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8.11.2022

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DRAFT REPORT

on the proposal for a 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)

(COM(2022)0655 – C9-0163/2022 – 2022/0131(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Javier Moreno Sánchez

Rapporteur for the opinion of the associated committee pursuant to Rule 57 of the Rules of Procedure

Agnes Jongerius, Committee on Employment and Social Affairs

(Recast – Rule 110 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a 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) (COM(2022)0655 – C9-0163/2022 – 2022/0131(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0655),
 - having regard to Article 294(2) and Article 79(2), points (a) and (b), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0163/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of ... sent by the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 110(3) of its Rules of Procedure,
 - having regard to Rules 110 and 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Employment and Social Affairs,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2022),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces,

¹ OJ C 77, 28.3.2002, p. 1.

substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) A number of amendments are to be made to Directive 2011/98/EU of the European Parliament and of the Council³⁸. In the interests of clarity, that Directive should be recast.

³⁸ 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).

Amendment

(1) A number of amendments are to be made to Directive 2011/98/EU of the European Parliament and of the Council³⁸. ***On the continued basis that the 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 those third-country nationals rights and obligations comparable to those of citizens of the Union, and*** in the interests of clarity, that Directive should be recast.

³⁸ 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).

Or. en

Justification

It is important not to forget the driving impulse for the original Single Permit Directive. This impulse, set out in Recital 2 of the original Directive, remains pertinent for the recast.

Amendment 2

Proposal for a directive Recital 3

Text proposed by the Commission

(3) In order to allow initial entry into their territory, Member States should **be able to** issue a single permit or, if they issue single permits only after entry, a visa. Member States should issue such single permits or visas **in a timely manner**.

Amendment

(3) In order to allow initial entry into their territory, Member States should 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**.

Or. en

Justification

In order for the changed provisions of Articles 4 & 5 to be properly explained in the recitals, this recital needs to be amended. Time limits are provided within which either the single permit is issued or a visa is issued which will allow for the single permit to be issued on the territory.

Amendment 3

Proposal for a directive Recital 4

Text proposed by the Commission

(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 effective **and manageable, taking account of the normal workload of the Member States' administrations**, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.

Amendment

(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 well as transparent 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, directed towards third countries.**

Justification

In order for the changed provisions of Article 4 and 5 to be properly explained in the recitals, this recital needs to be amended.

Amendment 4**Proposal for a directive
Recital 5***Text proposed by the Commission*

(5) The provisions of this Directive should be without prejudice to the **competence** of the Member States to **regulate the admission, including the** volumes of admission, of third-country nationals **for the purpose of work.**

Amendment

(5) The provisions of this Directive should be without prejudice to the **right** 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.**

Justification

This is the wording of Article 79(5) TFEU which provides a residual competence to Member States.

Amendment 5**Proposal for a directive
Recital 6***Text proposed by the Commission*

(6) This Directive should cover employment relationships between third-country workers and employers. 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 relationship with the worker, such agencies should not be excluded from the scope of this Directive.

Amendment

(6) This Directive should cover employment **contracts and employment** relationships between third-country workers and employers. 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 from the scope of this Directive.

Or. en

Amendment 6

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Third-country nationals who have acquired long-term resident status in accordance with Council Directive 2003/109/EC⁴⁰ should not be covered by this Directive given their **globally** more privileged status and their specific type of residence permit 'long-term resident-EU'.

⁴⁰ 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).

Amendment

(9) Third-country nationals who have acquired long-term resident status in accordance with Council Directive 2003/109/EC⁴⁰ should not be covered by this Directive given their **generally** more privileged status and their specific type of residence permit 'long-term resident-EU'.

⁴⁰ 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).

Or. en

Justification

Linguistic adaptation

Amendment 7

Proposal for a directive Recital 10

Text proposed by the Commission

(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 Council⁴¹ should not be covered

Amendment

(10) Third-country nationals who have **already** been admitted to the territory of a Member State to work on a seasonal basis in accordance with Directive 2014/36/EU of the European Parliament and of the Council⁴¹ should not be covered by this Directive given that they fall within the scope of Directive 2014/36/EU, which

by this Directive given that they fall within the scope of Directive 2014/36/EU, which establishes a specific regime .

establishes a specific regime .

⁴¹ 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).

⁴¹ 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).

Or. en

Justification

Although persons who have been admitted to the EU as seasonal workers under Directive 2014/36/EU are governed by a different regime, this should not prevent applicants to a seasonal worker's permit from simultaneously applying for and, if successful, receiving a single permit (instead of a seasonal workers permit). Excluding them entirely from the scope of the Directive is purely discriminatory. For national schemes of seasonal work, the minimum rules laid down by the single permit should apply.

Amendment 8

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) ***The obligation on*** the Member States ***to determine whether*** the application ***is to*** be submitted by ***a*** third-country national or ***by*** his or her ***employer should be without prejudice to any arrangements requiring both to be involved in the procedure.*** The Member States should allow the application for a single permit to be submitted both in the Member State ***of destination*** and from a third country.

Amendment

(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 allow the application for a single permit to be submitted both in the Member State ***in which the third-country national is legally present*** and from a third country.

Or. en

Justification

To facilitate the application for a single permit, the third-country national and his or her

employer should be able to decide which of them will submit the application. Wording aligned with Article 4(1).

Amendment 9

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) The provisions of this Directive on the single application procedure and on the single permit should not **concern** uniform or long-stay visas , with the exception of the obligation for Member States to issue the requisite visa within the **deadline of four months** set out to adopt a decision on the Single Permit .

Amendment

(12) The provisions of this Directive on the single application procedure and on the single permit should not **affect** uniform or long-stay visas, with the exception of the obligation for Member States to issue the requisite visa within the **time limit of 90 days** set out to adopt a decision on the Single Permit .

