country **nationals**, referred to in point (a), in Member States other than the Member State which first grants the third-country national a residence permit on the basis of this Directive.

Amendment

(b) the conditions of entry to and residence for more than three months of third-country **national workers**, referred to in point (a), in Member States other than the Member State which first grants the third-country national **worker** a residence permit on the basis of this Directive.

Or. en

Amendment 91
Judith Sargentini

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to third-country *nationals* who *reside outside the territory of a Member State and* apply to be admitted to the territory of a Member State in the framework of an intra-corporate transfer.

Amendment

1. This Directive shall apply to third-country *national workers* who apply to be admitted to the territory of a Member State in the framework of an intra-corporate transfer.

Or. en

Amendment 92
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to third-country nationals who *reside outside the territory of a Member State and* apply to be admitted to the territory of a Member State in the framework of an intra-corporate transfer.

Amendment

1. This Directive shall apply to third-country nationals who apply to be admitted to the territory of a Member State in the framework of an intra-corporate transfer.

Or. en

Amendment 93
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Notwithstanding paragraph 2(c), the same legal consequences as result from the Directive on the posting of workers

(96/71/EC) apply to intra-corporate transferees;

Or. de

Amendment 94

Jutta Steinruck, Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) activities in the field of building work listed in the Annex 3 of Directive 96/71/EC;

Or. de

Amendment 95

Vilija Blinkevičiūtė

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) third-country nationals carrying out activities as self-employed workers;

Or. en

Justification

The scope is much too broad. As it stands, it is open for use in all sectors and no restriction is made on the type or size of the companies wishing to use this new tool.

Amendment 96

Monika Hohlmeier, Manfred Weber

Proposal for a directive

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

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Text proposed by the Commission

Amendment

(ca) third country national working for and being assigned by employment agencies, temporary work agencies or any other undertakings engaged in making available labour to work under the supervision and direction of another undertaking except regularly employed members of the management.

Or. en

Justification

Temporary agency work should not be covered by the Directive. This amendment would ensure that there is no ambiguity as regards the scope of the Directive and would prevent abuse. The definition of “group of undertakings” in Article 3 (l) may also cover temporary work agencies, if these are not explicitly excluded from the scope of the proposal.

Amendment 97

Vilija Blinkevičiūtė

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cb) third-country nationals carrying out activities as temporary agency workers.

Or. en

Justification

The scope is much too broad. As it stands, it is open for use in all sectors and no restriction is made on the type or size of the companies wishing to use this new tool.

Amendment 98

Sari Essayah

Proposal for a directive
Article 3 – point b

Text proposed by the Commission

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory;

Amendment

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national ***not resident within the territory of the Member States*** from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory; ***This transfer is intended to cover similar situations as provided for in Article 1(3)(b) of Directive 96/71/EC.***

Or. en

Amendment 99
Nadja Hirsch

Proposal for a directive
Article 3 – point b

Text proposed by the Commission

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory;

Amendment

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory, ***for occupational or training purposes;***

Or. de

Amendment 100
Georgios Papanikolaou

Proposal for a directive
Article 3 – point b

Text proposed by the Commission

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory;

Amendment

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory; ***at the end of the period of the intra-corporate transfer, the third-country national shall be required to leave the European Union;***

Or. el

Amendment 101
Judith Sargentini

Proposal for a directive
Article 3 – point b

Text proposed by the Commission

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract, to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory;

Amendment

(b) ‘intra-corporate transfer’ means the temporary secondment of a third-country national ***worker*** from an undertaking established outside the territory of a Member State and to which the third-country national ***worker*** is bound by a work contract ***with a minimum previous existence of one year before the transfer,*** to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory;

Or. en

Amendment 102
Sari Essayah

Proposal for a directive
Article 3 – point c

Text proposed by the Commission

(c) ‘intra-corporate transferee’ means any third-country national subject to an intra-corporate transfer;

Amendment

(c) ‘intra-corporate transferee’ means any third-country national ***not resident within the territory of the Member States who is*** subject to an intra-corporate transfer;

Or. en

Amendment 103
Judith Sargentini

Proposal for a directive
Article 3 – point c

Text proposed by the Commission

(c) ‘intra-corporate transferee’ means any third-country national subject to an intra-corporate transfer;

Amendment

(c) ‘intra-corporate transferee’ means any third-country national ***worker*** subject to an intra-corporate transfer;

Or. en

Amendment 104
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 3 – point d

Text proposed by the Commission

(d) ‘host entity’ means the entity, regardless of its legal form, established in the territory of a Member State to which the third-country national is transferred;

Amendment

(d) ‘host entity’ means the entity, regardless of its legal form, established in the territory of a Member State, ***that has appropriate and balanced human and financial resources in the Member States concerned, and*** to which the third-country national is transferred;

Or. de

Justification

Does not affect the English version

Amendment 105
Ole Christensen

Proposal for a directive
Article 3 – point d

Text proposed by the Commission

(d) ‘host entity’ means the entity, regardless of its legal form, established in the territory of a Member State to which the **third-country** national is transferred;

Amendment

(d) ‘host entity’ means the entity **to which the third country national is transferred**, regardless of its legal form, established in the territory of a Member State, **that has a genuine activity and was not created with the single aim of transferring third-country nationals** to which the **third country** national is transferred;

Or. en

Amendment 106
Sari Essayah

Proposal for a directive
Article 3 – point e

Text proposed by the Commission

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity, receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees, **having the authority personally to hire and dismiss or recommend hiring, dismissing or other**

Amendment

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity, receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees;

personnel actions;

Or. en

Justification

The definition of managers needs to be clarified and limited to those who are highly-qualified and have particular skills and whose personal capacities are indispensable to the proper conduct of the specific activities of the company in the host country. This means that the criterion for admission must be the qualifications and the place of work within the company, not the salary. An exhaustive list which can be interpreted either in an inclusive or exclusive way does not clarify the situation.

Amendment 107
Cornelis de Jong

Proposal for a directive
Article 3 – point e

Text proposed by the Commission

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity, ***receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;***

Amendment

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity;

Or. en

Amendment 108
Ole Christensen

Proposal for a directive
Article 3 – point e

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Text proposed by the Commission

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity, ***receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;***

Amendment

(e) ‘manager’ means any person working in a senior position who principally directs the management of the host entity;

Or. en

Amendment 109
Salvatore Iacolino

Proposal for a directive
Article 3 – point e

Text proposed by the Commission

(e) ‘manager’ means any person ***working in*** a senior position, who principally directs the management of the host entity, receiving general supervision or ***direction*** principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, ***supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;***

Amendment

(e) ‘manager’ means any person ***holding, in the hierarchy of the undertaking,*** a senior position, who principally directs the management of the host entity, receiving general supervision or ***guidance*** principally from the board of directors or stockholders of the business or equivalent; this position includes: directing the host entity or a department or sub-division of the host entity, ***or being responsible for a project of a significant size and in this capacity having appropriate and balanced human and financial resources at his or her disposal;***

Or. it

Justification

Objective and measurable criteria are needed for a more flexible definition of 'manager'. Staff recruitment is not necessarily a responsibility of all those who occupy a managerial position in a company's hierarchy.

Amendment 110

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 3 – point e

Text proposed by the Commission

(e) 'manager' means any person working in a senior position, who **principally** directs the management of the **host entity**, receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; **this position includes**: directing the **host entity** or a department or sub-division of the **host entity**, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and **dismiss** or recommend hiring, **dismissing** or other personnel actions;

Amendment

(e) 'manager' means any person working in a senior position **within a juridical person**, who **primarily** directs the management of the **establishment**, receiving general supervision or direction principally from the board of directors or stockholders of the business or **their** equivalent, **including**:

- directing the **establishment** or a department or sub-division of the **establishment**;
- supervising and controlling the work of other supervisory, professional or managerial employees;
- having the authority personally to hire and **fire** or recommend hiring, **firing** or other personnel actions

Or. en

Justification

For reasons of legal certainty and clarity, the internationally accepted definition of a 'manager' according to the GATS agreement should be used.

Amendment 111
Nadja Hirsch

Proposal for a directive
Article 3 – point e

Text proposed by the Commission

(e) ‘manager’ means any person working in a senior position, who principally ***directs the management of the host entity***, receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent; ***this position includes: directing the host entity or a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;***

Amendment

(e) ‘manager’ means any person working in a senior position who principally ***carries out directing functions***, receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent;

Or. de

Amendment 112
Kinga Göncz

Proposal for a directive
Article 3 – point e

Text proposed by the Commission

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity, ***receiving general supervision or direction principally from the board of directors or stockholders of the business or equivalent***; this position includes: directing the host entity ***or*** a department or sub-division of the host entity, supervising and controlling the work of other supervisory, professional or managerial employees, having the

Amendment

(e) ‘manager’ means any person working in a senior position, who principally directs the management of the host entity; this position includes: directing the host entity, a department or sub-division of the host entity ***or a significant project***, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;

authority personally to hire and dismiss or recommend hiring, dismissing or other personnel actions;

Or. en

Amendment 113

Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

Proposal for a directive

Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person *possessing uncommon* knowledge *essential* and specific to the *host entity, taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;*

Amendment

(f) ‘specialist’ means any person *who is transferred for highly qualified employment, having higher professional qualifications, knowledge at an advanced level and continuous expertise and who possesses specific knowledge essential or relevant* to the specific *activities of* the host entity;

