

COUNCIL

COUNCIL RECOMMENDATION

of 12 October 2005

to facilitate the admission of third-country nationals to carry out scientific research in the European Community

(2005/762/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Whereas:

(1) With a view to consolidating and giving structure to European research policy, the Commission considered it necessary in January 2000 to establish the European Research Area as the lynchpin of the Community's future action in this field.

⁽¹⁾ Opinion of 12 April 2005 (not yet published in the Official Journal).

⁽²⁾ OJ C 120, 20.5.2005, p. 60.

⁽³⁾ OJ C 71, 22.3.2005, p. 6.

(2) Endorsing the European Research Area, the Lisbon European Council in March 2000 set the Community the objective of becoming the most competitive and dynamic knowledge-based economy in the world by the year 2010.

(3) The globalisation of the economy calls for greater mobility of researchers, something which was recognised by the sixth framework programme of the European Community ⁽⁴⁾ when it opened up its programmes further to researchers from outside the European Union.

(4) The number of researchers which the Community will need by 2010 if it is to meet the target set by the Barcelona European Council in March 2002 of investing 3 % of GDP in research is estimated at 700 000. This target is to be met through a series of interlocking measures, such as making scientific careers more attractive to young people, promoting women's involvement in scientific research, extending the opportunities for training and mobility in research, improving career prospects for researchers in the Community and opening up the Community to third-country nationals who might be admitted for the purposes of research.

⁽⁴⁾ Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006) (OJ L 232, 29.8.2002, p. 1). Decision as amended by Decision No 786/2004/EC (OJ L 138, 30.4.2004, p. 7).

- (5) Pending the implementation of Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research ⁽¹⁾, this recommendation calls on Member States to facilitate the admission of such individuals already.
- (6) Because of the shortage of researchers in the Community and the need to facilitate their admission, steps should be taken to promote access to research posts in the labour market, for example by waiving work permit requirements.
- (7) In order to be competitive and attractive at international level, Member States should simplify and speed up their procedures for issuing and renewing visas and residence permits for researchers.
- (8) Implementation of this recommendation should not encourage a brain drain from emerging economies or developing countries. Back-up measures aimed at encouraging the integration of researchers in their countries of origin and promoting mobility among researchers should therefore be taken in these cases, as part of the partnership with the countries of origin with a view to establishing a comprehensive migration policy. In this context, Member States should endeavour to establish a balance between the reception of researchers from third countries and the appraisal of the needs of their country of origin in the field of research. In doing so, they should take into account also the personal situation of the researchers, in particular where the person concerned has a contractual relationship with a research organisation in his/her country of origin.
- (9) Because matters relating to family reunification are a crucial factor in researchers' decisions to choose the Community as the location for their research, Member States should facilitate the reunification of the researchers' family members, for example with respect to access to the labour market and the possibility for family members to apply when they are legally present on the territory of the Member State concerned.
- (10) In determining the duration of the residence permit to be issued to the family members, Member States should take into account whether the person concerned should complete his/her schooling needs or not.
- (11) The exchange of information and best practice should be encouraged in order to improve admission procedures for researchers. This recommendation also identifies contacts between the competent authorities and networking as factors contributing to improvement. In particular, the 'Pan-European Researchers Mobility Web Portal' and the equivalent national tools constitute an important source of information for researchers.
- (12) According to the 2003 Act of Accession, the then Member States are, during any period when national measures or those resulting from bilateral agreements are applied, to give preference to workers who are nationals of the Member States over workers who are nationals of third countries as regards access to the labour market.
- (13) Czech, Cypriot, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovakian and Slovenian migrant workers and their families legally resident and working in another Member State or migrant workers from other Member States and their families legally resident and working in the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia shall not be treated in a more restrictive way than those from third countries resident and working in that Member State or the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia respectively.
- (14) This recommendation respects fundamental rights and complies with the principles laid down, in particular, in the Charter of Fundamental Rights of the European Union.
- (15) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community and without prejudice to Article 4 of the said Protocol, Ireland is not taking part in the adoption of this recommendation and the provisions thereof do not apply to it.
- (16) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community and without prejudice to Article 4 of the said Protocol, the United Kingdom is not taking part in the adoption of this recommendation and the provisions thereof do not apply to it.

⁽¹⁾ See page 15 of this Official Journal.

(17) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark does not take part in the adoption of this recommendation and the provisions thereof do not apply to it,

HEREBY RECOMMENDS MEMBER STATES:

1. in the area of admission for the purpose of carrying out research:
 - (a) to encourage the admission of researchers into the Community, by providing them with favourable conditions for carrying out research, preferably by exempting them from work permit requirements, or alternatively by providing for work permits to be issued automatically or under fast-track procedures;
 - (b) to refrain from using quotas to restrict the admission of third-country nationals for research posts;
 - (c) to guarantee third-country nationals the possibility of working as a researcher, including the possibility of extension or renewal of work permits where appropriate;
2. in the area of residence permits:
 - (a) to issue residence permits in response to applications from third-country nationals for purposes of research as soon as possible, and facilitate fast-track procedures;

- (b) to guarantee third-country nationals working as researchers that their residence permits will be renewed;
 - (c) gradually to involve the research organisations in the admission procedure for researchers;
3. in the area of family reunification, to facilitate and support the reunification of family members, by providing them with favourable and attractive conditions and procedures;
 4. in the area of operational cooperation:
 - (a) to facilitate access of researchers to the relevant information and promote its availability on all the relevant information sources;
 - (b) to promote contact persons networks within the competent administrations;
 - (c) to encourage research organisations to develop such networks;
 - (d) to inform the Commission of the measures they have adopted in order to facilitate the admission of researchers from third countries.

Done at Luxembourg, 12 October 2005.

For the Council
The President
C. CLARKE
