



COMPROMISE AMENDMENTS

ON THE DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
CONCERNING 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 (RECAST)
2022/0131(COD) – COM(2022)0655 – C9-0163/2022 – LIBE/9/08940

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Final list

21 March 2023

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

COMPROMISE AMENDMENT 1 on Article 1

Covered: AMs 31, 144

Fall: 32, 145, EMPL 23, 24

Article 1

Subject matter

1. This Directive lays down:
 - (a) a single application procedure for issuing a single permit for third-country nationals to reside for the purpose of work in the territory of a Member State, in order to simplify the procedures for their admission and to *recognise* and facilitate the control of *(AMs 31, 144)* their status; ~~and~~
 - (b) a common set of rights to third-country workers legally residing in a Member State, irrespective of the purposes for which they were initially admitted to the territory of that Member State, based on equal treatment with nationals of that Member State.
2. ~~This Directive ~~shall not affect~~ ~~is without prejudice to the Member States' powers concerning the~~ ~~volume of~~ ~~admission of third country nationals~~ ~~coming from third countries to seek employment~~ ~~to their labour markets.~~ *(AM 32, 145)*~~
This Directive ~~shall not affect~~ ~~is without prejudice to~~ *the right of* Members States' ~~powers concerning the~~ *to determine* ~~volumes of~~ ~~of admission of third-country nationals~~ ~~coming from third countries~~ *to their territory* to seek *work* ~~employment~~ ~~to their labour markets.~~ *in accordance with Article 79(5) TFEU.*

COMPROMISE AMENDMENT 2 on Article 2 and Recital (6)

Covered: AMs 5, 33, 34, 146, 147, EMPL 4, 25 (in part)

Fall: AMs 103, 104 (AM 35 withdrawn)

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (a) 'third-country national' means *any (AM 33)* person who is not a citizen of the Union within the meaning of Article 20(1) TFEU;

- (b) ‘third-country worker’ means **any** third-country national who has been admitted to the territory of a Member State and who is legally residing and is allowed to work in the context of ~~a paid~~ ⇒ an employment **contract or** ⇐ **employment relationship** in that Member State in accordance with national law, **collective agreements (AM 34, 146, 147, 25 EMPL partially)** or practice.

(6) This Directive should cover employment **contract and employment** relationships between third-country workers and employers. ***A third country worker should be considered to be any third country national who is admitted to the territory of a Member State and who is legally residing and is allowed to work in the context of an employment contract or employment relationship in that Member State, in accordance with national law, collective agreements or practice, and in line with the case-law of the Court of Justice of the European Union regarding workers.*** Where a Member State’s national law allows admission of third-country nationals through temporary work agencies established on its territory and which have an employment **contract or employment** relationship with the worker, such agencies should ~~not be excluded~~ **also be included in** ~~from~~ the scope of this Directive. (AM 5, EMPL 4)

↓ new

- (c) ‘**employer**’ means **any natural person or any legal entity, including temporary work agencies, for or under the direction and/or supervision of whom the employment is undertaken;**

↓ 2011/98/EU

(~~de~~) ‘single permit’ means a residence permit issued by the authorities of a Member State allowing a third-country national to reside legally in its territory for the purpose of work;

(~~ed~~) ‘single application procedure’ means any procedure leading, on the basis of a single application made by a third-country national, or by his or her employer, for the authorisation of residence and work in the territory of a Member State, to a decision ruling on that application for the single permit.

COMPROMISE AMENDMENT 3A on Article 3 (minus (2)(e)) and Recital (12)

Covered: AMs 9, 36-40, 42-43, 110, 109, 148 (in part), 151, 153, 154, 157, 158; EMPL 27, 28, 30

Fall: AMs 152, 155, 156, 159, EMPL 7, 26, 31, 32

Deletion of Article 3(2)(e) to be voted as addition to Compromise Amendment 3A, under Compromise Amendment 3B

Article 3

Scope

1. This Directive shall apply to **third-country nationals (AM 36)**:
 - (a) ~~third-country nationals (AM 37)~~ who apply to reside in a Member State for the purpose of work, **including for the purposes of work-related training such as an apprenticeship (AM 148)**;
 - (b) ~~third-country nationals (AM 38)~~ who have been admitted to a Member State for purposes other than work, in accordance with Union or national law, who are allowed to work and who hold a residence permit in accordance with Regulation (EC) No 1030/2002; ~~and (EMPL 27)~~
 - (c) ~~third-country nationals (AM 39)~~ who have been admitted to a Member State for the purpose of work, in accordance with Union or national law.
2. This Directive shall not apply to third-country nationals:
 - (a) who are family members of citizens of the Union who have exercised, or are exercising, their right to free movement within the Union in accordance with Directive 2004/38/EC of the European Parliament and of the Council ~~of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States¹~~;
 - (b) who, together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of citizens of the Union under agreements either between the Union and the Member States or between the Union and third countries;

↓ 2011/98/EU (adapted)

- (c) who are ~~posted for~~ ☒ covered by Directives 96/71/EC ☒, **2014/67/EU² 2018/957/EU³ or 2020/1057/EU⁴ of the European Parliament and of the Council (AM 40, 28 EMPL)** as long as they are posted ☒ on the territory of the Member State concerned ☒ ;
- (d) who have applied for admission or have been admitted to the territory of a Member State to work as intra-corporate transferees ☒ in accordance with Directive

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

² Directive (EU) 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11).

³ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provisions of services (OJ L 173, 9.7.2018, p. 16).

⁴ Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (OJ L 249, 31.7.2020, p. 49).

↓ 2011/98/EU

~~(f) who are authorised to reside in a Member State on the basis of temporary protection, or who have applied for authorisation to reside there on that basis and are awaiting a decision on their status; (AM 42, 151, 30 EMPL)~~

(g) who are beneficiaries of international protection under Directive 2011/95/EU of the European Parliament and of the Council⁶ ~~Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted~~⁷ or who have applied for international protection under that Directive and whose application has not been the subject of a final decision;

~~(h) who are beneficiaries of protection in accordance with national law, international obligations or the practice of a Member State or have applied for protection in accordance with national law, international obligations or the practice of a Member State and whose application has not been the subject of a final decision;~~

~~(hi)~~ who are long-term residents in accordance with Directive 2003/109/EC;

~~(ij)~~ whose removal has been suspended on the basis of fact or law (AM 153, 154)

~~(jk)~~ who have applied for admission or who have been admitted to the territory of a Member State as self-employed workers;

~~(kl)~~ who have applied for admission or have been admitted as seafarers for employment or work in any capacity on board of a ship registered in or sailing under the flag of a Member State.

3. Member States may decide that Chapter II does not apply to third-country nationals who have been either authorised to work in the territory of a Member State for a period not exceeding ~~six~~ **three** months or (AM 43, 157, 158) who have been admitted to a Member State for the purpose of study.
4. Chapter II shall not apply to third-country nationals who are allowed to work on the basis of a visa.

