

# Rights of third-country nationals who are long-term residents in the EU

## Directive 2003/109/EC

*This briefing is one in a series of implementation appraisals produced by the European Parliamentary Research Service (EPRS) on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law that is likely to be amended or reviewed, as envisaged in the European Commission's annual work programme. Implementation appraisals aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of the EPRS to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.*

### SUMMARY

Directive 2003/109/EC (the Long-term Residents Directive, or LTRD) sets out the conditions under which a non-EU citizen ('third-country national') who has legally and continuously resided in a European Union (EU) Member State for at least five years can acquire 'EU long-term resident status'. This residence status is permanent, grants these individuals equal treatment rights with EU citizens in several areas, ensures reinforced protection against expulsion, and gives them the (conditional) possibility to move and reside in other Member States.

In 2019, the European Commission published its second implementation report on the directive. It also finalised a fitness check on EU legal migration legislation evaluating the effectiveness, coherence, and grounds for improvement of the existing EU laws in the field. These reports found shortcomings both in the EU legal migration framework and in the directive itself. The limitations identified mainly concerned the implementation of legislation by EU Member States. The subsequent European Commission proposals under the 2020 new pact on migration and asylum seek to address these shortcomings by, for instance, revising the LTRD.

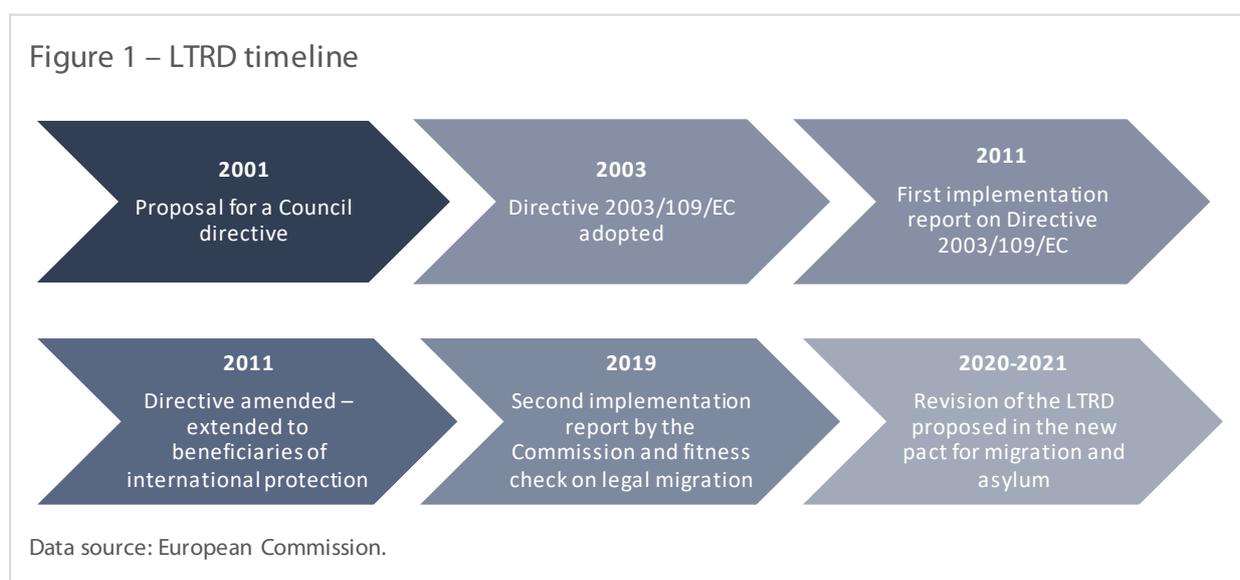
The LTRD is currently under-used, as most Member States continue to issue almost exclusively national long-term residence permits. Many third-country nationals who could benefit from the rights of the EU status do not have access to it. The Commission has received numerous complaints from citizens, and has launched several infringement procedures pursuing legal action against EU Member States. The revision of the LTRD aims to improve the directive's implementation and functioning by establishing a 'true EU long-term residence status' – with a particular focus on strengthening long-term residents' right to move and work in other Member States (intra-EU mobility).