Or. en

Justification

In order for persons to feel inclined to come to the European Union, it is important that the time limits are realistic for the people involved and provide legal clarity. In the 21st century, MS authorities should be in a position to decide on a complete application within three months.

Amendment 10

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The **deadline** for adopting a decision on the application should **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**.

Amendment

(13) The **time limit** 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**.

Or. en

Justification

In order for persons to feel inclined to come to the European Union, it is important that time limits are realistic for the people involved and provide legal clarity. All checks required for completing the examination of the application should be carried out within the time limit established.

Amendment 11

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Given that EU Talent Partnerships provide for training persons in third countries, if applicants have participated in such schemes prior to making their application, the Member State's competent authority should not need as long to reach a decision on the application. Similarly, if the applicant is already a single permit holder in another Member State, the time limit for deciding on an application should be shortened.

Amendment 12

Proposal for a directive Recital 14

Text proposed by the Commission

Amendment

(14) ***To this end***, Member States should

(14) ***It is appropriate that*** Member

only carry out **one substantial** 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.

States carry out **only one substantive** 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.

Or. en

Justification

Linguistic adjustments

Amendment 13

Proposal for a directive

Recital 16

Text proposed by the Commission

Amendment

(16) The deadline for adopting a decision on the application should, however, not include the time required for the recognition of professional qualifications. This Directive should be without prejudice to national procedures on the recognition of diplomas.

deleted

Or. en

Justification

This recital is redundant given the changes to Recital 13 and Article 5, paragraph 2.

Amendment 14

Proposal for a directive

Recital 17

Text proposed by the Commission

Amendment

(17) The single permit should be drawn up in accordance with Council Regulation (EC) No 1030/2002⁴², enabling Member

(17) The single permit should be drawn up in accordance with Council Regulation (EC) No 1030/2002⁴², 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, **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** 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.

⁴² 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).

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, 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 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.**

⁴² 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).

Or. en

Justification

The further information provided should help the single permit holder and his or her prospective employer. It should not be a migration tool

Amendment 15

Proposal for a directive Recital 19

Text proposed by the Commission

(19) The provisions of this Directive on the single permit and on the residence permit issued for purposes other than work should not prevent Member States from issuing an additional paper document in order to be able to give more precise information on the 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

Amendment

(19) The provisions of this Directive on the single permit and on the residence permit issued for purposes other than work should oblige Member States to issue an additional paper document, and to store the data from such paper document in electronic format, 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.

combat illegal employment but should be optional for Member States and should not serve as a substitute for a work permit thereby compromising the concept of the single permit. Technical possibilities offered by Article 4 of Regulation (EC) No 1030/2002 and point (a)20 of the Annex thereto can also be used to store such information in an electronic format.

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)20 of the Annex thereto can also be used to store such information in an electronic format.

Or. en

Justification

In the logic of simplifying and streamlining the single permit procedure, it is important to underline that additional documents that MS might want to issue cannot be a requirement for the third-country national to have the right to work, as the single permit should be the only requirement in that regard.

Amendment 16

Proposal for a directive Recital 20

Text proposed by the Commission

(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 should be laid down in national law ***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. Rejection ***and*** withdrawal ***decisions*** should be ***duly reasoned***.

Amendment

(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 include*** 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 specific circumstances of the case and should be proportionate. 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.

Or. en

Justification

The Recital should be amended to reflect better the wording of Article 8. This wording has also been amended to align it more closely with the wording of the recently revised Blue Card Directive. The content of Recital 33 of the Blue Card Directive should be included.

Amendment 17

Proposal for a directive Recital 22

Text proposed by the Commission

(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

Amendment

(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 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 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 *a paid* relationship, to work there in accordance with national law *or* practice.

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 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* relationship, to work there in accordance with national law, *collective agreements or national* practice.

Or. en

Amendment 18

Proposal for a directive Recital 23

Text proposed by the Commission

(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, irrespective of the initial purpose of or basis for admission. The right to equal treatment in the fields covered by this Directive should be granted not only to

Amendment

(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 *the* Member State *where they reside*, irrespective of the initial purpose of or basis for admission. The right to equal treatment in the fields covered 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/EC⁴⁵ ; 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 Council⁴⁶ .

⁴⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

⁴⁶ 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).

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/EC⁴⁵ **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 Council⁴⁶ .

⁴⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

⁴⁶ 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).

Or. en

Justification

Wording of Article 12 repeated here. Technical alignment to Commission's technical changes.

Amendment 19

Proposal for a directive Recital 24

Text proposed by the Commission

(24) The right to equal treatment in *specified* fields 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

Amendment

(24) The right to equal treatment in 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

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.

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.

Or. en

Amendment 20

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Working conditions as referred to in this Directive should cover at least **pay and** dismissal, health and safety at the workplace, working time and leave taking into account collective agreements in force.

Amendment

(25) Working conditions as referred to in this Directive should cover at least **the terms of employment, remuneration,** dismissal, health and safety at the workplace, working time and leave, taking into account collective agreements in force.

Or. en

Justification

Adjustment to correct the syntax of the sentence and improve the wording in line with other EU law instrument in this area.

Amendment 21

Proposal for a directive Recital 26

Text proposed by the Commission

(26) A Member State should recognise professional 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 Council⁴⁷. The right to equal treatment

Amendment

(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 Council⁴⁷. The right

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.

⁴⁷ Directive 2005/36/EC on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

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.

⁴⁷ Directive 2005/36/EC *of the European Parliament and the Council* on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Or. en

Justification

The recital is aligned with the amended Article 5, paragraph 2.