Or. en

Amendment 114

Sari Essayah

Proposal for a directive

Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person *possessing uncommon* knowledge essential *and specific* to the host entity, *taking account not only of knowledge specific to the host entity, but also of whether the person has* a high level of qualification referring to a type of work or trade requiring specific technical knowledge;

Amendment

(f) ‘specialist’ means any person *who is transferred for highly qualified employment, possesses specific* knowledge essential to the host entity *and having* a high level of qualification referring to a type of work or trade requiring specific technical knowledge;

Amendment 115
Cornelis de Jong

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person **possessing uncommon** knowledge essential **and specific** to the **host entity, taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;**

Amendment

(f) ‘specialist’ means any person **transferred for highly qualified employment, having higher professional qualifications and knowledge at an advanced level of continued expertise and who possesses proprietary knowledge essential or proprietal** to the specific **activities of** the host entity;

Amendment 116
Salvatore Iacolino

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person possessing **uncommon** knowledge essential and specific to the host entity, **taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification** referring to a type of work or trade requiring specific technical knowledge;

Amendment

(f) ‘specialist’ means any person possessing **specific** knowledge **and technical, professional or scientific skills** essential to the host entity, **as proven by higher professional qualifications and appropriate professional experience as defined in Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment¹** referring to a type of work or trade requiring specific technical, **professional or scientific** knowledge;

Or. it

Justification

Measurable and objective criteria should be used in the shape of higher professional qualifications, higher education qualifications and professional experience, in line with the definitions already set forth in Directive 2009/50/EC on the 'Blue Card'.

Amendment 117

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 3 – point f

Text proposed by the Commission

(f) 'specialist' means any person **possessing** uncommon knowledge essential **and specific** to the **host entity**, **taking** account not only of knowledge specific to the **host entity**, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;

Amendment

(f) 'specialist' means any person **working within a juridical person who possesses** uncommon knowledge essential to the **establishment's service, research equipment, techniques or management. In assessing such knowledge**, account **will be taken** not only of knowledge specific to the **establishment**, but also of **the work experience of the person and of** whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, **including membership of an accredited profession**;

Or. en

Justification

For reasons of legal certainty and clarity, the internationally accepted definition of a 'specialist' according to the GATS agreement should be used. Further, the aspect of work experience should be taken into consideration.

Amendment 118

Kinga Göncz

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person possessing **uncommon** knowledge **essential** and **specific** to the host entity, **taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;**

Amendment

(f) ‘specialist’ means any person possessing **specific** knowledge and **skills essential** to the host entity, **with proven experience and/or high level qualifications relevant to the** type of work or trade requiring specific technical knowledge;;

Or. en

Amendment 119
Ole Christensen

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person possessing **uncommon** knowledge **essential** and **specific** to the **host entity, taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;**

Amendment

(f) ‘specialist’ means any person **coming from highly qualified employment,** possessing **higher professional qualifications and** knowledge and **an advanced level of expertise and who possesses proprietary knowledge essential or proprietarial** to the **specific activities of** the host entity;

Or. en

Amendment 120
Juozas Imbrasas

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) ‘specialist’ means any person possessing **uncommon** knowledge essential and specific to the host entity, taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;

Amendment

(f) ‘specialist’ means any person possessing knowledge essential and specific to the host entity, taking account not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge;

Or. It

Amendment 121
Cornelis de Jong

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in a company in preparation for a managerial position within the company;

Amendment

deleted

Or. en

Amendment 122
Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘**graduate** trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in **a company** in

Amendment

(g) ‘**professional** trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in **an**

preparation for a managerial position within the *company*;

undertaking in preparation for a managerial position *with a view to entering into a permanent contract* within the *undertaking, and whose tasks in the undertaking are consistent with the higher education which that person has completed*;

Or. en

Amendment 123
Sari Essayah

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in a company in preparation for a managerial position within the company;

Amendment

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in a company in *a paid contract in* preparation for a managerial position within the company;

Or. en

Amendment 124
Salvatore Iacolino

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘*graduate* trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge *of and experience in a company in preparation for a managerial position* within the company;

Amendment

(g) ‘trainee *employee*’ means any person with a higher education qualification, *bound to the company by a contract* who is transferred *to a host entity* to broaden his/her knowledge *and to be able to carry out paid work at management level* within the company;

Or. it

Justification

It seems more relevant for the purposes of this directive to include professionals already bound to the company by a contract who are transferred to the host entity for a period of training. A graduate trainee is not the same as a manager or specialist.

Amendment 125

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 3 — point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person **with a higher education qualification** who is transferred to **broaden his/her knowledge of and experience in a company in preparation for a managerial position within the company**;

Amendment

(g) ‘graduate trainee’ means any **natural** person **who has been employed by a juridical person of a party of for at least one year**, who **possesses a university degree and who** is **temporarily** transferred to **an establishment in the territory of the other party for career development purposes or to obtain training in business, techniques or methods as part of paid work**;

Or. en

Justification

For reasons of legal certainty and clarity, the internationally accepted definition of a 'graduate trainee' according to the GATS agreement should be used. Further, it should be included that the work / training is paid.

Amendment 126

Nadja Hirsch

Proposal for a directive

Article 3 – point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge

Amendment

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge

of and experience in a company *in preparation for a managerial position within the company*;

of and experience in a company *with a view subsequently to carrying out highly skilled work*;

Or. de

Amendment 127
Marie-Christine Vergiat

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person with a *higher* education qualification who is transferred to broaden his/her knowledge *of* and experience *in a company in preparation for a managerial position* within *the* company;

Amendment

(g) ‘graduate trainee’ means any person with a *general secondary, technical or vocational* education qualification who is transferred to *a company to* broaden his/her knowledge and experience *and to carry out paid work* within *that* company;

Or. fr

Justification

It should be made clear that people should be paid for any work they carry out, and that this also applies to traineeships.

Amendment 128
Juozas Imbrasas

Proposal for a directive
Article 3 – point g

Text proposed by the Commission

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in a company in preparation for *a managerial position* within the company;

Amendment

(g) ‘graduate trainee’ means any person with a higher education qualification who is transferred to broaden his/her knowledge of and experience in a company in preparation for *employment* within the company;

Amendment 129

Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

Proposal for a directive

Article 3 – point g a (new)

Text proposed by the Commission

Amendment

(ga) ‘highly qualified employment’ means the employment of a person who:

– in the Member State concerned, is protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of, someone else,

– is paid, and,

– has the required adequate and specific competence, as proven by higher professional qualifications;

Or. en

Amendment 130

Sari Essayah

Proposal for a directive

Article 3 – point g a (new)

Text proposed by the Commission

Amendment

(ga) ‘highly qualified employment’ means the employment that

– requires qualified knowledge essential and specific to the host entity

– that is paid

– guarantees appropriate working conditions

Justification

A revised set of definitions is needed as to clarify the aims of the directive. For this purpose a definition of highly qualified employment should be inserted in the directive as to ensure that the Intra-Corporate Transferees are employed under conditions envisaged by this directive.

Amendment 131
Cornelis de Jong

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

Text proposed by the Commission

Amendment

(ga) ‘highly qualified employment’ means the employment of a person who has the required adequate and specific competence, as proven by higher professional qualifications;

Or. en

Amendment 132
Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

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

Text proposed by the Commission

Amendment

(gb) ‘higher professional qualifications’ means qualifications attested by evidence of higher education qualifications or, by way of derogation, when provided for by national law, attested by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer;

Or. en

Amendment 133
Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

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

Text proposed by the Commission

Amendment

(gc) ‘professional experience’ means the actual and lawful pursuit of the profession concerned;

Or. en

Amendment 134
Cornelis de Jong

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

Text proposed by the Commission

Amendment

(gc) ‘professional experience’ means the actual and lawful pursuit of the profession concerned;

Or. en

Amendment 135
Marie-Christine Vergiat

Proposal for a directive
Article 3 – point h

Text proposed by the Commission

Amendment

(h) ‘**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 **of at least three years**, namely a set of courses

(h) ‘qualification’ means any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting *to* the successful completion of a **general secondary, technical or vocational** education **or training** programme, namely a set of

provided by an educational establishment recognised as a **higher** education institution by the State in which it is situated;

courses provided by an educational establishment recognised as a **general secondary, technical or vocational** education institution by the State in which it is situated;

Or. fr

Amendment 136
Renate Weber, Jan Mulder

Proposal for a directive
Article 3 – point k

Text proposed by the Commission

(k) ‘single application procedure’ means the procedure leading, on the basis of one application for the authorisation of **a third-country national's** residence and work in the territory of a Member State, to a decision on **the** application;

Amendment

(k) ‘single application procedure’ means the procedure leading, on the basis of one application **made by a third-country national, or by the host entity**, for the authorisation of residence and work in the territory of a Member State, to a decision **ruling on that application for a intra corporate transferee permit**;

Or. en

Justification

From a consistency point of view it is to be preferred to use comparable language as used in Directive 2011/.../EC 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

Amendment 137
Salvatore Iacolino

Proposal for a directive
Article 3 – point l

Text proposed by the Commission

(l) ‘group of undertakings’ for the purposes of this Directive means two or more

Amendment

(l) ‘group of undertakings’ for the purposes of this Directive means two or more

undertakings recognised as linked ***in the following ways*** under national law: an undertaking, in relation to another undertaking ***directly or indirectly***: holds a majority of that undertaking's subscribed capital; or controls a majority of the votes attached to that undertaking's issued share capital; ***or*** can appoint more than half of the members of that undertaking's administrative, management or supervisory body;

undertakings recognised as linked under national law ***when*** an undertaking, in relation to another undertaking holds a majority of that undertaking's subscribed capital; or controls a majority of the votes attached to that undertaking's issued share capital; can appoint more than half of the members of that undertaking's administrative, management or supervisory body ***or is controlled jointly with another undertaking although being legally distinct from it***;

Or. it

Justification

The aim is to cover other situations in industry which may attract highly-qualified professionals in Europe.