## Background

The integration of non-European Union (non-EU) citizens, or **third-country nationals**,<sup>1</sup> who are long-term residents in Member States, is a **key element** in promoting economic and social cohesion, and a fundamental objective of the [Treaty on European Union](#) (TEU) (in particular Article 63(3) and (4)). In this context, [Directive 2003/109/EC](#) (the **Long-term Residents Directive, or LTRD**) sets out the terms and conditions for granting – and withdrawing – long-term resident status to third-country nationals **living legally in a European Union (EU) Member State for at least five years**.

The LTRD determines the rights of third-country nationals who are [long-term residents in the EU](#), and the areas in which they can be granted **equal treatment with EU citizens**, and spells out the conditions that apply if they wish to move to another EU Member State. The directive has applied since 23 January 2004 (see Figure 1), and EU Member States have had to **transpose it into national law** from 23 January 2006. One of the LTRD's intended objectives is **to promote mutual confidence between Member States** by setting a minimum set of conditions for the acquisition of long-term resident status.

In 2011, the LTRD was amended to cover third-country nationals, such as refugees or the stateless, who qualify for international protection (Member States had to transpose changes into national legislation by 20 May 2013).



The LTRD establishes the following [key elements](#):

- To obtain **long-term resident status**, third-country nationals must have lived legally and continuously in an EU Member State for five years;<sup>2</sup>
- Third-country nationals must prove they have **stable and regular economic resources** to support themselves and their family, and have health insurance;
- National authorities must give a decision on applications, accompanied by the relevant documentation, **within 6 months** of receiving them;
- Authorities may refuse to grant resident status for reasons of **public policy or security**, but not for economic reasons;
- Successful applicants are given a residence permit that is **valid for at least five years** and is automatically renewable;
- Long-term residents **may lose their status** if they:
  - acquired the status by fraud;
  - are issued with an expulsion order because they are considered a serious threat to public policy or security;
  - leave the EU for 12 consecutive months;

- Long-term residents **benefit from equal treatment** with the country's nationals in areas such as employment, education, social security, taxation and freedom of association. However, in certain cases, **EU countries may restrict this equal treatment**;<sup>3</sup>
- Long-term residents **may move to live, work or study** in another EU country for more than 3 months, provided they satisfy certain conditions. They may be accompanied by family members;
- National contact points exist to send and receive the relevant information **between EU countries**;
- The legislation **does not apply** to [certain categories](#) of third-country nationals, such as those working temporarily as au pairs or [seasonal workers](#), for whom other legislation applies.

The LTRD does not apply in Denmark and Ireland, nor did it in the United Kingdom (UK);<sup>4</sup> they have special arrangements for immigration and asylum policy.

There are several problems with the implementation and functioning of the LTRD, outlined in a number of **EU-level reports and evaluations** (see Section 2 for more detailed information). The LTRD **is currently under-used**, as most Member States have not actively promoted the issuance of EU long-term residence permits, and continue to **issue almost exclusively national long-term residence permits**. This means that many third-country nationals who could benefit from the rights of the EU status **do not have access to it**.

Holders of the EU long-term residence permit also **face barriers to exercising their right** to move and reside in other Member States for work, study or other reasons, as this right is subject to several conditions in the current directive. Furthermore, there are **some inconsistencies** between the LTRD and [other EU directives](#) in the field of legal migration that were adopted later, in particular with regard to equal treatment rights.<sup>5</sup>

The revision of the LTRD (as proposed in the Commission's [new pact on migration and asylum](#))<sup>6</sup> aims to achieve **a better functioning and implementation of the LTRD**, in particular by strengthening the right of long-term residents to move and work in other Member States.

## European Commission

### Report from the Commission to the European Parliament and the Council on the implementation of the LTRD (Directive 2003/109/EC) (2019)

In the first quarter of 2019, the Commission published a [report](#) on the implementation of the LTRD. The report was drawn up on the basis of [study](#) conducted by an external contractor, and of other sources including: complaints,<sup>7</sup> petitions, information exchanges with Member States, and infringement procedures launched by the Commission.

The report provides an overview of how Member States have transposed and implemented the LTRD, including information on the implementation of the 2011 amendments to the directive (extending its scope to cover beneficiaries of international protection).

