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IMPACT ASSESSMENT

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council

on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training , voluntary service and au pairing

Recasting and amending Directives 2004/114/EC and 2005/71/EC

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1 INTRODUCTION AND BACKGROUND

This report assesses the impact of options to reform the EU framework regulating the access and rights of researchers, students, school pupils, volunteers, unremunerated and remunerated trainees and au pairs into the EU. It accompanies the Commission proposal for a recast of Directives 2004/114/EC of 13 December 2004 and 2005/71/EC¹ of 12 October 2005² which constitute the legal basis for the EU policy for researchers, students, school pupils, volunteers and unremunerated trainees.

Policy context

The EU is tasked by the Treaty with developing a common immigration policy³. According to the competences conferred by the Treaty, over the years a number of Directives have been adopted which regulate the admission and rights of different categories of third-country nationals⁴ into the EU. Further to the amendments introduced by the Treaty of Lisbon⁵, EU legislation may cover the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits as well as definition of rights of third country nationals residing legally in a Member State, including conditions governing freedom of movement and residence in other Member States. The legislation falls under the ordinary legislative procedure.

Having a coordinated and transparent legislative framework makes the EU more accessible and attractive and, at the same time, seeks to ensure fair treatment of third country nationals and guarantee certain rights, including those resulting from the Charter of Fundamental Rights of the European Union.

¹ Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375 of 23.12.2004, p. 12, hereinafter: the Students Directive.

² Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289 of 3.11.2005, p. 15, hereinafter: the Researchers Directive.

³ The competences in the area of Freedom, Security and Justice are shared with the Member States, Articles 4 and 79 (Chapter V) of the Treaty on the Functioning of the European Union, OJ C 83 of 30.3.2010.

⁴ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16 of 23.1.2004, p. 44; Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251 of 03.10.2003, Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155 of 18.6.2009, p. 17; 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 of 23.12.2011.

⁵ OJ C 306 of 17.12.2007. The Lisbon Treaty entered into force on 1 December 2009 and amended two core Treaties. For consolidated version see: OJ C 83 of 30.3.2010, <http://eur-lex.europa.eu/en/treaties/index.htm>

The **Students Directive** sets out the conditions for admission of third-country nationals to the territory of the Member States for the purposes of studies, pupil exchange, unremunerated training or voluntary service for stays exceeding three months⁶. Once the applicants have met the relevant conditions, they are entitled to a residence permit, and the Directive calls for timely issuance of a visa⁷ in order to allow initial entry into the territory of a Member State.

The Directive entitles students, under certain conditions, to move within the EU in order to follow or complement their studies in another Member State, the so-called intra-EU mobility, coupled by the Member States' obligation imposed by the Directive to facilitate intra-EU mobility, and to be employed in the host EU State or to exercise self-employed activity.

The right to intra-EU mobility is not available to all third country national students but depends, amongst other conditions, on a student's participation in a Union or bilateral exchange programme, or on them having been allowed entry to an EU State as a student for not less than two years. This right is particularly relevant for the effective implementation of the Union's mobility programmes such as Erasmus Mundus.

The **Researchers Directive** provides for a fast track procedure for the admission of non-EU researchers for stays of more than three months if they have a "hosting agreement" with a research organisation. When a researcher receives a residence permit, it automatically grants the right to work. Moreover, immediate family reunification is allowed. Once such a permit is granted, the researcher is also free to travel between most Schengen countries and Ireland (the Directive does not apply to the United Kingdom and Denmark) for up to three months in order to carry out the research project.

In 2011 the Commission presented implementation reports on both Directives which in combination with other evidence in the form of reports, queries or complaints showed that in order to reap the benefits that well-managed migration can bring, the EU needs to adapt its migration policy framework. On this basis, the Commission announced its plan to amend both Directives to facilitate the admission of the groups of migrants concerned and to increase the EU's attractiveness as a place of destination for study and research as well as other cultural and social exchanges. This is in line with a range of policy initiatives and operational measures the Commission has already presented on migration, mobility, integration and international protection in its Communications of 4 and 24 May 2011⁸ and which were fully endorsed by the European Council in June 2011.

The importance of the legislative framework for the groups concerned is not confined to immigration policy. The link between migration policy and promoting competitiveness and growth has been identified as one of the areas in which further action is needed⁹. Attracting

⁶ Ireland and the UK, in line with Protocol 21 to TFEU, are not bound by the Students Directive as they did not exercise the possibility to "opt-in" into the adoption and application of this measure Directive (cf. Article 3 of the Protocol 21). This is different for the Researchers Directive, as Ireland notified its wish to "opt-in". None Directives apply to Denmark, as according to the Protocol 22 to the Treaty (TFEU), Denmark does not take part in the adoption of the measures in the field of migration (Title V of the Treaty), the so-called "opt-out".

⁷ Unless it is explicitly specified, a reference to a "visa" throughout this document is typically meant to cover: "long-term visas". The existing EU rules applicable to short-stay visas remain unaffected.

⁸ Communication from the Commission: "Communication on migration", 4.5.2011, COM(2011) 248 final and Communication from the Commission: "A dialogue for migration, mobility and security with the southern Mediterranean Countries", 24.5.2011, COM(2011) 292.

⁹ Communication from the Commission, An Agenda for New Skills and Jobs; 'The potential of (...) third-country migrant inflows is not fully utilised and insufficiently targeted to meet labour market needs, despite the substantial contribution of migrants to employment and growth.' COM(2010) 682 final, 23.11.2010.

the best minds to the EU for research and innovation has also been singled out as a priority in the Innovation Union flagship initiative which raises the need for one million new research jobs¹⁰. The initiative will also be an important element supporting some of the objectives of EHEA and the underlying Bologna Process¹¹, as well as the European Research Area and EU-funded programmes on mobility of third country nationals into and within the EU.

Any legislative proposal in the field of migration should also be seen in the wider context of the EU's external migration policy and its dialogue and cooperation with third countries in this area, as defined by the renewed EU Global Approach to Migration and Mobility (GAMM)¹². One particular issue in this context is the need for the EU to reconcile its interests and objectives in promoting inward researchers' and students mobility with its confirmed commitment to assist affected developing countries addressing brain drain challenges in critical sectors.

Fostering people-to-people contacts and engagement in the area of education are important elements of the EU external migration policy across the globe, and notably vis-à-vis countries in the EU's neighbourhood and its strategic partners. The developments in the Southern Mediterranean in the past months in particular confirm the importance of developing more and stronger people-to-people contacts and possibilities for exchanges especially for the younger generations.

Any legal instrument resulting from this exercise would contain a general clause reminding that its implementation should be in line with the rights stemming from the charter on fundamental rights, such as for instance the right to family life¹³, the right to work or the right to an effective legal remedy. Any future instrument must take fully into account that migration instruments can be abused, with safeguards in place at both national and EU level to prevent this from happening.

2 PROCEDURAL ISSUES

2.1. Organisation and timing

The 'admission of third country nationals for the purposes of scientific research, studies, pupil exchange, unremunerated training or voluntary service' is included as a legislative initiative in the Commission's 2012 Work Programme¹⁴. The lead DG for this initiative is HOME.

Chronology of the impact assessment:

- 2008 - 2009: Data gathering on third-country national remunerated trainees¹⁵ with a view to amending the Students Directive and including remunerated trainees in its

¹⁰ Communication from the European Commission: A Reinforced European Research Area Partnership for Excellence and Growth COM(2012) 392 final

¹¹ <http://www.ehea.info/article-details.aspx?ArticleId=3>

¹² Communication from the European Commission: "The Global Approach to Migration and Mobility", Brussels, 18.11.2011, COM(2011) 743 final.

¹³ In particular, the European Court of Human Rights held that the mere fact that a person did not have permanent residence in the country was not in itself a sufficient reason not to grant family related benefits to this person, *Niedzwiecki v. Germany*, 58453/00, European Court of Human Rights, 25 October 2005.

¹⁴ Commission Work Programme (CLWG) 2012 (15.11.2011, COM(2011) 777 final; initiative nr. 67).

¹⁵ Including an external study commissioned by the European Commission and carried out by Ernst & Young on amongst others, remunerated trainees.

scope. It was decided to postpone the presentation of the modification of the Directive until the report on the implementation of the Students Directive has been carried out.

- 2009 - 2011: Data gathering on third country au pairs¹⁶ with a view to amending the Students Directive and including au pairs in its scope. It was decided to postpone the presentation of the modification of the Directive until the reports on the implementation of the Students Directive has been carried out.
- 2010 – 2011: External studies on the implementation of the Students and Researchers Directives¹⁷. The reports primarily give an overview of how the Directives have been transposed and implemented by the Member States, identify possible problematic issues and potential areas for improvement.
- Throughout 2011: Drafting of the implementation reports for the Students and Researchers Directives, verifying the information with the Member States; adoption of the reports at the end of 2011¹⁸.
- Throughout 2011 and 2012: Consultation and exchange of views with relevant stakeholders; including research, student, youth and research organisations and structures.
- End 2011 and beginning 2012: Discussions with Member States in the context of the Commission's Committee on Immigration and Asylum (hereinafter “CIA”); survey of Member States views on a possible revision of the Directives.
- 25 May and 18 July 2012: Meetings of the Impact Assessment Steering Group.
- 1 June 2012 launch of on-line public consultation¹⁹.

2.2. Consultation and expertise

This Impact Assessment is based on a number of studies and existing literature, reports and consultations. The implementation reports on Directives 2004/114 and 2005/71 as well as the assessments they are based on inform key parts of this impact assessment, most notably the problem definition, but also the development of options. The Commission has consulted Member States and interested groups as well as individuals to help identify problems, develop options for possible future action, and review subsidiarity. The Commission's standards for consultation were met.

Implementation reports: In 2011, the Commission presented implementation reports on the Students Directive 2004/114 and the Researchers Directive 2005/71. Both reports were based on the work carried out by external contactors. In the case of the Students Directive, this concerned predominantly the legal implementation of the Directive's provisions by Member States and identification of possible areas of improvement of the Directive. For the

¹⁶ Including through EMN Ad-Hoc query and a study by GHK commissioned by the European Commission (JLS/2009/EVAL/FW/0002/A1).

¹⁷ For the Students Directive, external study commissioned by the European Commission and carried out by GHK (Contract JLS/2009/EVAL/FW/0002/A1). For the Researchers Directive, external study commissioned by the European Commission and carried out by ICMPD.

¹⁸ COM(2011)587 of 28 September 2011 and COM(2011)901 of 20 December 2011.

¹⁹ <http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=Immigration2012>

Researchers Directive, the study also looked at empirical evidence of the effect that the Directive has had. This included surveys of third-country nationals who had come to the EU under the provisions of the Directive, research organizations located in the EU, as well as Member States' national authorities (both from the area of immigration as well as education/research).

Consultation of Member States: Discussions with the Member States took place within the framework of Committee on Immigration and Asylum (CIA) meetings. First, on the findings of the implementation reports and, secondly, in the context of the preparation of this initiative, where, in addition, Member States submitted their written contributions in response to questions circulated before the CIA meeting. This consultation focused on existing problems, approaches currently taken by Member States, possible options and the need for EU intervention.

Consultation of relevant stakeholders²⁰: Consultation of relevant stakeholders included workshops organized by the European Audiovisual Culture Education Agency (EACEA) with the Erasmus Mundus community on visa and on Erasmus Mundus Joint Doctorates, workshops and discussions with National Platforms of youth exchange organisations (including school pupil and volunteering organisations), and a workshop on the views of the research Community in a meeting of the EURAXESS bridgehead organizations²¹.

European Migration Network (EMN): Several workshops were organized by the European Migration Network (EMN) on international students' mobility, EMN Ad-hoc queries²² as well as a large-scale study on: "Immigration of International Students to the EU".²³ The 2012 annual conference of the EMN focused on the 'Immigration of International Students to the EU'.

Online public consultation (referred to in the text also as 'the survey' or 'questionnaire') and additional contributions from interested parties: this survey was launched on 1 June through IPM²⁴ and 1461 replies were received. A statistical overview of the key results of the survey is available in Annex I. Both individuals as well as institutional stakeholders have taken an opportunity to provide their views (including Member States' authorities, educational establishments and research institutions). The survey was open to replies from both within and outside of the EU. Although the assumption could be made that given that the issue at stake, the majority of responses would come from outside of the EU, this proved not to be the case. Out of 1461 responses received, 883 came from within the EU, around 60%. The active participation of stakeholders from within the EU is particularly striking in the case of educational establishments and research institutions. Overall 247 educational establishments

²⁰ Stakeholders were consulted on the current legislative framework, in particular on problems affecting the admission and mobility of third country nationals concerned, on the potential scope for improvements as well as on the possible amendments of the Directive.

²¹ EURAXESS bridgehead organizations coordinate the work of around 200 service centres for mobile researchers across the EU as well as other European countries.

²² <http://emn.intrasoft-intl.com/> See under: EMN Outputs / EMN Ad-Hoc Queries / Students.

²³ The EMN Steering Board chose the topic Immigration of International Students to the EU as the Main Study for the Work Programme 2012. The aim of the study is to provide an overview of the immigration policies implemented by the EU Member States and Norway regarding international students, with a view to assisting policy-makers and practitioners to achieve a balance between actively attracting international students into the EU for the purposes of study, and preventing the misuse of international student routes to migration. The full results of the Study will be available in the second half of 2012.

²⁴ <http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=Immigration2012>. The consultation closed on 23 August.

and research institutions provided answers to the survey, and 191 (close to 80%) are based in the EU. Importantly, regarding the results of the survey, the analysis shows that there is no geographical bias between responses coming from within or outside of the EU. To take the example of the significant number of EU-based education and research institutions, they were equally strongly arguing for the need to further facilitate the admission conditions and rights of the groups concerned by this initiative as those whose answers were given from outside of the EU.

Finally, the results of the public consultation of the European Research area framework Communication²⁵ that are relevant to this exercise as well as the results of the Erasmus Mundus Visa Survey of Erasmus Mundus Alumni and students carried out by the Erasmus Mundus Students and Alumni Association (EMA)²⁶ on the request of the European Audiovisual, Education and Culture Agency (EACEA) also have been taken into account.

Inter-service Steering Group: DG HOME set up a Steering Group of relevant Commission Services to support and monitor the work on the IA, inviting 18 DGs and Services, EEAS as well as the EU's Education Agency (EACEA). The first meeting of the group took place on 25 May²⁷. The second meeting took place on 18 July²⁸ on the basis of a draft IA report. Overall, the approach and analysis were welcomed. Additional inputs submitted during and after the meeting by the members of the Group are reflected in this IA.

2.3. Scrutiny by the Commission Impact Assessment Board

The Impact Assessment Board of the European Commission assessed a draft version of the present impact assessment and issued a first opinion on 07.09.2012. In light of the Board's recommendations, the impact assessment report was reviewed and resubmitted on 25.09.2012. The Board issued a second opinion on 24.10.2012, stating that while the report had been improved to some extent, the evidence presented in terms of a need for, and proportionality of, further harmonisation of national immigration rules remained to be further strengthened. The opinion asked for concrete evidence that would duly reflect the existing diversity of national immigration rules, and required more precise information on the design of individual measures. It requested that impacts on Member States be assessed in more detail, and stakeholders' views presented throughout the report. In light of the Board's recommendations, the impact assessment was reviewed and a revised version was resubmitted on 19.11.2012. On 30.11.2012, the Board issued a third opinion, stating that while the report had improved along the lines of their second opinion, the report had not provided evidence demonstrating that Member States cannot adequately protect au pairs themselves or facilitate the access of third-country nationals to their labour markets. The Board recommended further demonstration of the size of the identified problems and their cross-border effects. The opinion also suggested to provide a better assessment of the proportionality of measures against divergent national immigration rules. It also asked that the views of stakeholders with reserved or negative opinion be presented and analysed in greater depth. The present version of the impact assessment reflects the recommendations by the Board where the availability of information allowed to do so. In particular, it has further elaborated on the problem definition including cross-border issues such as intra-EU mobility, it has further fine-tuned the analysis

²⁵ http://ec.europa.eu/research/consultations/era/consultation_en.htm

²⁶ http://eacea.ec.europa.eu/erasmus_mundus/events/visas-students/ema_visa_survey_16112011.pdf

²⁷ DGs present: EAC, COMM, RTD, SG, JUST, ECFIN, ENTR and EACEA.

²⁸ DGs present: EAC, RTD, SG, JUST, ECHO as well as EACEA and EEAS.

regarding job-seeking and labour market access related issues, and added more information on proportionality. It has further differentiated the assessment of impacts, and presented in greater detail the positions of the stakeholders.

