EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

28.3.2005 PE 355.461v01-00

AMENDMENTS 18-29

Draft report **(PE 350.188v01-00)**
Vincent Peillon

1. Proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research
Proposal for a directive (COM(2004)0178 – C6--0011/2004 – 2004/0061(CNS))

2. Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community
Proposal for a resolution (COM(2004)0178 – C6--0012/2004 – 2004/0062(CNS))

3. Proposal for a Council Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research
Proposal for a resolution (COM(2004)0178 – C6--0013/2004 – 2004/0063(CNS))

Proposal for a directive (COM(2004)0178 – C6-0011/2004 – 2004/0061(CNS))

Text proposed by the Commission	Amendments by Parliament

Amendment by Jeanine Hennis-Plasschaert

Amendment 18
Recital 12 a (new)

(12a) Given that facilitating the admission of family members is an essential and possibly decisive factor in ensuring mobility among researchers, family members should be able to join the researcher under the conditions set out in Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

Or. en

Justification

Family reunification of third-country nationals has already been taken care of in the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification1. It is undesirable to create exception after exception. The first steps towards a common policy on legal immigration of which this directive also forms part of, must be transparent and clear. Facilitated admission of family members will, on the other hand, help improve the mobility of researchers.

Amendment by Vincent Peillon

Amendment 19
Recital 12 b (new)

(12b) Family members of the researcher should therefore be able to join the researcher in the host Member State under the same conditions as those set out in Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of EU citizens and members of their families to move and reside freely in Member State territory[1].

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[1] OJ L 158, 30.4.2004, p. 77

Or. fr

Justification

The provisions of Directive 2003/86/EC on family reunification are not suitable for the category concerned here. The conditions to be met (e.g. from the perspective of permanent residence) and the time limits (three-year waiting period, nine-month maximum limit for examination of the application) cannot be applied. It therefore, makes sense to refer to Directive 2004/38/EC on the right of EU citizens and members of their families to move and reside freely in Member State territory.

Amendment by Barbara Kudrycka

Amendment 20
Recital 14 a (new)

(14a) In view of the restrictions on access to the labour market affecting some EU citizens during existing transitional periods, full exemption from these restrictions should be sought for researchers who go to other EU countries in order to carry out research.

Or. pl

Justification

The Directive could lead to less favourable treatment of EU citizens - namely researchers from the new Member States - compared to third country nationals. It is therefore necessary to express the hope that Member States which have chosen to introduce restrictions on access to their labour markets (this also includes certain 'new' Member States which have introduced restrictions against the 'old' States under the principle of reciprocity) will exempt researchers going to other EU States to carry out research work from these 'restrictions'.

Amendment by Jeanine Hennis-Plasschaert

Amendment 21
Article 4, paragraph 3

3. Member States shall approve for ***an unlimited*** period public and private organisations whose main tasks consist in conducting research and Member States'	3. Member States shall approve for ***a renewable*** period ***of five years*** public and private organisations whose main tasks consist in conducting research and Member

higher education establishments within the meaning of their legislation or administrative practice.	States' higher education establishments within the meaning of their legislation or administrative practice.

Or. en

Amendment by Jeanine Hennis-Plasschaert

Amendment 22
Article 4, paragraph 4

4. Member States shall approve public organisations for ***an unlimited*** period if they conduct research activities in addition to their main tasks.	4. Member States shall approve public organisations for ***a renewable*** period ***of five years*** if they conduct research activities in addition to their main tasks.

Or. en

Justification

The Commission proposal provides for unlimited approval being granted to the organisation concerned if it conducts research activities. It would be more appropriate to restrict the validity all such approvals to a renewable period of five years. This would ensure that periodic checks are made.

Amendment by Barbara Kudrycka

Amendment 23
Article 4, paragraph 7

7. Within two months of the date of expiry of the hosting agreements concerned, the approved research organisations ***shall*** provide the ***authority*** designated for the purpose by the Member States with confirmation that the work has been carried out for each of the research projects in respect of which they have signed a hosting agreement pursuant to Article 5.	7. ***Member States may provide that*** within two months of the date of expiry of the hosting agreements concerned, the approved research organisations ***are to*** provide the ***competent authorities*** designated for the purpose by the Member States with confirmation that the work has been carried out for each of the research projects in respect of which they have signed a hosting agreement pursuant to Article 5.