Amendment 22

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(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.

Justification

Originally Recital 34. This recital relates to Article 11 and should come before recitals related to equal treatment laid down in Article 12. The single permit holder should be allowed to seek alternative employment and change employer throughout the period of validity of the permit. If the third-country national changes employer, then the competent authority should be informed of the change and the relevant information of the new employment. Where a single permit holder becomes unemployed, he/she should have at least nine months to find alternative employment before the single permit is withdrawn.

Amendment 23**Proposal for a directive****Recital 27***Text proposed by the Commission*

(27) Third-country workers should enjoy equal treatment as regards social security. Branches of social security are defined in Regulation (EC) No 883/2004 of the European Parliament and of the Council⁴⁸. 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. ***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.***

⁴⁸ 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).

Amendment

(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 Council⁴⁸. 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.

⁴⁸ 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).

Justification

This recital should be brought into line with the latest ruling of the CJEU on Regulation (EC)

Amendment 24

Proposal for a directive Recital 31

Text proposed by the Commission

Amendment

(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.

deleted

Or. en

Justification

To follow the chronology of Article 13, this recital should come after Recital 32 as proposed by the Commission

Amendment 25

Proposal for a directive Recital 32

Text proposed by the Commission

Amendment

(32) To ensure the proper enforcement of this Directive, Member States should ensure that appropriate mechanisms are in place for the monitoring of employers and that, where appropriate, effective and adequate inspections are carried out on their respective territories. 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

(32) To ensure the proper enforcement of this Directive **and decent working conditions**, Member States should ensure, **in cooperation with the social partners**, that appropriate mechanisms are in place for the monitoring of employers and that, where appropriate, effective and adequate inspections are carried out on their respective territories. **It is important that** the selection of employers to be inspected be based primarily on a risk assessment to be carried out by the competent authorities

operates and any past record of infringement.

in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement.

Or. en

Amendment 26

Proposal for a directive Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) To reinforce 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 associations and affiliation, and access to social security benefits.

Or. en

Justification

To follow the chronology of Article 13, this recital should come after Recital 32 as proposed by the Commission.

Amendment 27

Proposal for a directive Recital 33

Text proposed by the Commission

Amendment

(33) Member States should also put in place effective mechanisms through which third-country workers may seek legal redress and lodge complaints directly ***or*** through third parties having, in accordance with the criteria laid down by the national

(33) Member States should also put in place ***timely 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

law, a legitimate interest in ensuring compliance with this Directive, such as trade unions or other associations, or competent authorities. **That** 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, **for example** out of fear of possible consequences.

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.

Or. en

Justification

Linguistic changes to provide more clarity.

Amendment 28

Proposal for a directive Recital 34

Text proposed by the Commission

(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.

Amendment

deleted

Or. en

Amendment 29

Proposal for a directive Recital 36

Text proposed by the Commission

(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 *characteristics*, language, religion or *beliefs*, political or other *opinions*, membership of a national minority, *fortune*, birth, *disabilities*, age or sexual orientation *in particular in accordance with Council Directive 2000/43/EC⁵⁰ and Council Directive 2000/78/EC⁵¹* .

⁵⁰ 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).

⁵¹ 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).

Amendment

(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*, language, religion or *belief*, political or *any* other *opinion*, membership of a national minority, *property*, birth, *disability*, age or sexual orientation.

Or. en

Justification

The recital should be aligned with Article 21 of the Charter of Fundamental Rights which is now primary EU law.

Amendment 30

**Proposal for a directive
Recital 39 – paragraph 1**

Text proposed by the Commission

In accordance with Articles 1 and 2 of 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

Amendment

In accordance with Articles 1 and 2 of 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 *TEU* and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to *Articles*

(TFEU), and without prejudice to *Article s* 3 and 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and *are* not bound by it or subject to its application.

3 and 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and *is* not bound by it or subject to its application.

Or. en

Justification

TEU already defined in recital 37

Amendment 31

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

Text proposed by the Commission

(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 *facilitate the control of* their status;

Amendment

(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* their status;

Or. en

Justification

More positive language

Amendment 32

**Proposal for a directive
Article 1 – paragraph 2**

Text proposed by the Commission

2. *This Directive shall not affect the Member States' powers concerning the volume of admission of third-country nationals coming from third countries to seek employment .*

Amendment

deleted

Justification

As it is primary EU law, Article 79(5) TFEU applies to this Directive. It cannot be changed here and does not need to be repeated. It is already included in Recital 5. There is no added value to this provision.

Amendment 33**Proposal for a directive****Article 2 – paragraph 1 – point a***Text proposed by the Commission*

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

Amendment

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

Or. en

Justification

Correct formulation in line with previous legal migration instrument (Blue Card). Same language "any" used in 2(c).

Amendment 34**Proposal for a directive****Article 2 – paragraph 1 – point b***Text proposed by the Commission*

(b) ‘third-country worker’ means **a** 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 an employment relationship in that Member State in accordance with national law or practice;

Amendment

(b) ‘third-country worker’ means **any** third-country national ***falling within the scope of this Directive*** 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 an employment ***contract or employment*** relationship in that Member State in accordance with national law, ***collective agreements***, or practice;

Or. en

Justification

Certain categories of third-country nationals are excluded from the scope of the Directive in Article 3. If the definition does not acknowledge this, the definition becomes problematic.

Amendment 35

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(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;

Amendment

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

Or. en

Amendment 36

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Directive shall apply to:

Amendment

1. This Directive shall apply to **third-country nationals**:

Or. en

Justification

Technical adjustment for ease of understanding

Amendment 37

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) **third-country nationals** who apply

Amendment

(a) who apply to reside in a Member

to reside in a Member State for the purpose of work;

State for the purpose of work;

Or. en

Amendment 38

Proposal for a directive Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) *third-country nationals* 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

Amendment

(b) 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

Or. en

Amendment 39

Proposal for a directive Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) *third-country nationals* who have been admitted to a Member State for the purpose of work in accordance with Union or national law.