(12) The provisions of this Directive on the single application procedure and on the single permit should not ~~affect~~ ~~enorm~~ uniform or long-stay visas =>, with the exception of the obligation for Member States to issue the requisite visa within the **time limit** ~~deadline~~ of **90 days** ~~four months~~ set out to adopt a decision on the Single Permit <=. **Where a Member State allows third-country nationals to work on their territory on**

⁵ Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1).

⁶ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

⁷ OJ L 304, 30.9.2004, p. 12.

the basis of a visa, Chapter II of this Directive should not apply and the procedures laid down in national law for obtaining a visa shall apply.

CHAPTER II

SINGLE APPLICATION PROCEDURE AND SINGLE PERMIT

COMPROMISE AMENDMENT 3B on Article 3(2)(e) and Recital (10)

Deletion of Article 3(2)(e) to be voted as addition to Compromise Amendment 3A

Covered: AMs 149, 29

Fall: AMs 7, 41, 106, 150, EMPL 6

- (e) — who ~~have applied for admission or~~ have been admitted to the territory of a Member State as seasonal workers or au pairs ~~in accordance with Directive 2014/36/EU or au pairs in accordance with Directive (EU) 2016/801~~ (AM 41, 149, 150, 29 EMPL partially) ;

- (10) Third-country nationals who have been admitted to the territory of a Member State to work on a seasonal basis ⇨ and have applied for admission or have been admitted to the territory of a Member State in accordance with Directive 2014/36/EU of the European Parliament and of the Council^[1] ⇨ ~~should not be covered by this Directive given ⇨ that they~~ while falling within the scope of Directive 2014/36/EU, which establishes a specific regime ⇨, should still have the possibility to apply for a single permit and thus benefit from this Directive ~~their temporary status~~.

COMPROMISE AMENDMENT 4 on Article 4

Covered: AMs 44-46, 160, 161, 162, 165, EMPL 33

Fall: AMs 163, 164, 166, 167, EMPL 34

Article 4

Single application procedure

^[1] Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94, 28.3.2014, p. 375).

↓ 2011/98/EU (adapted)
⇒ new

1. An application to issue, amend or renew a single permit shall be submitted by way of a **harmonised** single application procedure. Member States shall **allow** ~~determine whether~~ applications for a single permit ~~are to be made~~ submitted by the third-country national or ~~by the third-country national's employer. Member States may also decide to allow an application from either of the two.~~ **Where** ~~if the application is to be submitted by the third-country national~~ **submits the application**, Member States shall allow the application to be introduced both from a third country and ~~or, if provided for by national law,~~ in the territory of the Member State in which the third-country national is legally present. **Where the employer submits the application, the Member State concerned shall ensure that the third-country national on whose behalf the application has been submitted is kept informed about the status of the application and the outcome of the application in a timely manner and, where appropriate, in electronic format.** (44, 160, 161, 162, EMPL 33).
2. Member States shall examine an application ~~made~~ submitted under paragraph 1 and shall adopt a decision to issue, amend or renew the single permit if the applicant fulfils the requirements ~~specified~~ laid down by Union or national law. A decision to issue, amend or renew the single permit shall constitute a single administrative act combining a residence permit and a work permit.
- ~~3. The single application procedure shall be without prejudice to the visa procedure which may be required for initial entry.~~
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↓ new

3. Provided that the requirements laid down by Union or national law **for the single permit** are fulfilled and where a Member State issues single permits only **when the third-country national is** on its territory, the Member State concerned shall issue the third country national with the requisite visa **within the time-limit laid down in Article 5(2)** (AM 45, 165).
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↓ 2011/98/EU

4. Member States shall issue a single permit, where the conditions provided for are met, to third-country nationals who apply for admission and to third-country nationals already admitted who apply to renew or ~~amend~~ **modify** (AM 46) their residence permit after the entry into force of the national implementing provisions.

COMPROMISE AMENDMENT 5 on Article 5

Covered: AMs 47-52, 169, 173 (in part), 174 (in part), 175-177, 178 (in part), EMPL 35, 36 (partly), 37

Fall: AMs 168, 170, 171, 172

Article 5

Competent authority and time limits (AM 47)

1. Member States shall designate the authority competent to receive the application and to issue the single permit.
2. ~~That~~ competent authority shall adopt a decision on the complete application **and notify the applicant of that decision** as soon as possible and in any event within **90 days** ~~four months~~ of the date on which the application was **submitted** ~~lodged~~ *(AM 48, 169, 35 EMPL)*.

↓ 2011/98/EU (adapted)
 ⇒ new

The time limit referred to in the first subparagraph ⇒ shall cover ***the entire procedure. This shall include any check of conditions and criteria required under national law, such as a check of the labour market situation, and the recognition of professional, occupational or other qualifications, where necessary, as well as*** ~~and~~ the issuing of the requisite visa referred to in Article 4(3). *(AM 49, 173, 174, 175, EMPL 36 partly)*

Where the application is submitted by or on behalf of an applicant who has participated in an EU Talent Partnership with a third country, or where the applicant is already a single permit holder in another Member State, the competent authority shall adopt a decision on the complete application and notify the applicant of that decision within 45 days of the date on which the application was submitted.
~~↳~~ ~~⊗~~ The time limit ~~⊗~~ may be extended in exceptional circumstances, linked to the complexity of the examination of the application. *(AM 50, 176)*

↓ 2011/98/EU

Where no decision is taken within the time **limits** provided for in this **paragraph and paragraph 4**, any **fee required by a Member State in accordance with Article 10 shall be reimbursed to the applicant. Further** consequences shall be determined by national law **and shall contribute to the effective implementation of the time limits.** *(AM 51, 37 EMPL)*

3. The competent authority shall notify the decision to the applicant in writing. ***The notification shall include the reasons for the decision and information on the procedure for challenging the decision*** in accordance with **Article 8**. ***Where the application was submitted by the employer, the competent authority shall also notify the third-country*** ~~the notification procedures laid down in the relevant national law.~~ ***Where the application was submitted by the third-country national, the competent authority shall also notify the employer that the decision has been communicated to the applicant. Where appropriate, the competent authority shall provide all such notifications in electronic format*** *(AM 52, 177)*
4. If the information or documents in support of the application are incomplete according to the criteria specified in national law, the competent authority shall notify the applicant in writing of the additional information or documents required, setting a reasonable deadline to provide them. The time limit referred to in paragraph 2 shall be suspended until the competent authority or other relevant authorities have received the additional information required. ***The applicant shall, where appropriate, be entitled to submit information or documentation in electronic format.*** *(AM 178)* If the additional information or documents is not provided within the deadline set, the competent authority may reject the application.