3 PROBLEM DEFINITION

3.1. General problems

3.1.1. Problems with the current rules

Significant weaknesses have been identified in the Researchers and Students²⁹ Directives covering third-country national students, researchers, but also school pupils, trainees and volunteers. These concern key issues such as admission procedures including visas, rights (such as equal treatment with own nationals) and procedural safeguards. Current rules are insufficiently clear or binding, not always fully coherent with existing EU funding programmes, and sometimes fail to address the practical difficulties that applicants face. When combined, these problems put into question whether third-country nationals consistently receive fair treatment under the existing instruments.

These problems have been identified mainly through the implementation reports of the two Directives. They were also raised consistently in the public consultation, both by individuals as well as by public authorities, universities and research institutions from outside as well as from within the EU. There are no substantial differences in the views given by those from outside of the EU compared with those given from within the EU. The relevance and seriousness of the problems have also been confirmed by the questions raised in the framework of Contact Committee meetings on the Directives. As regards school pupils, volunteers and unremunerated trainees, subject to optional rules in the Students Directive, the picture of the situation in the EU is fragmented. Ten Member States (CY, CZ, EE, ES, IT, LU, PT, RO, SK and SI) apply the rules for all three groups, whereas five Member States (BG, EL, FR, HU and LV) apply the rules to one or two of the three optional groups³⁰. The other Member States have their own national rules which differ from the EU framework increasing further the degree of disparity. Sending youth organizations have indicated that the complexity of visa application procedures was a big obstacle for their work as well as for the concerned third-country nationals themselves, due to the amounts of documents needed and the diversity of different regulations per hosting EU country. The lack of consistency in provisions on visas and residence permits between countries exacerbates the process even more. Additional country-specific regulations on both visa and residence permit applications mean that there is no common procedure for school pupils going to the EU which creates a need for additional organisational efforts.

Not only do the problems concern key parts of the Directives and are of serious nature, but they also concern a large number of people - around 220,000 first residence permits were issued in 2010 to non-EU nationals coming to the EU for education and study purposes, the

²⁹ Provisions on school pupils, volunteers and unremunerated trainees are currently optional in the Students Directive. Less than half of the Member States apply the Directive to these groups; hence the analysis carried out in the Implementation Reports of the problems can only focus on these.

³⁰ Member States which have already transposed one or several of the optional groups of the students Directive: School pupils: BG, CY, CZ, EE, ES, IT, LU, LV, PT, RO, SI and SK; unremunerated trainees: BG, CY, CZ, EE, ES, FR, IT, LU, PT, RO, SI and SK; volunteers: CY, CZ, EE, EL, ES, HU, IT, LU, PT, RO, SI and SK.

large majority being university students, and around 7,000 for researchers. Although there is no comprehensive quantitative data on the precise number of incoming third-country nationals that encounter the above-mentioned problems, or who have been prevented to move ahead with their initial wish to come to the EU, it is clear that a considerable number of those who come under the current rules are affected as long as there are no national provisions that would remedy their deficiencies. Overall, despite the lack of quantitative data, and despite the fact that whereas some Member States receive substantial numbers of third-country nationals that belong to the groups concerned, others only have limited inflows (see Annex II for a full overview by Member State), the information available on the nature of the problems identified, coupled with the overall substantial number of permits issues on an annual basis under the students and researchers Directives suggests that the situation needs to be addressed.

In addition it should be noted that the optional approach applied in Directive 2004/114/EC for school pupils, volunteers and unremunerated trainees makes it difficult to give a comprehensive quantitative picture on these optional groups, however it is clear that significant variations can be observed between Member States. For researchers, France, the Netherlands, Spain and Sweden are the Member States that in absolute terms receive the largest numbers of third-country national researchers coming under the provisions of the Directive. For those third-country nationals coming to the EU for educational reasons, the size of the Member State plays an important role, with Germany, Spain, France and Italy issuing the largest numbers of permits.³¹

3.1.2 Issues related to groups not covered by the scope of the existing Students Directive

Remunerated trainees

There is currently no specific legislative framework dedicated to third-country remunerated trainees and there are high levels of variability between Member States in terms of admission criteria, type of 'remuneration', type of permit issued, levels of rights and maximum duration of stay. Currently 10 Member States apply the optional rules of Directive 2004/114/EC for unremunerated trainees, with some of them at the same time also covering also remunerated trainees. Other Member States have specific rules for remunerated trainees, whereas another group of Member States applies more general immigration rules related to economic migration. As a result there is little quantitative information on the number of third-country national trainees coming to the EU, or the share of those coming who are or would like to be mobile within the EU, and no quantitative information at all on the number of those who would like to come to the EU for a limited period of time but not being able to do so in the absence of a clear framework (in those countries where this is the case). Remunerated trainees face a number of challenges comparable to those met by unpaid trainees: training may sometimes constitute a disguised employment or fail to provide for a genuine development opportunity in absence of a proper traineeship agreement or supervision of work. Remunerated trainees are exposed to the risks of being used as supplementary and underpaid labour force. The existence of a fragmented approach between Member States can also make coming to the EU difficult, as both trainees and businesses would need to differentiate between the different frameworks applicable in different Member States. The lack of common rules at EU level also makes intra-EU mobility more difficult. Both third-country national trainees for whom intra-EU mobility forms part of the training experience, as well as their

³¹ For a more detailed breakdown of the numbers by Member State, please see Annex II.

host organizations, currently would need to organize the stay in a second Member State on the ground of national-level rules which differ between Member States.

Already in 2005, the Commission in its Action plan on legal migration³² foresaw a modification of the Students Directive to include remunerated trainees. However, in order to take into account the up-coming report on its implementation, it was decided to postpone the presentation of the modification of the Directive as the report could identify other shortcomings which would need to be addressed.

Given that the issues related to trainees are very similar whether they are remunerated or not, bringing the remunerated trainees into the scope of the EU framework would increase the coherence of approaches and consolidate the logic of the currently existing framework. In addition, allowing remunerated trainees to be mobile would increase the coherence with on-going EU-level initiatives, as the proposal for intra-corporate transferees³³ also foresees intra-EU mobility provisions for trainees that move within the framework of such a transfer.

Au pairs

Au pairs are an important immigrant group, with up to 45,000 au pairs estimated to come to the EU annually. However, they are not covered by any common EU rules on migration and conditions of admission or requirements of their stay. Twelve Member States have national immigration rules that take into account the specific characteristics of au-pairs, with the remaining Member States not foreseeing rules specific to this group, and often allowing au-pairs to enter under general or employment-related immigration rules. In cases where Member States have in place a specific legal framework for au-pairs, this typically covers a definition of the age-range of au-pairs, the duration of the maximum period of stay, as well as a description of the type of the work that is expected from them or which they are authorized to do. Some more specific conditions found in national legislations include the determination of the nationality or language of the host family, unmarried status of the au-pair, or a minimum number of years of schooling. In the remaining Member States there is no protective legal framework which clearly sets out au pairs' rights.

In parallel to the absence of specific legislation, many Member States also do not have statistics that would monitor the entry and stay of third-country national au-pairs. This makes it difficult to quantify in detail the number of third-country national au-pairs that come to the EU (hence the above estimate). It also explains the lack of systematic reporting tools on abuses. Scarcity of reports on abuse is also likely to be linked to au-pairs being of third-country origin and therefore in a vulnerable position, and to the fact that abuse by definition occurs in the private sphere, possibly with no obvious or easily accessible facility to issue complaints or report abuse. There is however (largely anecdotal) evidence on abuse. In Austria, there have been reports that the au-pair status is used to hide organized prostitution (2006 and 2010) whereas in Belgium abuse has been identified in the form of using au-pair to obtain cheap labour. In France abuses seem related mainly to excessive working hours or to abuses of the services to be rendered. In Italy, while abuse of au pair status is not reported to be a widespread phenomenon, organizations against trafficking and sexual exploitation have

³² Communication from the Commission: Policy Plan on Legal Migration, 21.12.2005, COM(2005) 669 final.

³³ Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (COM(2010) 378 final)

sometimes denounced the existence of fake job posts on au pair vacancies. In the Netherlands a study is on-going on the possible improper use/misuse of the au pair policy³⁴.

3.1.3. Wider considerations

EU attractiveness and competitiveness

The problems identified above, in particular when faced by students, researchers and trainees, can pose a risk to the attractiveness of the EU as a destination for (highly)-skilled migration. While the attractiveness as a whole of any region or country for third country national students and researchers is to a large extent determined by the quality of education and research systems, migration policy, through procedures on visas and residence permits, plays an important role in facilitating and enabling the access and residence of non-EU students and researchers. Past experiences from other countries clearly show that the way immigration policies are designed matters in a country's capacity to attract certain groups of migrants. For example after Canada decided to extend its post-graduation work program from one to two years for students working in fields related to their degrees, foreign student enrolment increased by 17% between 2002-2003 and 2003-2004³⁵. And while students, researchers and trainees are not labour migrants in the sense of those coming with, for example, the EU Blue Card, they are nevertheless increasingly sought after. The current EU rules do not foresee any possibility for third-country national students and researchers to remain in the EU after graduation/having finished a research project in order to identify work opportunities³⁶, and whether or not they are allowed to stay is subject to national rules. For the US, having a large pool of international students in combination with an employer-driven selection system has proved an effective mechanism for identifying the most appropriate workers across the skill spectrum³⁷. Regarding remunerated trainees, there is an uncertain or even declining trend in foreign trainees coming to the EU, compared to countries like Japan, Australia and the US, which have a much larger, steady or growing inflow of this group of third-country nationals.

There is strong evidence that the European economy depends more than ever before on the skills of its workforce, and that this is a trend that is likely to continue. The further development of knowledge-intensive services, high tech manufacturing, or the "green jobs" that underpin Europe's future competitiveness requires Europe as a whole to "up its game" in terms of skills development. The forecasts tell that, by 2020, 35% of all jobs in the EU will require high-level qualifications³⁸. While past decades have seen significant increases in the educational attainment and skills level of the labour force in the European Union³⁹, further increases in the educational attainment levels of young workers are getting increasingly difficult to achieve.

³⁴ Commissioned by the Ministry of Immigration, Integration and Asylum.

³⁵ Migration Policy Institute 2005; The public consultation found that the existence of more consistent rules across the EU would increase Europe's competitiveness in comparison to other countries seeking to attract students and researchers.

³⁶ Sachverständigenrat deutscher Stiftungen für Integration und Migration 2012; 6,239 students at 25 universities in Germany, France, Sweden, the Netherlands and the UK took part in an online survey. While two-thirds of the respondents would like to remain in the country of study after graduation, only about one-quarter in Germany, the Netherlands and the UK and one-third in France do stay on.

³⁷ Migration Policy Institute (2011): The role of immigration in fostering competitiveness in the United States

³⁸ CEDEFOP (2010) Skills supply and demand in Europe: Medium-term forecast up to 2020.

³⁹ Driven largely by the fact that new entrants to the labour market had significantly higher levels of educational attainment than the retirees.

At the same time, recent years have seen an intensified international competition for mobile students and staff, coinciding with the development of higher education systems in emerging economies. Awareness of mounting international competition in higher education and research has grown among European governments and universities⁴⁰. In November 2011, the Council stated that 'Attracting the best students, academics and researchers from outside the EU (...) are key conditions for making the European Higher Education Area and European Research Area attractive destinations in the global race for knowledge and talent.'⁴¹

Out of the 3.7 million international students worldwide⁴², 1.2 million are studying in the EU-27⁴³. Compared to the overall student population in the EU, the share of third-country national students has decreased in recent years and stands at slightly above 5%, whereas international students make up 10% or more of the enrolments in tertiary education in Australia, New Zealand and Switzerland⁴⁴. Behind these high percentages stand dedicated policies and strategies to attract international students. Australia for example has followed such a strategy with favourable rules for international students (efficient student visa delivery and permission to work for students and spouses), aided by a dedicated government agency with staff in most consulates and embassies. Between 2000-2006, Australia has seen a 75% increase in international students, generating \$12 billion income, and through tuition revenue often representing 15% or more of financial resources of education institutions. Currently the fastest growing regions of destination for international students are Latin America and the Caribbean, Oceania and Asia⁴⁵.

As regards researchers, one million additional researchers will be needed in order to meet the Europe 2020 target of increasing R&D investment to 3% of GDP. Furthermore, indicators of scientific quality, excellence and impact show a weakening of the EU's global position in research. Whilst it is clear that most of the researchers the EU needs will have to come from within the EU, there is clearly a potential and interest for attracting more non-EU researchers in the EU especially when data show that only 6,945 researchers⁴⁶ were admitted under the Researchers Directive in 2010⁴⁷.

People-to-people contacts

The benefits of the EU to remain or become even more attractive for school pupils, volunteers, unremunerated trainees and au-pairs are not of an economic nature. Mobility of young people is important in promoting mutual understanding, raising awareness about

⁴⁰ European Commission staff working document (SEC(2011)1063 final), Recent developments in European higher education systems, 20.09.2011; in the public consultation, several universities and research institutions from within the EU have highlighted the need for third-country national highly-qualified graduates or researchers to remain in the EU, and the role that the attractiveness of the EU plays in this.

⁴¹ Council conclusions on the modernisation of higher education, 28 and 29 November 2011.

⁴² International students are those who travel to a country different from their own for the purpose of tertiary study. This excludes EU nationals studying in another EU Member State.

⁴³ The UK is the most preferred destination (500,000), followed by France and Germany (250,000/300,000) and then by Italy, Spain and Austria (50,000 each).

⁴⁴ OECD Education at a Glance 2011.

⁴⁵ World Education News and Reviews, July/August 2009, cited from John Aubrey Douglass, John Aubrey and Edelstein, Richard: The global competition for talent. The rapidly changing market for international students and the need for a strategic approach in the US. 2009.

⁴⁶ Based on figures from countries for which data were available; Less than 20% of those consulted on the European Research Area framework believe that Europe attracts and retains sufficient numbers of researchers.

⁴⁷ Working in: Natural sciences (52.2%), engineering (14.6%), IT (12.7%) and health sciences (9.0%); based on the results from the ICMPD survey.

attitudes and situations existing in the world, allowing exchanges of ideas, establishing relations between people, assisting personal development, encouraging the acquisition of soft skills, increasing employment opportunities, promoting intercultural competences and fighting prejudices.⁴⁸

In the absence of sufficiently favourable admission scheme and rights, the benefits for host and sending societies resulting from the period of training, volunteering programmes and school pupil exchanges with third countries are not fully reaped of. It prevents people-to-people contacts which are helpful in shaping mutual perceptions and in enabling reciprocal enrichment. It makes dissemination of values of human rights, democracy and the rule of law more difficult⁴⁹.

EU immigration rules should keep pace with intensified initiatives supporting international youth cooperation, dialogue and mutual understanding and encourage mutual learning with third countries⁵⁰.

3.2. Specific problems

The above general problems are caused by a number of specific drivers which are detailed below.

3.2.1 Difficulties in admission conditions

While third-country nationals who meet the conditions of the existing Directives have the right to be issued a residence permit and to have this permit renewed if the conditions continue to be met, this right may, in practice, be hindered or even invalidated by additional requirements concerning visa as shown by complaints and queries to the Commission. This problem concerns students and researchers⁵¹ as well as school pupils, volunteers and unremunerated trainees, no matter whether Member States currently apply the relevant provisions of Directive 2004/114/EC or not.

In addition, as reported not only by individuals concerned by such issues, but also by institutional stakeholders such as research organizations or educational establishments, the issuance of residence permits abroad may sometimes involve lengthy, costly and complex

⁴⁸ In the public consultation, EU institutional stakeholders (including public authorities from the area of education and interior affairs) have underlined the role that in particular students play in the promotion of cultural and linguistic diversity of the EU.

⁴⁹ In the consultation questionnaire, around seven in ten respondents felt that the attractiveness of the EU should be increased for school pupils, volunteers and unremunerated trainees (71%-74%). In the open text answers, respondents were particularly favourable towards volunteers coming to the EU. A number of problems were identified in relation to this group, mainly relating to visa problems. Respondents mentioned that many embassies are not aware of volunteer-specific requirements, make inappropriate requests, e.g. work permits, treat applicants with suspicion and take excessively long to process visas. It was also thought that there should be clear and common rules for all Member States with a dedicated volunteer visa as it is often not clear what kind of visa they should apply for.

⁵⁰ See also Council conclusions on the Eastern dimension of youth participation and mobility, 28 and 29 November 201; http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/educ/126387.pdf.

⁵¹ Some respondents reported that visas were rejected without a reason being given, making it impossible to take up research opportunities for which funding had been granted. 86% of researchers and students thought that if the conditions for a residence permit are fulfilled a visa should be issued automatically; In the public consultation, 69% of researchers and 70% of students identified visas, and 66% of both groups identified residence permits as key issues.

procedures both for the applicant and consular posts (including the question of the accessibility of embassies and having to travel long distances, sometimes to other countries, to request/apply for relevant authorisations), and diverse practices applied by Member States' consular posts. Currently only some Member States issue residence permits on their territory, making initial access to the territory dependant on a visa⁵².