Amendment

(c) who have been admitted to a Member State for the purpose of work in accordance with Union or national law.

Or. en

Amendment 40

Proposal for a directive Article 3 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) who are covered by **Directive** 96/71/EC as long as they are posted on the territory of the Member State concerned ;

(c) who are covered by **Directives** 96/71/EC, 2014/67/EU^{1a}, 2018/957/EU^{1b} or 2020/1057/EU^{1c} of the European Parliament and of the Council , as long as they are posted on the territory of the Member State concerned ;

^{1a} **Directive 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). 31.7.2020, p. 49).

^{1b} **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 provision of services** (OJ L 173, 9.7.2018, p. 16).

^{1c} **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,**

Or. en

Amendment 41

Proposal for a directive Article 3 – paragraph 2 – point e

Text proposed by the Commission

(e) who **have applied for admission or** have been admitted to the territory of a

Amendment

(e) who have been admitted to the territory of a Member State as seasonal

Member State as seasonal workers in accordance with Directive 2014/36/EU *or au pairs in accordance with Directive (EU) 2016/801* ;

workers in accordance with Directive 2014/36/EU;

Or. en

Justification

There is no good reason to exclude au pairs from the possibility of applying for and - if successful - obtaining a single permit. Third-country nationals who have applied for seasonal work should not be precluded from applying also for a single permit.

Amendment 42

Proposal for a directive Article 3 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(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;

deleted

Or. en

Justification

Again, while people under temporary protection are under a different status, there is no reason to exclude them from the possibility of applying for and - if successful - obtaining a single permit.

Amendment 43

Proposal for a directive Article 3 – paragraph 3

Text proposed by the Commission

Amendment

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*

3. Member States may decide that Chapter II does not apply to third-country nationals who have been admitted to a

for a period not exceeding six months or who have been admitted to a Member State for the purpose of study.

Member State for the purpose of study.

Or. en

Justification

In the interests of ensuring that the Directive is horizontal and of ensuring increased harmonisation among the MS, persons whose contract is for a period of less than six months should not be excluded from the scope of this Directive.

Amendment 44

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall **determine whether** applications for a single permit **are** to be 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. If the application is to be submitted by** the third-country national, Member States shall allow the application to be introduced both from a third country and in the territory of the Member State in which the third-country national is legally present.

Amendment

1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall **allow** applications for a single permit to be submitted by **either** the third-country national or the third-country national's employer. **Where** the third-country national **submits the application**, Member States shall allow the application to be introduced both from a third country and in the territory of the Member State in which the third-country national is legally present. **Where the employer submits the application, Member States 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.**

Or. en

Justification

To facilitate the application for a single permit, the third country national and her employer should be able to decide which of them will submit the application. In the event that the employer submits the application on behalf of the third-country national, the MS receiving the

application should nevertheless ensure that the person on whose behalf the application was made is aware of the status of the application - if further documentation is required for example - and is informed about the outcome of the application.

Amendment 45

Proposal for a directive Article 4 – paragraph 3

Text proposed by the Commission

3. Provided that the requirements laid down by Union or national law are fulfilled and where a Member State issues single permits only on its territory, the Member State concerned shall issue the third country national with the requisite visa.

Amendment

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)**.

Or. en

Justification

Linguistic amendment to provide greater clarity.

Amendment 46

Proposal for a directive Article 4 – paragraph 4

Text proposed by the Commission

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 **modify** their residence permit after the entry into force of the national implementing provisions.

Amendment

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** their residence permit after the entry into force of the national implementing provisions.

Or. en

Justification

The language of paragraph 4 should be aligned with the language in paragraph 1 of this Article

Amendment 47

**Proposal for a directive
Article 5 – title**

Text proposed by the Commission

Amendment

Competent authority

Competent authority *and time limits*

Or. en

Justification

Given the changes to this Article, the title should reflect the content of the amended Article.

Amendment 48

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

Text proposed by the Commission

Amendment

The competent authority shall adopt a decision on the complete application as soon as possible and in any event within **four months** of the date on which the application was **lodged**.

The competent authority shall adopt a decision on the complete application as soon as possible and in any event within **90 days** of the date on which the application was **submitted**.

Or. en

Justification

In order for persons to feel inclined to come to the European Union, it is important that the time limits are realistic for the people involved and provide legal clarity. In the 21st century, MS authorities should be in a position to decide on a complete application within three months.

Amendment 49

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

Text proposed by the Commission

The time limit referred to in the first subparagraph shall cover **checking** the labour market situation **and** issuing the requisite visa referred to in Article 4(3). ***The time limit may be extended in exceptional circumstances, linked to the complexity of the examination of the application.***

Amendment

The time limit referred to in the first subparagraph shall 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 referred to in Article 4(3).***

Or. en

Justification

It is important to be clear that - once a complete application has been received - the time limit within which MS authorities take a decision must include all the steps needed to take that decision.

Amendment 50

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

Text proposed by the Commission

Amendment

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 application within 45 days from the date on which the complete application was submitted.

Or. en

Justification

Given that EU Talent Partnerships provide for training persons in third countries, if applicants have participated in such schemes prior to making their application, the Member State's competent authority should not need as long to reach a decision on the application.

Similarly, if the applicant is already a single permit holder in another Member State, the time limit for deciding on an application should be shortened.

Amendment 51

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where no decision is taken within the time **limit** provided for in this paragraph, any consequences shall be determined by national law.