As of the date of publishing of the report, the **Commission had launched infringement procedures against 11 Member States** for not having transposed the directive in time, or for not having properly informed the Commission of the adoption of the legislation; **of these 11 procedures, 8 had been closed**.<sup>8</sup>

The report found that Member States **had not actively promoted the use of the EU long-term residence status**, and had issued almost exclusively national long-term residence permits, unless third-country nationals explicitly asked for the EU permit. In 2017, in the 25 Member States bound

by the directive, there were an estimated **3.1 million third-country nationals holding an EU long-term residence permit**, compared with around **7.1 million holding a national long-term residence permit**.

The Commission committed itself to monitor this aspect of LTRD implementation and encourage Member States to take up the EU long-term residence permit as an instrument beneficial to the integration of third-country nationals.

Furthermore, the report found that some Member States had implemented the directive's intra-EU mobility provisions thus far in a suboptimal way. **Only a limited number of long-term residents exercised the right to move to other Member States**. This was found to be due to the complexity of procedures for applying for a residence permit in a second EU Member State, or **the lack of knowledge of national administrations**, resulting in difficulties in the cooperation with other Member States. These factors, in turn, hindered the attainment of the [EU single market](#), which is characterised by the free movement of people, goods and services.

The Commission committed itself to monitor the situation and issues identified, and to promote cooperation and **exchange of information between the Member States' national authorities**. It also stated that it would take action, and where appropriate, initiate infringement procedures.

The **report concluded that**, since 2011, the state of play of the implementation of the LTRD across the EU **had improved**, partly because of the number of infringement procedures launched and subsequent judgments issued by the Court of Justice of the European Union (CJEU). **However**, according to the report, some issues still needed addressing, as they would otherwise continue to **hinder the use of the LTRD** as an instrument for the integration of third-country nationals settled on a long-term basis in EU Member States.

## Commission staff working document: Fitness check on EU legislation on legal migration (2019)

The Commission conducted a [fitness check](#), covering the period from 2016 to mid-2018, to assess whether the EU legal migration framework continued to be fit for purpose, to identify any inconsistencies and gaps, and to look for possible ways to streamline and simplify existing rules.

The fitness check **was supported** by a consultation process – including an open public consultation and a targeted consultation of key stakeholders (Member States, the European Parliament, the European Economic and Social Committee (EESC), non-governmental organisations (NGOs), and economic and social partners) – and by an [external study](#).

This fitness check [covered](#) the **existing EU legislation on legal migration**.<sup>9</sup> It found that the changes of the political context in the EU had an impact on the developments in legal migration policy, and more concretely, that the sharper political focus on addressing irregular migration had made it more difficult to further develop an EU policy on legal migration – **particularly beyond highly skilled migrants**.

With regard to the internal coherence of the existing EU legislation on legal migration, the external study supporting the Commission's fitness check [identified specific issues](#). For example, explicitly relating to the LTRD, it found that the legislation **did not include** a specific reference to the **format of the residence permit to be issued by the second Member State** in cases of long-term mobility.

The fitness check confirmed the **high relevance** of the legislation currently in practice in terms of addressing the EU's and its Member States' current and future needs. However, a number of gaps between objectives and needs in the directives covered were identified.

Moreover, the fitness check concluded that **internal coherence issues would need to be addressed in future policy and legislative developments**. Regarding issues of coherence, it

found that some of the obstacles preventing full achievement of the EU legal migration framework were related for instance to:

- fragmentation between Member States' individual policies and the LTRD;
- limited coverage by EU rules;
- incorrect implementation or application of the common rules.

According to the Commission, all stakeholders consulted for the fitness check, including Member States, **confirmed the continued added value of a common EU legal framework on legal migration.**

The fitness check underlined the following **key aspects** related to the legislation's **EU added value**:

- the degree of **harmonisation** of admission conditions and procedures, which improved legal certainty and predictability;
- the degree of **simplification of administrative procedures** (while there was scope for further improvement on this aspect);
- the further harmonisation of **third-country nationals' rights**, which had generally resulted in greater protection;
- and – to a lesser extent owing to present limitations – the **facilitation of intra-EU mobility**<sup>10</sup> of third-country nationals.