COMPROMISE AMENDMENT 6 on Article 6

Covered: AMs 53, 54, 179, 180, 181 (in part), 182 (in part), 183, EMPL 38

Fall: AMs N/A

Article 6

Single permit

1. Member States shall issue a single permit using the uniform format as laid down in Regulation (EC) No 1030/2002 and shall indicate the information relating to the permission to work in accordance with points (a) 12 and 167.5-9 of the Annex thereto. ***The single permit shall be valid for a minimum period equivalent to the duration of the contract of employment or, where the employment contract is of indefinite duration, for two years. (AM 53, 179, 180, 181)***

Member States ~~shall~~ may indicate additional information related to the employment ***contract or employment*** relationship of the third-country national, ***prior to the first working day*** (such as the name and address of the employer, ***habitual*** place of work, type of work, working hours ***and*** remuneration), in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and in point (a) 2016 of the Annex thereto. ***A change to the conditions of employment indicated above shall not in itself constitute a change of employer. Member States shall grant the third-country national access to the additional information and shall inform the third-country national in writing and, where appropriate, in electronic format, about any changes to that information. (AM 54, 182, 183, EMPL 38)***

2. When issuing the single permit Member States shall not issue additional permits as proof of authorisation to access the labour market.

COMPROMISE AMENDMENT 7 on Article 7

Covered: AMs 55, 184 (in part), 185, EMPL 39 (in part)

Fall: AMs N/A

Article 7

Residence permits issued for purposes other than work

↓ 2011/98/EU (adapted)

1. When issuing residence permits for purposes other than work in accordance with Regulation (EC) No 1030/2002 Member States shall indicate the information relating to the permission to work irrespective of the type of the permit.

↓ 2011/98/EU

Member States may indicate additional information related to the employment ***contract or employment*** relationship of the third-country national, (such as the name and address of the employer, ***habitual*** place of work, type of work, working hours ***and***

remuneration), in paper format, ~~or~~ **and** store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and point (a) ~~2016~~ of the Annex thereto. ***A change to the conditions of employment indicated in the first sentence shall not in itself constitute a change of employer. Member States shall grant the third-country national access to the additional information and shall inform the third-country national in writing and, where appropriate, in electronic format, about any changes to that information. (AM 55, 184, 185, EMPL 39)***

2. When issuing residence permits in accordance with Regulation (EC) No 1030/2002, Member States shall not issue additional permits as proof of authorisation to access the labour market.

COMPROMISE AMENDMENT 8 on Article 8 and Recital (20)

Covered: AMs 16, 56-58, 122, 123, 186 (in part), 187, 189, 190, 191

Fall: AMs 188

Article 8

Procedural guarantees

1. ~~A Reasons shall be given in the written notification of a decision to~~ rejecting an application to issue, amend or renew a single permit, or a decision to withdraw a single permit on the basis of criteria provided for by Union or national law, ***shall be notified in writing - to the third-country national concerned and, where relevant, to his or her employer in accordance with notification procedures set out in the relevant national law. The notification shall specify the reasons for the decision and, where appropriate, may be provided in electronic format. (AM 56, 186)***
2. A decision rejecting the application to issue, amend or renew or withdrawing a single permit ***shall be based on criteria provided for by Union or national law, take account of the specific circumstances of the case and respect the principle of proportionality. Such a decision shall be*** open to legal challenge in the Member State concerned, in accordance with national law. The written notification referred to in paragraph 1 shall specify the court or administrative authority where the ~~third-country national person~~ concerned may lodge an appeal and the time limit therefor. ***Member States shall provide for an effective judicial remedy, in accordance with national law. (AM 16, 57)***

↓ 2011/98/EU recital 17

(20) The conditions and criteria on the basis of which an application to issue, amend or renew a single permit can be rejected, or on the basis of which the single permit can be withdrawn, should be objective and proportionate, and should be laid down in national law. Those may including the obligation to respect the principle of Union preference as expressed in particular in the relevant provisions of the 2003 and 2005 Acts of Accession. Any decision to reject an application to issue, amend or renew a single permit and any decision to withdraw a single permit ***should be based on criteria provided for by Union or national law, should take into consideration the individual circumstances of the case, respect the principle of proportionality and be in full compliance with Article 47 of the Charter of Fundamental Rights of the European Union (AM 187). In particular, where the grounds for rejection,***

withdrawal or refusal to renew relate to the conduct of the employer of the third-country national concerned, the employer's minor misconduct should in no case constitute the sole ground for rejecting an application for a single permit or withdrawing or refusing to renew a single permit. The decision should be notified in writing to the third-country national concerned and, where relevant, to his or her employer in accordance with notification procedures set out in the relevant national law. The notification should specify the reasons for the decision. (AM 16, 122, 123)

↓ 2011/98/EU (adapted)

⇒ new

3. ~~An application may be considered as inadmissible on the grounds of volume of admission of third-country nationals coming from third countries for employment and, on that basis, need not to be processed.~~ (AM 58, 189, 190, 191)

COMPROMISE AMENDMENT 9 on Article 9 and Recital (20a new)

Covered: AMs 59-62, 192 (in part), 193 (in part), 194 (in part), 195 (in part), 196 (in part), 197 (in part), 198, 201, 204 (in part), 205 (in part), EMPL 40

Fall: AMs 199, 200, 202, 203, EMPL 41, 42

Article 9

Access to information for applicants (AM 59)

Member States shall ⇒ make easily accessible, and ⇐ *provide, upon request, free of charge and in a language the third-country national can understand or can reasonably be expected to understand upon request (AM 60, 192, 193, 194, 195, EMPL 40)*;

(a) ~~adequate information~~ to the third-country national and the *prospective* future employer *sufficient information* on all the documentary evidence needed for an ~~documents required to make a complete~~ application *and, where appropriate, on the applicable fees (AM 61, 196, 197, 198)* ;

↓ new

(b) *to the third-country national and his or her family members*, information on entry and residence conditions, *information on* including the rights, obligations and procedural safeguards *linked to the single permit, including information on legal redress and organisations relevant for third-country national workers. (AM 62, 201, 204, 205)*

(20b) *In order to ensure third-country nationals and their families with effective access to their rights, Member States should provide them with information on mechanisms for filing complaints and legal redress, on national labour inspectorates, on organisations representing third-country national workers, in particular trade unions and non-governmental and community associations, as*

well as on the employers' obligations to inform them of their workers' rights under Directive 2019/1152 on Transparent and predictable working conditions and under other relevant Union and national law and practice (AM 200).