Amendment

Where no decision is taken within the time **limits** provided for in this paragraph, any **fee required by the Member States 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.**

Or. en

Justification

There needs to be a clear sanction to the competent authority or Member State for failing to respect the time limits established in this paragraph.

Amendment 52

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. The competent authority shall notify the decision to the applicant in writing in accordance with **the notification procedures laid down in the relevant national law.**

Amendment

3. The competent authority shall notify the decision to the applicant in writing, **such notification to 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 national on whose behalf the application was submitted.**

Amendment 53**Proposal for a directive****Article 6 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

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 16 of the Annex thereto.

Amendment

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 16 of the Annex thereto. ***The single permit shall have a minimum period of validity equivalent to the duration of the employment contract or of two years, whichever period is shorter.***

Or. en

Justification

To provide legal certainty to the third-country national and to the employer, the single permit should be issued for at least the same duration as the contract of employment, or, where the contract of employment is for longer than two years, for a period of at least two years.

Amendment 54**Proposal for a directive****Article 6 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

Member States **may** indicate additional information related to the employment relationship of the third-country national (such as the name and address of the employer, place of work, type of work, working hours, 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)20 of the Annex thereto.

Amendment

Member States **shall** 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, **and** store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and in point (a)20 of the Annex thereto. ***A change to the conditions***

of employment indicated above shall not constitute a change of employer. Member States shall grant the third-country national access to that information and he or she shall be informed about any changes thereto.

Or. en

Justification

Certain stakeholders report that a change in employment conditions is considered to be a change of employment/employer in certain MS. This should clearly not be the case.

Amendment 55

Proposal for a directive Article 7 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States **may** indicate additional information related to the employment relationship of the third-country national (such as the name and address of the employer, place of work, type of work, working hours, remuneration) in paper format, **or** store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and point (a)20 of the Annex thereto.

Amendment

Member States **shall** 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 **and** store such data in electronic format as referred to in Article 4 of Regulation (EC) No 1030/2002 and point (a)20 of the Annex thereto. ***A change to the conditions of employment indicated above shall not constitute a change of employer. Member States shall grant the third-country national access to this information and he or she shall be informed about any changes thereto.***

Or. en

Justification

Certain stakeholder report that a change in employment conditions is considered to be a change of employment/employer in certain MS. This should clearly not be the case.

Amendment 56

Proposal for a directive Article 8 – paragraph 1

Text proposed by the Commission

1. ***Reasons shall be given in the written notification of a decision rejecting*** an application to issue, amend or renew a single permit, or a decision withdrawing a single permit on the basis of criteria provided for by Union or national law.

Amendment

1. A decision ***to reject*** an application to issue, amend or renew a single permit, or a decision withdrawing 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 relevant national law. The notification shall specify the reasons for the decision .***

Or. en

Justification

In attempting to streamline and shorten procedures with an instrument that is complimentary to existing instruments adopted in the area of legal migration, the provisions on procedural guarantees should be aligned with those of the recently revised Blue Card Directive. This should also help enhance legal certainty across the different EU legal migration instruments.

Amendment 57

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. A decision rejecting the application to issue, amend or renew or withdrawing a single permit 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 ***person*** concerned may lodge an appeal and the time limit therefor.

Amendment

2. A decision rejecting the application to issue, amend or renew or withdrawing a single permit 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*** concerned may lodge an appeal and the time limit therefor. ***Member States shall provide for an effective remedy, in accordance with national law.***

Justification

In attempting to streamline and shorten procedures with an instrument that is complimentary to existing instruments adopted in the area of legal migration, the provisions on procedural guarantees should be aligned with those of the recently revised Blue Card Directive. This should also help enhance legal certainty across the different EU legal migration instrument.

Amendment 58**Proposal for a directive
Article 8 – paragraph 3***Text proposed by the Commission**Amendment*

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. **deleted**

Justification

This Directive does not lay down the conditions to be fulfilled for a single permit to be issued or the conditions under which it may be rejected. Nor does the Directive address issues of inadmissibility. It is therefore not appropriate to set out a ground for rejecting an application as inadmissible in this Directive.

Amendment 59**Proposal for a directive
Article 9 – title***Text proposed by the Commission**Amendment*

Access to information

Access to information **for applicants****Amendment 60**

Proposal for a directive
Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall make easily accessible, and provide upon request:

Amendment

Member States shall make easily accessible, and provide *free of charge in a language the third-country national can understand*, upon request:

Or. en

Amendment 61

Proposal for a directive
Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) *adequate information* to the third-country national and the *future* employer on all the documentary evidence needed for an application;

Amendment

(a) to the third-country national and the *prospective* employer, *adequate information* on all the documentary evidence needed for an application *and, where appropriate, the applicable fees*;

Or. en

Amendment 62

Proposal for a directive
Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) information on entry and residence conditions, *including* the rights, obligations and procedural safeguards *of the third-country nationals and of their family members*.

Amendment

(b) *to the third-country national and his or her family members*, information on entry and residence conditions, *information on* the rights, obligations and procedural safeguards *linked to the single permit, including information on mechanisms for filing complaints and seeking legal redress, and information on organisations representing third-country national workers or protecting their rights and interests, in particular trade unions*,

national labour inspectorates and non-governmental and community organisations.

Or. en

Justification

Third country nationals and their family Members should be given information on the mechanism for complaints and for seeking legal redress, as well as on organisation that look out for the interests of third-country workers.

Amendment 63

**Proposal for a directive
Article 10 – paragraph 1**

Text proposed by the Commission

Member States may require ***applicants to pay*** fees, where appropriate, for processing applications in accordance with this Directive. The level of such fees shall ***be proportionate*** and shall be based on the services actually provided for the processing of applications and the issuance of permits.