Amendment 138 **Nadja Hirsch**

Proposal for a directive **Article 3 – point 1**

Text proposed by the Commission

(1) 'group of undertakings' for the purposes of this Directive means two or more undertakings recognised as linked in the following ways under national law: an undertaking, in relation to another undertaking directly or indirectly: holds a majority of that undertaking's subscribed capital; or controls a majority of the votes attached to that undertaking's issued share capital; or can appoint more than half of the members of that undertaking's administrative, management or supervisory body;

Amendment

(1) 'group of undertakings' for the purposes of this Directive means two or more undertakings recognised as linked in the following ways under national law: an undertaking, in relation to another undertaking directly or indirectly: holds a majority of that undertaking's subscribed capital; or controls a majority of the votes attached to that undertaking's issued share capital; or can appoint more than half of the members of that undertaking's administrative, management or supervisory body; ***within the meaning of this Directive, a group of undertakings also exists if one undertaking can contractually exert a dominant influence over another or if there is a contractually***

agreed single management structure;

Or. de

Amendment 139

Nadja Hirsch

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

(2) This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for persons to whom it applies in respect of Articles 3 (i), 12, 14 and 15.

Amendment

(2) This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for persons to whom it applies in respect of Articles 3 (i), **11(2)**, 12, 14 and 15.

Or. de

Amendment 140

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***Without prejudice to Article 10, a*** third-country national who applies to be admitted under the terms of this Directive ***shall***:

Amendment

1. *A* third-country national who applies to be admitted under the terms of this Directive ***may be granted admission, if he or she fulfils the following conditions:***

Or. en

Justification

Art. 5 is formulated in a such a way that third-country nationals who meet the criteria mentioned would have to be admitted. However, under national laws there are grounds on which the granting of a residence permit may be justifiably refused (e.g. in the case of convicted felons). Therefore, some discretion in organising the procedures and in relation to case-by-case decisions is needed. This does not mean that the authorities would be entitled to take arbitrary decisions on the admission.

Amendment 141
Judith Sargentini

Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. Without prejudice to Article 10, a third-country national who applies to be admitted under the terms of this Directive shall:

Amendment

1. Without prejudice to Article 10, a third-country national who applies to be admitted under the terms of this Directive ***and/or his or her employer*** shall:

Or. en

Amendment 142
Hubert Pirker

Proposal for a directive
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) provide evidence that the host entity and the undertaking established in a third country belong to the same undertaking or group of undertakings;

Amendment

(a) provide evidence that the host entity and the undertaking established in a third country belong to the same undertaking or group of undertakings; ***this evidence can also be provided by the host undertaking in the first Member State;***

Or. de

Amendment 143
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) provide evidence that the host entity and the undertaking established in a third country belong to the same undertaking or

Amendment

(a) provide evidence that the host entity and the undertaking established in a third country belong to the same undertaking or

group of undertakings;

group of undertakings *and has a genuine activity*;

Or. en

Amendment 144

Renate Weber

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, if required by national legislation, and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

deleted

Or. en

Justification

Extra criterion which only creates additional administrative burden. It is for an undertaking to decide whether it finds someone suitable for an ICT. On the issue of the ability to be transferred back: this can never be 100% guaranteed.

Amendment 145

Sari Essayah

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) provide evidence of employment within the same group of undertakings, for at least **12** months immediately preceding the date of the intra-corporate transfer, if required by national legislation, and that he or she

(b) provide evidence of employment within the same group of undertakings, for at least **6** months immediately preceding the date of the intra-corporate transfer, if required by national legislation, and that he or she

will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Or. en

Amendment 146

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, ***if required by national legislation***, and that he or she will ***be able to*** transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Amendment

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, and that he or she will transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Or. en

Amendment 147

Cornelis de Jong

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, ***if required by national legislation***, and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Amendment

(b) provide evidence of employment within the same group of undertakings, for at least 12 months ***without interruption*** immediately preceding the date of the intra-corporate transfer and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Amendment 148
Vilija Blinkevičiūtė, Liisa Jaakonsaari

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, *if required by national legislation*, and *that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment*;

Amendment

(b) provide evidence of *an* employment *contract* within the same group of undertakings, for at least 12 months *without interruption* immediately preceding the date of the intra-corporate transfer and *after the* transfer;

Or. en

Justification

In order to reinforce the regulation one should speak about an employment contract and not only about an employment relationship. 12 months are the minimum time period in order to ensure that the employment relationship is a real one.

Amendment 149
Nadja Hirsch

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, for at least **12** months immediately preceding the date of the intra-corporate transfer, if required by national legislation, and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end

Amendment

(b) provide evidence of employment within the same group of undertakings, for at least **six months (managers and specialists) or three months (graduate trainees)** immediately preceding the date of the intra-corporate transfer, if required by national legislation, and that he or she will be able to transfer back to an entity

of the assignment;

belonging to that group of undertakings and established in a third country at the end of the assignment;

Or. de

Amendment 150
Kinga Göncz

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, ***for at least 12 months immediately preceding the date of the intra-corporate transfer, if required by national legislation***, and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Amendment

(b) provide evidence of employment within the same group of undertakings, and that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment;

Or. en

Amendment 151
Judith Sargentini

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) provide evidence of employment within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, ***if required by national legislation***, and ***that he or she will be able to transfer back to an entity belonging to that group of undertakings and established in a third country at the end of the assignment***;

Amendment

(b) provide evidence of ***an*** employment ***contract*** within the same group of undertakings, for at least 12 months immediately preceding the date of the intra-corporate transfer, and ***valid after*** the end of the assignment;

Amendment 152
Vilija Blinkevičiūtė, Liisa Jaakonsaari

Proposal for a directive
Article 5 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) Provide evidence that the undertaking he or she is transferred to actually has a genuine activity and was not created with the single aim of transferring third-country nationals.

Or. en

Amendment 153
Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive
Article 5 – paragraph 1 – point c – point ii

Text proposed by the Commission

Amendment

(ii) evidence that he or she is taking a position as a manager, specialist or **graduate** trainee in the host entity or entities in the Member State concerned;

(ii) evidence that he or she is taking a position as a manager, specialist or **professional** trainee in the host entity or entities in the Member State concerned;

Or. en

Amendment 154
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 1 – point c – point ii

Text proposed by the Commission

Amendment

(ii) evidence that he or she is taking a position as a manager, specialist **or**

(ii) evidence that he or she is taking a position as a manager **or** specialist in the

graduate trainee in the host entity or entities in the Member State concerned;

host entity or entities in the Member State concerned;

Or. en

Amendment 155
Renate Weber, Jan Mulder

Proposal for a directive
Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

Amendment

(iii) the remuneration granted during the transfer; *deleted*

Or. en

Justification

The remuneration is to be considered a matter between employer and employee and is not for the authorities to know.

Amendment 156
Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

Proposal for a directive
Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

Amendment

(iii) the remuneration granted during *the* transfer;

(iii) the remuneration granted *and all other relevant working and employment conditions applicable* during transfer;

Or. en

Amendment 157
Sari Essayah

Proposal for a directive
Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

Amendment

(iii) the **remuneration** granted during the transfer;

(iii) the **terms and conditions of employment** granted during the transfer;

Or. en

Amendment 158

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

Amendment

(iii) the remuneration granted during the transfer;

(iii) the remuneration granted during the transfer, **and its accordance with any collective agreements applicable to the host entity**;

Or. en

Amendment 159

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

Amendment

(iii) the remuneration granted during the transfer;

(iii) the remuneration **and the relevant terms and conditions** granted during the transfer;

Or. en

Justification

For a comprehensive review of the terms and conditions of employment and in order to prevent abuse, the assignment letter should specify not only the remuneration but also other conditions of employment. This ensures that Member States can assess the terms and conditions of employment during the admission procedure and reject an application if the

requirements are not fulfilled. For the sake of consistency, also the terms and conditions of employment should therefore be mentioned-

Amendment 160
Salvatore Iacolino

Proposal for a directive
Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

(iii) the remuneration granted during the transfer;

Amendment

(iii) the remuneration ***and the terms and conditions of employment*** granted during the transfer ***which must correspond to those granted for similar work in the host Member State;***

Or. it

Justification

It is important to ensure equal treatment of workers.