In general terms, and as was identified in the implementation reports for both Directive 2004/114/EC and Directive 2005/71/EC, in the absence of common rules regarding the conditions and procedures of issuing long-stay visas at EU level, the guarantees regarding the issuing of visas offered by the Directives do not always apply in practice (for all groups concerned).

For the groups for which the immigration procedure necessarily involves an organization to initiate and facilitate admission (in particular school pupils and volunteers), the existence of a fragmented situation across the EU greatly increases the resources and efforts needed. As for these organizations, they need to take into account several divergent frameworks.

For researchers, the fact that the residence permit may be given for a shorter period than the duration of the research project can lead to unnecessary costs and investment of time of reapplying, and lead to insecurity. Regarding the hosting agreement which is crucial in order to obtain a residence permit, Member States have addressed this provision in different ways; the majority of them only requires the hosting agreement, some, however, require an employment contract instead of or in addition to the hosting agreement, and others require only an employment contract⁵³. This practice points to a lack of clarity on the side of the hosting organisations as to the nature, aim and content of the hosting agreement. Lack of clarity in such a central component of the Directive poses a serious problem to the instrument as a whole.

Regarding equal treatment rights enjoyed by third-country nationals once they are in the EU, the situation has been improved through the recent Single Permit⁵⁴ although it must be noted in the context of this initiative that some groups risk being excluded from the access to goods and services made available to the public, and that third-country national researchers in particular may find themselves in a position where they do not have access to certain branches of social security including family benefits.

⁵² In the case of Directive 2005/71, initial applications for admission are considered and examined while the applicant is still residing outside the territory of the Member State concerned in BG, EE, ES, CY, LU, SI, FI and SE.

⁵³ Identified to be an issue both by the implementation report, the EURAXESS workshop as well as the online consultation. In the latter this was identified as a problem both by individuals as well as research institutions from within the EU.

⁵⁴ 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 of 23.12.2011

*Clarity of rules and access to information regarding the conditions of admission and rights*⁵⁵

The implementation report on the Students Directive identified a series of shortcomings regarding conditions of admission. The groups covered by the Directive face a lack of clarity when it comes to the required insurance, are confronted with a variety of provisions with respect to the types of evidence proving sufficient means of subsistence, and have difficulties in finding the relevant information on the admission conditions. This lack of clarity, in addition to making admission complicated, may have a negative impact on the exercise of the rights that should be recognised in particular under the Charter of Fundamental Rights.

Related to this, rules and conditions are not adequately communicated. The Students Directive implementation report found that the information on the admission conditions for third country students is not easily identifiable or easy to read. Lack of good information provision and proper transparency makes it more difficult for students and other groups of third country nationals to enter the EU.

As regards researchers' difficulties in accessing the relevant information on which research organizations have been authorized to host third-country national researchers under the provisions of the Researchers Directive are limiting the use of the Directive⁵⁶. The Directive only obliges Member States to publish and regularly update the list of approved research organisations, without any further specification. Publication in official documents fulfils the requirements, however does not guarantee at all that the information is known to potential host organizations or among third-country national researchers.

3.2.2. Lack of synergy and consistency between EU migration rules and EU funding programmes such as Erasmus Mundus and Marie Curie

The importance of EU rules vis-à-vis EU funding programmes comes into play both in the admission procedure as well as in intra-EU mobility. Erasmus Mundus students are required to study in at least two Member States, and yet they often need to fulfil new and separate entry and residence conditions. This can involve lengthy and complex procedures or even the need to leave the Member State's territory, and therefore hamper the pursuits of the studies. Furthermore, even when candidates have been accepted for Marie Curie fellowships can they experience lengthy procedures in obtaining the necessary authorisations for admission.

⁵⁵ In the CIA consultation, several Member States raised the need to clarify existing rules. In the consultation questionnaire, clarity of rules, information provision and dissemination was also identified as an important issue. More than half of respondents felt that better provision of information, e.g. on the conditions to be fulfilled, would facilitate access of researchers (66%) and students (69%). Many people explicitly stated that they had never heard of certain aspects of the rules, e.g. hosting agreements, school pupils, unpaid trainees. The clarity and confusing information were also discussed by a large number of respondents in open answers. This lack of consistency was particularly identified in relation to hosting agreements. In terms of information provision, this was very strongly identified as an area for improvement. Clearer, consistent and accurate information on national websites was requested. There were some questions about discrepancies between the information given online and what happens in practice. This was put in the context of the US, where all information is available in one place. A large number of respondents also felt that more effort should be taken to provide information in English, including making application forms available in English. Some also requested dedicated, tailored personal support/information provision by staff specialising in immigration of researchers and students.

⁵⁶ Identified as an important issue in the EURAXESS workshop.

Without sufficient synergies between migration rules and EU programmes on mobility, the effectiveness of these programmes is undermined⁵⁷. Under the current proposals for EU mobility programmes⁵⁸, the incoming mobility by third-country nationals continues to form a substantial part of EU programmes for higher education and research from 2014 onwards. The importance of visa procedures for programmes like Erasmus Mundus has been highlighted by the European Parliament, which already in 2008, in the context of (at the time) proposal for Erasmus Mundus Programme, called for a special Erasmus Mundus visa which would be valid for the entire duration of the Erasmus Mundus scholarship⁵⁹.

3.2.3. Shortcomings in procedural guarantees

Neither the Researchers nor the Students Directive set time limits for Member States in taking a decision on an application for admission.

Although under the Researchers Directive Member States are required to adopt a decision on a researcher's admission as soon as possible and - where appropriate - to provide for accelerated procedures, in practice only few Member States have set explicit time limits, leaving (potential) applicants in the majority of cases in an unclear situation as to when they can expect a decision⁶⁰.

The Students Directive does not call for any specific measures on the assessment of applications for third-country nationals interested to come to the EU as school pupils, volunteers or unremunerated trainees and, in the case of students, it limits itself to a general call to issue a decision within a period which does not hamper the pursuit of the studies. Only four Member States transposed the provisions of the Students Directive on possible fast-track procedures for school pupils and students which would involve co-operation of migration authorities with the educational establishments or recognised organisations involved in school pupil exchanges. In practice, this results in substantial differences in the approaches that are

⁵⁷ Identified as an issue by workshops with the European Audiovisual Culture Education Agency (EACEA) with the Erasmus Mundus community on visa and on Erasmus Mundus Joint Doctorates, workshops and discussions with National Platforms of youth exchange organisations, and EURAXESS national contact points.

⁵⁸ Cf. "Erasmus for All" and "Horizon 2020" initiatives which are currently in the legislative process; Proposal for a Regulation of the European Parliament and of the Council establishing "ERASMUS FOR ALL", The Union Programme for Education, Training, Youth and Sport, Brussels, 23.11.2011, COM(2011) 788 final, 2011/0371 (COD); Brussels, 30.11.2011; COM(2011) 809 final; Proposal for a Regulation of the European Parliament and of the Council establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020), 2011/0401 (COD). See also: <http://ec.europa.eu/education/erasmus-for-all/>; http://ec.europa.eu/research/horizon2020/index_en.cfm.

⁵⁹ Report of the Committee on Culture and Education of 7 July 2008 on the proposal for a decision of the European Parliament and of the Council establishing an action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through co-operation with third countries (Erasmus Mundus) (2009-2013), COM(2007)0395, 2007/0145(COD). In the case of students, not all Member States have transposed the provisions of Article 6(2) of the Students Directive, which requires them to facilitate the admission of third-country nationals participating in EU Programmes that enhance mobility towards and within the Union. Many other Member States appear simply to call for such facilitation rather than translating it into specific rules on (for example) lower fees or faster procedures. Thus the transposition of this important provision is not yet satisfactory. At the same time, the Directive does not impose any concrete measures through which such facilitations should be carried out.

⁶⁰ In practice, 15% of first residence permits for researchers were issued within 2 weeks, around 23% within one month, in around 44% cases processing took between 1 and 3 months, and for 17% it took over 3 months⁶⁰. During the period of renewal of a permit for researchers (which can take up to three months), travel is impossible, causing difficulties for researchers who need to be mobile.

applied across the EU. They range from 7 working days to 6 months and some Member States do not set any explicit time-limits at all⁶¹.

The absence of time limits for Member States to assess applications can complicate the planning both for individuals and organizations, to the extent that it may endanger the fulfilment of the purposes covered by the proposed instrument. For students for example, in case where they apply for several different universities in different locations, some of which may be outside of the EU, lack of planning security, may result in choosing other locations.

Importantly, the uncertainty created by this lack of clear timing was identified as a problem not only for individuals concerned, but also by research organizations and educational establishments that are based in the EU.

As more recent EU instruments in the area of legal migration (most notably the EU Blue Card) have introduced time limits for decisions on applications, the above-identified problems are all the more relevant.

As for the right of legal redress for a decision on rejection, non-renewal or withdrawal of an authorisation to enter/stay, there is no clear framework for any of the concerned groups on the reasons to be given in case such decisions are issued⁶². Such a situation may unduly limit the right to an effective remedy enjoyed under Article 47 of the Charter of Fundamental Rights of the European Union, as the absence of clear criteria in administrative decision may render more difficult the effective exercise of this right.

Regarding fees required by Member States for the processing of applications, several stakeholders as consulted in the public consultation, highlighted these to be a problem in cases where these were considered to be high. Recent case-law by the Court of Justice of the European Union has clarified the margin of discretion of Member States in deciding on the level of such fees. In Case C-508/10 *Commission v Netherlands*, the Court stated that the amounts of the charges claimed by the Netherlands for issuing residence permits to long-term residents and their family members were disproportionate as they varied within a range in which the lower amount was about 7 times higher than the amount to be paid by Dutch citizens to obtain a national identity card. The Court held that such excessive and disproportionate charges were liable to create an obstacle to the exercise of the rights conferred by the Long-Term Residents Directive.⁶³

⁶¹ The periods are 7 days in ES, 15 working days in HU, 30 days in LV, 2.5 months in PL, RO, SI and SK; 2 months in CZ, EL, PT, EE; 3 months in LU; 4 months in FR; the on-line consultation highlighted that the absence of a time limit set for a Member State to take a decision on entry was a crucial issue to be addressed – overall 88% and 87% saw this as important for students and researchers respectively. Also institutional stakeholders stated that the sometimes overly long and different time periods applied by Member States in the assessment of application poses a significant problem.

⁶² This was also identified as a problem in the online consultation.

⁶³ C-508/10. Judgment on 26.4.2012.

3.2.4. Difficulties to access the labour market

3.2.4.1. Limitations in students' right to cover part of their study costs through carrying out economic activities

Students who carry out economic activities to cover part of their study costs do not enjoy any specific rights under the Directive concerning, for instance, the level of remuneration or social security protection. In addition, Member States are allowed to restrict access to economic activities in the first year of students' residence whereas very often, additional economic means are very important for the student to enable the continuation of their studies and help in covering the costs of living abroad, in particular for students who do not benefit from scholarships.

Moreover, current rules require that Member States allow students to work for at least 10 hours per week. Consultations with stakeholders indicate that this is not sufficient of a threshold⁶⁴. Some Member States already go beyond the minimum provisions of Directive 2004/114, however for the EU as a whole there is a need for an improvement of the situation.

3.2.4.2 Difficulties to access the labour market once research or studies are completed

Access to job-seeking after graduation is a key element that can attract students to a particular country. The international experiences cited above clearly demonstrate this. Providing the possibility to look for work for a reasonable period of time makes countries where such a possibility exists more competitive in the search for talent on a global stage, and will enable them to retain more graduates that can apply their skills to the benefit of the host country. A very large majority of the respondents to the online survey (90%) thought that graduates should be allowed to stay in the territory of the Member States for some time after graduation to look for work. Frequently the argument was made that the EU should better value the people who came to graduate in the EU, and who could make useful contributions on the labour market. The EMN conference on 29-30 October 2012 on international students also identified access to the labour market after graduation to be an important issue.

None of the existing Directives contain rules concerning access to the labour market or job-seeking once the research or studies are completed. As a result, practices vary widely across the EU. Several Member States allow graduates to remain in the country for a certain period of time to identify job opportunities. For example, Germany allows this possibility for a period of 18 months, the Netherlands for 12 months, Austria, Finland and France for 6 months. In other countries, while no provision is foreseen to allow them to stay to seek employment, students are allowed to apply for jobs during their studies. In some Member States, graduates are obliged to return to the third country immediately after graduation and do not get an automatic, even temporary, authorisation to stay on the territory to seek a job.

⁶⁴ In terms of ways to improve the situation, 85% of respondents thought it was important to allow students greater labour market access. When asked about the number of hours students are allowed to work per week, more than seven in ten either thought that current threshold of 10 hours/week should be increased (42%) or that there should be no threshold (30%). 25% felt that the current threshold should be maintained. In the open text consultation responses, better access to the labour market during studies also emerged as a theme. It was pointed out that research assistants on Master programmes often have contracts for more than 10 hours. In practice restricting to 10 hours may mean that such students work more but are only paid for ten hours. Instead, there was wide support for a 20 hour limit, and it was pointed out that this is in place already in the UK and Ireland. While there was some concern about abuse of the student route for labour market access, there was also some suggestion that a limit could be abolished as long as attendance and performance was measured to avoid abuse of study authorisations for work purposes.

For researchers, the issue of access to the labour market following the finalization of their research was also identified as an important issue in the EURAXESS workshop and in the survey where almost all respondents (94%) thought that researchers should be allowed to stay in the EU for a temporary period to identify other working opportunities⁶⁵. Both individuals and research institutions (most of them based within the EU) shared this view, considering counterproductive for the growth potential of the EU to not allow researchers to identify work opportunities after completion of their research.

3.2.4.3. Lack of provisions concerning access to labour market for family members of researchers

While the researchers Directive provides for the possibility for family members of third-country national researchers to join them, there are no provisions that would grant them immediate access to the labour market, making it less attractive for a highly-qualified researcher to move to the EU.

A majority of Member States do so however, but not all of them. The lack of an automatic right for family members to work was considered a 'significant disincentive' (in the Member States where this is the case) in the conclusions drawn by the report on the implementation of the researchers. The EURAXESS workshop confirmed that this issue was crucial for promoting attractiveness.

A lack of access also has a potentially negative impact on the right to family life protected under Article 7 of the Charter of Fundamental Rights.

3.2.5. Difficulties in exercising intra-EU mobility

The current rules limit intra-EU mobility to students who have been admitted to a Member State for periods of no less than two years, and who would like to follow in another Member State curricula already commenced or to complement it with a related course of study. For those who stay for shorter periods or wish to engage in subjects other than those they started with in the first Member State of admission, there are no intra-EU mobility provisions.

In the case of researchers, the existing provisions may even lead to legal uncertainty and cannot be considered fully compatible with the requirement for researchers to be mobile, if needed also together with their family members.

Other categories of third-country nationals covered by the Students Directive do not enjoy any mobility provisions. Regarding trainees, as they may be required to stay in various establishments in different Member States, specific intra-EU mobility provisions are needed.

3.2.6. Risk of exploitation and vulnerability of groups currently not covered

Risk of exploitation of remunerated trainees

Whilst unremunerated trainees are within the optional scope of the students Directive, this is not the case for remunerated trainees. Nevertheless, in many ways, the purpose and features of the traineeship in the EU is the same for both groups; providing for an opportunity to gain

⁶⁵ Respondents stated that the existence of such long term programmes was one of the key reasons for the US, Canada and Australia to be more attractive. It was thought that developing a long term career was easier and more certain, and that therefore the US in particular was good at attracting post-doc researchers.

and/or increase professional experience and skills, and bridging the gap between education and the labour market. The challenges that the two groups face are also comparable: risk of disguised employment or fail to provide for a genuine development opportunity in the absence of a proper traineeship agreement or supervision of work, or exposure to the risks of being used as supplementary and underpaid labour force.

The lack of a specific legislative framework at EU level has as a consequence that there are high levels of variability between Member States in terms of admission criteria, type of 'remuneration', type of permit issued, levels of rights and maximum duration of stay. It also means that any attempt to be mobile within the EU would need to rely on national rules, rendering intra-EU mobility difficult and complicated, as there is no common EU framework to exercise intra-EU mobility for remunerated trainees.

Risk of vulnerability of au pairs

Au pairs are not covered by any common EU rules on migration, and conditions of admission or requirements of their stay. There is also no protective legal framework clearly setting out au pairs' rights, and, therefore, a lack of monitoring of their situation which is a matter of concern in view of the evidence of exploitation affecting this vulnerable group.

While au pair schemes are formally described as cultural exchange programmes in most Member States, they are in practice often used as a way of importing cheap domestic or care workers. There is evidence that au pairs may be exploited by their host families in terms of long hours and lack of time off. They often work longer hours within the family than agreed under their immigration agreement and frequently do unpaid overtime.⁶⁶ Furthermore, many au pairs are unable to, or choose not to, participate in language and cultural exchange activities, whereas these are traditionally the defining characteristics of au pairing and the purpose of their stay. In addition, au pairs often undertake undeclared work on their days off⁶⁷.