## Inception impact assessment: Rights of third-country nationals who are long-term residents in the EU (2020)

In December 2020, the Commission published an inception impact assessment ([IIA](#)) to inform on the **proposal for the revision of the LTRD**. The IIA referred to the problems with the implementation and functioning of the LTRD, and outlined the policy **options that could be considered to address the existing directive's shortcomings**:

- **Option 1**: improve the implementation of the directive without a legislative amendment, with the Commission issuing guidelines and awareness-raising tools addressed to Member States' authorities, third-country nationals, and legal practitioners.
- **Option 2**: improve the functioning of the directive with a targeted legislative revision, addressing the following main elements:
  - Favour a 'level-playing field' between the EU long-term residence permits and the national permanent residence permits, so that third-country nationals have a **real choice between the two statuses**, by introducing safeguards and information obligations for the national migration authorities;
  - **Facilitate the intra-EU mobility of EU long-term residents**, in particular by not allowing the second Member State to perform a labour market test, and allowing the long-term residents to start working or studying in a second Member State while their application is being assessed;
  - **Improve the rights** of long-term residents and their family members.
- **Option 3**: improve the functioning of the directive with a major legislative revision, by creating a single EU permanent residence status, addressing the following main elements:
  - Member States **would not be allowed** to keep their national permanent residence permits;
  - The EU permanent resident status in one Member State would give an **automatic right** to move and reside **in a second Member State**, with conditions similar to the ones applicable to EU citizens exercising their free movement rights.

# European Parliament

## Resolutions

In November 2021, the European Parliament adopted a [resolution](#) on legal migration policy and law. This was the latest resolution referring directly to the LTRD. Parliament stated that, given the low issuance of long-term residence permits (in accordance with the LTRD), there could be a need to **improve the attractiveness of the permits**. This could be achieved by a revision of the LTRD, which would clarify the advantages of holding an EU long term residence permit and approximate the legislative schemes of EU Member States.

Furthermore, it was Parliament's view that the LTRD **did not provide an effective right to intra-EU mobility**. As such, the LTRD should be amended to allow third-country nationals who are long-term residents of an EU Member State to reside permanently in another Member State from the day their permit is issued, so as to bring the rights of permit holders closer to those of EU citizens. In the text adopted, Parliament also called for the **reduction of the number of years of residence required** to acquire EU long-term resident status – from five years to three.

## Members' written questions

This section presents relevant Members' written questions, and the respective answers given by the Commission. The questions are selected from the 8th and 9th legislative terms.

### [Written question](#) by Engin Eroglu (Renew, Germany), 13 January 2020

**Subject:** 'Sale of citizenship by EU Member States'

This question referred to Portugal's 'Golden Residence Permit' programme. The five-year residence-by-investment programme gives third-country nationals the right to live, work and study in Portugal, while demanding an average stay of seven days per year in the country (which could count towards citizenship eligibility after five years), and specifically advertised freedom to travel within the Schengen area as one of its selling points.

The Member asked about the Commission's opinion on this programme, stating that such initiatives prompted Member States to compete amongst each other, and grant citizenship as easily and cheaply as possible. Furthermore, the Member enquired if the Commission had considered any options to restrict, or put an end to, such residence-by-investment programmes.

### [Answer](#) given by Mr Reynders on behalf of the European Commission, 17 June 2020

According to the Commission's answer, the CJEU had held that, while it was in the competence of each Member State to lay down the conditions for the acquisition and loss of nationality, national rules had to follow EU law. Member States remained free to regulate admission conditions and rights for categories not covered under EU law, in the absence of harmonisation at EU level.

However, in its [January 2019 report](#) on investor citizenship and residence schemes, the Commission had highlighted that programmes such as the one mentioned above posed inherent security, money-laundering, tax evasion and corruption risks for both the Member State concerned and the EU as a whole. Following the adoption of the report, the Commission had established a group of Member State experts to examine the risks arising from investor citizenship and residence schemes, and to develop a common set of security checks and risk management measures.