↓ 2011/98/EU (adapted)

COMPROMISE AMENDMENT 10 on Article 10

Covered: AMs 63, 206 (in part), 207 (in part), 208, EMPL 44 (in part)

Fall: EMPL 43

Article 10

Fees

Member States may require applicants to pay *the payment of fees*, where appropriate, for processing handling applications *to issue and renew single permits* in accordance with this Directive. The level of such fees shall *not* be *disproportionate or excessive*, and may shall be based on the services actually provided for the processing of applications and the issuance of permits. *Where fees for processing applications are paid by the employer, the employer shall not be entitled to recover such fees from the third-country national. (AM 63, 206, 207, 208, EMPL 44 partly)*

COMPROMISE AMENDMENT 11A on Article 11 (until para 2.) and Recital (22a)

Covering AMs 64-66, 68-75, 209 (in part), 210 (in part), 211, 212, 213, 215, 217, 219, 222 (in part), 223 (in part), 224 (in part), 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, EMPL 45, 47, 51, 52, 53

Falling AMs 67, 214, 216, 218, 220, 221, 236 EMPL 46, 48, 49, 50, 54, 55, 56, 57

Article 11

Rights on the basis of the single permit

1. Where a single permit has been issued ~~in accordance with national law~~, it shall authorize, during its period of validity ~~and pending a decision on an application for its renewal~~, entitle (AM 64, 209, 210, EMPL 45) its holder at least to:

- (a) **to enter, re-enter** (AM 65, 211, 212) and reside in the territory of the Member State issuing the single permit, provided that the holder meets all admission requirements in accordance with national law;
- (b) **to have free access to the entire territory of the Member State issuing the single permit** ~~within the limits provided for by national law~~ (AMs 66, 213);
- (c) **to exercise the specific employment activity authorised under the single permit** in accordance with national law;
- (d) **to seek employment with different employers and to change employer**; (AMs 68, 215 in part)
- (e) **to be informed about the holder's own rights linked to the permit conferred by this Directive and/or by Union and national law, in accordance with Article 9 of this Directive**; (AMs 69, 217)
- (f) **to receive the single permit in paper format and be able to access it in electronic format**. (AMs 70, 219, EMPL 47)

↓ new

~~2. Within the period of validity referred to in paragraph 1, Member States shall allow a single permit holder to be employed by a different employer than the first employer with whom the permit holder concluded a contract of employment. (AM 71)~~

~~2.3 Within the period of validity referred to in paragraph 1, Member States may shall (a) — require that a change of employer be communicated **by the new employer** to the competent authorities in the Member State concerned **prior to the commencement of the new employment, providing information on the name and address of the new employer, the habitual place of work, the type of work, the working hours and the remuneration**, in accordance with procedures laid down in national law. (AMs 72, 73, 222 in part, 223 in part, 224 in part, 225, 226, EMPL 52)~~

~~(b) — require that a change of employer be subject to a check of the labour market situation. (AMs 74, 227, 228, 229)~~

The right of the single permit holder to pursue such a change of employer may be suspended for a maximum of 30 days while the Member State concerned checks the labour market situation and verifies that the requirements laid down by Union or national law are fulfilled. The Member State concerned may oppose the change of employment within those 30 days. (AMs 75, 232, 233)

Member States shall ensure that the competent national authorities confirm receipt of the information referred to in the first subparagraph to the new employer and to the third-country national. (AM 230, EMPL 53)

Within the period of validity referred to in paragraph 1, the Member States may require that the change of employer be subject to a check of the labour market situation only where:

(I) the change of employer involves a change of sector for the single permit holder; and

(II) the Member State, in general, carries out checks on the labour market situation for applications for single permits.

On the basis of such a labour market check, the Member State may, within a period of 30 days from the date on which the change of employer has been communicated, refuse the change of employer.

If the Member State does not refuse the change within 30 days, the change of employer shall be considered approved and the single permit holder may start the new employment.

(22a) new When a single permit holder changes employer, the new employer should communicate to the competent authorities details of the employment, providing information on the its name and address, the habitual place of work of the single permit holder, the type of work, the working hours and the remuneration. This communication should be carried out in accordance with procedures laid down in national law. Minor errors or omissions in such communication should not prevent the single permit holder for taking up the new employment.

COMPROMISE AMENDMENT 11B on Article 11(3) and Recital (26a)

To be voted as addition to Compromise Amendment 11A

Covering AMs 22, 76, 141, 142, 238 (in part), 239, 240, 241, EMPL 58

Falls: AM 237

*3.4 Within the period of validity referred to in paragraph 1, **In the event of unemployment of the single permit holder, and in order to allow the holder to find alternative employment**, the single permit shall not be withdrawn ~~during~~ **for** a period of at least ~~three~~ **nine** months **during which period the third-country national shall be allowed to remain on the territory of the Member State concerned and to seek employment.***

(26a) The single permit should entitle the third-country national to seek employment and change employer during the period of its validity or until a decision on an application for a renewal has been communicated to the third-country national concerned. Where a change of employer takes place, Member States should require notification of such

change prior to the commencement of that employment and of information related to the new employment contract or employment relationship. In the event of the unemployment of the third-country national, the single permit should not be withdrawn until the period of unemployment has lasted at least nine months. (AM 22, 141, 142)

↓ new

COMPROMISE AMENDMENT 12 on Article 13 and Recital (32)

Covered AMs 25, 133, 77 - 80, 248 (in part), 249 (in part), 252, 253, 254 (partly), 255, EMPL 19, 72, 74

Fall: AMs 250, 251, EMPL 73, 132

Article 13

Monitoring, risk assessment, inspections and penalties

1. Member States shall, *in cooperation with the social partners*, provide for measures to prevent possible infringements by employers of *the right to equal treatment of third-country workers national and the provisions adopted pursuant to Article 12*. Preventive measures shall include monitoring, *risk assessment* and, ~~where appropriate~~, inspections, *particularly in sectors that have been identified through risk assessment as at (EMPL 72) high risk of labour rights violations*, in accordance with national law or administrative practice. (AM 77, 248, 249)

2. Member States shall lay down ~~the rules~~ *establishing the on penalties to be imposed where employers are found to have* ~~applicable to infringements by employers of the rights of third-country workers protected and the national provisions adopted pursuant to Article 12~~. Those penalties ~~provided for~~ shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. (AM 78)

2.a (New) Where it is established that a single permit holder has experienced a serious violation of his or her rights as a result of the conduct of his or her employer, Member States shall extend the validity of the single permit for a period of twelve months, with full access to the labour market, to enable him or her to seek and find alternative employment. (AM 79, 252, 253)

3. Member States shall ensure that services in charge of inspection of labour or other competent authorities *have access, without prior notice, to the work place* and - where provided for under national law in respect of national workers - organisations representing workers' interests, *in particular trade unions*, have *such* access to the workplace. *With the consent of the third-country worker, and where applicable, that access shall include access to accommodation. (AM 80, 254 partly, 255)*