Amendment

Member States may require ***the payment of*** fees, where appropriate, for processing applications in accordance with this Directive. The level of such fees, ***if required by a Member State, shall not be disproportionate or excessive***, and shall be based on the services actually provided for the processing of applications and the issuance of permits. ***Where the fee for the application is paid by the employer, the employer shall not be entitled to recover that fee from the third-country national.***

Or. en

Justification

It is important that any fee should remain proportionate and never be excessive. Should the employer pay the fee on behalf of the third-country national, the employer should not be able to recover that fee from her later.

Amendment 64

**Proposal for a directive
Article 11 – paragraph 1 – introductory part**

Text proposed by the Commission

1. Where a single permit has been issued, it shall **authorise**, during its period of validity, its holder at least **to**:

Amendment

1. Where a single permit has been issued, it shall, during its period of validity, **or until a decision has been communicated on an application for a renewal of the permit, entitle** its holder at least:

Or. en

Amendment 65

Proposal for a directive

Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) enter 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;

Amendment

(a) **to** enter, **re-enter** 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;

Or. en

Justification

Following the compromise of the Blue Card Directive.

Amendment 66

Proposal for a directive

Article 11 – paragraph 1 – point b

Text proposed by the Commission

(b) have free access to the entire territory of the Member State issuing the single permit **within the limits provided for by national law**;

Amendment

(b) **to** have free access to the entire territory of the Member State issuing the single permit;

Or. en

Justification

A single permit holder should not be restricted in his or her movement within the MS that granted the single permit.

Amendment 67

Proposal for a directive

Article 11 – paragraph 1 – point c

Text proposed by the Commission

(c) exercise the specific **employment** activity authorised under the single permit in accordance with national law;

Amendment

(c) **to** exercise the specific **work** activity authorised under the single permit in accordance with national law;

Or. en

Justification

To be coherent with the rest of the Directive.

Amendment 68

Proposal for a directive

Article 11 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) **to seek employment with a different employer and to change employer;**

Or. en

Justification

The right to change employer should be one of the basic rights listed in paragraph 1.

Amendment 69

Proposal for a directive

Article 11 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) be informed about the holder's own rights linked to the permit conferred by this Directive **and/or by** national law.

(d) **to** be informed about the holder's own rights linked to the permit conferred by this Directive **or by Union and** national law;

Or. en

Amendment 70

Proposal for a directive

Article 11 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) to receive the permit in paper format and be able to access the permit in electronic format.

Or. en

Justification

The third country nationals will be better protected if they have the right to have the permit both in paper and electronic formate

Amendment 71

Proposal for a directive

Article 11 – paragraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

Now covered in Article 11, paragraph 1.

Amendment 72

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Within the period of validity referred to in paragraph 1, Member States *may*:

Amendment

Within the period of validity referred to in paragraph 1, Member States ***shall require that a change of employer be communicated, prior to the commencement of the new employment, by the new employer to the competent authorities in the Member State concerned, 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.***

Or. en

Justification

Although there is no limitation on the right to change employer, where the third-country national changes employer the nature of the change of employer should always be communicated to the competent authorities. This should be the responsibility of the new employer.

Amendment 73

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

(a) require that a change of employer be communicated to the competent authorities in the Member State concerned, in accordance with procedures

Amendment

deleted

laid down in national law,

Or. en

Amendment 74

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) require that a change of employer be subject to a check of the labour market situation. *deleted*

Or. en

Justification

No labour market test should be applied to third-country nationals who are already holders of a single permit and thus have been admitted to the territory of the MS already.

Amendment 75

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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. *deleted*

Or. en

Justification

No labour market test should be applied to third-country nationals who are already holders of a single permit and thus have been admitted to the territory of the MS already.

Amendment 76

Proposal for a directive Article 11 – paragraph 4

Text proposed by the Commission

4. *Within the period of validity referred to in paragraph 1, the single permit shall not be withdrawn during a period of at least **three** months in the event of unemployment of its holder. Member States shall allow the third-country national to stay in their territory until the competent authorities have taken a decision in accordance with paragraph 3, point (b), as relevant, even if that period of at least three months expired.*

Amendment

4. *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 for a period of at least **nine** months during which period the third-country national shall be allowed to remain on the territory of the Member State concerned.*

Or. en

Justification

In order to provide a realistic time frame within which a single permit holder can find new employment, should he or she become unemployed, he or she must be allowed to remain on the territory for nine months after becoming unemployed. This should apply even if the period of validity of the single permit would normally expire during this period. The period of nine months is in line with the Students and Researchers Directive.

Amendment 77

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall provide for measures to prevent possible infringements by employers of ***national provisions adopted*** pursuant to Article 12. Preventive measures shall include monitoring, ***assessment and, where appropriate,*** inspections in accordance with national law or administrative practice.

Amendment

1. Member States shall, ***in cooperation with the social partners,*** provide for measures to prevent possible infringements by employers of ***the rights protected*** pursuant to Article 12. Preventive measures shall include monitoring, ***risk assessments and*** inspections in accordance with national law or administrative practice.

Justification

Include a role for social partners in monitoring and inspections. Otherwise, linguistic changes for clarity.

Amendment 78

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall lay down *the* rules *on* penalties *applicable to infringements* by employers *of national provisions adopted* pursuant to Article 12. *The* 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.

Amendment

2. Member States shall lay down rules *establishing the* penalties *to be imposed where* employers *are found to have infringed the rights of the third-country workers protected* pursuant to Article 12. *Those* penalties 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.

Amendment 79

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

*Text proposed by the Commission**Amendment*

2a. 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 grant that single permit holder a transitional single permit, to enable him or her to seek and find alternative employment. That transitional single permit shall have a period of validity of at least twelve months

from the date on which it is issued.