### [Written question](#) by Péter Niedermüller (S&D, Hungary), 6 July 2016

**Subject:** 'EU residence permits for sale?'

This question concerned the possibility for non-EU citizens to purchase special high-denomination government bonds to automatically obtain a residence permit in Hungary, a practice introduced in 2013. The Member expressed his concerns about the fact that these 'residence bonds' were issued

by private firms (selected by the relevant committee of the Hungarian Parliament), whose ownership situation was unclear. This raised questions regarding security and the thoroughness of the controls that individuals obtaining a residence permit in this way had to undergo. The Member enquired if the Commission had looked into this matter.

**[Answer](#) given by Mr Avramopoulos on behalf of the Commission, 13 October 2016**

The Commission answered that the issuing of national residence permits to third-country nationals by Member States against investment was not harmonised at EU level. It noted that Member States were to determine the conditions of entry and stay of third-country nationals who wished to invest in the country and stay for longer than three months.

It added in this context that EU long-term residence permits, granted under the LTRD, did not cover national schemes developed in Member States to attract investors. National residence permits, however, did not give the right of free movement, nor the right for citizens and their family members to move and reside freely within the territory of the Member States.

**[Written question](#) by Ivan Jakovčić (ALDE, Croatia), 10 December 2015**

**Subject:** 'Improving intra-EU labour mobility'

The Member mentioned that the LTRD opened up the possibility for long-term residents to exercise the right of freedom of movement. However, while the possibility of intra-EU mobility for third-country nationals existed under EU law, the actual right to intra-EU mobility was awarded to limited categories of third-country nationals and under different regimes. Moreover, the EU migration directives that provided for mobility of third-country nationals left significant areas of discretion to Member States.

**[Answer](#) given by Mr Avramopoulos on behalf of the Commission, 29 February 2016**

The Commission answered that it recognised that intra-EU mobility of third-country nationals remained limited. It noted that intra-EU mobility rights were one of the main advantages to be offered by EU-wide legislation, as this could not be introduced by Member States' national laws alone. In this respect, EU legal migration directives adopted before the entry into force of the Lisbon Treaty, such as the LTRD, had weaker provisions as regards intra-EU mobility compared with directives, or proposals for directives, adopted later on (such as Directive 2014/66/EU on intra-corporate transfers).

## Court of Justice of the EU

### Ruling in Case [C-448/19](#) (2020)

#### Mutual recognition of decisions on the expulsion of third-country nationals

This case concerned a request for a preliminary ruling on the interpretation of Article 12 LTRD on the status of third-country nationals who are long-term residents, read in conjunction with Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals.

In February 2016, a Moroccan national, who held a long-term residence permit in Spain, went to the competent police authorities to **complete the formalities connected with his status** as an alien. The police officer handling his case noticed that the individual had been sentenced several times between 2011 and 2014, including to **three terms of imprisonment of more than one year**. As a consequence, administrative expulsion proceedings were initiated. During the course of these proceedings, the Moroccan national claimed that previous criminal convictions **could not in themselves justify expulsion** from Spanish territory, and that, as he had resided in that Member State for more than 10 years, he was integrated into Spanish society.

In June 2020, the Court ruled that Article 12 LTRD on the status of third-country nationals who are long-term residents must be interpreted as precluding legislation of a Member State that, as interpreted by national case-law with reference to Directive 2001/40/EC, **provides for the expulsion of any third-country national holding a long-term residence permit** who has committed a criminal offence punishable by a custodial sentence of at least one year – without it being needed to conduct further assessments on whether the third-country national represents a genuine threat to public order or security, on the duration of residence in the territory of the Member State, or any other factors.

## Ruling in Case [C-302/18](#) (2019)

### Conditions for acquiring long-term resident status – Article 5(1)(a) – Stable, regular and sufficient resources

In July 2007, a Cameroonian national submitted an application for a student visa to the Belgian Embassy in Yaoundé (Cameroon). The Cameroonian national obtained the visa, and his right of residence in Belgium was renewed annually until 15 January 2016. Also in January 2016, he was granted a residence permit on the grounds of his possession of a work permit valid until January 2017. In December 2016, the non-EU national **applied for long-term resident status**. In support of that application, evidence of stable, regular and sufficient means of subsistence was submitted. The **application was rejected** in 2017 by the representative of the Belgian Secretary of State for Asylum and Migration, as it was found that the applicant was relying on his brother's resources. The Belgian authorities determined that the person concerned **did not establish that he had sufficient means of subsistence** so as not to become a burden on the Belgian state. The applicant contested this decision.