(32) *For the purpose of proper enforcement of the rights, benefits and guarantees of this Directive, Member States should ensure, in cooperation with the social partners and in accordance with ILO Convention No. 81 on Labour Inspection, that appropriate mechanisms are in place for the monitoring of employers and that, where appropriate, effective, timely, proportionate, non-discriminatory and adequate controls and field inspections, including*

routine and unannounced visits, are carried out on their respective territories *to ensure decent working conditions and equal treatment of third-country workers. To this aim, Member States should provide for appropriate resources so as to ensure capability of enforcement authorities to proactively target and pursue non-compliant employers.* The selection of employers to be inspected should be based primarily on a risk assessment to be carried out by the competent authorities in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement. (AM 25, 133, 254, EMPL 19, 74)

COMPROMISE AMENDMENT 13 on Articles 14 and 15, and Recital (33)

Covering AMs 27, 81-83, 85-89, 135, 137, 256, 257, 259, 260, 261, 262 (in part), 263 (in part), 264 (in part), 265 (in part), 266, EMPL 20, 76 (partly), 77, 78, 80, 81 (in part), 82, 83 (partly)

Fall: AMs 84, 136, 258, 267, EMPL 79, 84

Article 14

Facilitation of complaints and legal redress

1. Member States shall ensure that there are *accessible, timely and effective* mechanisms through which third-country workers may lodge complaints against their employers: (AM 81, 256, EMPL 76)

(a) directly; ~~or~~. (AM 82, EMPL 77)

(b) through third parties which have, in accordance with the criteria laid down by their national law, *practices or applicable collective agreements*, a legitimate interest in ensuring compliance with this Directive; ~~and~~. (AM 83, 257, EMPL 78)

(c) through a competent authority of the Member State, ~~where~~ provided for *under* by national law in respect of national workers.. (AM 84)

2. Member States shall ensure that third parties referred to in paragraph 1, point (b) may engage either on behalf of or in support of a third-country worker, with his or her *consent* approval, in any judicial and/or administrative procedures aimed at *or leading to enforcing the rights granted to the third-country worker pursuant to* compliance with this Directive. (AM 85, 259, 260)

3. Member States shall ensure that third-country workers, *including those whose employment relationship may have come to an end*, have the same access as nationals of the Member State where they reside with regard to: (AM 86, 261, EMPL 80)

(a) measures protecting against dismissal, ~~or other~~ adverse treatment by the employer, *or other adverse consequence as a result of* as a reaction to a complaint *or process seeking to enforce the rights granted pursuant to this Directive*; within the undertaking; or to: (AM 87, 262, 263, EMPL 81)

(b) any judicial ~~and~~ or administrative procedure, *including effective, timely and impartial complaint, mediation or dispute resolution mechanism seeking to enforce the rights granted pursuant to* aimed at enforcing compliance with this Directive.; (AM 88, 261, 264, 265)

(33) Member States should also *ensure, in their national legal system (AM 137), equal access of third-country workers to an effective legal remedy, in accordance with article 47 of the Charter of Fundamental Rights of the European Union, and* put in place *timely, accessible, impartial, gender-sensitive and* effective mechanisms through which third-country workers may seek legal redress and lodge complaints directly *and* through third parties having, in accordance with the criteria laid down by the national law, a legitimate interest in ensuring compliance with this Directive, such as trade unions or other associations, or *through* competent authorities. *The possibility to lodge complaints through third parties* is considered necessary to address situations where third-country workers are unaware of the existence of enforcement mechanisms or hesitant to use them in their own name out of fear of *the* possible consequences. (AM 27, 135, 137 EMPL 20, 76, 82)

(ba) legal aid and assistance, in accordance with national law. (AM 89, 266)

↓ 2011/98/EU

CHAPTER IV

FINAL PROVISIONS

Article ~~1543~~

More favourable provisions

1. This Directive shall apply without prejudice to more favourable provisions of:
 - (a) Union law, including bilateral and multilateral agreements between the Union, or the Union and its Member States, on the one hand and one or more third countries on the other; and
 - (b) bilateral or multilateral agreements between one or more Member States and one or more third countries.
2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.

↓ 2011/98/EU
⇒ new

COMPROMISE AMENDMENT 14 on Article 16 and Recital (4)

Covered: AMs 3, 90-93, 99, 100, 268, 269, EMPL 1

Fall: N/A

Article ~~1644~~

Information to the general public

Each Member State shall make ~~available~~ ⇒ easily accessible ⇐ to the general public, *including in relevant third countries*, a regularly updated *objective* set of information *drawing on all available sources*..(AM 90, 268)

(a) concerning the conditions of third-country nationals' admission to and residence in its territory ~~in order to work there~~ **for the purpose of work;** (AM 91)

↓ new

- (b) on all the documentary evidence needed for ~~an~~the application; (AM 92)
- (c) on entry and residence conditions, including the rights, obligations and procedural safeguards, of the third-country nationals **and their family members** falling under the scope of this Directive. (AM 93, 269)

(4) A set of rules governing the procedure for examination of the application for a single permit should be laid down. That procedure should be **efficient and effective, as harmonised and coordinated as possible** (AM 99), ~~and manageable, taking account of the normal workload of the Member States' administrations~~ as well as transparent, **non-discriminatory, gender-responsive, inclusive** (AM100, EMPL 1) and fair, in order to offer appropriate legal certainty to those concerned **within a reasonable time frame. In order to reinforce and promote the use of such single permits, Member States and the Commission are encouraged to strengthen advertisement activities and information campaigns, including, where appropriate, those directed towards third countries.** (AM 3)

↓ 2011/98/EU (adapted)
⇒ new

COMPROMISE AMENDMENT 15 on Articles 17 to 21

Covered: AMs 94, 270, 271, EMPL 75 (partly)

Fall: -

Article ~~17~~¹⁵

Reporting

1. Periodically, and for the first time no later than [...] ~~25 December 2016~~, the Commission shall present a report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose amendments it deems necessary.

2. Annually, and for the first time ~~by 25 December 2014~~ no later than [] , Member States shall **publish and** communicate to the Commission (Eurostat) **high-quality and comparable statistics including disaggregated gender and equality data** on the volumes of third-country nationals who have **applied for a single permit, those who have** been granted a single permit, and **those whose single permit has been renewed or withdrawn**, during the previous calendar year, in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council ~~of 11 July 2007 on Community statistics on migration and~~

~~international protection~~⁸. ⇒ Those statistics shall relate to reference periods of one calendar year, be disaggregated by type of decision, reason, length of validity and citizenship **and gender** and be transmitted within six months after the end of the reference period. ⇐ (*AM 94, 270, EMPL 75 partly*)

2a. The Commission shall adopt, by means of an implementing act, a common template for data collected pursuant to paragraph 2 (AM 271)

↓ 2011/98/EU (adapted)

Article 18~~16~~

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 point (c), Article 3(2), Article 4(1) and (3), Article 5(2), second subparagraph, Article 7(1), Article 9, Article 11(2) to (4), Article 12(1), point (g), Article 12(2), point (b) second paragraph, Article 12, point (d)(ii), Article 13, Article 14 and Article 16 ~~this Directive~~ by [two years after the entry into force] ~~25 December 2013~~. They shall ~~forthwith~~ immediately communicate the text of those measures to the Commission ~~the text of those provisions~~.