Common EU rules regarding the definition of au pairs, conditions of entry, obligations in terms of cultural / linguistic activities, accommodation etc., would support vulnerable au pairs in protecting their rights and ensure that the aim of au pair programmes as a cultural exchange is better achieved. Common rules would create clarity and would thereby make monitoring of the fulfilment au pair placement's objectives and the respect of rights and obligations easier.

3.3 Possible evolution of the problems all things being equal

Without any changes, the problems identified with the current rules would remain, and the differences between Member States would continue to provide for a fragmented landscape in areas where the EU has initiated a number of crucial initiatives related to mobility, people to people contacts, innovation and growth. For those students and researchers admitted under the Directives who are already in the EU or continue to come to the EU, the current problems are likely to persist. Despite the fact that some Member States have been developing strategies to

⁶⁶ GHK Study "Impact assessment on au pairs and possible amendments to Directive 2004/114".

⁶⁷ See also a report requested by the European Parliament's Committee on Women's Rights and Gender Equality, "Abused Domestic Workers in Europe: The Case of au pairs", 2011 European Parliament, authors Stenum H. in cooperation with Dahl H.M..

promote internationalisation and attractiveness⁶⁸, recent trends show that progress has been uneven and the EU as a whole would likely give further ground in the attractiveness for third-country national students and researchers to international competitors which in recent years have already started to become more interesting destinations for these groups, in particular for the most talented students and researchers. As a result, the EU's competitiveness may suffer in a medium- to long-term scenario, with a stalling internationalisation of education and research systems at least as far as human resources from third countries are concerned.

Without enough synergies between migration rules and EU programmes on mobility, the full effectiveness of these programmes will be undermined whereas, as shown by the Erasmus for All and Horizon 2020 initiatives currently in legislative process, the mobility of third-country nationals continues to form a substantial part of EU programmes for higher education and research from 2014 onwards. The importance and impact of visa procedures for programmes like Erasmus Mundus has been highlighted by the European Parliament, which already in 2008 called for a special Erasmus Mundus visa which would be valid for the entire duration of the Erasmus Mundus scholarship.

Whereas the European Higher Education Area and the European Research Area create ever more possibilities for mobility, the current rules for third-country national students and researchers may continue to hinder these groups from benefiting from the advantages of mobility. In the area of higher education, there is a growing number of degrees administered jointly by higher education institutions involving two or more Member States, requiring students to be mobile in order to take part in such programmes. Relying solely on the restrictive intra-EU mobility provisions of the current legal framework would mean that third-country national students would in many cases not be able to enrol in such programmes, or only be able to do so on the basis of national-level provisions where those exist. Equally for researchers, undertaking research in different locations increasingly forms part of their work, and limiting the possibility to be mobile within the framework of the hosting agreement to three months therefore creates further obstacles, also as researchers' family members are not covered. For third-country national remunerated trainees, the proposal on intra-corporate transferees foresees intra-EU mobility provisions. Once adopted, trainees that are not part of an intra-corporate transfer would be in an increasingly disadvantaged position by not being able to rely on EU-level provision on mobility.

Regarding the rights that the third-country nationals enjoy, the situation has evolved to some extent in relation with employment related rights with the adoption of the Single Permit Directive⁶⁹. According to the Directive, anybody considered to be allowed to work under the conditions foreseen by the Single Permit Directive would automatically benefit from these

⁶⁸ Belgium for example is organising events to attract students through seminars and training. For Bulgaria highly qualified migrants are one of the target groups of a national strategy. Cooperation between the ministry of education, youth and science and universities to attract highly educated immigrants is seen as a national priority. Germany applies marketing campaigns aimed at highly qualified students, graduates and academic researchers. Finland has a strategy for the internalisation of higher education and policy co-operation with selected non-EU countries. In France, a new public body (Campus France) was set up to promote higher education and vocational training in France. Ireland has an international education Strategy to increase the attractiveness as a higher education destination.

⁶⁹ See in particular Article 3.1b and 3.1c together with Article 12 of the Single Permit.

rights⁷⁰, with some exceptions where Member States may restrict them. These concern access to social security, (can be restricted to those who have been in employment for less than 6 months), access to education and vocational training (Member States may restrict this in cases where this is not directly linked to the specific activity carried out), tax benefits (can be restricted by limiting the entitlement to cases where the registered or usual place of residence of the family member of the third-country worker for whom he/she claims benefits lies in the territory of the Member State concerned), as well as access to goods and services made available to the public (can be restricted to those in employment and may exclude access to housing).

Furthermore, keeping the current framework would lead, as regards the rights protected under the Charter for Fundamental Rights, to maintain an unsatisfactory situation where rights remain unclear or risk being insufficiently protected. This is particularly relevant for the groups currently not covered by EU legislation, or covered only in an optional way.

3.4 EU right to act and subsidiarity

EU right to act

The legal basis for EU action in the area is established in Article 79(2) of the Treaty on the Functioning of the European Union, which provides that "the Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States ..."

This provision empowers the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, to adopt measures in the following areas: (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits; (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States.

The main purpose of this EU action is to design an admission instrument for third-country national students, researchers, school pupils, unremunerated trainees, volunteers as well as au pairs and remunerated trainees, in the sense of Art 79 of the Treaty. Article 79 is a comprehensive legal base under which conditions of residence include "working conditions", which are regulated as ancillary matters to entry and residence. The same approach was already used for the existing migration acquis such as Directives 2003/109/EC (long-term residents), 2005/71/EC (researchers) and 2009/50/EC ("EU Blue Card").

Finally it should be noted that the unanimity requirement that applied to the negotiations of the Students and Researchers Directives had led to the adoption of minimum standards Directives, the provisions of which often represented the lowest common denominator as they had to be acceptable to all Member States. This in part explains the limited scope of the existing Directives. With the entry into force of the Lisbon Treaty, the ordinary legislative procedure, coupled with the qualified majority voting in the Council, should allow the adoption of a more ambitious instrument with an EU dimension and added value moving beyond minimum standards.

⁷⁰ Whereas the Single Permit limits its application to those issued a residence permit in accordance with Council Regulation 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, any future instrument would grant these rights both on basis of a permit as well as a long-stay visa.

Principle of subsidiarity

Immigration is a competence shared by the Union and the Member States. The principle of subsidiarity therefore applies, which involves ensuring that the objective of the proposed action could not be achieved sufficiently by the Member States (necessity test), and considering whether and how these objectives could be better achieved by action on the part of the Union (European added value test).

Necessity test

The initiative touches only those areas in which problems have been identified and substantiated. In line with the approach taken in other Directive on legal migration, the initiative does not prevent Member States in any way from applying more favourable conditions in a number of areas.

In addition, the rationale for action at EU-level (increase the number of researchers in the EU for the benefit of more competitive and dynamic knowledge-based economy, promoting Europe as a world's centre of excellence for studies and vocational training and promoting forms of temporary migration which constitute a form of mutual enrichment) which was the basis for the adoption of the Students and Researchers Directives remains the same. The progress in the European Higher Education Area and the European Research Area has made it even more pertinent.

The challenge to keep, and become increasingly more attractive to talent from outside of the EU has increased and is common to all Member States. Although each Member State could have its own national system of admitting the third country nationals groups concerned, this would not achieve the general objective of increasing the attractiveness of the EU as a destination for talented migrants and to promote possibilities for cultural exchanges. Having one set of common admission and residence requirements rather than a number of national-level rules is more efficient and simpler for potential migrants than having to look into and deal with 27 different systems.

In addition, promoting intra-EU mobility, one of the key objectives of the initiative require for an EU-wide instrument.

With the increased number of initiatives targeting youth and stimulating culture, social, educational people-to-people contacts with nationals of third countries and forms of informal training, the need for matching them with adequate immigration rules is even greater.

Finally, the minimum levels of protection and rights of third country students, researchers and other groups should be the same so as to avoid the exploitation of certain vulnerable categories, e.g. remunerated trainees and au-pairs.

The views of Member States on the need to act depend on the type of authority consulted. Most immigration authorities of the EU Member States as consulted in the Committee on Immigration and Asylum see no need to amend the EU legal framework on immigration rules for the groups concerned. They consider that the legislative framework is working well and should be kept as it is. Some Member States argued that the Directives should be kept as separate instruments. Furthermore the argument was made that while the current instruments leave Member States with sufficient flexibility regarding implementation depending on their national specificities, a new instrument may limit such flexibility. Some national immigration authorities also pointed to room for improvement of the current framework, for example with

regard to a potential for clarification of overlaps between the Students and Researchers Directives and to resolve any contradictions between the two, with regard to more guidance on the hosting agreement in the Researchers Directive, or with regard to the rules to change between student and researcher status, to avoid cases where researchers have been classified as students. At the same time some Member States' authorities in the area of research and education support changes in the legislative framework to facilitate the admission of the groups concerned and thereby increase the attractiveness of the EU for the groups concerned. They stressed the positive benefits that immigration, and in particular international students and researchers, can bring to the economy, the contribution it can make to societies and cultural enrichment.

Regarding third-country national researchers and students, volunteers and school pupils, stakeholders from the areas of education, research and youth exchange as consulted through workshops and conferences overwhelmingly support the objective to improve admission conditions and rights for the groups concerned.

The online public consultation also revealed very strong support to increase the attractiveness of the EU for the groups concerned, whereby strongest support was expressed for researchers and students. Support was expressed independently from where the respondents were based or whether they were EU citizens or not.

EU added value

The EU added value of the existing Students and Researchers Directive has been proven over the years, and this initiative will further improve this situation. For researchers, Marie Curie fellowships have been opened to third-country researchers, through Incoming International Fellowships (IIF). In the case of students, one of the objectives of EU action in the field of education, as supported by EU Programmes on mobility such as Erasmus Mundus, is to promote Europe as a world centre of excellence for studies and training.

Migration for the purposes of studies, training, school education, volunteering and culture exchanges, constitutes a form of mutual enrichment for the migrants concerned, their country of origin and the host Member State, and helps to promote better familiarity among cultures. There is a need for an improved common legislative framework for such migration.

A transparent legal framework including appropriate safeguards to ensure a genuine transfer of skills would facilitate economic, social and cultural international relationships between the Member States and sending countries. With respect to the external aspects of migration policy, an EU instrument covering remunerated trainees would help further deepening of the global approach, as it both provides transfers of skills and strengthens third countries' commitment to fight irregular immigration thanks to additional legal migration routes. Concerning au pairs, an EU framework would help increase their protection.

The new instrument would be complementary to the existing instruments in the area of legal migration, in particular the EU Blue Card Directive. Whereas the latter is for third-country nationals who are already highly-skilled and wish to work in the EU, the new rules would cover students and researchers whose entry and residence are under normal circumstances not directly linked to the requirements of Member States' labour markets. However, one of the key elements of the new proposal would be to better tap into the potential of these groups upon finalizing their studies or research, who undoubtedly constitute for the future a pool of highly-skilled workers, and who speak the language and are integrated in the host society.

Regarding remunerated trainees, the new instrument would complement the proposal for a Directive on intra-corporate transferees which is currently in negotiation with Council and the European Parliament. This Directive, once adopted, will cover admission into the EU and rights of third-country national trainees insofar as they will come to the EU in the context of an intra-corporate transfer. Trainees falling outside of the scope of such a transfer will not be covered by the Directive on intra-corporate transferees.

Provisions aiming at clarifying and promoting rights and residing conditions would also contribute to the overall objective of enhancing the protection of fundamental rights. Providing a series of equal treatment rights with own nationals to third country nationals who are legally residing on the territory of the Member States has already been ensured by different EU Directives. The distinction between students and other groups covered by the Directive, even taking into account the temporary character of the stay of the third country nationals concerned, should also be examined in the light of the principle of non-discrimination as it results from Article 21 of the Charter of Fundamental Rights and of the impact a differentiated treatment may have on the rights of these groups such as the freedom to choose an occupation and right to engage in work (Article 15 of the Charter), right to fair and just working conditions (Article 31 of the Charter) and to right social security (Article 34), as well as other rights as relevant.

4 OBJECTIVES

The policy options for tackling the problems identified in the existing EU framework will be assessed against the following policy objectives.

4.1 General policy objectives

The main general policy objective is to improve the legal framework applied to third-country nationals willing to come and temporarily stay in the EU for more than three months for research and studying purposes. Improving the way in which these groups are admitted to the EU and the rights they have once they have been admitted will contribute to making the EU a more attractive destination for studies and research and as a destination for third-country national school pupils, volunteers, trainees or au pairs.

In broader terms, the initiative also serves to contribute to increasing the EU's innovative capacity and competitiveness, support the economic, social and cultural relationships between the EU and temporary migrants' country of origin and promote people-to-people contacts.

4.2 Specific and operational objectives

Achieving the general objectives set out above entails the following specific and operational objectives⁷¹.

⁷¹ Questions from the EP in particular concerned visas (with a specific and recurring emphasis on measures for students from South Mediterranean), access to the labour market and measures targeting trainees, pupils and volunteers. The MEP questions also concerned assimilated issues to the objectives behind the Directives which are currently outside the scope of both Directives, for instance, on the situation of au pairs.

4.2.1 Improve the conditions of admission.

- Strengthen the right to enter and reside in the EU once the admission conditions set out in the Directive have been fulfilled, reduce the number of admission and residence procedures and costs and increase transparency and coherence of the EU system.
- Link/combine long-term visa and residence permit procedures.
- Increase coherence regarding the currently fragmented situation with regard to school pupils, volunteers and unremunerated trainees.
- Ensure better access to information and adequate means of communication on the admission conditions and rights of third country nationals who wish to come to the EU to do research, study, carry out volunteering activity, participate in the school pupil exchange or undergo unremunerated training.
- Provide more clarity on the admission conditions, e.g. the necessary scope of sickness insurance or the hosting agreement between host research institutions and researchers⁷².

4.2.2. Increase coherence of EU migration rules with EU mobility programmes

- Increase synergies of immigration procedures with EU funding programmes, so that third-country nationals who have succeeded as candidates for programmes such as Erasmus Mundus, Marie Curie International Incoming Fellowships, etc. can benefit from certain additional facilities helping in the exercise of their "mobility track" within the EU, which involves studies/research in more than one Member State.
- Introduce rules enabling the Erasmus Mundus students and Marie Curie fellow to apply for an authorisation covering the duration covered by the scholarship/fellowship and allowing to move - for a period of up to one year - to study and carry out research in different Member States bound by the Directive.

4.2.3. Improve procedural guarantees

- Provide better procedural guarantees, in particular clear time-limits within which applications are decided upon and rights to an effective remedy.
- Provide for clear framework of rights in cases of rejection, non-renewal and withdrawal of the authorisation to enter/stay.
- Ensure that where fees are charged to third-country nationals as part of the admission procedure, these are proportionate.

4.2.4 Improve access to the labour market

- Improve conditions on the basis of which students are allowed to engage in economic activities during their studies.

⁷² An appropriate model for the hosting agreement could be developed. In the on-line consultation, insufficiently clear definitions about the legal quality and the format of hosting agreements were identified as a problem. When respondents were asked specifically about this, less than a quarter thought that the rules should stay as they are, and 59% felt that the hosting agreement mechanism should be retained but there should be clearer guidance on its form and content. 17% thought the hosting agreement should be replaced.

- Enable students and researchers to temporarily stay on the territory of a Member State in order to identify work opportunities after they completed their studies/ research.
- Allow family members of researchers an immediate access to the labour market.

4.2.5 *Improve intra-EU mobility*

- Facilitated and simplify intra-EU mobility for students, trainees as well as researchers and researchers' family members.

4.2.6. *Provide for coherent provisions ensuring protection of au pairs and remunerated trainees*

- Broaden the scope of application of the rules provided by the Students Directive to au pairs and remunerated trainees and provide for sufficient protection and rights.

5 **POLICY OPTIONS**

In order to reach these objectives, four policy options have been considered. The measures covered by these options have been combined so that they can address the identified problems subject to varying degrees of ambition. As the current framework consists of two Directives, and as suggestions calling for improvements of the current framework did so by proposing changes to the existing Directives, no other type of regulatory measure has been considered.

5.1 **Option 1 (baseline): No changes to the existing situation**

This policy option would mean that most of the problems would remain unresolved. Different and diverging solutions with respect to admission conditions, in particular visa, would continue to be implemented by the Member States acting independently. For potential applicants as well as organizations involved, in particular in the cases of school pupils, volunteers or unremunerated trainees, the lack of clarity and transparency on these aspects would remain, and the organizations involved would have to keep taking into consideration all existing different frameworks rather than being able to operate within an EU-wide framework.