In October 2019, the Court ruled that Article 5(1)(a) LTRD must be interpreted as meaning that the concept of 'resources' referred to in that provision does not concern solely the 'own resources' of the applicant for long-term resident status, but may also cover the resources made available to that applicant by a third party. In this case, the evidence provided by the applicant concerned **was considered to be sufficient**.

## Ruling in Case [C-579/13](#) (2015)

### National legislation imposing on third-country nationals with long-term resident status a civic integration obligation, attested by an examination, under pain of a fine

This case concerned a request for a preliminary ruling regarding the interpretation of Articles 5(2) and 11(1) LTRD, namely on the issue of **integration into the country of residence**. In this case, two third-country nationals who possessed long-term residence permits of indefinite duration were required to fulfil a civic integration obligation. The obligation consisted of attending a programme and passing a civic integration examination on oral and written proficiency in the Dutch language and knowledge of Dutch society. Both long-term residents did not complete the programme. In this context, the Court was consulted on the matter of **Member States' rights to impose integration conditions** in the form of a civic integration examination, with penalties in the form of a system of fines.

In June 2015, the Court ruled that the LTRD, and in particular its Articles 5(2) and 11(1), **do not preclude national legislation**, such as that at issue in the main proceedings, which imposed on third-country nationals who already possessed long-term resident status the obligation to pass a civic integration examination, under pain of a fine, provided that the means of implementing that obligation were not in conflict with the achievement of the objectives of the LTRD.

## Relevant research and EPRS publications

Extensive research has been conducted on both the LTRD and the legislative framework in which it fits. In this body of research, **both the shortcomings and the benefits** of the legislation have been explored. A March 2019 EPRS [study](#) on the cost of non-Europe in the area of legal migration underlined that one of the **positive contributions emerging** from directives included in the EU's legal migration framework, such as the LTRD, consists of providing for a **common set of standards, protections and rights** below which national governments cannot go in their domestic policies. These include a body of shared EU norms that focus on guaranteeing security of residence; family life; common administrative procedures for issuing residence and/or work permits; and intra-EU mobility for third-country nationals legally residing and working in the EU.

In a 2019 [issue paper](#), the European Policy Centre (EPC) stated that the EU LTRD had, beyond its originally envisioned benefits, **fulfilled unexpected functions** in Member States, such as creating a secure residence status of ethnic minorities who did not acquire the nationality of a newly-independent country (such as Russian speakers in Estonia); or who had lost their lawful residence status some years post-independence (for example residents in Slovenia born in other former Yugoslav republics). The EPC further highlighted that the LTRD could also provide **additional rights for UK nationals residing in the EU**, who from February 2020 are designated as third-country nationals.

The overarching concern regarding the LTRD – pinpointed not only in the EPC paper, but also for instance in a 2018 [study](#) by the Organisation for Economic Co-operation and Development (OECD), in research articles, and in the [external study](#) carried out for the Commission's fitness check on legal migration – was the **high degree of variance** in how and to what extent EU Member States have implemented the directive. The fact that national immigration authorities engaged in the active promotion of **national permits instead of the EU permit** was highlighted throughout as a problem.

According to [Eurostat data](#), in 2019, **less than 1 % of long-term residents** in Belgium and Germany, and less than 3 % in France, acquired EU long-term resident status. **The 97 % remaining third-country nationals** who were long-term residents in these countries resided there on the basis of a national permit. **By contrast**, in Estonia, Italy, Latvia, Austria, Romania, Slovenia and Finland, **more than 90 % of the third-country nationals** who were long-term residents had acquired EU long-term resident status. As the above-mentioned EPC paper notes, these differences possibly reflect a number of phenomena related to political and administrative practices. For instance, a 2020 European Migration Network [report](#) argued that in about half of the Member States, there was no particular moment when a third-country national was actively or individually informed about the possibility to apply for the LTR status, for the reason that the information on the LTR status is available online at all times.