Amendment 161
Judith Sargentini

Proposal for a directive
Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

(iii) the remuneration granted during the transfer;

Amendment

(iii) the remuneration granted during the transfer, ***including overtime pay, benefits, boni and benefits in kind;***

Or. en

Amendment 162
Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for **graduate** trainees, the higher education qualifications required;

Amendment

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for **professional** trainees, the higher education qualifications required;

Or. en

Amendment 163
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist **or, for graduate trainees, the higher education qualifications required;**

Amendment

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist;

Or. en

Amendment 164
Nadja Hirsch

Proposal for a directive
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for graduate trainees, the higher education qualifications required;

Amendment

(d) provide evidence that he or she has the professional qualifications **or higher education qualifications** needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for graduate trainees, **the professional qualifications and**

corresponding professional experience or the higher education qualifications required;

Or. de

Amendment 165
Marie-Christine Vergiat

Proposal for a directive
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for graduate trainees, the **higher education** qualifications required;

Amendment

(d) provide evidence that he or she has the professional qualifications needed in the Member State to which he or she has been admitted for the position of manager or specialist or, for graduate trainees, the qualifications required;

Or. fr

Amendment 166
Judith Sargentini

Proposal for a directive
Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) present documentation certifying that he or she fulfils the conditions laid down under national legislation for citizens of the Union to exercise the regulated profession which the transferee will work in;

Amendment

(e) present documentation certifying that he or she fulfils the conditions laid down under national legislation for citizens of the Union to exercise the regulated profession which the transferee will work in, **and as set out in the Directive 2005/36/EC on the recognition of professional qualifications**

Or. en

Amendment 167
Sari Essayah

Proposal for a directive
Article 5 – paragraph 1 – point g

Text proposed by the Commission

(g) without prejudice to existing bilateral agreements, present evidence of having or, if provided for by national law, having applied for 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 as a result of, the work contract;

Amendment

(g) without prejudice to existing bilateral agreements ***and notwithstanding the provisions of Article 14(2)(e) in regard to sickness benefits***, present evidence of having or, if provided for by national law, having applied for 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 as a result of, the work contract;

Or. en

Amendment 168
Marie-Christine Vergiat

Proposal for a directive
Article 5 – paragraph 1 – point h

Text proposed by the Commission

(h) be considered not to pose a threat to public policy, public security or public health.

Amendment

deleted

Or. fr

Amendment 169
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 5 – paragraph 1 – point h

Text proposed by the Commission

(h) be considered not to pose a threat to public policy, public security **or** public health.

Amendment

(h) be considered not to pose a threat to public policy, public security, public health **or other valid interests of the host Member States, if provided for in national law.**

Or. en

Justification

According to rulings of the European Court of Justice, the terms “public policy, public security or public health” do not cover aspects related to foreign policy or general preventive concerns. This provision should therefore be extended to other valid grounds, if national law provides for this.

Amendment 170
Georgios Papanikolaou

Proposal for a directive
Article 5 – paragraph 1 a(new)

Text proposed by the Commission

Amendment

1a. Provide a declaration undertaking to leave the European Union at the end of the intra-corporate transfer;

Or. el

Amendment 171
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall require that all conditions in the law, regulations or administrative provisions **and/or universally** applicable collective

Member States shall require that all conditions in the law, regulations or administrative provisions **and** applicable collective agreements are met with regard

agreements *applicable to posted workers in a similar situation in the relevant occupational branches* are met with regard to the remuneration granted during the transfer.

to the remuneration granted during the transfer.

Or. en

Amendment 172
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that all conditions in the law, regulations or administrative provisions and/or *universally applicable* collective agreements *applicable to posted workers in a similar situation in* the relevant occupational branches are met *with regard to the remuneration granted* during the transfer.

Amendment

Member States shall require that all conditions in the law, regulations or administrative provisions and/or collective agreements in the relevant occupational branches are met during the transfer.

Or. en

Amendment 173
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that *all conditions in the law, regulations or administrative provisions and/or universally applicable collective agreements applicable to posted workers in a similar situation in the relevant occupational branches are met with regard to the remuneration granted*

Amendment

Member States shall require, that *the remuneration and other terms and conditions of employment which will be granted to the third country national during the transfer are in line with the provisions of Art. 14 (1).*

during the transfer.

Or. en

Justification

The amendment ensures that Member States can assess the terms and conditions of employment before allowing a transfer and reject an application, if the requirements are not fulfilled. Thus, a third country national cannot be employed on worse conditions than own nationals. This provision is required in addition to art. 14 because it includes a broader range of conditions of employment and offers greater protection from wage dumping. Further, it supplements the Posting of Workers Directive.

Amendment 174
Vilija Blinkevičiūtė

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that all conditions in the law, regulations or administrative provisions and/or ***universally applicable*** collective agreements ***applicable to posted workers*** in ***a similar situation in*** the relevant occupational branches are met ***with regard to the remuneration granted*** during the transfer.

Amendment

Member States shall require that all conditions in the law, regulations or administrative provisions and/or collective agreements in the relevant occupational branches are met during the transfer.

Or. en

Amendment 175
Salvatore Iacolino

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that all conditions in the law, regulations or administrative provisions and/or

Amendment

Member States shall require that all conditions in the law, regulations or administrative provisions and/or applicable

universally applicable collective agreements applicable *to posted workers* in a similar situation in the relevant occupational branches are met *with regard to the remuneration granted* during the transfer.

collective agreements applicable in a similar situation in the relevant occupational branches are met during the transfer.

Or. it

Justification

The aim is to ensure a legal frame of reference more in line with the content of the directive.

Amendment 176 Judith Sargentini

Proposal for a directive Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that all conditions in the law, regulations or administrative provisions and/or *universally applicable* collective agreements *applicable to posted workers* in a *similar* situation in the relevant occupational branches are met with regard to *the remuneration* granted during the transfer.

Amendment

Member States shall require that all conditions in the law, regulations or administrative provisions and/or collective agreements in a *comparable* situation in the relevant occupational branches *at the place of work* are met with regard to *working conditions including benefits and pay* granted during the transfer.

Or. en

Amendment 177 Monika Hohlmeier, Manfred Weber

Proposal for a directive Article 5 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may require that the remuneration granted during the transfer and other terms and conditions of

employment are not worse than for comparable employees of the Member States.

Or. en

Justification

The amendment ensures that Member States can assess the terms and conditions of employment before allowing a transfer and reject an application, if the requirements are not fulfilled. Thus, a third country national cannot be employed on worse conditions than own nationals. This provision is required in addition to art. 14 because it includes a broader range of conditions of employment and offers greater protection from wage dumping. Further, it supplements the Posting of Workers Directive.

Amendment 178

Cornelia Ernst, Thomas Händel

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory.

deleted

Or. en

Amendment 179

Cornelis de Jong

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 2

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Text proposed by the Commission

Amendment

In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory. *deleted*

Or. en

Amendment 180
Vilija Blinkevičiūtė

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory. *deleted*

Or. en

Amendment 181
Sari Essayah

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to *all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory.*

Amendment

In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable, *according to the rules and traditions of the Member States;*

Or. en

Amendment 182
Cornelis de Jong

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

3. In addition to the evidence stipulated in paragraphs 1 and 2, any third-country national who applies to be admitted as a graduate trainee shall present a training agreement, including a description of the training programme, its duration and the conditions under which the applicant is supervised during the programme.

Amendment

deleted

Or. en

Amendment 183

Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. In addition to the evidence stipulated in paragraphs 1 and 2, any third-country national who applies to be admitted as a **graduate** trainee shall present a training agreement, including a description of the training programme, its duration and the conditions under which the applicant is supervised during the programme.

Amendment

3. In addition to the evidence stipulated in paragraphs 1 and 2, any third-country national who applies to be admitted as a **professional** trainee shall present a training agreement, including a description of the training programme, its duration and the conditions under which the applicant is supervised during the programme.

Or. en

Amendment 184

Marie-Christine Vergiat

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. In addition to the evidence stipulated in paragraphs 1 and 2, any third-country national who applies to be admitted as a graduate trainee shall present a training agreement, including a description of the training programme, its duration and the conditions under which the applicant is supervised during the programme.

Amendment

3. Any third-country national who applies to be admitted as a graduate trainee **must meet the requirements set out in paragraph 1(a), (c), (d), (f) and (g) and** present a training agreement, including a description of the training programme, its duration and the conditions under which the applicant is supervised during the programme.

Or. fr

Amendment 185

Marie-Christine Vergiat

Proposal for a directive

Article 5 – paragraph 5

Text proposed by the Commission

Amendment

5. Any modification that affects the conditions for admission set out in this Article shall be notified to the competent authorities of the Member State concerned.

deleted

Or. fr

Amendment 186
Judith Sargentini

Proposal for a directive
Article 5 – paragraph 5

Text proposed by the Commission

Amendment

5. Any modification that affects the conditions for admission set out in this Article shall be notified to the competent authorities of the Member State concerned.

5. Any modification **during the stay** that affects the conditions for admission set out in this Article shall be notified to the competent authorities of the Member State concerned **and must be in compliance with Article 5 paragraphs 1 to 4 and Article 14.**

Or. en

Amendment 187
Hubert Pirker

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

(2) Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment.

(2) Member States shall reject an application if the employer or the host entity has been **repeatedly** sanctioned in conformity with national law for undeclared work and/or illegal employment.

Or. de

Justification

A one-off misdemeanour and the subsequent imposition of a penalty should not result in the relevant intra-corporate transfer not being allowed to take place. The repeated imposition of sanctions would, however, justify this outcome.

Amendment 188

Cornelia Ernst, Thomas Händel

Proposal for a directive

Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment.

Amendment

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment ***or if provisions regarding working conditions and salaries as laid down in collective agreements as applicable by national law are not observed or if the employer or host entity has hired workers to break a strike.***

Or. en

Amendment 189

Cornelis de Jong

Proposal for a directive

Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work ***and/or*** illegal employment.

Amendment

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work illegal employment ***and/or non-observance of obligations of an employer by the national labour and social regulations.***

Amendment 190
Vilija Blinkevičiūtė, Liisa Jaakonsaari

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work *and/or* illegal employment.

Amendment

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work, illegal employment *and/or non-observance of obligations of an employer by the national labour and social regulation.*

Or. en

Justification

The grounds for rejection should be broadened.