Or. en

Justification

Single permit holders should not be discouraged from bringing complaints against an employer for fear of having the single permit withdrawn. Where a single permit holder suffers serious violation of their rights (labour exploitation), then the MS should issue a transitional permit of at least one year to allow that single permit holder to transit to alternative employment. Such a scheme already exists in some MS today.

Amendment 80

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

3. Member States shall ensure that services in charge of inspection of labour or other competent authorities and, where provided for under national law in respect of national workers, organisations representing workers' interests have access to the workplace.

Amendment

3. Member States shall ensure that services in charge of inspection of labour or other competent authorities and - where provided for under national law in respect of national workers - organisations representing workers' interests have access to the workplace. ***With the agreement of the third-country worker, and where this is relevant, that access shall include access to the third-country worker's accommodation.***

Or. en

Justification

Where the employer provides accommodation for the third country national, it is important that the labour inspectorates or relevant competent authorities, and workers' organisations have access to the accommodation for monitoring and inspection.

Amendment 81

**Proposal for a directive
Article 14 – paragraph 1 – introductory part**

Text proposed by the Commission

Amendment

1. Member States shall ensure that there are effective mechanisms through which third-country workers may lodge complaints against their employers:

1. Member States shall ensure that there are *timely and* effective mechanisms through which third-country workers may lodge complaints against their employers:

Or. en

Amendment 82

Proposal for a directive Article 14 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) directly; *or*

(a) directly;

Or. en

Justification

These provisions are cumulative and not alternative. The third option is open to third-country workers where it is open to national workers in the same situation.

Amendment 83

Proposal for a directive Article 14 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) through third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive; *or*

(b) through third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive; *and*

Or. en

Amendment 84

Proposal for a directive Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) through a competent authority of the Member State **when** provided for **by** national law.

Amendment

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

Or. en

Justification

Repeating the language of Article 13(3).

Amendment 85

**Proposal for a directive
Article 14 – paragraph 2**

Text proposed by the Commission

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 **approval**, in any judicial and/or administrative procedures aimed at enforcing **compliance with** this Directive.

Amendment

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**, in any judicial and/or administrative procedures aimed at enforcing **the rights granted to the third-country worker pursuant to** this Directive.

Or. en

Justification

Linguistic change

Amendment 86

**Proposal for a directive
Article 14 – paragraph 3 – introductory part**

Text proposed by the Commission

3. Member States shall ensure that third-country workers have the same access as nationals of the Member State where

Amendment

3. Member States shall ensure that third-country workers, **including those whose employment contract or employment relationship has come to an**

they reside with regard to:

end, have the same access as nationals of the Member State where they reside with regard to:

Or. en

Justification

The fact that the third-country worker might no longer work for an employer should not preclude her from bringing a complaint against that employer.

Amendment 87

**Proposal for a directive
Article 14 – paragraph 3 – point a**

Text proposed by the Commission

(a) measures protecting against dismissal **or other** adverse treatment by the employer **as a reaction to** a complaint **within the undertaking; or to**

Amendment

(a) measures protecting against dismissal, adverse treatment by the employer **or other adverse consequences as a result of** a complaint **or process seeking to enforce the rights granted pursuant to this Directive;**

Or. en

Justification

Linguistic changes seeking to clarify the language used and the impact of the measures and procedures referred to.

Amendment 88

**Proposal for a directive
Article 14 – paragraph 3 – point b**

Text proposed by the Commission

(b) any judicial **and/or** administrative procedure **aimed at enforcing compliance with** this Directive.

Amendment

(b) any judicial **or** administrative procedure, **including dispute resolution mediation, that seek to enforce the rights granted pursuant to** this Directive;

Or. en

Justification

Dispute resolution mediation should be open to third-country workers as it is to national workers.

Amendment 89

Proposal for a directive

Article 14 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Third country workers should be entitled to seek legal assistance in the same way as national workers.

Amendment 90

Proposal for a directive

Article 16– introductory part

Text proposed by the Commission

Amendment

Each Member State shall make easily accessible to the general public a regularly updated set of information:

Each Member State shall make easily accessible to the general public, **including in relevant third countries**, a regularly updated set of information:

Or. en

Justification

It is important that information campaigns target potential single permit applicants and is not addressed solely to the national general public.

Amendment 91

Proposal for a directive

Article 16 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Following the language of Article 1(1)(a).

Amendment 92

Proposal for a directive

Article 16 – paragraph 1 – point b

Text proposed by the Commission

(b) on all the documentary evidence needed for ***the*** application;

Amendment

(b) on all the documentary evidence needed for ***an*** application;

Or. en

Amendment 93

Proposal for a directive

Article 16 – paragraph 1 – point c

Text proposed by the Commission

(c) on entry and residence conditions, including the rights, obligations and procedural safeguards, of the third-country nationals falling under the scope of this Directive.

Amendment

(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.

Or. en

Justification

It is also important that information given to the general public, including potential

applicants, includes information on the rights of family members.

Amendment 94

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

2. Annually, and for the first time no later than [], Member States shall communicate to the Commission (Eurostat) statistics on the volumes of third-country nationals who have been granted a single permit during the previous calendar year, in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council⁵⁵. Those statistics shall relate to reference periods of one calendar year, be disaggregated by type of decision, reason, length of validity and citizenship and be transmitted within six months after the end of the reference period.

⁵⁵ 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).