In most EU Member States, no major discrepancies have been found between the EU legal migration directives and national laws covering the same domains. However, [research](#) indicates that in some Member States, **national residence permits seem to be more favourable than the LTRD** – at least in a short-term perspective. The national equivalents to the LTR status in Germany, Spain and Croatia, for example, **are generally wider in terms of personal scope**, since they include an additional list of categories of third-country nationals, not covered by the LTRD, who can lodge an application and acquire the status. In Croatia, **uninterrupted five-year legal residence was not a requirement** to obtain the national long-term resident status. Portugal also has a more favourable national equivalent of the LTRD, including a **much shorter deadline** to decide on a permit request. Nevertheless, as mentioned above, national residence permits do not entitle third-country nationals to the right of free movement, nor to the right for them and their family members to move and reside freely within the territory of the Member States.

A 2016 [paper](#) by the OECD argues that mobile third-country nationals could contribute **more to rapid labour market adjustment in the EU**, and that the greater number and variety of opportunities that third-country nationals could then take up in other EU countries would make EU countries a more attractive destination for skilled migrants from outside the EU. It [has also been noted](#) that the median age in the EU is expected to increase further with the working-age population (which accounts for 59% of the total EU population in 2019) [falling to 51% by 2070](#). Research has pointed to legal migration channels being a viable option to mitigate the issue of a declining EU workforce.

However, a subject of discussion has also been the degree to which the current LTRD provisions manage to facilitate intra-EU mobility for third-country nationals who have acquired the EU long-term resident status. [Some experts](#) argue that, although the EU labour market is a common market for EU nationals, and labour market integration of newly arrived refugees is central to many policy debates, today the borders between the labour markets of the **EU Member States 'are tightly locked for most non-EU citizens'**. They consider that the provisions set by the LTRD are insufficient, as the third-country national can apply for the permit only after a five-year wait and upon completing national integration programmes, thereby acquiring only **'very limited, intra-EU mobility rights'**. This is to the detriment of long-term residents' mobility and ability for civic integration, as well as of the EU single market. Regarding mobility and the ability for civic integration, these experts note that, since no mobility rights may be exercised by third-country nationals before the five-year period for obtaining an LTRD permit has elapsed, third-country nationals may endanger their legal position and become prone to exploitation and abuse.

As mentioned above, the European Parliament's November 2021 resolution on legal migration policy and law called on the Commission to amend the LTRD, lowering the period required to apply for long-term residence **from five years to three**. A [study](#) by Parliament's Policy Department for Citizens' Rights and Constitutional Affairs states that the amendment to the LTRD introducing the possibility to obtain long-term resident status in a shorter period of time, in combination with the extension of the family definition, are **small steps in the right direction**. Yet, the study notes that these steps would 'remain inadequate to appropriately address the complexity behind applicants' motives to move from one Member State to another'.

**It has been suggested** that **mechanisms could be established to ensure a uniform approach** to, for instance, accepting evidence to prove family ties and educational links, and to trace applicants' relatives and other meaningful relations. This is in line with what has been proposed with regard to the LTRD in an EPRS [study](#) on citizenship and residence by investment schemes, namely that requirements such as minimum physical residence requirements **should be harmonised across the EU** for them to be aligned with the durations prescribed by the LTRD.

Regarding the extent to which third-country nationals are entitled to equal treatment with EU citizens, a September 2021 EPRS [European added value assessment](#) on legal migration policy and law points to the fact that EU law – specifically the anti-discrimination directives derived from Article 19 TFEU – does not prohibit discrimination on the grounds of nationality. The assessment suggests that the **EU could take action in a range of a ways to promote the alignment of the rights of third-country nationals with those of EU nationals**. This could be achieved, for instance, by amending the equal treatment rule in all the legal migration directives to approximate the equal treatment rule in the LTRD, with the assessment adding that the equal treatment rule is the strongest at present in the LTRD. The assessment suggests that these amendments could be adopted using Article 79 TFEU as a legal basis. It also notes that, while the applicability of Article 18 TFEU to third-country nationals is also controversial, several scholars argue in favour of an interpretation that includes third-country nationals, and broadly claim that third-country nationals should generally be entitled to equal treatment under EU law.