Or. xm

Justification

The aim of this amendment is to leave the decision on whether or not confirmation must be provided to the Member States, so that they can avoid increasingly redundant bureaucratic procedures if they are not necessary. Introducing excessive red tape could lead to a loss of interest from research organisations in accepting researchers from third countries, which runs counter to the aims of this Directive.

Amendment by Vincent Peillon

Amendment 24
Article 7 a (new)

Article 7 a

Family members
1. Member States shall authorise the entry and residence of family members of the researcher.
2. 'Family members' shall mean:
a) the spouse;
b) the partner of a researcher who is a citizen of a third country, with whom a contractual partnership has been registered if, in compliance with the legislation of the host Member State, the registered partnerships are equivalent to marriage and conform to the provisions of relevant legislation in the host Member State;
c) direct descendants who are under 21 years of age or who are dependent, and direct dependants of the spouse or partner as specified in point b);
d) dependent direct ascendants and those of the spouse or partner as specified in point b);
The host Member State shall be free to apply the most favourable conditions.

Or. fr

Justification

As specified in Recital 12 b (new), the definition to which the Member States must refer in examining an application for family reunification is based on that given in Directive 2004/38/EC.

Amendment by Barbara Kudrycka

Amendment 25
Article 7, paragraph 1 a (new)

In both cases, this period may be extended by 30 days on application from the party concerned.

Or. pl

Justification

The possibility of extending a stay by an additional 30 days, which could be spent as holiday visiting the host country, offers further motivation for the researcher to come to the country.

Amendment by Barbara Kudrycka

Amendment 26
Article 8 paragraph 2

2. Member States may withdraw or refuse to renew a residence permit for reasons of ***public policy,*** public security or public health. Where they take such a decision, Member States shall take account of the seriousness or nature of the infringement of public ***policy*** or public health committed by the person concerned or the threat posed by that person. The competent authority of the Member State concerned may not withhold renewal of the residence permit, withdraw the permit or remove its holder from the territory on the ground of illness or disability suffered after the residence permit was issued.	2. Member States may withdraw or refuse to renew a residence permit for reasons of public security or public health. Where they take such a decision, Member States shall take account of the seriousness or nature of the infringement of public ***security*** or public health committed by the person concerned or the threat posed by that person. The competent authority of the Member State concerned may not withhold renewal of the residence permit, withdraw the permit or remove its holder from the territory on the ground of illness or disability suffered after the residence permit was issued.

Or. xm

Justification

The aim of this amendment is to cancel recourse to the concept of " public policy", which is ambiguous in its interpretation and could favour abuse by national authorities.

Amendment by Barbara Kudrycka

Amendment 27
Article 11

Researchers admitted under this Directive may teach in ***a higher education establishment within the meaning of Member States` legislation and administrative practice, subject to a maximum number of hours per year set by each Member State.***	Researchers admitted under this Directive may teach in ***accordance with national legislation. Member States may set a maximum number of hours or days per year that researchers are allowed to teach, if such a limitation is provided for in existing national legislation.***

Or. xm

Justification

This amendment is designed to simplify the provision and, with the addition of having recourse to existing limits on teaching hours (if these are applied in the Member States), to ensure equal conditions for researchers from third countries within the meaning of this directive on a par with researchers from individual Member States.

Amendment by Barbara Kudrycka

Amendment 28
Article 15 paragraph 1

1. The relevant authorities in the Member State shall notify the applicant in writing, in accordance with the notification procedures laid down in the relevant national legislation, of their decisions regarding his application for admission or for the renewal of his residence permit at the latest within 30 days of the date on which the application was submitted. Member States shall lay down in national legislation the consequences for the authorities concerned of failing to take a decision by this deadline. In exceptional cases involving complex applications, the deadline may be extended.	1. The relevant authorities in the Member State shall notify the applicant in writing ***without delay***, in accordance with the notification procedures laid down in the relevant national legislation, of their decisions regarding his application for admission or for the renewal of his residence permit at the latest within 30 days of the date on which the application was submitted. Member States shall lay down in national legislation the consequences for the authorities concerned of failing to take a decision by this deadline. In exceptional cases involving complex applications, the deadline may be extended.

Or. xm

Justification

This amendment further emphasises the need for applicants to be notified of decisions taken as quickly as possible.

Amendment by Barbara Kudrycka

Amendment 29
Article16 paragraph 1 a (new)

These costs may be covered by the research organisation with which the party concerned has signed a research contract.

Or. pl

Justification

This amendment is designed to point out the possibility of researchers receiving assistance from the organisation which invited them, so that financial factors do not hinder the application process.