Amendment 191
Marie-Christine Vergiat

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall reject an application if the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment.

Amendment

2. *If* the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment *or for failing to meet their legal obligations as regards working conditions or labour rights as laid down in national law or in this Directive, the Member State of that employer or host entity shall, before deciding to reject an application, either allow the applicant a reasonable amount of time to find an*

equivalent job in another entity belonging to the undertaking or to the same group of undertakings in that or another Member State, or cover the costs of the applicant's return home.

Or. fr

Justification

The applicant should not be made to suffer as a result of an error on the part of the host company. The Member State in which the company concerned is based should therefore give the applicant enough time to find a job elsewhere in that company or group, either in the Member State concerned or in another Member State.

Amendment 192

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may reject an application on the grounds of volumes of admission of third-country nationals.

deleted

Or. en

Amendment 193

Mario Borghezio

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States **may** reject an application on the grounds of volumes of admission of third-country nationals.

3. Member States **shall** reject an application on the grounds of volumes of admission of third-country nationals.

Or. it

Amendment 194
Jan Mulder

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States may reject an application on the grounds of volumes of admission of third-country nationals.

Amendment

3. Member States may reject an application on the grounds of volumes of admission of third-country nationals. ***When adequate alternatives for graduates can be found nationally, they have preference.***

Or. en

Amendment 195
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States ***may reject an application*** on the grounds of ***volumes of admission*** of third-country nationals.

Amendment

3. The Directive shall not affect the right of Member States to set limits on the number of intra-corporate transferees in general and or for certain professions, economic sectors or regions. Member States may use such limits to entirely rule out the possibility of admitting third-country nationals as intra-corporate transferees.

Or. en

Justification

Pursuant to Article 6 paragraph 3 Member States may reject an application on the grounds of volumes of admission of third-country nationals. This provision reflects the content of Article 79 para. 5 of the TFEU which explicitly refers to the right of Member States to set limits for the number of third-country nationals coming to their territory in order to seek work, whether employed or self-employed. A clarifying provision should therefore be incorporated.

Amendment 196
Cornelis de Jong

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Where the transfer concerns host entities located in several Member States, the Member State where the application is lodged shall limit the geographical scope of validity of the permit to the Member States where the conditions set out in Article 5 are met.

Amendment

4. Where the transfer concerns host entities located in several Member States, the Member State where the application is lodged shall limit the geographical scope of validity of the permit to the Member States where the conditions set out in Article 5 are met ***and the grounds for refusal set out in Article 6(2) and (3) do not apply.***

Or. en

Amendment 197
Cornelia Ernst, Thomas Händel

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

Text proposed by the Commission

(b) where the holder is residing for purposes other than those for which he/she was authorised to reside.

Amendment

deleted

Or. en

Amendment 198
Judith Sargentini

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

Text proposed by the Commission

Amendment

(ba) wherever the conditions laid down in Article 5 and Article 14 were not met or are no longer met;

Or. en

Amendment 199

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Member States may withdraw or refuse to renew an intra-corporate transferee permit in the following cases;

2. Member States may ***in accordance with national law*** withdraw or refuse to renew an intra-corporate transferee permit, in ***particular in*** the following cases:

Or. en

Justification

In certain cases Member States should continue to be able to deport someone, even if the requirements under Article 7 (2) (a) and (b) are not fulfilled, e.g. if the third-country national committed an offence. Hence, the Directive must not completely override national law requiring third-country nationals to leave the country.

Amendment 200

Judith Sargentini

Proposal for a directive

Article 7 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) wherever the conditions laid down in Article 5 were not met or are no longer met;

deleted

Amendment 201
Marie-Christine Vergiat

Proposal for a directive
Article 7 – paragraph 2 – point b

Text proposed by the Commission

(b) for reasons of public policy, public security or public health.

Amendment

deleted

Or. fr

Amendment 202
Marie-Christine Vergiat

Proposal for a directive
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If the employer or the host entity has been sanctioned in conformity with national law for undeclared work and/or illegal employment or for failing to meet their legal obligations as regards working conditions or labour rights as laid down in national law or in this Directive, the Member State of that employer or host entity shall, before deciding to reject an application, either allow the applicant a reasonable amount of time to find an equivalent job in another entity belonging to the undertaking or to the same group of undertakings in that or another Member State, or cover the costs of the applicant's return home.

Or. fr

Amendment 203
Judith Sargentini

Proposal for a directive
Article 8 – title

Text proposed by the Commission

Amendment

Penalties

Penalties *and inspections*

Or. en

Amendment 204
Birgit Sippel, Liisa Jaakonsaari, Vilija Blinkevičiūtė

Proposal for a directive
Article 8

Text proposed by the Commission

Amendment

Member States may hold the host entity responsible and provide for penalties for failure to comply with the conditions of admission. Those penalties shall be effective, proportionate and dissuasive.

Member States may hold the host entity responsible and provide for penalties for failure to comply with the conditions of admission *and the obligations arising out of the work contract*. Those penalties shall be effective, proportionate and dissuasive.

Or. en

Amendment 205
Salvatore Iacolino

Proposal for a directive
Article 8

Text proposed by the Commission

Amendment

Member States may hold the host entity responsible and provide for penalties for failure to comply with the conditions of admission. Those penalties shall be effective, proportionate and dissuasive.

Without prejudice to Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009, providing for minimum standards on sanctions and measures against employers of illegally-staying third-country nationals¹, Member States may hold the host entity responsible and

provide for penalties for failure to comply with the conditions of admission *laid down in this directive*. Those penalties shall be effective, proportionate and dissuasive. *Member States may lay down monitoring, assessment and periodic inspection procedures to prevent and punish possible abuses.*

¹ OJ L 168, 30.6.2009, p. 24.

Or. it

Justification

Provision should be made for the Member States to introduce controls to ensure that sanctions can be imposed on those guilty of abuses.

Amendment 206
Judith Sargentini

Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States may include other sanctions such as:(a) exclusion from entitlement to public benefits or aid;(b) exclusion from participation in a public contract for up to five years;(c) temporary or permanent disqualification from the practice of agricultural, industrial or commercial activities;(d) placing under judicial supervision;(e) a judicial winding-up order.

In respect of infringement of the employer relating to remuneration, taxes and social security contributions Member States shall ensure that the employer pays:(a) any outstanding remuneration to the third-country national coming in the framework of the intra-corporate transfer;(b) any outstanding taxes and

social security contributions, including relevant administrative fines. Member States shall provide for effective mechanisms through which third-country nationals can lodge complaints against their employers, directly or through designated third parties.

Or. en

Amendment 207
Judith Sargentini

Proposal for a directive
Article 9 – title

Text proposed by the Commission

Amendment

Access to information

Right to information

Or. en

Amendment 208
Judith Sargentini

Proposal for a directive
Article 9

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to make available information on entry and residence, including rights, and all documentary evidence needed for an application.

Member States shall take the necessary measures to make available information on entry and residence, including rights, and all documentary evidence needed for an application, ***as well as rights regarding working conditions, social security and enforcement and complaint mechanisms to all applicants and admitted transferees and workers in the host country.***

Or. en

Amendment 209
Renate Weber, Jan Mulder

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

1. Member States shall determine whether an application is to be made by the third-country national or by the host entity.

Amendment

1. Member States shall determine whether an application is to be made by the third-country national or by the host entity. ***If the application is to be submitted by the third-country national, Member States shall allow the application to be introduced from a third country or, if provided for by national law, on the territory of the Member State in which he or she is already legally present.***

Or. en

Justification

Stating the obvious, but it needs to be ensured that in case a Member State decides that an application is to be made by the third-country national, it allows for it to be introduced from a third-country (in analogy to Directive 2011/.EC 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).

Amendment 210
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The application shall be considered and examined only when the third-country national is residing outside the territory of the Member State to which admission is sought.

Amendment

deleted

Or. en

Amendment 211
Renate Weber

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The application shall be considered and examined **only** when the third-country national is residing outside the territory of the Member State to which admission is sought.

Amendment

2. The application shall ***in principle*** be considered and examined when the third-country national is residing outside the territory of the Member State to which admission is sought. ***In case of the renewal of the permit it shall also be possible, if provided for by national law, to consider and examine the application from within the territory of the Member State in which he or she is already legally present.***

Or. en

Justification

The possibility of renewing a ICT permit should not be forgotten. It makes no sense to travel back to the country of origin if it will be extremely likely that a new ICT permit will be granted again. Too costly and unnecessary.

Amendment 212
Hubert Pirker

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

(3) The application shall be lodged to the authorities of the Member State where the intra-corporate transfer mainly takes place.

Amendment

(3) The application shall be lodged to the authorities of the Member State where the intra-corporate transfer mainly takes place. ***Where it is impossible to anticipate with certainty in which Member State the third-country national will mainly be located, he/she shall be able to choose the Member State of application.***

Amendment 213
Renate Weber

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. The application shall be lodged to the **authorities** of the Member State where the intra-corporate transfer mainly takes place.

Amendment

3. The application shall be lodged to the **competent authority, as referred to in paragraph 4**, of the Member State where the intra-corporate transfer mainly takes place.

Or. en

Justification

To create full clarity that the application shall be lodged to the competent authority, not to 'the authorities', because this is too vague.

Amendment 214
Judith Sargentini

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. The application shall be lodged to the authorities of the Member State **where** the **intra-corporate transfer mainly takes** place.