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

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

Article 19

Repeal

Directive 2011/98/EU listed in Part A of Annex I, is repealed with effect from [*day after the date set out in the first subparagraph of Article 18(1) of this Directive*], without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directive set out in Part B of Annex I.

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

Article 20~~17~~

Entry into force and application

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

⁸ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

⊗ Article 1, Article 2 points (a) and (b), Article 2, points (d) and (e), Article 3(1), Article 3(2), points (a), (b), (f) and (h) to (k), Article 3(3) and (4), Article 4(2) and (4), Article 5(1), (3) and (4), Article 6, Article 7(2), Article 8, Article 10, Article 11(1), Article 12(1) points (a) to (f) and (h), (2), points (a), (c), (d) and (i), (3) and (4), and Article 15, shall apply from [the day after the date in the first subparagraph of Article 18(1)]. ⊗

↓ 2011/98/EU

Article ~~2118~~

Addressees

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

Done at Brussels,

For the European Parliament

For the Council

The President

↓ 2011/98/EU

2022/0131 (COD)

RECITALS

COMPROMISE AMENDMENT 16 on remaining Recitals

Covered: AM 1, 2, 4, 6, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 26, 28, 29, 30, 98, 101, 102, 105, 107, 108, 109, 111, 112, 113, 114, 117, 118, 119, 120, 121, 127, 129, 130, 134, 143, EMPL 2, 4, 7, 11, 12, 14 partly, 16.

Fall: 96, 97, 115, 116, 124, 125, 126, 128, 131, 132, 138, 139, 140 EMPL 3, 5, 8, 9, 10, 13, 15, 17, 18, 21, 22

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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 (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular points (a) and (b) of Article 79(2) thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national Parliaments,
Having regard to the opinion of the European Economic and Social Committee⁹,
Having regard to the opinion of the Committee of the Regions¹⁰,
Acting in accordance with the ordinary legislative procedure¹¹,
Whereas:

↓ new

(1) A number of amendments are to be made to Directive 2011/98/EU of the European Parliament and of the Council¹². ***On the continued basis that the European Union should ensure fair treatment of third-country nationals who are legally residing in the territory of the Member States and that a more vigorous integration policy should aim to grant them rights and obligations comparable to those of citizens of the Union, and in the interests of clarity, that Directive should be recast.***(AM.1)

↓ 2011/98/EU recital 1 (adapted)

~~For the gradual establishment of an area of freedom, security and justice, the Treaty on the Functioning of the European Union (TFEU) provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals.~~

↓ 2011/98/EU recital 2 (adapted)

~~The European Council, at its special meeting in Tampere on 15 and 16 October 1999, acknowledged the need for harmonisation of national law governing the conditions for admission and residence of third-country nationals. In this context, it stated in particular that the European Union should ensure fair treatment of third-country nationals who are legally residing in the territory of the Member States and that a more vigorous integration policy should aim to grant them rights and obligations comparable to those of citizens of the Union. The European Council accordingly asked the Council to adopt the legal instruments on the basis of Commission proposals. The need for achieving the objectives defined at Tampere was reaffirmed by the Stockholm Programme, which was adopted by the European Council at its meeting of 10 and 11 December 2009.~~

⁹ OJ C 27, 3.2.2009, p. 114.

¹⁰ OJ C 257, 9.10.2008, p. 20.

¹¹ Position of the European Parliament of 24 March 2011 (not yet published in the Official Journal) and position of the Council at first reading of 24 November 2011 (not yet published in the Official Journal). Position of the European Parliament of 13 December 2011 (not yet published in the Official Journal).

¹² Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (OJ L 343, 23.12.2011, p. 1).

↓ 2011/98/EU recital 3 (adapted)

- (2) Provisions for a single application procedure leading to a combined title encompassing both residence and work permits within a single administrative act will contribute to simplifying and harmonising the rules currently applicable in Member States. ~~Such procedural simplification has already been introduced by several Member States and has made for a more efficient procedure both for the migrants and for their employers, and has allowed easier controls of the legality of their residence and employment.~~
-

↓ 2011/98/EU recital 4

- (3) In order to allow initial entry into their territory, Member States should ~~be able to~~ issue a single permit *to successful applicants* or, if they issue single permits only after entry, a visa. Member States should issue such single permits or visas *within the time limits established in this Directive* ~~in a timely manner.~~ (AM 2, 98)
-

↓ 2011/98/EU recital 5

- (4 a) *The European Pillar of Social Rights (the ‘Pillar’), proclaimed at Gothenburg on 17 November 2017, establishes a set of principles to serve as a guide towards ensuring equal opportunities and access to the labour market, fair working conditions, and social protection and inclusion, which should also be guiding for the treatment of third-country national workers residing in the Union. (AM. 101, EMPL 2)*
-

↓ 2011/98/EU recital 6

- (5) The provisions of this Directive should be without prejudice to the ~~right~~ *competence* of the Member States *to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed, in accordance with Article 79(5) TFEU* (AM 4, 102) ~~to regulate the admission, including the volumes of admission, of third-country nationals for the purpose of work.~~
-

↓ new

↓ 2011/98/EU recital 7 (adapted)

- (7) Posted third-country nationals subject to Directive 96/71/EC of the European Parliament and of the Council¹³ should not be covered by this Directive. This should not prevent third-country nationals who are legally residing and working in a Member State and posted to another Member State from continuing to enjoy equal treatment with respect to nationals of the Member State of origin for the duration of their posting, in respect of those terms and conditions of employment which are not affected by the application of Directive 96/71/EC ~~of the European Parliament and of the Council of 16~~
-

¹³ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

December 1996 concerning the posting of workers in the framework of the provision of services¹⁴.