Regarding the rights that the third-country nationals enjoy, the situation has evolved to some extent with the adoption of the Single Permit Directive⁷³. The Directive ensures mainly employment-related equal treatment rights such as working conditions including pay and dismissal, collective labour rights such as freedom of association and affiliation, education and vocational training, recognition of diplomas, social security including health care, tax benefits, access to goods and services and advice services of employment offices. There are however some exceptions to this rule, where Member States may restrict these rights. These

⁷³ See in particular Article 3.1b and 3 1c together with Article 12 of the Single Permit.

concern access to social security, access to education and vocational training, tax benefits as well as access to goods and services made available to the public⁷⁴.

Under the baseline scenario, applicants would continue to lack sufficient procedural safeguards. In those Member States where this is the case, the lack of time limits or the very long time limits to decide on admission applications would still entail the risk of jeopardizing the possibility to come to the EU, in particular in those cases where specific deadlines have to be met, as is the case for example with the start of an academic semester for students.

Conditions to exercise intra-EU mobility (in particular in the case of students) would remain restrictive, whereas remunerated trainees would not be covered at all by EU legislation, and would still face obstacles to intra-EU mobility and would need to rely on national-level legislation which differs between countries. The proposal on intra-corporate transferees also includes intra-EU mobility provisions for trainees. Not including intra-EU mobility provisions in a framework for trainees coming to the EU outside of an intra-corporate transfer would lead to inconsistencies in the overall EU legal framework.

Keeping the existing situation unchanged would also imply a continued lack of coherence between EU-funded mobility programmes and EU migration rules. Third-country nationals who in principle succeeded in obtaining funding from EU mobility programmes may still be blocked from being able to benefit from such funding, as EU immigration rules may render the taking-up of the funding impossible. And while EU-funded mobility programmes can include intra-EU mobility, those who would benefit from this may be faced with problems in exercising such intra-EU mobility.

Regarding the access of students to the labour market during their studies, the situation would remain different across the EU and some students would continue facing possible difficulties in earning enough money to support their stay. In some Member States, students already benefit from more advantageous possibilities to fund their stay through working more than the minimum 10 hours per week foreseen by the Directive (typically up to a limit of around 20 hours per week, such as Belgium, Cyprus, Finland, France, Latvia, Lithuania and Germany).

Similarly, regarding the access to the labour market for students following graduation, different approaches would continue to apply across the EU. In those countries that allow students to look for work (without granting them an automatic right to work) after graduation, students would have the possibility to seek to embark on a professional career, applying their skills and contributing to economic development (Austria, Belgium, Finland, France, Germany, Latvia, Netherlands, Portugal, Slovenia and Sweden), whereas in those Member States that do not foresee such a possibility, students would need to immediately leave the EU following graduation. This results in a loss of skilled human capital, trained to high standards in the EU, however not given the possibility to apply their knowledge and skills to the benefit of the EU economy. It should be noted that some Member States (for example Lithuania), are considering to grant a period to students after graduation to stay and seek employment (for up to six months).

Regarding the access to the labour market of the third-country national researchers' family members, the situation is similar, with many Member States already providing for such a possibility, whereas others do not foresee this. Given that the aspect of labour market access

⁷⁴ Whereas the Single Permit limits its application to those issued a residence permit in accordance with Council Regulation 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, any future instrument would grant these rights both on basis of a permit as well as a long-stay visa.

of family members has been identified as an important potential factor in the decision by researchers where to move, a continuation of the existing situation would not lead to an improvement of the attractiveness of the EU as a whole.

Overall, the EU would not improve its status as a destination for third-country nationals that are already highly-qualified or are entering in order to study.

As regards third-country national remunerated trainees and au-pairs, they would be covered through immigration legislation only in Member States which have national rules on these specific groups. Once the negotiations on the current proposal for a Directive on intra-corporate transferees will have been completed, third-country nationals coming within the context of an intra-corporate transfer will be covered by EU legislation, but will leave others - who may be in similar situations - uncovered. In the absence of further legislative initiatives of Member States, au-pairs will continue to be a particularly vulnerable group.

More generally, whereas some Member States have made further changes to their respective legislative frameworks on the implementation of the rules on students and researchers, others have not done so which means that the situation has already moved towards a more fragmented approach between Member States. There are no signs that this would change in the future, and this fragmented approach is the opposite of the intention that was behind the rationale of the Directives and of the significant efforts undertaken to progress in building the European Research Area and the European Higher Education Area. Keeping the rules on immigration as they are would imply that the openness towards third countries would not materialize as advocated for by these important policy frameworks.

5.2 Option 2: Increased communication efforts (in particular in case of researchers), and strengthened enforcement of the current rules

Considering that various problems identified are related to difficulties with the implementation of the existing legal framework, including those coming from the lack of information and transparency on the EU legal framework, a second option could be to increase communication efforts and strengthen the enforcement of the current rules.

Better provision of and access to information would increase the transparency of existing rules, making them better used and applied. The EU Immigration Portal as well as the EURAXESS portal could be used as a tool to make the provisions of the Directives better known.

Furthermore, and with the view to increase the use of the Researchers Directive by national authorities and subsequently research organizations and third-country national researchers, renewed and increased communication efforts could bring out the advantages that the Directive holds for all stakeholders involved. This could involve actions at EU level (for example through the EURAXESS network, especially EURAXESS Links) as well as outside the EU, in third countries, by informing both consular staff to make them better aware of the existing rules and possibilities, and potentially interested third-country national researchers. Information could also be channelled through EU delegations. At national level individuals should also be better informed of the existing redress mechanisms.

There could also be increased efforts in raising awareness for currently existing best practices by Member States in admitting and protecting groups which are currently not covered by the Directive, i.e. au pairs and remunerated trainees.

As regards enforcement of the current rules, a more systematic exercise of ensuring that Member States understand and comply with their obligations under the Directives would be carried out.

5.3 Option 3: Improvement of admission conditions, rights and procedural guarantees

Under this option, a combination of provisions would be designed with the aim of addressing the flaws identified in the existing legislative framework with a particular focus on improving admission conditions, procedural guarantees and rights of the groups covered by the Directives.

Admission conditions: the provisions on granting visa for students (and other categories currently optional in the Students Directive, which would become mandatory) would be strengthened to bring them in line with the corresponding provisions of the Researchers Directive. Member States would be obliged to grant every facility to obtain the requisite visas to the third-country national (students and other categories) who has submitted an application and meets the admission conditions. The new legal framework would also include a provision encouraging Member States to ensure that information on admission criteria is made publicly available.

Rights: the rights of students as currently covered by the Students Directive would be aligned - as long as they are not covered by the Single Permit - with those granted to researchers under the Researchers Directive. Students' right to work would be extended to cover a minimum of 15 hours per week as of the first year of residence.

In terms of improved intra-EU mobility, an objective that due to its cross-border character requires common rules at EU level, this option would allow students to apply to study in another Member State without the need to leave the territory of the Member State(s) covered by the Directive.

Procedural safeguards: time limits would be introduced that oblige Member States' authorities to decide on applications within 60 days. In exceptional circumstances, this could be extended by an additional 30 days. This would apply to all groups and is considered to be proportionate due to the temporary character of their stays in the EU.

For all groups concerned, this option would include the need for Member States to motivate in writing a decision to reject an application to issue, amend, renew or withdraw an authorization. This written notification should specify the Court or administrative authority where the person concerned may lodge an appeal, and the time limit for Member States to take decisions.

In order to ensure coherence with other existing EU instruments in the area of legal migration such as the Single Permit Directive and recent case-law on adequate levels of fees⁷⁵, the

⁷⁵ Case C-508/10. Judgment delivered on 26.4.2012

option would include a provision recalling that where Member States charge fees for handling applications, the level of such fees should be proportionate.

5.4 Option 4: Further improvement of admission conditions, rights also on intra-EU mobility and procedural guarantees; labour market access following completion of studies or research project; extended scope to au-pairs and remunerated trainees

Under this option, built in part on Option 3, the combination of provisions proposed would aim at a higher degree of ambition in improving the conditions and rights of the groups covered and would extend the scope of the legislative framework to au-pairs and remunerated trainees.

Admission conditions: the requirements necessary to obtain long-term visa and residence permits would be more strongly linked/combined. While Member States would keep the possibility to issue long-stay visas or residence permits for stays beyond three months⁷⁶, they should, in case both would be used, require only the fulfillment of admission conditions mentioned in the Directive (so that the conditions remain the same irrespective of the type of authorization). This would be without prejudice to additional technical requirements relevant to either visa or residence permits. For the Member States that require a visa to enter and stay on the territory, in case the third-country nationals' stay would exceed a period of one year, the Directive would require the issuance of residence permits. At the same time the Directive would not require a change in Member States' practices which rely on the issuance of the residence permits abroad and do not involve a visa. Regardless of the practice of the Member States in this area, there would be no distinction in the available rights (in terms of both entry and residence rights) between third-country national entering and/or staying on the territory on the basis of a residence permit or a long-stay visa.

This option would also introduce specific admission conditions for au pairs and remunerated trainees. These new conditions would aim at ensuring a better defined status, and thereby a better protection for au pairs. They would concern the age range; evidence that the host family accepts responsibility for an au pair throughout his/her period of presence in the territory of the Member State concerned; an agreement defining his/her rights, and adequate arrangements allowing him/her to attend language courses, and obligations. The inclusion of au-pairs is considered to be proportionate in view of their vulnerability being particularly high when compared to other groups of third-country nationals. This relates mainly to their work being undertaken in a family context, which is under normal circumstances not subject to any inspections.

In order to prevent trainees from being abused as cheap labour, host entities may be required to declare that the trainee is not filling a job. The inclusion of remunerated trainees is considered to be proportionate as the issues related to trainees are very similar irrespective of whether or not they are remunerated, or whether or not they come to the EU as part of an intra-corporate transfer, as foreseen by the proposal for intra-corporate transferees.

⁷⁶ Due to the legal basis, the patterns of stays of students, researchers, etc. and the various improvements introduced by the Community Code on Visas (Regulation (EC) No 810/2009), similarly to the existing Directives, the scope of the initiative should not cover stays for a maximum of three months.

The instrument would also include a provision requiring Member States to ensure that the fullest possible set of regularly updated information is made available (notably on the internet) as regards admission criteria, in particular the scope of the sickness insurance required.

Rights: The rights of those groups which could be excluded from the Single Permit Directive would be ensured as regards access to goods and services and the supply of goods and services made available to the public. For researchers, more favourable treatment regarding branches of social security including family benefits beyond the rights given under the provisions of the Single Permit would be granted. Generally in cases where the relevant groups of third-country nationals would stay on the basis of a long-stay visa, any new legislative instrument would need to provide for equal treatment rights in order for the Single Permit Directive to apply *mutatis mutandis*.

As regards improved intra-EU mobility, an objective that due to its cross-border character requires common rules at EU level, further facilitation and simplification would be introduced for students and researchers (as well as researchers' family members). Students and researchers could move to another Member State to continue or complete the studies or research project for six months or up to twelve months on the basis of the initial permit. Depending on the duration of the studies or of the research project, conditions would differ. For a period of six months, information from one Member State to another would suffice, whereas for longer periods, resubmission of certain documents would be required. For Erasmus Mundus students, no specific information or resubmission would be necessary in case of mobility (the initial authorization would cover the whole period of study, no matter how many Member States this would involve). New mobility provisions could be added for remunerated trainees. Member States would need to set up contact points for receiving and transmitting information needed to implement intra-EU mobility. This would follow the example of the contact points already established as part of the Blue Card Directive as well as the proposal for a Directive on intra-corporate transferees.

Regarding access to the labour market of students during their studies, the students would be allowed to work for a minimum of 20 hours per week as of the first year of residence, in order to allow them more adequate possibilities to fund themselves. A number of Member States already apply this measure, and this option would continue to allow Member States to take into account the situation of the labour market when deciding about labour market access for third-country national students during studies.

Regarding access to job-seeking, this option would allow students and researchers to stay on the territory after finalization of studies/research to identify work opportunities for a period of 12 months. This would not be an automatic work permit, since Member States, even in the case of existence of a job offer, could still apply the relevant authorization procedures. The introduction of a possibility to stay for job-seeking is considered to be proportionate as it appears to be an important factor in the choice of a destination country and an issue of common interest both in the context of a declining working-age population and future skills needs. A number of Member States already have such provisions in place. 12 months is considered to be a proportionate time-limit for the reasons mentioned above and in light of the time it takes for a job-seeking process to be successfully completed.

- ✓ **Procedural guarantees:** Time limits would be introduced that would oblige Member States' authorities to decide on applications within 60 days (applying to all groups), and within 30 days for Erasmus Mundus and Marie Curie

fellows. Given the temporary nature of the stays of the groups concerned, this is considered to be proportionate. Some groups' stays are limited to 12 months, and having application procedures spanning more than 60 days would be a disproportionately long period of time. Some parts of the EU immigration acquis already provide for time limits (for example Council Directive 2009/50/EC (the "Blue Card Directive")).

As option 3, this option would also include for all groups concerned the obligation for the Member States to motivate by written notification any decision rejecting an application for issuing, amending, renewing or withdrawing an authorization. This written notification should specify the Court or administrative authority where the person concerned may lodge an appeal, and the time limit for Member States to take decisions.

This option would also ensure coherence with recent case-law on adequate levels of fees⁷⁷ by recalling that where Member States charge fees for handling applications, the level of such fees should be proportionate.

6 ANALYSIS OF IMPACTS

In the absence of reliable quantitative information on all aspects that the proposed initiatives could impact on, the analysis is mainly based on a qualitative assessment of cross-checked criteria.

The following tables analyse the impacts of the retained policy options (Options 2, 3 and 4) against the baseline scenario. Impacts are assessed in terms of overall economic impacts, social impacts (including impacts on the access of individuals to education and research, on employment and labour market and on cultural and linguistic diversity), external impacts (including an assessment of the brain drain/brain gain effects) and impacts on fundamental rights. Then an assessment has been carried out of the overall feasibility of each option (defined as including transposition and administrative related burden and the financial costs).

An attempt has been made to indicate the likely strength of the negative or positive impact on a scale from one to three (+ for positive impacts, - for negative impacts), with 0 indicating an absence of impact.

Some elements of quantification at a more general level are presented in Annex III and as regards administrative financial costs in Annex IV.

Assessment of impacts

Table 1 - Assessment of impacts

⁷⁷ Case C-508/10. Judgment on 26.4.2012

Policy Option 2: Increased communication efforts: (in particular in case of researchers), and strengthened enforcement of the current rules		
Feasibility		
Difficulty/risks for transposition, incl. proportionality	0	No difficulties or risks related to transposition are expected as the option does not create any additional legislative interventions. Member States would have complete discretion in whether and how to provide more transparency and information on existing provisions.
Simplification/administrative burden	0	No possibilities for simplification have been identified. The administrative burden would be limited and confined to efforts needed to implement improved communication activities insofar as Member States deem this necessary.
Financial impact	0	No possible financial impact as different from the expected economic impact at EU level has been identified.
Expected impacts		
Economic impact at EU level	+/-0	Better communication and increased transparency on admission conditions would to some extent attract more third-country national students and researchers. Consequently, a very limited positive economic impact at the national level could be expected in Member States that allow third-country national students and/or researchers to stay on the territory to look for work following finalization of their studies/research and where this leads to the issuance of an authorization to work by the Member State. The overall positive economic impact at EU level would however be very limited. The expected impact regarding the three other (optional) groups covered by the Students Directive would be very limited. The implementation costs would be limited as this option regards an improvement of already existing communication measures and does not introduce new measures. The costs would vary among Member States as some already have advanced information campaigns in place whereas others would need to undertake action in this area.
Social impacts at EU level	+ 0	Access of individuals to education and research: More transparency on existing rules will enhance access of third-country nationals to opportunities in education and research in the EU; this applies to students, researchers and school pupils. Better information and communication on existing rules will also facilitate the way in which involved organizations (such as research organizations, universities, but also those organizations involved in activities of student exchange and volunteering) can operate. Employment and labour market: This option would put the EU in an increasingly disadvantaged position in attracting talent for education and research purposes which will not improve the situation as compared to the baseline scenario, in particular in those Member States that currently do not have in place systems at national level that go beyond the provisions of the existing

	+	Directives and that would increase their attractiveness. Cultural and linguistic diversity: As under this option, a small increase in third-country national students and researchers (as well as in some cases volunteers, school pupils, remunerated and unremunerated trainees and au pairs) could be expected, also the EU would benefit from an increase in cultural and linguistic diversity. Increased communication can contribute to fostering people-to-people exchanges and strengthened young people's learning mobility, including non-formal learning in another country.
Impacts in third countries	0	Brain drain/brain gain: While a small increase in the departure of third-country national students and researchers and other groups covered by the Directive may initially have a negative impact on sending societies, the fact that many of them will return after their stay in the EU means that they will eventually benefit from the knowledge, skills and experiences that third-country nationals would have gained and acquired during their stay in the EU.
	+	For the case of volunteers, school pupils, remunerated and unremunerated trainees as well as au pairs, the impact in third countries could be broadly positive, as the Directive covers only temporary forms of migration, which means that third-country nationals would come back to sending societies.
Impacts on fundamental rights	+	This option would have some positive, even if limited, impact on the effective exercise of rights, in particular ease the exercise of the right to an effective remedy, as awareness of the existing rules would increase.