Amendment

3. The application shall be lodged to the authorities of the Member State **of the first place of employment of the intra-corporate transferee; conditions set out in Article 5 and 14 have to be controlled by each admitting Member State.**

Or. en

Amendment 215
Cornelis de Jong

Proposal for a directive
Article 10 – paragraph 6

Text proposed by the Commission

6. The Member State concerned shall grant third-country ***nationals*** whose application for admission has been accepted ***every facility to obtain*** the requisite visa.

Amendment

6. The Member State concerned shall grant ***the*** third-country ***national*** whose application for admission has been accepted the requisite visa, ***provided that all necessary conditions under national or Union legislation are met.***

Or. en

Amendment 216
Hubert Pirker

Proposal for a directive
Article 10 – paragraph 7 – subparagraph 2 – introductory part

Text proposed by the Commission

Recognition shall be granted for a maximum of three years on the basis of the following information:

Amendment

Recognition shall be granted for ***a minimum of one year and*** a maximum of three years on the basis of the following information:

Or. de

Amendment 217
Hubert Pirker

Proposal for a directive
Article 10 – paragraph 7 – subparagraph 2 – point a

Text proposed by the Commission

(a) information relating to the financial standing of the group of undertakings aiming to ensure that the intra-corporate transferee will be guaranteed the ***required*** level of remuneration and rights as provided for in Article 14;

Amendment

(a) information relating to the financial standing of the group of undertakings aiming to ensure that the intra-corporate transferee will be guaranteed ***at least*** the level of remuneration ***in accordance with the universally applicable collective agreement*** and rights as provided for in

Article 14;

Or. de

Amendment 218

Hubert Pirker

Proposal for a directive

Article 10 – paragraph 7 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) evidence that the conditions of admission regarding prior transfers have been complied with;

(b) evidence ***provided by the competent authority*** that the conditions of admission regarding prior transfers have been complied with;

Or. de

Amendment 219

Hubert Pirker

Proposal for a directive

Article 10 – paragraph 7 – subparagraph 2 – point d

Text proposed by the Commission

Amendment

(d) information related to forthcoming transfers.

deleted

Or. de

Amendment 220

Hubert Pirker

Proposal for a directive

Article 10 – paragraph 8 – point b

Text proposed by the Commission

Amendment

(b) a fast-track admission procedure allowing intra-corporate transferee permits

(b) a fast-track admission procedure allowing intra-corporate transferee permits

to be issued within *a shorter* time *than* specified in Article 12(1);

to be issued within *half the* time specified in Article 12(1);

Or. de

Amendment 221

Renate Weber

Proposal for a directive Article 11 – paragraph 2

Text proposed by the Commission

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State concerned, whichever is shorter, and may be extended to a maximum of three years for managers and specialists and one year for graduate trainees.

Amendment

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State concerned, whichever is shorter, and may be extended to a maximum of three years for managers and specialists and one year for graduate trainees. *After the period of validity ends it shall be possible to renew the intra-corporate transferee permit through a new application, following the provisions of Article 10 and Article 5.*

Or. en

Justification

The possibility of renewing the ICT permit should not be ignored.

Amendment 222

Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

Proposal for a directive Article 11 – paragraph 2

Text proposed by the Commission

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State

Amendment

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State

concerned, whichever is shorter, and may be extended to a maximum of three years for managers and specialists and one year for *graduate* trainees.

concerned, whichever is shorter, and may be extended to a maximum of three years for managers and specialists and one year for *professional* trainees.

Or. en

Amendment 223
Cornelis de Jong

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State concerned, whichever is shorter, and may be extended to a maximum of three years *for managers and specialists and one year for graduate trainees.*

Amendment

2. The period of validity of the intra-corporate transferee permit shall be at least one year or the duration of the transfer to the territory of the Member State concerned, whichever is shorter, and may be extended to a maximum of three years.

Or. en

Amendment 224
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. *Under the heading ‘type of permit’, the Member States shall enter ‘intra-corporate transferee’ and the name of the group of undertakings concerned.* Member States shall issue to the holder of an intra-corporate transferee permit an additional document containing a list of the entities authorised to host the third-country national and revise it whenever that list is modified.

Amendment

4. *The residence title must indicate that it is a residence* permit *for* intra-corporate *transferees*. Member States shall issue to the holder of an intra-corporate transferee permit an additional document containing a list of the entities authorised to host the third-country national and revise it whenever that list is modified..

Justification

It is sufficient, if the residence title indicates that it was issued for the purpose of employment as an intra-corporate transferee. The exact place where the purpose of the residence title is indicated should not be specified by the Directive. In particular, it is not necessary to create a new residence title if the residence title issued for the purpose of employment (see Section 18 of the Residence Act) indicates the type of employment.

Amendment 225
Judith Sargentini

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. Under the heading ‘type of permit’, the Member **States** shall enter ‘intra-corporate transferee’ and the name of the group of undertakings concerned. Member **States** shall issue to the holder of an intra-corporate transferee permit an additional document containing a list of the entities authorised to host the third-country national and revise it whenever that list is modified.

Amendment

4. Under the heading ‘type of permit’, the **first host** Member **State** shall enter ‘intra-corporate transferee’ and the name of the group of undertakings concerned. **The first host** Member **State** shall issue to the holder of an intra-corporate transferee permit an additional document containing a list of the entities authorised to host the third-country national **after control by each admitting Member State according to the conditions set out in Articles 5 and 14 and** revise it whenever that list is modified **in agreement with the relevant Member States**.

Amendment 226
Renate Weber, Jan Mulder

Proposal for a directive
Article 11 – paragraph 4 a (new)

*Text proposed by the Commission**Amendment*

4a. The intra-corporate transferee permit

shall be a single document. Member States may indicate additional information related to the employment relationship of the third-country national in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) 1030/2002 and point 16 of its Annex I as amended by Regulation (EC) 380/2008.

Or. en

Justification

In line with language used in Directive 2011/.../EC 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

Amendment 227

Monika Hohlmeier, Manfred Weber

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

1. The competent authorities of the Member State concerned shall adopt a decision on the application for admission to a Member State as an intra-corporate transferee or for revision of the additional document provided for in Article 11(4) and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned, within **30** days of the complete application being lodged. ***In exceptional cases involving complex applications including applications concerning host entities in several Member States, the deadline may be extended for a maximum of a further 60 days.***

Amendment

1. The competent authorities of the Member State concerned shall adopt a decision on the application for admission to a Member State as an intra-corporate transferee or for revision of the additional document provided for in Article 11 (4) and 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 **90** days of the complete application being lodged.

Or. en

Justification

A deadline of 30 days is not realistic and incoherent in comparison to other instruments for legal migration. The provisions of the Directive regarding the “one stop shop” procedure are quite complex. Furthermore, the “Blue Card Directive” (also aiming to attract highly qualified persons) contains a “fast track procedure” with a deadline for adopting a decision, of 90 days.

Amendment 228

Kinga Göncz

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

1. The competent authorities of the Member State concerned shall adopt a decision on the application for admission to a Member State as an intra-corporate transferee or for revision of the additional document provided for in Article 11(4) and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned, within 30 days of the complete application being lodged. *In exceptional cases involving complex applications including applications concerning host entities in several Member States, the deadline may be extended for a maximum of a further 60 days.*

Amendment

1. The competent authorities of the Member State concerned shall adopt a decision on the application for admission to a Member State as an intra-corporate transferee or for revision of the additional document provided for in Article 11(4) and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State concerned, within 30 days of the complete application being lodged.

Or. en

Amendment 229

Birgit Sippel, Vilija Blinkevičiūtė

Proposal for a directive Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. National law of the relevant Member State shall determine any consequence of a decision not having been taken by the end of the period provided for in the first subparagraph.

Or. en

Amendment 230
Hubert Pirker

Proposal for a directive
Article 12 – paragraph 3

Text proposed by the Commission

Amendment

(3) Any decision rejecting an application or any decision not to renew or to withdraw intra-corporate transferee permits, shall be notified in writing to the applicant and shall be open to a ***legal*** challenge in the Member State concerned, in accordance with national law. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.

(3) Any decision rejecting an application or any decision not to renew or to withdraw intra-corporate transferee permits, shall be notified in writing to the applicant and shall be open to a challenge ***by means of redress either administratively or in the courts*** in the Member State concerned, in accordance with national law. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.

Or. de

Amendment 231
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 13 – point 2

Text proposed by the Commission

Amendment

2. free access to the entire ***territory*** of the Member ***State issuing*** the ***permit*** within

2. free access to the entire ***territories*** of the Member ***States of the European Union***

the limits provided for by national law;

within the limits provided for by national law;

Or. en

Amendment 232
Marie-Christine Vergiat

Proposal for a directive
Article 13 – point 2 a (new)

Text proposed by the Commission

Amendment

2a. the right (for the holder, as well as for members of his or her family within the meaning of Directive 2003/86/EC), to move freely around the EU and to have freedom of access to the Member States' territories during the period of residence;

Or. fr

Amendment 233
Hubert Pirker

Proposal for a directive
Article 13 – point 4

Text proposed by the Commission

Amendment

(4) the right to carry out his/her assignment at the sites of clients of the entities belonging to the group of undertakings listed in the additional document provided for in Article 11 (4), as long as the employment relationship is maintained with the undertaking established in a third country.

(4) the right to carry out his/her assignment at the sites of clients ***and potential business partners*** of the entities belonging to the group of undertakings listed in the additional document provided for in Article 11 (4), as long as the employment relationship is maintained with the undertaking established in a third country.