↓ new

- (8) Third-country nationals who are beneficiaries of protection in accordance with national law, international obligations or the practice of a Member State, **and third-country nationals who are beneficiaries of temporary protection**, should be covered by the scope of this Directive in order to be granted an enhanced set of rights.(AM 105)
-

↓ 2011/98/EU recital 8 (adapted)

- (9) Third-country nationals who have acquired long-term resident status in accordance with Council Directive 2003/109/EC ~~of 25 November 2003 on the status of third-country nationals who are long-term residents~~¹⁵ should not be covered by this Directive given their ~~generally~~ ~~globally~~ more privileged status and their specific type of residence permit 'long-term resident-EU'.(AM 6)
-

↓ 2011/98/EU recital 10 (adapted)
⇒ new

- ~~(11)~~ The Member State **should allow** the application **for a single permit** to be submitted by **either the** third-country national or **the prospective employer on** his or her **behalf**. The Member States should ~~decide whether~~ ⇒ allow ⇐ the application for a single permit ~~is~~ to be ~~made~~ submitted ⇒ both ⇐ in the Member State **in which the third-country national is legally present** of destination or ⇒ and ⇐ from a third country.(AM 8, 108)
~~In cases where the third-country national is not allowed to make an application from a third country, Member States should ensure that the application may be made by the employer in the Member State of destination.~~

↓ 2011/98/EU recital 13
⇒ new

- (13) The **time limit** ~~deadline~~ for adopting a decision on the application should **cover the entire procedure, including any check of the labour market situation, the recognition of professional qualifications and other qualifications, where relevant, and the issuing of the requisite visa, where necessary.** (AM 10, 111, 112) ~~not include the time required for the recognition of professional qualifications or the time required for issuing a visa~~ ⇒ include both the time required for issuing a visa where needed, and the time required to comply with the checks of the labour market situations. ⇐ ~~This Directive should be without prejudice to national procedures on the recognition of diplomas.~~
- (13a) **Where, prior to his or her application being submitted, an applicant has taken part in an EU Talent Partnership with a third country, he or she has already established links with the Union. In such a situation, the time limit for adopting a decision on the application should be shortened to 45 days. Likewise, where the applicant is already**

¹⁴ ~~OJ L 18, 21.1.1997, p. 1.~~

¹⁵ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

a single permit holder in another Member State, the time limit for adopting a decision on the application should be shortened to 45 days.(AM 11, 113)

↓ new

- (14) ~~To this end, it is appropriate that~~ Member States should only carry out *only* one substantive¹⁶ check of the documentation submitted by the applicant for the issuing of both a single permit and the requisite visa in order to avoid duplication of work and prolonging the procedures. Furthermore, Member States should require applicants to submit the relevant documentation only once. *Documents can be submitted in electronic or in paper format.* (AM 12, 114)
-

↓ 2011/98/EU recital 12

- (15) The designation of the competent authority under this Directive should be without prejudice to the role and responsibilities of other authorities and, where applicable, the social partners, with regard to the examination of, and the decision on, the application.
-

↓ 2011/98/EU recital 13 (adapted)

- (16) ~~The deadline for adopting a decision on the application should, however, not include the time required for the recognition of professional qualifications or the time required for issuing a visa. This Directive should be without prejudice to national procedures on the recognition of diplomas.~~ (AM 13, 117, 118)
-

↓ 2011/98/EU recital 14 (adapted)

- (17) The single permit should be drawn up in accordance with Council Regulation (EC) No 1030/2002, ~~of 13 June 2002 laying down a uniform format for residence permits for third-country nationals~~¹⁶, enabling Member States to enter further information, in particular as to whether or not the person is permitted to work. A Member State should indicate *inter alia*, ~~inter alia, for the purpose of better control of migration,~~ not only on the single permit but also on all the issued residence permits, the information relating to the permission to work, irrespective of the type of the permit ~~or the residence permit title~~ on the basis of which the third-country national has been admitted to the territory and has been given access to the labour market of that Member State. *Member States should grant access to such information, including any changes thereto, to the third-country national.* (AM 14, 119, EMPL 11)
-

↓ 2011/98/EU recital 15

- (18) The provisions of this Directive on residence permits for purposes other than work should apply only to the format of such permits and should be without prejudice to Union or national rules on admission procedures and on procedures for issuing such permits.

¹⁶ Council Regulation (EC) No 1030/2002, of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

↓ 2011/98/EU recital 16

- (19) The provisions of this Directive on the single permit and on the residence permit issued for purposes other than work should not prevent ***competent authorities from collecting information related to employment conditions for the purpose of monitoring, implementing and enforcing labour and social security regulations.*** (AM 120, 121) Member States ~~from issuing~~ ***may issue*** an additional paper document in order to be able to give more precise information on the employment ***contract or employment*** relationship for which the format of the residence permit leaves insufficient space. Such a document can serve to prevent the exploitation of third-country nationals and combat illegal employment but should be optional for Member States, ***should not be a requirement for the third-country national to obtain,*** and should not serve as a substitute for a work permit thereby compromising the concept of the single permit. ***Changes to the employment conditions contained in that document should not constitute a change of employer for the purposes of the single permit.*** Technical possibilities offered by Article 4 of Regulation (EC) No 1030/2002 and point (a)~~2016~~ of the Annex thereto can also be used to store such information in an electronic format.(AM 15, EMPL 12)

↓ 2011/98/EU recital 18

- (21) Third-country nationals who are in possession of a valid travel document and a single permit issued by a Member State applying the Schengen *acquis* in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen *acquis* in full, for a period up to three months in any six-month period in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council¹⁷ ~~Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹⁸~~ and Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders¹⁹ (Schengen Convention).

↓ 2011/98/EU recital 19

- (22) In the absence of horizontal Union legislation, the rights of third-country nationals vary, depending on the Member State in which they work and on their nationality. With a view to developing further a coherent immigration policy and narrowing the rights gap between citizens of the Union and third-country nationals legally working in a Member State and complementing the existing immigration *acquis*, a set of rights should be laid down in order, in particular, to specify the fields in which equal treatment between a Member State's own nationals and such third-country nationals who are not yet long-term residents is provided. Such provisions are intended to establish a minimum level playing field within the Union, to recognise that such third-country nationals contribute to the Union economy through their work and tax payments and to serve as a safeguard

¹⁷ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

¹⁸ ~~(OJ L 105, 13.4.2006, p. 1).~~

¹⁹ OJ L 239, 22.9.2000, p. 19.

to reduce unfair competition between a Member State's own nationals and third-country nationals resulting from the possible exploitation of the latter. A third-country worker in this Directive should be defined, without prejudice to the interpretation of the concept of employment ***contract or employment*** relationship in other provisions of Union law, as a third-country national who has been admitted to the territory of a Member State, who is legally residing and who is allowed, in the context of ***an employment contract or an employment-paid*** relationship, to work there in accordance with national law, ***collective agreements***, or ***national*** practice.(AM 17)

↓ 2011/98/EU recital 20 (adapted)

- (23) All third-country nationals who are legally residing and working in Member States should enjoy at least a common set of rights based on equal treatment with the nationals of their ~~respective host~~ Member State ***where they reside***, irrespective of the initial purpose of or basis for admission. The right to equal treatment in the fields ~~covered~~ ~~specified~~ by this Directive should be granted not only to those third-country nationals who have been admitted to a Member State to work but also to those who have been admitted for other purposes and have been given access to the labour market of that Member State in accordance with other provisions of Union or national law, including family members of a third-country worker who are admitted to the Member State in accordance with Council Directive 2003/86/EC ~~of 22 September 2003 on the right to family reunification~~²⁰ and third-country nationals who are admitted to the territory of a Member State in accordance with Directive (EU) 2016/801 of the European Parliament and of the Council²¹ ~~Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service~~²² and ~~researchers admitted in accordance with Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research~~²³.(AM 18)
-