Policy Option 3: Improvement of admission conditions, rights and procedural guarantees		
Feasibility		
Difficulty/risks for transposition, incl. proportionality	-	Making the currently optional rules on school pupils, volunteers and unremunerated trainees mandatory would imply a transposition effort for those Member States who have not transposed the optional rules. Not taking into consideration DK, IE and the UK, for each of the three groups, half of the remaining Member States have transposed the optional rules. For the other half who has not transposed the optional EU rules, the transposition effort depends on whether or not they have existing national rules. For school pupils and unremunerated trainees, six Member States have national rules, whereas six Member States do not have rules. For school pupils, five Member States have national rules,

	0	seven do not.
	0	Strengthening the provisions granting visa as well as provisions on rights would entail some adjustments at Member State level, however given that what would be foreseen already exists under Directive 2005/71, this option would not present any major transposition difficulties.
	0	The extension of students' rights to work at least 15 hours per week rather than ten also seems not to pose transposition difficulties, as a number of Member States already has rules that would allow this or even go beyond this.
	0	Binding limits for the time to decide on applications appear to be proportionate, given that some Member States would already meet such time limits in their current practice, and would have significant benefits for the planning process and security of third-country nationals who applied for the respective authorizations. The EU Blue Card foresees a time limit of 90 days however this concerns an application for the purposes of employment, and for periods of up to four years).
Simplification/administrative burden	+	Making mandatory the rules at EU level for the groups that are currently optional under Directive 2004/114 benefits mainly third-country national school pupils, volunteers and unremunerated trainees, as well as organizations involved in such exchanges, as there would be rules that apply for all Member States, and more clarity on the rules.
	+	The imposition of time limits and the need for Member States to provide a written motivation on a decision to issue, renew or withdraw an authorization would result in additional administrative burden to those Member States which currently do not have such time limits, or do not provide in writing the reasons for decisions. Third-country nationals would derive benefits from these procedural guarantees.
Financial impact	+/-	For those education institutions that charge fees to third-country nationals, a stronger presence of the latter may increase their revenues. When no fees are charged, an increased presence of third-country national students may require an additional investment, but may also contribute to creating a critical mass of students to maintain or further develop their activities.
Expected impacts		
Economic impact at EU level	+	Although quantifying the economic impact remains difficult, all the elements identified point to an overall beneficial nature of students' and researchers' contribution to the EU in a number of aspects, including innovative capacity and competitiveness (see also Annex IV). On an overall level, the improvement of admission conditions, procedural guarantees and rights of these groups of third-country nationals would increase the attractiveness of the EU as a destination for these third-country nationals, meaning that the EU is put in a better position in competing for the most talented individuals that have the highest potential to contribute to economic

	-	development. For the other groups, the main benefits lie predominantly in non-economic considerations. A call on the Member States to provide every facility to third-country nationals to receive a relevant authorisation in combination with fixed time limits to assess applications will to some extent further increase the attractiveness of the EU as a destination for all groups and increase the pool of third-country national students and researchers⁷⁸ in the EU. Consequently, in Member States that already allow third-country national students and/or researchers to stay on the territory to look for work following finalization of their studies/research and where this results in the Member State issuing an authorization to work, a positive economic impact could be expected. As most Member States do not offer this access to the labour market, the overall positive economic impact at EU level would however be limited. The expected economic impact regarding the three other (optional) groups would be very limited. Improved access to the labour market during studies would allow students to contribute economically at this stage as well. Implementation costs: On an overall level, the implementation costs would vary among Member States, depending on the extent to which they already have provisions that correspond to the ones foreseen by this option. The implementation costs would be limited as far as some rights resulting from equal treatment are concerned. Additional procedural guarantees would require an additional effort on the side of Member State authorities (for example to give reasons in the written negative decision on an application). Costs will vary, depending on the degree to which Member States already transposed rules for the groups that are optional under the Students Directive. Even in cases where Member States have not applied the optional rules, national rules exist in some Member States which will limit additional budgetary efforts.⁷⁹ Administrative costs have been calculated to be in a similar range as those foreseen for Option 4 (see below in Option 4 and Annex IV. Given the limited availability of reliable data, these calculations should be treated with a high level of caution).
Social impacts at EU level	+ +	Access of individuals to education and research: the mobility fostered by this option could also benefit the European Higher Education Area and trigger increased coherence between national systems (supported by the Bologna Process). Cultural and linguistic diversity: A small positive impact is expected as more students and school pupils, volunteers and unremunerated trainees are likely to come to the EU. Improved intra-EU mobility provisions will further strengthen this aspect.

⁷⁸ In the case of researchers, only binding time limits will be added under this Option.

⁷⁹ There are very limited changes for those Member States who have already transposed one or several of the optional groups of the students Directive (for school pupils, BG, CY, CZ, EE, ES, IT, LU, LV, PT, RO, SI and SK; (for unremunerated trainees BG, CY, CZ, EE, ES, FR, IT, LU, PT, RO, SI and SK; for volunteers CY, CZ, EE, EL, ES, HU, IT, LU, PT, RO, SI and SK)

Impacts in third countries	0	Brain drain/brain gain: While an increased number of third-country national students, volunteers, school pupils and unremunerated trainees leaving their home countries may initially have a negative impact on these societies, the fact that many of them would return after their stay in the EU means that these countries would eventually benefit from the knowledge, skills and experiences that they have gained and acquired during their stay in the EU.
Impacts on fundamental rights	+	Option 3 would have a positive impact on a number of rights protected under the Charter of Fundamental Rights, in particular the right to work, the right to an effective remedy, and the prohibition of discrimination (equal treatment with nationals in working conditions and social security). These options would not impact on the right to family life of students which is not covered by the proposed new instrument, however it would impact positively on the right of family life of researchers.

Policy Option 4: Further improvement of admission conditions, rights also on intra-EU mobility and procedural guarantees; labour market access following completion of studies or research project; extended scope to au-pairs and remunerated trainees.

Feasibility

Difficulty/risks for transposition, incl. proportionality	-	A stronger linkage or combination between the requirements to obtain permits and visas would require adjustments at Member State level. Given that in advanced negotiations on other instruments in the area of legal migration, the approach to leave it open to Member States to issue permits or long-stay visas in the first year has already been developed, thereby increasing Member States' flexibility in this area, there should not be any major transposition difficulties.
	0	The extension of students' rights to work at least 20 hours per week rather than ten seems not to pose transposition difficulties, as a number of Member States already have rules that allow this. With this in view, an extension to 20 hours is considered to be proportionate, also as otherwise some students may struggle to be able to fund themselves during their stay, thereby putting at risk the stay as a whole.
	-	The possibility for third-country national students to stay on the territory of the Member State to look for work for a limited period of time after graduation is already being offered in a number of Member States (up to 18 months). Some of these Member States would have to adjust the time period so that it (at least) covers the 12 months foreseen by this option. Other Member States would have to introduce such a possibility in their legislation and allow the same for third-country national researchers who have completed their research. With regard to family members' access to the labour market, this is already foreseen by many Member States, hence transposition efforts would be limited to some

	0	Member States only. Binding limits for the time to decide on applications appear to be proportionate, given that some Member States already meet such time limits in their current practice, and would have significant benefits for the planning process and security of third-country nationals who applied for the respective authorizations. Time limits also exist in other recent EU legal instruments in the area of legal migration (90 days in the case of the EU Blue Card however this concerns an application for the purposes of employment, and for periods of up to four years).
	-	Intra-EU mobility provisions for beneficiaries of EU-funded mobility programmes should not pose major transposition problems, as a number of Member States appear to be open to such an approach.
	-	Including third-country national trainees and au-pairs in the scope of the EU legal framework would require provisions for these groups where currently no specific legislation exists, and for Member States where national rules exist, to adapt these to the EU framework (12 Member States have specific rules on au-pairs, 13 Member States have rules on remunerated trainees).
Simplification/administrative burden	++	Streamlining of procedures between different types of authorizations would benefit Member States, as in particular regarding long-stay visa this would lead to an alignment with practices already applied by some Member States. Third-country nationals concerned would benefit through clearer conditions necessary to obtain the required authorization(s). Organizations and companies involved (research and higher education institutions, research companies or companies hosting third-country national trainees, organizations involved in exchange of school pupils, volunteers or au-pairs) would also benefit from streamlined procedures regarding authorizations, as they either play a key role in the admission process themselves, or are providing support to the applicants (for example in the form of information).
	+	Making mandatory the rules at EU level for the groups that are currently optional under Directive 2004/114 benefits mainly third-country national school pupils, volunteers and unremunerated trainees, as well as organizations involved in such exchanges, as there would be rules that apply for all Member States, and more clarity on the rules (same as Option 3).
	+	Better linking EU-funded mobility programmes and EU migration rules will simplify procedures for beneficiaries of such mobility programmes. An authorization including all countries that would be concerned by intra-EU mobility would simplify and lighten the administrative burden, however at the same time require the setting-up of contact points on Member States covered by the intra-EU mobility
	+	Introducing rules on remunerated trainees and au-pairs would benefit these groups in Member States where currently no

	-	rules exist. Procedural guarantees in the form of the need for a written justification on Member States' decisions to reject to issue, amend, renew, or to withdraw an authorization will cause additional administrative burden on Member States (same as Option 3).
Financial impact	-	For those education institutions that charge fees to third-country national students, a stronger presence of the latter may increase their revenues. When no fees are charged, the presence of third-country national students requires an additional investment, but may also contribute to creating a critical mass of students to maintain or further develop their activities (same as Option 3).
Expected impacts		
Economic impact at EU level	++	Substantially improved admission conditions should facilitate the access of researchers, students, unremunerated and remunerated trainees (the latter newly added) to the EU and thereby significantly increase the attractiveness of the EU as a destination for these groups of third-country nationals. The skills, knowledge and competencies they can apply during their initial stay will have a positive effect on the stimulation of research and development and innovative performance. Improved intra-EU mobility provisions will allow for any such advantage to spread more widely across the EU. They will support a better flow of knowledge and ideas and lead to an intensified cross-border exchange of know-how. In Member States where this is not already the case, the introduction of a possibility for students and researchers to remain in the Member State to seek employment upon finalization of their studies/research opens up for a new pool of talent in these Member States which, in cases where an authorization to work is granted by the Member State, can contribute to the EU's growth and competitiveness⁸⁰. Member States could make use of this increased pool of talent in responding to the needs of their respective labour markets. The possibility to remain on the territory to identify work opportunities would therefore amount to a demand-driven scenario, allowing third-country nationals to work in cases where their skills are needed on the labour market. In particular in the case of researchers who already have an institutional affiliation with a particular hosting organization, the option would not exclude engaging in a working relationship with the hosting organization. For the hosting organization, this would mean that a researcher who as proved his or her added value could continue to be active for the organization. Access to the labour market for family members of researchers can be expected to have a small (due to the rather low numbers of researchers coming in under the existing instrument) positive impact economically in those Member States where this is not already foreseen.

⁸⁰ For a selection of OECD countries, one quarter of international students can be assumed to have stayed in the respective countries, 74% of which changed their status for work related reasons; OECD Education at a glance 2011

	-	Implementation costs: On an overall level, the implementation costs would vary among Member States, depending on the extent to which they already have provisions that correspond to the ones foreseen by this option. In a short-term perspective, there would be implementation costs as far as changes in admission conditions are concerned. In a medium- to long-term perspective, Member States could however expect to make savings through a more streamlined connectedness between different kinds of authorizations. Initially, and on a one-off basis, additional implementation costs would occur for Member States' Immigration Services (and for research organizations) for familiarising themselves with the obligations associated to the changes in the Directive and for the training of personnel of Member States' Immigration Services in charge of issuing the authorizations. The administrative costs associated to the assessment of applications, issuing of permits and notifications of rejections would amount on an annual basis to around € 23 million across all Member States (except Denmark), including the possibility of intra-EU mobility for all students, and not only new arrivals. Given limited data availability, these calculations should be treated with a high level of caution (see Annex IV). However, fees for the authorisations partly offset these costs⁸¹. As regards the provision on the rights deriving from equal treatment, the conditions that are added to what is already covered by the Single Permit Directive are not expected to result in substantive implementation costs. Additional procedural guarantees will also require an additional effort on the side of Member State authorities (for example to give reasons in the written negative decision on an application). Regarding the efforts needed to transpose rules on the groups currently optional under the Students Directive, the same considerations as made for Option 3 apply. For au-pairs and remunerated trainees, as these are not currently covered, Member States that have national rules would also need to bring them in line with the EU legislative framework.
Social impacts at EU level	+ + +	Social impacts will be further enhanced through introduction of more advanced rights and an extension to new groups of migrants: au pairs and remunerated trainees. Facilitated access and better provisions on intra-EU mobility will increase the possibilities of people-to-people contacts for all groups.

⁸¹ For researchers the average cost that researchers have paid for the permit is €250. Therefore, costs for fees would cover € 173,750 in the case of researchers. For students (fees for other groups can be assumed to be in a similar range), the fees averaged € 86 for a permit (all countries except Denmark). Only adding the assumed additional 50,000 students to the equation means that the costs for permits would offset € 4,300.000. For more information on the assumptions behind these calculations and the calculations themselves, please see Annex IV.

Impacts in third countries	0	Brain drain/brain gain: While an increased number of third-country national researchers leaving their home countries may initially have a negative impact on these societies, the fact that many of them will return after their stay in the EU means that these countries will eventually benefit from the knowledge, skills and experiences that they have gained and acquired during in their stay in the EU.
Impacts on fundamental rights	++	This option would have a positive impact on a number of rights protected under the Charter of Fundamental Rights, in particular the right to an effective remedy through clearer admission conditions, the right to work (improved access to the labour market) and the right to family life (access to the labour market for researchers' family members).

7 COMPARISON OF THE OPTIONS

The following table analyses in detail the policy options in terms of relevance, effectiveness and efficiency, against the baseline scenario. An attempt has been made to further qualify the degree to which options are relevant, effective and efficient on a scale from one to three (+ for positive assessment, - for negative assessment), with 0 indicating that the option is considered to be neutral to the baseline scenario.