Or. de

Amendment 234
Cornelis de Jong, Cornelia Ernst

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. By way of derogation from Articles 3(1) and 8 of Directive 2003/86/EC, family reunification ***in the first Member State*** shall not be made dependent on the requirement that the holder of the permit issued on the basis of this Directive must have reasonable prospects of obtaining the right of permanent residence and have a minimum period of residence.

Amendment

2. By way of derogation from Articles 3(1) and 8 of Directive 2003/86/EC, family reunification shall not be made dependent on the requirement that the holder of the permit issued on the basis of this Directive must have reasonable prospects of obtaining the right of permanent residence and have a minimum period of residence.

Or. en

Amendment 235
Mario Borghezio

Proposal for a directive
Article 15 – paragraph 3

Text proposed by the Commission

3. By way of derogation from the last subparagraph of Article 4(1) and from Article 7(2) of Directive 2003/86/EC, the integration measures referred to therein ***may be applied*** by the first Member State ***only after*** the persons concerned have been granted family reunification.

Amendment

3. By way of derogation from the last subparagraph of Article 4(1) and from Article 7(2) of Directive 2003/86/EC, the integration measures referred to therein ***must be verified*** by the first Member State ***before*** the persons concerned have been granted family reunification.

Or. it

Amendment 236
Sari Essayah

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within **two months** from the date on which the application was lodged.

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within **30 days** from the date on which the application was lodged.

Or. en

Amendment 237

Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

**Proposal for a directive
Article 15 – paragraph 4**

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within two months from the date on which the application was lodged.

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled.

The competent authorities of the first Member State shall undertake to process the residence permit request for the family members at the same time as the permit request for the intra-corporate transferee. In more complex cases, the procedure shall be completed at the latest within two months from the date on which the application was lodged.

Or. en

Amendment 238

Vilija Blinkevičiūtė

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within two months from the date on which the application was lodged.

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled.

The competent authorities of the first Member State shall undertake to process the residence permit request for the family members at the same time as the permit request for the intra-corporate transfer employee. In more complex cases, the procedure shall be completed at the latest within two months from the date on which the application was lodged.

Or. en

Amendment 239
Judith Sargentini

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, ***at the latest within two months from the date on which the application was lodged.***

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled.

The competent authorities of the first Member State shall undertake to process the permit request for the transferee's family members at the same time as the

residence permit request of the intra-corporate transferee.

Or. en

Amendment 240
Jan Mulder

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within ***two months*** from the date on which the application was lodged.

Amendment

4. By way of derogation from the first subparagraph of Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be granted by the first Member State, if the conditions for family reunification are fulfilled, at the latest within ***30 days*** from the date on which the application was lodged.

Or. en

Amendment 241
Sari Essayah

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The family members of an intra-corporate transferee who have the right of residence in a Member State shall be entitled to take up employment or self-employment there.

Or. en

Amendment 242
Cornelia Ernst, Marie-Christine Vergiat, Thomas Händel

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. By way of derogation from Article 14(2) of Directive 2003/86/EC, the family members of an intra-corporate transferee who have the right of residence in a Member State shall be entitled to take up employment or self-employment there, for the same duration as the transferee.

Or. en

Amendment 243
Vilija Blinkevičiūtė

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. By way of derogation from Article 14(2) of Directive 2003/86/EC, the family members of an intra-corporate transferee who have the right of residence in a Member State shall be entitled to take up employment or self-employment there, for the same duration as the transferee.

Or. en

Amendment 244
Judith Sargentini

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. By way of derogation from Article 14(2) of Directive 2003/86/EC, the family members of an intra-corporate transferee

who have the right of residence in a Member State shall be entitled to take up employment or self-employment there, for the same duration as the transferee.

Or. en

Amendment 245
Salvatore Iacolino

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Pursuant to Article 14 of Directive 2003/86/EC and without prejudice to the principle of Union preference, Member States may decide the conditions under which family members may exercise an employed or self-employed activity. In such cases, requests for authorisation must be dealt with within 30 days of their being lodged.

Or. it

Justification

Directive 2003/86/EC guarantees right of access to the labour market and sets a deadline of 12 months for authorisation to be granted by Member States. In the case of transfers of 12 months or less, this provision would be an obstacle to family reunification and Member States should therefore be required to deal with applications within 30 days.

Amendment 246
Nadja Hirsch

Proposal for a directive
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(5a) 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.

Or. de

Amendment 247
Nadja Hirsch

Proposal for a directive
Article 15 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

(5b) An employee's exercise of the rights under Article 16 shall not stand in the way of the right to family reunification.

Or. de

Amendment 248
Vilija Blinkevičiūtė

Proposal for a directive
Article 16 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. The host country principle needs to apply as well in the context of mobility of ICTs between Member States.

Or. en

Amendment 249
Renate Weber

Proposal for a directive
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 **and who apply for an intra-corporate transferee permit in another Member State** shall be allowed to work in any other entity established in that Member State and belonging to the same group of undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4), **provided that:**

Amendment

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 shall be allowed to work in any other entity established in that Member State and belonging to the same group of undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4).

Or. en

Justification

This provision undermines the objective of this instrument, i.e. simplification of the procedure. Once a ICT permit has been granted (i.e. all conditions of Article 5, Article 13(4) and Article 11(4) are fulfilled) it should be possible to work and reside in any other entity established in other Member State(s) belonging to the same group of undertakings (including at the sites of clients of the host entity).

Amendment 250

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. **Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 and who apply for an intra-corporate transferee permit in another Member State** shall be **allowed to work in any other entity established in that**

Amendment

1. **If the third-country national intends to work in a second Member State, an application for a new intra-corporate transferee permit shall be lodged to the authorities of the second Member State and present all the documents proving the fulfilment of the conditions set out in**

Member State and *belonging to the same group of undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4), provided that:*

Article 5.

The application may be presented to the competent authorities of the second Member State outside the territories of the European Union or while residing in the territory of the first or, in the case of paragraph 2, the second Member State.

If the intra-corporate transferee is already working in the first Member State, the second Member State shall adopt a decision according to Article 12 (1) as soon as possible and at the latest within 45 days of the complete application being lodged.

Member States shall not require intra-corporate transferees to leave their territory in order to submit applications for visas or residence permits.

Or. en

Amendment 251
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 and who apply for an intra-corporate transferee permit in another Member State shall be allowed to work in any other entity established in that Member State and belonging to the same group of

Amendment

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 and who apply for an intra-corporate transferee permit in another Member State shall be allowed to work in any other entity established in that Member State and belonging to the same group of

undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4), provided that:

undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State, ***if it is still valid***, and the additional document provided for in Article 11(4), provided that:

Or. it

Justification

The aim is to ensure greater consistency with the aims of the directive.

Amendment 252 **Judith Sargentini**

Proposal for a directive **Article 16 – paragraph 1 – introductory part**

Text proposed by the Commission

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 and who apply for an intra-corporate transferee permit in another Member State shall be allowed to work in any other entity established in that Member State and belonging to the same group of undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4), provided that:

Amendment

1. Third-country nationals who have been granted an intra-corporate transferee permit in a first Member State, who fulfil the criteria for admission as set out in Article 5 and who apply for an intra-corporate transferee permit in another Member State shall be allowed to work in any other entity established in that Member State and belonging to the same group of undertakings and at the sites of clients of that host entity if the conditions set out in Article 13(4) are fulfilled ***and permission criteria according to Articles 5 and 14 are checked by all permitting Member States***, on the basis of the residence permit issued by the first Member State and the additional document provided for in Article 11(4), provided that:

Or. en

Amendment 253
Renate Weber

Proposal for a directive
Article 16 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the duration of the transfer in the other Member State(s) does not exceed twelve months;

deleted

Or. en

Justification

This provision undermines the objective of this instrument, i.e. simplification of the procedure. Once a ICT permit has been granted (i.e. all conditions of Article 5, Article 13(4) and Article 11(4) are fulfilled) it should be possible to work and reside in any other entity established in other Member State(s) belonging to the same group of undertakings (including at the sites of clients of the host entity).

Amendment 254
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 16 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the duration of the transfer in the other Member State(s) does not exceed twelve months;

deleted

Or. en

Amendment 255
Jan Mulder

Proposal for a directive
Article 16 – paragraph 1 – point a

Text proposed by the Commission

(a) the duration of the transfer in the other Member State(s) does not exceed **twelve months**;

Amendment

(a) the duration of the transfer in the other Member State(s) does not exceed **the maximum duration of the transfer to the European Union provided for in Article 16(3)**;

Or. en

Amendment 256
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 1 – point a

Text proposed by the Commission

(a) the duration of the transfer in the other Member State(s) does not exceed **twelve months**;

Amendment

(a) the duration of the transfer in the other Member State(s) does not exceed **six months**;

Or. it

Justification

The aim is to ensure greater consistency with the aims of this directive.

Amendment 257
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) notification of the decision to proceed with the transfer to the other Member States shall be given to:
– the competent authorities of the first Member State, by the applicant;

*– the competent authorities of the other
Member States, by the host entity;*

Or. it

Justification

Notification is an essential part of overall cooperation between Member States.

Amendment 258

Renate Weber

Proposal for a directive

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the applicant has submitted to the competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State and has provided evidence of such submission to the first Member State.

deleted

Or. en

Justification

This provision undermines the objective of this instrument, i.e. simplification of the procedure. Once a ICT permit has been granted (i.e. all conditions of Article 5, Article 13(4) and Article 11(4) are fulfilled) it should be possible to work and reside in any other entity established in other Member State(s) belonging to the same group of undertakings (including at the sites of clients of the host entity).