## Consultations and citizens' enquiries

The Commission conducted a [public consultation](#) on the future of legal migration, which ran from 23 September to 30 December 2020 and was **open to all interested stakeholders from the public and private sectors**, including national and local authorities, commercial and non-commercial organisations, experts, academics, and EU and non-EU citizens. The purpose of the public consultation was, on the one hand, to **identify further areas where the existing EU framework could be improved** in the longer term, based on the most forward-looking recommendations from the 2019 fitness check. On the other hand, it aimed to **collect views on developing new initiatives to boost the EU's attractiveness** to foreign talents, facilitate skills matching, and better protect third-country workers from exploitation.

With regard to intra-EU mobility, a large majority of respondents agreed or strongly agreed on the importance of **improving intra-EU mobility of third-country workers** (72 %, or 162 respondents), while 14 % disagreed or strongly disagreed (32 respondents), and 24 % (32) gave a neutral response. Respondents agreed that the EU should enhance and promote the LTRD **with strengthened intra-EU mobility rights** (79 %, or 178 respondents strongly agreed or agreed).

On citizens' enquiries, a dedicated unit ([Citizens' Enquiries \(Ask EP\)](#)) of Parliament's DG EPRS has received questions from non-EU citizens on **how to attain a residence permit**, and on **family reunification** policies in individual EU Member States. Furthermore, concerns have been voiced about the **processing time** of national authorisations for the granting of residence permits.

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[Report on the consultation on the future of EU legal migration – Synthesis report](#), European Commission, January 2021.

## ENDNOTES

- <sup>1</sup> Third-country national: any person who is not a citizen of an EU Member State.
- <sup>2</sup> Absences, if less than six consecutive months and no more than ten months over the whole period, are permitted when calculating the five years.
- <sup>3</sup> As specified in Article 11 of the directive, Member States may restrict equal treatment, for example: a) in access to employment or self-employed activities where, in accordance with existing national or EU legislation, these activities are reserved to nationals, EU or European Economic Area (EEA) citizens; b) where proof of appropriate language proficiency is required for access to education and training.
- <sup>4</sup> As of 1 February 2020, the UK withdrew from the EU and became a third country (non-EU country).

- <sup>5</sup> Seven EU directives (including the LTRD) govern admission to and residence in the EU for non-EU migrants, and these laws cover a large part of the migrants arriving to or staying in the EU for work, study or to join family members – here referred to as the EU law on legal migration.
- <sup>6</sup> For an analysis of the main proposed changes introduced by the new pact, see [The European Commission's new pact on migration and asylum. Horizontal substitute impact assessment](#), EPRS, European Parliament, August 2021.
- <sup>7</sup> Most of the complaints received by the Commission concern: applications rejected on various grounds (e.g. fulfilment of the conditions for granting the long-term residence status, in particular stable and regular resources and periods of absence); disproportionate administrative charges; equal treatment; format of the permit; recognition of professional qualifications; and intra-EU mobility.
- <sup>8</sup> The LTRD was last mentioned in a package of infringements in [June 2021](#).
- <sup>9</sup> The EU *acquis* on legal migration includes the following nine Directives: [Directive 2003/86/EC](#) (on the right to family reunification); the LTRD, i.e. [Directive 2003/109/EC](#) (concerning the status of third-country nationals who are long-term residents); [Directive 2004/114/EC](#) (on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service); [Directive 2005/71/EC](#) (on a specific procedure for admitting third-country nationals for the purposes of scientific research); [Directive 2009/50/EC](#) (on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment); [Directive 2011/98/EU](#) (on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State); [Directive 2014/36/EU](#) (on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers); [Directive 2014/66/EU](#) (on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer); and [Directive \(EU\) 2016/801](#) (on the conditions of entry and residence of third-country nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing).
- <sup>10</sup> Intra-EU mobility refers to the action of individuals (EU nationals or legally resident third-country nationals) exercising their right to free movement by moving from one EU Member State to another.

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