Table 2 – Relevance, effectiveness and efficiency of options

Objective	Assessment	Comments
Improve the conditions of admissions	0	Option 2 would partially meet this objective, as compared to the baseline scenario improved communication and information provision would allow applicants as well as institutions to be better informed about document requirements and possible redress mechanisms. Better communication with the authorities issuing visas and residence permits than is currently the case would also improve procedures, but only to a limited extent. While better provision of communication and information will imply costs for Member States as well as the relevant organizations concerned, this would not address the real issue at stake, as it would leave unchanged in principle the system of obtaining visa and permits. This option is therefore not considered to be cost-effective.
	+	Option 3 would improve the admission conditions regarding the facilitation of visas, for students and other groups to the extent that they would be equal to the ones available to researchers in the baseline scenario. Regarding access to information, this option to some extent addresses the issues identified. Option 3 would imply costs for Member States mainly through the need for transposition of optional rules, and by making limited changes to existing rules.
	+++	Option 4 would most effectively enhance admission conditions through a stronger linkage/combination between the issuing of visas and residence permits. Regarding access to information, this option will most effectively address the current shortcomings in information provision. While Option 4 would imply costs for Member States, by having to transpose optional rules, and by making changes to procedures on permits and long-stay visas, some of the practices foreseen are already applied by Member States in practice, or are

		foreseen in other parts of the legal migration acquis, in particular with regard to long-stay visas. The cost-effectiveness would therefore be high.
Improve procedural guarantees	0 ++ +++	Option 2 would not alter any procedural guarantee and therefore not address the shortcomings identified. Option 3 would bring about important benefits in the form of time-limits for handling of the applications, and Member States' motivations on decisions in writing. Member States would incur costs through these requirements, however as other parts of the acquis in the area of legal migration already foresee such procedural guarantees, the cost-effectiveness of their introduction for the groups concerned is high. In this sense, while improving the situation of the groups concerned in relation to the baseline scenario, it would also bring in line the parts of the EU acquis concerned with the more recent EU legislation which already foresees such procedural guarantees. Option 4 would introduce more ambitious and strict time limits without any possibility to extend those limits and apply shorter limits for the assessment of applications of Erasmus Mundus/Marie Curie applicants. The option would also require Member States to issue motivations for decisions on applications in writing. The same considerations on cost-effectiveness as for Option 3 apply.
Improve access to labour market	0 + +++	Option 2 would not alter the existing situation. Option 3 would improve only the situation of students during their studies. Cost-effectiveness would be given as many Member States in their current rules would already address the provisions foreseen under this Option. Option 4 would result in new provisions on access to job-seeking after studies/research, improve the situation of students during their studies to a considerable degree, and allow researchers' family members access to the labour market. While requiring Member States to make transposition efforts (in particular in the case of access to job-seeking after studies/research), the combination of the facts that other measures are already being applied by a majority of Member States (access to the labour market of family members, number of hours that students are allowed to work during studies) and that the possibility of job-seeking and access to the labour market has been identified as a key component in the EU's attractiveness, cost-effectiveness is ensured.
Improve intra-EU mobility	0 0 ++	Option 2 would to a minor extent improve intra-EU mobility through better awareness-raising as compared to the baseline scenario. Option 3 would provide for more efficient intra-EU mobility possibilities for students only, the situation of other groups would remain as is the case in the baseline scenario. Whereas rules would be changed, this would be done for students only, putting into question the cost-effectiveness of this Option. Option 4 would introduce the most far-reaching and novel changes on intra-EU mobility provisions both for students and researchers (and the latter's family members), as well as for remunerated trainees (newly added). As similar rules would apply to all three groups, and as the promotion of intra-EU mobility can only be achieved through (enhanced) EU rules on such instances of mobility, this Option is considered to be cost-effective.
Increase the coherence of EU migration rules with EU mobility	0	Options 2 and 3 would only to a minor extent address the current problems experienced by people applying to EU mobility programmes or willing to move to other Member States than the one they originally entered. Option 4 would be the most effective option to remove additional

programmes	++	administrative barriers to study/carry out research in different Member States. This Option would also result in better framework for faster decision-making for applicants under EU mobility programmes. Overall, it will increase the coherence between EU legislative framework and EU funding programmes in the areas of higher education and research, while implying only limited additional costs for Member States (mainly related to national contact points).
Provide for coherent provisions ensuring protection of remunerated trainees and au pairs	0 ++	Options 2 and 3 would not change the situation of remunerated trainees and au pairs compared to the baseline scenario. Option 4 is the only option that would increase the levels of protection of remunerated trainees and au pairs compared to the existing situation. It would render the current EU legal framework more coherent which includes unremunerated trainees as an optional category. Cost implications occur both for those Member States which have to adjust existing national rules as well as to those which have to set up new rules, however the benefits of reduced costs for organizations involved would outweigh the costs that the implementation of this Option would mean for Member States.

Based on the above table, some preliminary conclusions can be drawn on the overall strengths and weaknesses of the different options and their overall effectiveness, efficiency and relevance in achieving the various objectives while avoiding excessive costs.

Option 2

Option 2, while addressing an important weakness of the current framework, i.e. better informing on the provisions of the current framework, would overall have limited positive impacts. Better awareness of existing rules on admission and rights as well as procedural guarantees has its merits mainly in that the groups currently covered would be able to better benefit from provisions associated to them. Option 2 would however not change the substance of the existing legal instruments and their weaknesses would therefore persist. The overall effectiveness of the option in relation to the objectives, the efficiency of the option in achieving the objectives and the relevance are thus considered to be neutral to the baseline scenario and consequently not cost-effective.

Option 3

Compared to option 2, Option 3 has a better potential to achieve the various objectives.

Regarding **admission conditions**, it would be a step forward with regard to issuing visas and/or permits. Positive impacts could be expected mainly for students and to some extent also with respect to school pupils, volunteers and unremunerated trainees. There would however be very limited benefits linked to time-limits for researchers and no benefits for the groups which are currently not covered by the Directive.

As for **increasing the coherence of EU migration rules with EU mobility programmes**, Option 3 would improve the situation of applicants who benefit from EU scholarships/fellowships. Significant improvements and new procedures would be introduced would apply both at the level of admission and intra-EU mobility. While this option would

make a difference for the groups concerned, it would nevertheless only cover a small share of third-country national students and researchers, most of whom do not fall under such funding programmes.

With respect to **improving procedural guarantees**, Option 3 would introduce binding time-limits for handling an application which would increase transparency and improve time planning for potential applicants. This would constitute a significant step forward as compared to the current situation where different deadlines apply, varying from one Member State to another.

With respect to the **improvement of access to the labour market**, Option 3 would significantly improve the current situation of students through increasing the minimum threshold of working hours and lifting the possibility of limiting access to labour market in the first year of residence.

Concerning **intra-EU mobility**, Option 3 would improve legal certainty and planning security for student stays by explicitly allowing students to apply for mobility from within the territory of the Member State. In this option, there would however be no specific solutions for researchers nor other categories of third-country nationals. These new provisions would also improve to some extent the functioning of EU mobility programmes.

Option 4

Option 4 has the best potential to achieve the various objectives. Regarding **admission conditions**, Option 4 would have significantly larger positive impacts on the accessibility of the EU not only for the groups covered by the Option 3 but in addition for au pairs and remunerated trainees. In addition, the changes introduced by Option 4 would provide a much greater degree of clarity regarding the requirements to be fulfilled under the different elements of the admission procedure and the way they are linked to each other.

Regarding the **coherence of the EU legal framework and EU mobility programmes**, Option 4 would cover not only the beneficiaries of EU funding programmes but would apply improved provisions to all groups concerned, making a significant step forward in terms of intra-EU mobility provisions. With respect to **procedural guarantees**, Option 4, by introducing stricter time-limits than Option 3, would further enhance the advantages the potential applicants gain through this. Both options foresee equal solutions to improve the right of legal redress and right to information for the groups covered by the options concerned.

With respect to the **improvement of access to job-seeking and the labour market**, Option 4, while increasing the minimum threshold for students even further, would in addition significantly increase the attractiveness of the legal framework for students and researchers through allowing them to stay on the territory of the Member State to look for a job following completion of their studies/research. This EU-wide possibility would increase the overall attractiveness of the EU as a destination for students and researchers and have a particularly positive impact in cases where such a stay results in the Member State issuing an authorization to work. Member States would thus have an increased pool of talent that they could use to respond to the needs of their respective national labour markets.

Concerning **intra-EU mobility**, Option 4 would not only improve the legal certainty and planning security for student stays, but also introduce new solutions aiming to address in the

most efficient way the possibility for students and researchers to fully reap the potential of studying and research opportunities in different Member States without lengthy application procedures and admission decisions. It would also address crucial problems with respect to mobility of Erasmus Mundus students through introducing provisions which will not put at risk the continuation or delays in the exercise of their mobility track as foreseen under the EU scholarship. This option would also introduce provisions on the mobility of remunerated trainees, currently not addressed, and opening new possibilities for this group of third-country nationals.

Finally, Option 4 is the only one which meets the objective of providing **coherent provisions ensuring protection of au pairs and remunerated trainees**. It foresees a coherent set of admission conditions and rights ensuring that the objective of training and au pairing in the EU are not compromised. Common EU rules regarding definitions of au pairs, conditions of entry, obligations in terms of cultural / linguistic activities, accommodation etc. would support vulnerable au pairs in protecting their rights and ensuring that the aim of au pair programmes, cultural exchange, is achieved. Common rules would create clarity and would thereby make monitoring of the au pair placement's objectives and the respect of rights and obligations easier.

Preferred Option

The analysis of problems and comparison of options suggest that there are a number of problems that cannot be solved by improved communication efforts only.

Albeit having the lowest implementation costs among the different options, Option 2 only has the potential to meet the objectives to a very limited extent. The real issues at stake remain largely unresolved. Against this background, Option 2 is considered to be the least cost-effective option.

Option 3 has a higher level of relevance, effectiveness and efficiency compared to Option 2. However, Option 4 has the highest overall relevance, effectiveness and efficiency. While implying the higher implementation costs as compared to the other options, such costs are considered to be proportionate to the objectives and necessary to allow for the most substantial benefits to materialize. The costs implied are matched by the positive impacts and gains to be made. Against this background, Option 4 is considered to be the most cost-effective option.

The main disadvantages of legislative changes would be the costs involved. Member States will have to make modifications to their legislative frameworks, mainly concerning authorisations to enter and stay, intra-EU mobility and time-limits to handle applications. However Option 4 appears to be the most cost effective option to meet the key objectives, and brings about significant positive impacts. These costs would be relatively limited, and some Member States are already implementing some of the provisions foreseen. An improved legislative framework would also decrease the relevant groups' time spent on complex, lengthy and costly procedures.

Instrument chosen

Since the issues identified are similar for both Directives, and in order to provide for more coherence and clarity of the EU rules, the most effective way to implement the preferred option would be to combine the two Directives in a single legislative instrument. This would be carried out through a recast of both Directives, bringing together in a single legislative act both Directives and proposing new substantive changes.

8 MONITORING AND EVALUATION

8.1 Indicators

The main existing indicator is the number of third-country nationals coming to the EU for education and study purposes. However, attributing changes in these numbers in the future to particular factors is not easy, as several factors can determine the attractiveness of the EU for the relevant groups, one of them being immigration rules. Moreover, there is a number of national schemes for the entry and residence of the third country national groups concerned by the future proposal, whose entries are not recorded under the existing Directives.

The proposal will include an obligation for the Commission to report on the implementation of the new Directive by the Member States to Parliament and the Council three years after the deadline for transposition. In addition, the report could look into the effects of the Directive. The reporting exercise may contain policy recommendations, where appropriate.

The proposal will contain an obligation for the Member States to report annually to the Commission the relevant statistics, such as on the number of residence permits issued for the purposes indicated in the Directive for the first time or renewed and the residence permits withdrawn disaggregated by a number of criteria.

In parallel, the Commission will continue its enforcement efforts verifying the compliance of transposition measures with the Directive and the timing thereof, launching infringement procedures where necessary.

Table 3 – Possible indicators

Objectives	Possible indicators
1. Improve admission conditions	Development of the numbers of third-country national students, researchers, school pupils, volunteers, remunerated and unremunerated trainees and au pairs compared to figures recorded so far under the two Directives. Numbers of third-country national students, researchers, school pupils, volunteers and trainees who experience problems in the process of being admitted to the EU while meeting the conditions to obtain a permit or long-stay visa against the total number of third-country national students, researchers, school pupils, volunteers and trainees.

2. Increase coherence of EU migration rules with EU mobility programmes	Participation in EU programmes promoting mobility, measured through the numbers of participants as well as the numbers of applicants to such programmes, and development of these figures over time.
3. Improve procedural guarantees	Time taken by Member States to assess and decide on applications to be admitted, measured against currently applied time limits. Numbers of unsuccessful applications compared to successful applications (measured both before and after a possible redress).
4. Improve access to job-seeking and the labour market	Numbers of third-country national students and researchers who stay in the EU for employment-seeking purposes measured against the overall numbers of third-country national students and researchers. Numbers of third-country national students and researchers who stay in the EU for employment-seeking purposes, and obtain the necessary authorization to work, measured against the overall numbers of third-country national students and researchers. Number of third-country national students who work during studies, compared to overall number of third-country national students. Number of hours (measured by hours per week) that students work during their studies. Number of family members of third country national researchers coming to the EU. Number of family members of third country national researchers joining the labour market.
5. Improve intra-EU mobility	Numbers of instances of intra-EU mobility that third-country national students, researchers (and their family members) and trainees undertake during their stay in the EU, measured against total numbers of third-country national students, researchers and trainees. Numbers of third-country national students, researchers and trainees who participate in EU-funded mobility programmes who move between EU Member States, measured against overall numbers of third-country national students, researchers and trainees who participate in EU-funded mobility programmes.
6. Provide for coherent provisions ensuring protection of au pairs and remunerated trainees	Numbers of third-country national au pairs and remunerated trainees coming to the EU under an EU legislative framework.

8.2 Monitoring

The Students and Researchers Directive are currently being monitored, alongside the other existing Directives in the area of immigration, through an expert group of representatives of the Member States and the Commission (Contact Committee), as well as the Committee on Immigration and Asylum (CIA). In particular in the Contact Committee, issues concerning the transposition and application of the Directives are discussed. The new Directive would also be subject to monitoring in the Contact Committee and the CIA. These structures ensure an efficient information flow between the Commission and national authorities on how the

directive is implemented and are intended to help anticipate and resolve problems more effectively.

8.3 Transposition

The time limit for transposition of the new Directive will be two years after adoption. Two years appears to be an adequate period for transposition of the Directive into national law since most of the legal provisions already exist under the currently applicable Directives on students and researchers. A more significant effort will be needed for cases where no specific rules exist at present.

ANNEX I QUANTITATIVE RESULTS FROM CONSULTATION SURVEY

1461 responses were received in total. The consultation closed on 23 August 2012. Please note that not all questions were compulsory and therefore the absolute numbers responding to any specific question varies.

Researchers

A very large majority of respondents (91%) thought that the attractiveness of the EU as a destination for researchers should be improved.

The biggest issues in relation to EU rules for non-EU researchers coming to the EU were seen to be visas (mentioned by 69%) and residence permits (66%). Lack of clarity around hosting agreements and insufficient time limits on application decisions were also mentioned by around a quarter of respondents.

When presented with a list of possible actions⁸² to improve the current rules on researchers, almost all receive very high levels of support, with between 82% and 90% saying each action is important⁸³. Between 45% and 59% of all respondents also thought each action was 'very important'.

Making it easier for researchers who have permission to be in one Member State to go to another Member State for their research received the highest support (90% said it was important), followed by setting time limits on application decisions and increasing synergies with mobility programmes such as Marie Curie (87% and 86% respectively) and automatic issuing of visas once the residence permit conditions are fulfilled (86%).

When asked about the future of the hosting agreement non-EU researchers conclude with recognized institutions, the majority of respondents (59%) felt that this mechanism should be retained, but more guidance should be given on its form and content. Slightly more (23%) thought that the hosting agreement should stay as it is, than that it should be replaced completely (17%).

Regarding the status of PhD students as students or researcher, most people (45%) felt that they should be treated as researchers. Slightly over three in ten (35%) felt that it should be left up to national authorities to decide depending on circumstances.

A very large majority (94%) thought that researchers should be allowed to remain in the EU for a time to look for work after the end of their research project.

Similarly, most respondents felt that it should be possible to apply for research residence permits from both outside and inside the EU (87%).

⁸² Automatic issuing of visas if conditions for residence are fulfilled; procedural safeguards/time limits on decisions; access to labour market; intra-EU mobility; synergies of migration rules with EU programmes on mobility eg. Marie Curie, facilitation of stays for less than 3 months

⁸³ "Important" is defined, throughout this document, as including those who replied "fairly important, important and very important"

Students

As with researchers, a very large majority (87%) thought that the attractiveness of the EU as a destination for students should be improved.

Visas and residence permits (mentioned respectively by 70% and 66% of respondents) were seen as the key issues relating to rules for non-EU students coming to the EU. Around five in ten also mentioned overly restrictive access to the labour market (51%) and insufficient synergies between migration rules and EU mobility programmes such as Erasmus Mundus mentioned by 39% of respondents).

Almost all possible policy actions to improve the EU rules for students⁸⁴ were seen as important by eight in ten or more (83%-88%). The only exception to this was allowing students to be accompanied by their families, which was seen as important by slightly fewer people (64%).

The policy actions that received the most support were to make it easier for students to move to other EU states and to set a time limit for Member States to take a decision on allowing students to come to the country (88%), followed by the automatic issuing of visas if conditions are fulfilled (86%), increasing synergies with EU mobility programmes (86%), , allowing greater access to labour market (85%) and facilitating access and stay for periods below 3 months (83%).

In terms of actions beyond changing the rules, all three options provided, fast-track procedures, assistance in filling out applications and better information provision all received the support of over half of respondents.

A large majority (94%) of respondents thought students should be allowed to study in another Member State without requiring a new residence permit. Of this, over a third (37%) thought that students should only be allowed to move for a limited time, e.g. a semester. When asked about the number of hours students are allowed to work per week, views were mixed. 25% felt that the current threshold of 10 hours/week should be maintained, while more than seven in ten either thought the number of hours should be increased (42%) or that there should be no threshold (30%). Only 3% thought the threshold should be less than 10 hours.

A very large majority (90%) felt that students should be allowed to stay in the EU for a time after graduation to look for work.

Similarly, most respondents felt that it should be possible to apply for student residence permits from both outside and within the EU (79%).

⁸⁴ Automatic issuing of visas if conditions for residence are fulfilled; procedural safeguards/time limits on decisions; access to labour market; family reunification; intra-EU mobility; synergies of migration rules with EU programmes on mobility eg. Erasmus Mundus; facilitation of stays for less than 3 months

School pupils, volunteers and unpaid trainees

71% thought that the attractiveness of the EU as a destination for school pupils should be improved, 74% thought the attractiveness for volunteers and unpaid trainees (73%) needed to be improved.

Visas and residence permits were again seen as the biggest issues for all three groups. It should be noted that compared to the questions on researchers and students, a smaller number of respondents answered these questions.