Amendment 259

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the applicant has submitted to the competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State and has provided evidence of such submission to the first Member State.

deleted

Or. en

**Amendment 260
Cornelis de Jong**

**Proposal for a directive
Article 16 – paragraph 1 – point b**

Text proposed by the Commission

Amendment

(b) the applicant has submitted to the competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State and has provided evidence of such submission to the first Member State.

(b) the applicant has submitted to the competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State, ***which this other Member States is entitled to verify according to the grounds set out in Article 6(2) and (3), and*** has provided evidence of such submission to the first Member State.

Or. en

**Amendment 261
Judith Sargentini**

**Proposal for a directive
Article 16 – paragraph 1 – point b**

Text proposed by the Commission

Amendment

(b) the applicant has submitted to the

(b) the applicant has submitted to the

competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State and has provided evidence of such submission to the first Member State.

competent authority of the other Member State, before his or her transfer to that Member State, the documents referred to in Article 5(1) (2) and (3) relating to the transfer to that Member State and ***the conditions have been checked to be compatible with the conditions in the other Member State*** and has provided evidence of such submission to the first Member State.

Or. en

Amendment 262
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) no threat is posed to public order, public security or public health;

Or. it

Justification

The transfer must not pose a threat to public order, public security or public health.

Amendment 263
Judith Sargentini

Proposal for a directive
Article 16 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the principle of equal treatment at the place of work is not violated

Or. en

Amendment 264
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For an intra-corporate transfer to another Member State to take place, an intra-corporate transfer permit must have been granted by the first Member State, so that:

– the intra-corporate transfer permit granted by the first Member State allows the transferee to work and reside in both the first and second Member States pursuant to Articles 13 and 14;

– renewal of the intra-corporate transfer permit by the first Member State allows the transferee to continue working and living in the other Member State during the period covered by the renewal;

– the withdrawal of the intra-corporate transfer permit by the first Member State will terminate the worker’s right to live and work in the other Member State.

Or. it

Justification

The rights enjoyed by workers in the event of intra-Community mobility need to be spelled out.

Amendment 265
Jan Mulder

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

If the duration of the transfer in the other Member State exceeds ***twelve months-***, the other Member State may require a new application for a residence permit as an intra-corporate transferee in that Member State.

Amendment

If the duration of the transfer in the other Member State exceeds ***the maximum duration of the original transfer to the European Union provided for in Article 16(3)***, the other Member State may require a new application for a residence permit as an intra-corporate transferee in that Member State ***pursuant to Chapters II and III***.

Or. en

Amendment 266
Cornelis de Jong

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

If the duration of the transfer in the other Member State exceeds twelve months-, the other Member State may require a new application for a residence permit as an intra-corporate transferee in that Member State.

Amendment

If the duration of the transfer in the other Member State exceeds twelve months-, the other Member State ***shall verify Article 6(2) and (3) of this Directive and*** may require a new application for a residence permit as an intra-corporate transferee in that Member State.

Or. en

Amendment 267
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

If the ***duration of the transfer in the other Member State exceeds twelve months-, the other Member State*** may require a new

Amendment

If the ***third-country national has already been granted an intra-corporate transferee permit*** the second Member

application for a residence permit as an intra-corporate transferee in that Member State.

State may *decide not to verify certain criteria for admission and/or may allow the* intra-corporate transferee *to work until a positive decision on the application has been taken by its competent authority.*

Or. en

Amendment 268
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

If the duration of the transfer in the other Member State exceeds twelve months-, the other Member State may require a new application for a residence permit as an intra-corporate transferee in that Member State.

Third-country nationals who have been granted an intra-corporate transfer permit in a first Member State and who intend to work in another entity belonging to the same group of undertakings established in another Member State, for a period exceeding six months, must submit to the competent authorities of the other Member State a new and independent application for an intra-corporate transfer pursuant to Article 5.

Or. it

Justification

The aim is to ensure greater consistency with the aims of the directive.

Amendment 269
Salvatore Iacolino

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Third-country nationals who have been granted an intra-corporate transfer in a

first Member State and who have submitted to the competent authorities of another Member State a new application for admission in accordance with paragraph 2 of this article, shall be authorised to work in the other Member State until such time as the competent authority has taken a decision on the new application for admission.

Or. it

Justification

In a modern, dynamic and competitive labour market, it is important to ensure that red tape does not prevent a worker from doing his or her job in a company.

Amendment 270

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 16 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where the relevant legislation requires a visa or residence permit for exercising mobility, such visas or permits shall be granted in a timely manner within a period that does not hamper pursuit of the assignment, whilst leaving the competent authorities sufficient time to process the applications.

deleted

Or. en

Amendment 271

Jan Mulder

Proposal for a directive

Article 16 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the relevant legislation requires a visa or residence permit for exercising mobility, such visas or permits shall be granted in ***a timely manner within a period that does not hamper pursuit of the assignment, whilst leaving the competent authorities sufficient time to process the applications.***

Amendment

Where the relevant legislation requires a visa or residence permit for exercising mobility, such visas or permits shall be granted in ***accordance with the periods provided in Article 12.***

Or. en

Amendment 272

Monika Hohlmeier, Manfred Weber

Proposal for a directive

Article 16 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Member States shall not require intra-corporate transferees to leave their territory in order to submit applications for visas or residence permits.

Amendment

deleted

Or. en

Justification

The concerned passage should be introduced in paragraph 1 of the same article.

Amendment 273

Hubert Pirker

Proposal for a directive

Article 16 – paragraph 3

Text proposed by the Commission

(3) The maximum duration of the transfer to the European Union shall not exceed ***three*** years for managers and specialists

Amendment

(3) The maximum duration of the transfer to the European Union shall not exceed ***four*** years for managers and specialists and

and *one year* for graduate trainees.

two years for graduate trainees.

Or. de

Justification

The provision of Article 16(3) must be brought into line with Article 11(2).

Amendment 274

Renate Weber

**Proposal for a directive
Article 16 – paragraph 3**

Text proposed by the Commission

3. The maximum duration of the transfer to the European Union shall not exceed three years for managers and specialists and one year for graduate trainees.

Amendment

3. The maximum duration of the transfer to the European Union shall not exceed three years for managers and specialists and one year for graduate trainees. ***After this period has extended the intra-corporate transferee permit it should be possible to renew the intra-corporate transferee permit through a new application, following the provisions of Article 10 and Article 5.***

Or. en

Justification

The possibility of renewing the ICT permit should not be ignored.

Amendment 275

Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

**Proposal for a directive
Article 16 – paragraph 3**

Text proposed by the Commission

3. The maximum duration of the transfer to the European Union shall not exceed three

Amendment

3. The maximum duration of the transfer to the European Union shall not exceed three

years for managers and specialists and one year for *graduate* trainees.

years for managers and specialists and one year for *professional* trainees.

Or. en

Amendment 276
Cornelis de Jong

Proposal for a directive
Article 16 – paragraph 3

Text proposed by the Commission

3. The maximum duration of the transfer to the European Union shall not exceed three years *for managers and specialists and one year for graduate trainees*.

Amendment

3. The maximum duration of the transfer to the European Union shall not exceed three years.

Or. en

Amendment 277
Monika Hohlmeier, Manfred Weber

Proposal for a directive
Article 16 – paragraph 3

Text proposed by the Commission

3. The maximum duration of the transfer to the European Union shall not exceed three years for managers and specialists and one year for graduate trainees.

Amendment

3. The second Member State issuing or withdrawing a new intra-corporate transferee permit shall inform the first Member State about it, in case the intra-corporate transferee permit issued by the first Member State is still valid.

Or. en

Amendment 278
Judith Sargentini

Proposal for a directive
Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The host country principle stating that the conditions at the place of work need to be respected must be safeguarded also in the context of mobility of Intra-corporate transferees between Member States.

Or. en

Amendment 279

Vilija Blinkevičiūtė, Liisa Jaakonsaari, Birgit Sippel

**Proposal for a directive
Article 17 – paragraph 1**

Text proposed by the Commission

Amendment

1. Member States shall communicate to the Commission statistics on the number of residence permits issued for the first time or renewed and, as far as possible, on the number of residence permits withdrawn for the purpose of intra-corporate transfer to persons who are third-country nationals, disaggregated by citizenship, age and sex, by transferee position (manager, specialist and *graduate* trainee), by length of validity of the permit and by economic sector.

1. Member States shall communicate to the Commission statistics on the number of residence permits issued for the first time or renewed and, as far as possible, on the number of residence permits withdrawn for the purpose of intra-corporate transfer to persons who are third-country nationals, disaggregated by citizenship, age and sex, by transferee position (manager, specialist and *professional* trainee), by length of validity of the permit and by economic sector.

Or. en

Amendment 280

Cornelis de Jong

**Proposal for a directive
Article 17 – paragraph 1**

Text proposed by the Commission

Amendment

1. Member States shall communicate to the Commission statistics on the number of

1. Member States shall communicate to the Commission statistics on the number of

residence permits issued for the first time or renewed and, as far as possible, on the number of residence permits withdrawn for the purpose of intra-corporate transfer to persons who are third-country nationals, disaggregated by citizenship, age and sex, by transferee position (manager, specialist **and graduate trainee**), by length of validity of the permit and by economic sector.

residence permits issued for the first time or renewed and, as far as possible, on the number of residence permits withdrawn for the purpose of intra-corporate transfer to persons who are third-country nationals, disaggregated by citizenship, age and sex, by transferee position (manager **and** specialist), by length of validity of the permit and by economic sector.

Or. en