↓ 2011/98/EU recital 21

- (24) The right to equal treatment in ~~specified~~ fields ***covered by this directive*** should be strictly linked to the third-country national's legal residence and the access given to the labour market in a Member State, which are enshrined in the single permit encompassing the authorisation to reside and work and in residence permits issued for other purposes containing information on the permission to work.(AM 19)
-

↓ 2011/98/EU recital 22

- (25) Working conditions as referred to in this Directive should cover at least ***the terms of employment, remuneration, pay and dismissal, employment security***, health and safety at the workplace, ***maternity protection and leave***, working time and leave, taking into account collective agreements in force.(AM 20, 127, EMPL 14 partly)

²⁰ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

²¹ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

²² OJ L 375, 23.12.2004, p. 12.

²³ OJ L 289, 3.11.2005, p. 15.

↓ 2011/98/EU recital 23

- (26) A Member State should recognise professional qualifications *and other qualifications* acquired by a third-country national in another Member State in the same way as those of citizens of the Union and should take into account qualifications acquired in a third country in accordance with Directive 2005/36/EC of the European Parliament and of the Council ~~of 7 September 2005 on the recognition of professional qualifications~~²⁴. The right to equal treatment accorded to third-country workers as regards recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures should be without prejudice to the competence of Member States to admit such third-country workers to their labour market.(AM 21, 129)

↓ 2011/98/EU recital 24

- (27) Third-country workers should enjoy equal treatment as regards social security *including portability of rights*. Branches of social security are defined in Regulation (EC) No 883/2004 of the European Parliament and of the Council ~~of 29 April 2004 on the coordination of social security systems~~²⁵. The provisions on equal treatment concerning social security in this Directive should also apply to workers admitted to a Member State directly from a third country.(AM 23, 130, EMPL16) ~~Nevertheless, this Directive should not confer on third country workers more rights than those already provided in existing Union law in the field of social security for third country nationals who are in cross border situations. This Directive, furthermore, should not grant rights in relation to situations which lie outside the scope of Union law, such as in relation to family members residing in a third country. This Directive should grant rights only in relation to family members who join third country workers to reside in a Member State on the basis of family reunification or family members who already reside legally in that Member State.~~

↓ 2011/98/EU recital 25

- (28) Member States should ensure at least equal treatment of third-country nationals who are in employment or who, after a minimum period of employment, are registered as unemployed. Any restrictions to the equal treatment in the field of social security under this Directive should be without prejudice to the rights conferred pursuant to Regulation (EU) No 1231/2010 of the European Parliament and of the Council ~~of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality~~²⁶.

²⁴ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

²⁵ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

²⁶ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1).

↓ 2011/98/EU recital 26

- (29) Union law does not limit the power of the Member States to organise their social security schemes. ~~In the absence of harmonisation at Union level, it~~ is for each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted. However, when exercising that power, Member States should comply with Union law.
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↓ 2011/98/EU recital 27

- (30) Equal treatment of third-country workers should not apply to measures in the field of vocational training which are financed under social assistance schemes.
-

↓ new

~~(31) To reinforce the equal treatment of third-country workers, Member States should provide for effective, proportionate and dissuasive penalties against employers in the event of infringements of national provisions adopted pursuant to this Directive, in particular with regard to working conditions, freedom of association and affiliation and access to social security benefits. (AM 24)~~

(32a) *To reinforce the equal treatment of third-country workers, Member States should provide for effective, proportionate and dissuasive penalties against employers in the event of infringements of national provisions adopted pursuant to this Directive, in particular with regard to working conditions, freedom of association and affiliation and access to social security benefits.* (AM 26, 134)

~~(34) The single permit should authorise the third-country national to change the employer during the period of its validity. Member States should be able to require a notification of the change and to check the labour market situation where a change of employer takes place. The single permit should not be withdrawn during a period of at least three months in the event of the unemployment of its holder. (AM 28)~~

↓ 2011/98/EU recital 28

- (35) This Directive should be applied without prejudice to more favourable provisions contained in Union law and applicable international instruments.
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↓ 2011/98/EU recital 29

- (36) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic ~~features~~ characteristics, language, religion or beliefs, political or **any** other opinions, membership of a national minority, **property** fortune, birth, disabilities, age or sexual orientation in particular in accordance with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin²⁷ and Council Directive 2000/78/EC of 27 November 2000

²⁷ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

~~establishing a general framework for equal treatment in employment and occupation~~²⁸ (AM 29)

↓ 2011/98/EU recital 30

- (37) Since the objectives of this Directive, namely laying down a single application procedure for issuing a single permit for third-country nationals to work in the territory of a Member State and a common set of rights for third-country workers legally residing in a Member State, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
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↓ 2011/98/EU recital 31

- (38) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union in accordance with Article 6(1) of the TEU.
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↓ 2011/98/EU recital 32 (adapted)

~~In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.~~

↓ 2011/98/EU recital 33 (adapted)
⇒ new

- (39) In accordance with Articles 1 and 2 of ~~the Protocol (No 21)~~ on the position of the United Kingdom and Ireland ~~⊗~~ in respect of the area of freedom, security and justice ~~⊗~~ , annexed to the ~~⊗~~ Treaty on European Union ~~⊗~~ (TEU) and to the ~~⊗~~ Treaty on the Functioning of the European Union ~~⊗~~ (TFEU), and without prejudice to Article ~~⇒ s 3 and ⇨ 4~~ of that Protocol, ~~⇒ Ireland ⇨ those Member States are ⇒ is ⇨~~ not taking part in the adoption of this Directive and is not bound by it or subject to its application. (AM 30)

[OR]

[In accordance with Articles ~~⇒ 4a ⇨ 1 and 2~~ of the Protocol No ~~⇨ 21~~ on the position of the United Kingdom and Ireland ~~⊗~~ in respect of the area of freedom, security and justice ~~⊗~~ , annexed to the ~~⊗~~ Treaty on European Union ~~⊗~~ (TEU) and to the ~~⊗~~ Treaty on the Functioning of the European Union ~~⊗~~ (TFEU), and without prejudice to Article 4 of that Protocol, ~~those Member States are not taking part in the adoption of this Directive and are not~~

²⁸ ~~Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).~~

~~bound by it or subject to its application~~ ⇒ Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of Directive. ⇐]

↓ 2011/98/EU recital 34

(40) In accordance with Articles 1 and 2 of the Protocol ~~(No 22)~~ on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application~~.~~

↓ new

(41) The obligation to transpose this Directive into national law should be limited to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.

(42) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex I, Part B,