Amendment

2. Annually, and for the first time no later than [], Member States shall communicate to the Commission (Eurostat) statistics on the volumes of third-country nationals who have ***applied for a single permit, those who have*** been granted a single permit, ***those whose single permit has been renewed or withdrawn, and any transitional single permits issued***, during the previous calendar year, in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council⁵⁵. Those statistics shall relate to reference periods of one calendar year, be disaggregated by type of decision, reason, length of validity and citizenship and be transmitted within six months after the end of the reference period.

⁵⁵ 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).

Or. en

Justification

It is important to have detailed statistics on single permit applications, those granted, those withdrawn or renewed and on any transitional permits granted to allow for a proper analysis of the effectiveness of this Directive.

EXPLANATORY STATEMENT

INTRODUCTION TO THE EXPLANATORY STATEMENT

The Directive 2011/98/EU on a single application procedure for a Single Permit is an important instrument to regulate legal migration. Legal migration is the best instrument to combat irregular immigration and, therefore, it is positive and necessary. Demographic trends clearly show that the European Union's population is shrinking and aging rapidly. This phenomenon is creating across our societies an increasing difficulty in finding workers in different sectors of activity and employment. The Covid pandemic has only made this trend more evident. Many employment sectors depend on the presence and availability of migrant workers and this dependence is particularly noticeable in frontline services.

At the same time, millions of people around the world are trying to build a better future for themselves and their families by migrating to other countries, and contributing with their talents and work to the development and prosperity of the societies in which they have chosen to live. Only few of them - one on five - arrive in Europe.

Unfortunately, Member States have not been able to build at EU level a coherent labour migration policy that facilitates the arrival of migrant workers and their full integration into our societies. Therefore, the result is a patchwork of different tools specific to different types of workers - the Blue Card Directive, the Seasonal Workers Directive, the Intra-Corporate Transfer Directive, the Single Permit Directive, the Students and Researchers Directive and the Long-Term Residents Directive. This renders the system as a whole unintelligible.

As pointed out by the Commission, in its Communication "Attracting skills and talent to the EU", the European Union must be able to provide more opportunities for legal migration and mobility to the EU. Our economies need to attract new low and medium skilled third-country national workers, with a common harmonized European framework matching people, skills and labour market needs. Such migration is not only a way of addressing the drive of the many thousands of people who seek a better and more prosperous life, who want to contribute with their talent to the well-being of our societies and who cannot find legal ways to reach Europe. It is also a way of addressing the needs of our economies and our companies that have an interest in having skilled workers and in finding solutions to the shortage of workers on the labour market.

This is why, as indicated several times by the European Parliament, and recently with the initiative reports on "New avenues for labour legal migration", it is important to proceed rapidly with a review and harmonization of the existing legislative instruments, as we have done with the revision of the Blue Card Directive.

DETAILED PROVISIONS OF THE EXPLANATORY STATEMENT

The Rapporteur's main objective is to make the procedure for obtaining a single permit as simple and quick as possible, so that it can become a useful tool for third-country nationals seeking to come to the EU to work, and for our EU companies, big and small, to find the workers they need. It should allow for a swift response to the needs of the labour market and help strengthen legal channels for arriving in Europe for the purpose of work. An improved framework for managing low and medium skilled migration for employment purposes should have a positive impact on economic growth and, specifically, in filling labour shortages, by

creating a greater pool of labour to meet labour market needs.

Secondly, it is essential to provide third-country workers equal treatment with other workers, guaranteeing them and their families social rights that protect them from labour exploitation, while at the same time facilitating their full integration into our societies. The introduction of measures to fight labour exploitation of third-country workers, as well as the reinforcement of their rights should improve the social status of third-country workers as valued members of our societies, therefore contributing to their integration and social inclusion. A fairer treatment of third-country workers in the workplace should also have a positive impact on national workers, as it should help combat the risk of 'social dumping'.

The Commission's proposal, while representing a good starting point, must be improved. We need to be more ambitious. In the 21st century, it is not credible that we cannot process an application for a single permit within 90 days. This period should be a maximum, in line with the time limits provided for in other directives. This time limit must include all the steps of the process, including the issuance of the visa, as already proposed by the Commission, but also any other verification of the situation of the labour market and, where necessary, of the skills of the worker. Simpler and faster procedures lead to time and cost savings for national administrations and employers, and provide increased legal certainty for third-country nationals seeking to come to Europe to work.

The costs of obtaining the single permit must be reduced to the minimum necessary, to prevent costs from representing a drawback for workers and employers.

It is also important to empower third-country national workers, by treating them as rights bearers and thus by providing them with the possibility to change employer, making this procedure simpler and faster. Such a possibility will mean that the third-country worker will be less dependent on a single employer and this should greatly reduce the risks of exploitation and abuse.

Moreover, in the event of loss of employment, the worker must be entitled to remain on the territory for a long enough period of time so that he/she can find a new job and thus continue to benefit from the right to stay in the Member State. In this respect, the Commission's proposal does not adequately reflect the dynamics of the labour market and exposes the worker to a permanently precarious working life, and exposes the labour market to unnecessary churn and the loss on the investment made in his/her professional development.

The rights and guarantees of equal treatment, provided for in the Directive, must be as close as possible to the conditions granted to national or EU workers without limitations and exceptions, in order to make those rights and guarantees effective. The Rapporteur's aim is to grant all third-country workers improved equal treatment and opportunities, in all main areas of life: work, education and training, social protection, access to goods and services, including housing, and increased protection from potentially severe abuses and exploitation, to allow them to maximise their contribution to our societies while maximising their opportunities in life.

Finally, in order to reinforce and promote the Single Permit scheme, it is important that Member States and the Commission will strengthen advertisement activities and information campaigns concerning the Single Permit, in particular towards third countries.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 8 November 2022

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a 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)
COM2022(0655) of 8.11.2022 – 2022/0131(COD)**