Statistics tables⁸⁵

DEMOGRAPHICS

Type of respondent

Student	29%
Member of academia, teacher	13%
Researcher (less than 4 years postgraduate research experience)	13%
Educational establishment (eg. university department)	13%
Post Doc Researcher (or more than 4 years postgraduate research experience)	11 %
NGO	5%
Research organisation	4%
Other	3%
Public authority	2%
Volunteer	2%
International organisation	2%
Consultant	1%
Company	1%
Trainee	1%
School pupil	0% (0,07%)

⁸⁵ Throughout the document, the figures were rounded to whole numbers.

Gender

Female	44%
Male	56%

Country of citizenship – top 20

Turkey	13 %
Germany	6%
United Kingdom	4%
Italy	4%
India	4%
France	4%
Uruguay	4%
Brazil	3%
China	3%
Spain	3%
Ukraine	3%
Iran	2%
Russia	2%
Portugal	2%
Ireland	2%
United States	2%
Austria	2%
Mexico	2%
Albania	1%
Belgium	1%

Country of citizenship – top 5 non-EU

Turkey	13
India	4%
Uruguay	4
Brazil	3%
China	3%

Country of citizenship – top 5 EU

Germany	6%
United Kingdom	4%
Italy	4%
France	4%
Spain	4%

RESEARCHERS

Do you think the attractiveness of the EU as a destination for researchers should be improved?

Yes	91%
No	9%

N=1252⁸⁶

What do you see as the main issues in relation to non-EU researchers coming to the EU and the main problems/shortcomings in the current EU rules on researchers? You may choose more than one option listed below.

Visas	69%
Residence permits	66%
Insufficiently clear definitions regarding the legal quality and format of hosting agreements	32%
Insufficiently binding time limits for deciding on an	27%

⁸⁶ N = total number of respondents who replied to that question

application	
Insufficiently uniform way of updating and publishing the list of research organisations	20%
Other	12%

N=1198

Which of the following actions could improve the current rules on researchers coming to the EU? Please rank actions in order of importance. You may rank as many or as few options as you wish.

Once the conditions for the residence permit are fulfilled the entry visas are issued (if needed)

Not at all important	2%
Slightly Important	5%
Important	23%
Fairly Important	13%
Very Important	50%
No opinion	8% ⁸⁷

N=1380

Set a time limit for the Member State to take a decision on whether to give a researcher permission to come to the country

Not at all important	3%
Slightly Important	6%
Important	21%
Fairly Important	20%
Very Important	46%
No opinion	4%

N=1380

⁸⁷ Due to a technical problem with this question on-line, respondents were obliged to answer "no opinion" for each subsection of the question, even if they did not want to answer this part of the questionnaire, in order that the questionnaire could be submitted. In processing the data, if "no opinion" responses were submitted for all the subsections, this was considered as a non-reply to this question and deducted from the total number of responses.

Allow researchers more access to the labour market during their period of research (not just teaching)

Not at all important	3%
Slightly Important	10%
Important	17%
Fairly Important	21%
Very Important	45%
No opinion	4%

N=1380

Make it easier for researchers who have permission to come to a Member State to go to another Member State for their research

Not at all important	2%
Slightly Important	6%
Important	13%
Fairly Important	17%
Very Important	59%
No opinion	3%

N=1380

Increase synergies between EU migration rules with EU programmes on mobility (eg. Marie Curie)

Not at all important	1%
Slightly Important	5%
Important	15%
Fairly Important	19%
Very Important	53%
No opinion	7%

N=1380

Further facilitate access and stay of researchers for stays below 3 months

Not at all important	3%
Slightly Important	7%
Important	19%
Fairly Important	20%
Very Important	44%
No opinion	7%

N=1380

What other actions (including non-legislative actions) could help to facilitate access of non-EU researchers to the EU? Please include any examples of relevant best practice which you are aware of.

Fast-track procedures	58%
Assistance from relevant authorities in filling in the required applications	61%
Better provision of information (e.g. on the conditions that need to be fulfilled in order to be admitted as a researcher)	66%
Other	5%

N=1380

Under the current EU rules, non-EU researchers conclude a 'hosting agreement' with a recognized research institution before they are allowed to enter and reside in a Member State. In your view, should any revision of the current rules:

Keep the hosting agreement mechanism as it is	23%
Keep the hosting agreement, but modify it by giving more detailed guidance on its form and content	59%
Replace the hosting agreement mechanism	17%

N= 1021

Currently non-EU nationals pursuing a PhD are treated in different ways, i.e. sometimes they are seen as students, sometimes as researchers (working under a work permit). In the future instrument:

All non-EU PhD candidates should be treated in the same way, i.e. as students.	20%
All non-EU PhD candidates should be treated in the same way, i.e. as researchers.	45%]
Depending on the specific situation of the non-EU PhD candidates (e.g. depending on if they study full-time or while working for a private company), it should be left to national authorities to decide on their status.	35%

N=1130

In your opinion, the new rules should:

Include specific measures for researchers coming under the framework of EU financed programmes for mobility (e.g. Marie Curie)	33%
Target all non-EU researchers without distinction	67%

N=1070

Should researchers be allowed to stay in the EU once they have completed their research?

Yes, a temporary extension should be given to enable researchers to start a new research project, engage in other work or establish a company.	94%
No, researchers should not be allowed to remain in the EU to look for work after the end of their research project.	6%

N=1143

Currently applications for residence permits for non-EU researchers should normally be made when the applicant is outside the EU. Under new rules:

Applications should continue to have to be made from outside of the EU	13%
Applicants should be allowed to make applications from outside of and from within the EU	87%

N=1106

STUDENTS

Do you think that the attractiveness of the EU as a destination for students should be improved?

Yes	87%
No	13%

N= 1270

What do you see as the main issues in relation to non-EU students coming to the EU and the main problems/shortcomings in the current EU rules on students? You may choose more than one from the options listed below.

Visas	70%
Residence permits	66%
Insufficient procedural safeguards (time-limits to assess an application, rights of appeal)	35%
Overly restrictive access to labour market	51%
Lack of provisions on the possibility for the students to be joined by their families	28%
Difficulties with intra-EU mobility	35%
Unclear rules on sickness insurance	29%
Insufficient synergies between migration rules and EU programmes on mobility (eg. Erasmus Mundus)	39%
Other	5%

N=1198

Which of the following actions could improve the current rules on students coming to the EU? Please rank actions in order of importance. You may rank as many or as few options as you wish.

Once the conditions for the residence permit are fulfilled the entry visas are issued (if needed)

Not at all important	2%
Slightly Important	5%
Important	21%
Fairly Important	14%

Very Important	51%
No opinion	7%

N=1390

Set a time limit for the Member State to take a decision on whether to give a student permission to come to the country

Not at all important	3%
Slightly Important	5%
Important	20%
Fairly Important	19%
Very Important	49%
No opinion	4%

N=1390

Allow greater labour market access to students during their period of study

Not at all important	3%
Slightly Important	10%
Important	20%
Fairly Important	22%
Very Important	43%
No opinion	2%

N=1390

Allow students to be accompanied by their families when they come to the EU

Not at all important	12%
Slightly Important	19%
Important	23%
Fairly Important	15%
Very Important	27%
No opinion	4%

N=1390

Make it easier for students to move between different EU Member States once they have been admitted to one of the Member States as students

Not at all important	2%
Slightly Important	7%
Important	18%
Fairly Important	19%
Very Important	51%
No opinion	2%

N=1390

Increase synergies with EU programmes on mobility (eg. Erasmus Mundus)

Not at all important	2%
Slightly Important	6%
Important	18%
Fairly Important	21%
Very Important	47%
No opinion	6%

N=1390

Facilitate access and stay of students for stays below 3 months

Not at all important	4%
Slightly Important	8%
Important	20%
Fairly Important	20%
Very Important	42%
No opinion	10%

N=1390

What other actions (including non-legislative actions) could help to facilitate access of non-EU students to the EU? Please include any examples of relevant best practice which you are aware of.

Fast-track procedures	69%
Assistance from relevant authorities in filling in the required applications	67%
Better provision of information (e.g. on the conditions that need to be fulfilled in order to be admitted as a student)	69%
Other	4%

N=1143

In your opinion, the new rules should:

Include specific measures for students coming under the framework of EU financed programmes for mobility (eg. Erasmus Mundus)	31%
Target all non-EU students without distinction	69%

N= 1110

Do you think that students admitted into one EU Member State should be allowed to move and study in another Member State without requiring a new residence permit?

Yes	58%
Yes, but for a limited time, e.g. one semester	37%
No	6%

N=1169

Under the current rules students must be allowed to work at least 10 hours per week. In your opinion:

This threshold should be maintained	25%
This threshold should be decreased to less than 10 hours per week	3%
There should be a threshold, but it should be more than 10 hours	42%
There should be no limit on the number of hours students are allowed to work	30%

N=1147

Should students be allowed to stay in the EU once they have completed their studies in order to look for work?

Yes, they should be allowed to stay to identify work opportunities in the EU.	90%
No, students should not be allowed to remain in the EU to look for work after graduation.	10%

N=1158

Currently applications for residence permits for non-EU students should normally be made when the applicant is outside the EU. Under new rules:

Applications should continue to be made from outside of the EU, with Member States having the possibility to allow them to be made from within the EU	21%
Applicants should be allowed to make applications from outside of and from within the EU	79%

N=1114

SCHOOL PUPILS

Do you think that the attractiveness of the EU as a destination for school pupils should be improved?

Yes	71%
No	29%

N=740

What do you see as the main issues in relation to non-EU school pupils coming to the EU and the main problems/shortcomings in the current EU rules on pupils?

Visas	68%
Residence permits	63%
Difficulties in giving relevant information for a visa application well in advance of school pupils' arrival	55%
National rules on sickness insurance	32%
Insufficient clarity on what constitutes a "recognised organisation" operating a secondary education programme	44%
Other	6%

N=568

VOLUNTEERS

Do you think that the attractiveness of the EU as a destination as a destination for volunteers should be improved?

Yes	74%
No	26%

N=690

What do you see as the main issues in relation to non-EU volunteers coming to the EU and the main problems/shortcomings in the current EU rules on volunteers?

Visas	76%
Residence permits	68%
Difficulties in giving relevant information for a visa application well in advance of volunteers' arrival	50%
National rules on sickness insurance and other types of insurance cover (eg. accident insurance, 3rd party liability insurance, etc)	36%
Insufficient clarity on what constitutes a State or EU scheme operating a voluntary exchange programme	46%
Issues with formal recognition or certification of the volunteering activity	47%
Other	5%

N=548

UNPAID TRAINEES

Do you think that the attractiveness of the EU as a destination for unpaid trainees should be improved?

Yes	73%
No	27%

N= 668

What do you see as the main issues in relation to non-EU unpaid trainees coming to the EU and the main problems/shortcomings in the current EU rules on unpaid trainees?

Visas	81%
Residence permits	73%
Other	7%

N=541

ANNEX II NUMBERS OF RESIDENCE PERMITS TO THIRD-COUNTRY NATIONAL STUDENTS AND RESEARCHERS

Remunerated activities reasons: Researchers – first permits

GEO/TIME	2008	2009	2010	2011
European Union (27 countries)	4.389	6.242	7.056	7.610
Belgium	96	0	154	145
Bulgaria	:	:	:	0
Czech Republic	45	61	0	0
Denmark	:	783	860	737
Germany	39	94	129	167
Estonia	7	15	15	18
Ireland	169	166	89	111
Greece	16	31	23	28
Spain	501	390	488	447
France	1.925	2.243	2.271	2.075
Italy	35	118	336	353
Cyprus	0	0	0	0
Latvia	3	1	7	3
Lithuania	1	2	5	0
Luxembourg	:	14	15	26
Hungary	33	35	34	22
Malta	0	0	0	0
Netherlands	864	1.305	1.485	1.616
Austria	151	143	228	184
Poland	11	11	69	317
Portugal	:	:	0	0
Romania	:	:	12	8
Slovenia	5	8	8	17
Slovakia	10	10	5	9
Finland	:	:	:	510
Sweden	478	812	823	817
United Kingdom	:	:	:	:

Special values:

0 less than half the final digit shown and greater than real zero

:

 not available

Source of Data: Eurostat (online code: [migr_resocc])

Students: All educational reasons

GEO/TIME	2008	2009	2010	2011
European Union (27 countries)	455.702	504.384	510.295	491.721
Belgium	6.743	7.222	5.695	4.035
Bulgaria	1.168	1.623	1.492	1.058
Czech Republic	4.220	4.142	5.153	4.988
Denmark	19.279	6.406	6.068	6.115
Germany	29.985	31.345	30.035	27.568
Estonia	339	383	399	395
Ireland	12.538	12.263	13.653	15.131
Greece	1.449	1.489	1.323	1.297
Spain	21.665	22.068	24.864	35.037
France	52.226	58.738	65.538	64.794
Italy	28.609	32.634	25.676	30.260
Cyprus	4.023	5.407	2.698	1.907
Latvia	346	212	296	459
Lithuania	447	422	422	297
Luxembourg	:	96	150	291
Hungary	7.760	4.234	3.995	4.067
Malta	202	191	157	136
Netherlands	8.850	9.944	10.510	10.701
Austria	2.853	3.233	3.735	5.031
Poland	6.145	7.066	9.098	7.876
Portugal	4.344	4.302	5.414	6.478
Romania	2.969	3.541	3.265	3.179
Slovenia	246	666	628	1.038
Slovakia	449	334	353	403
Finland	4.441	3.949	4.433	5.370
Sweden	11.695	13.968	13.972	6.766
United Kingdom	222.711	268.506	271.273	247.044

Special values:

0 less than half the final digit shown and greater than real zero

: not available

Source of Data: Eurostat (online code: [migr_resedu])

ANNEX III – QUANTITATIVE ASPECTS OF IMPACT ANALYSIS

A key assumption in the assessment of impacts is the positive contribution that students and researchers (be they from the EU or elsewhere) make to innovative capacity, competitiveness and growth (in the case of students mainly following graduation). An increase in the EU high-educated labour share by 1% and a similar decrease in the medium-educated share would result in a positive impact on productivity in the long-run ranging from 0.35% (Slovakia) to 0.82% (Italy)⁸⁸. Higher education graduates from the EU have significantly higher rates of employment than those with less advanced levels of qualification, and have fared comparatively better during the economic crisis. At the end of 2010, the average unemployment rate among graduates in the EU was 5.4%, compared to an overall unemployment rate of 9.3%⁸⁹.

Benefits of tertiary education can also be seen in returns on investment, both at private and public level. Across the EU, the annual median net income of workers with tertiary education is 21,700 Euro, compared to 14,700 Euro for a worker with upper secondary education, and 12,700 Euro for a worker with a qualification below upper secondary level⁹⁰. On average across OECD countries, investment in tertiary education more than pays off both as far as returns on investment on the individual and the public level are concerned. On average, the gross earnings premium for an individual with a tertiary degree exceeds USD 300,000 for men and USD 200,000 for women across OECD countries. The net public return on an investment in tertiary education is USD 91,000 for men, almost three times the amount of public investment⁹¹. In countries where third-country national students pay higher fees than nationals, the return on the amount of public investment can be even higher.

In the case of researchers there are no additional statistics or calculations that would show the impact that (an increase in the number of) researchers would have on these growth or competitiveness. While this is a strong evidence base for the benefits of tertiary education in general, it is not possible to precisely calculate the (economic) benefit that could be expected through the improvement of the EU immigration rules for the respective groups. This is because the rates of those students and researchers staying or wishing to stay following graduation/completion of research is not known, neither is the length of the (desired) stay. The above-cited figures presume a continued presence of a graduate in a given territory, however in the case of third-country national students this cannot be automatically assumed. The figures therefore need to be interpreted with an additional note of caution.

As regards the **impact on education systems**, evidence shows that the internationalisation of tertiary education is not only an advantage for individuals and the public in terms of returns on investment, but also for education systems themselves, in particular for smaller and/or less-developed education systems. According to the OECD, the internationalisation of tertiary education may allow countries to focus limited resources on educational programmes with potential economies of scale or to expand participation in tertiary education despite

⁸⁸ D'Auria, F., Pagano, A.M Ratto, M. and Varga, J. (2009), in Commission staff working document: Progress towards the common European objectives in education and training. Indicators and benchmarks 2010/2011.

⁸⁹ European Commission staff working document (SEC (2011) 1063 final), 20 September 2011: Recent developments in European higher education systems

⁹⁰ Commission staff working document: Progress towards the common European objectives in education and training. Indicators and benchmarks 2010/2011. Data from Eurostat SILC 2007.

⁹¹ OECD Education at a glance 2011, p. 158

bottlenecks in providing it, and therefore to improve the cost-efficiency of their education systems⁹².

In addition, the fees that in particular third-country national students need to pay for studying in the EU can be presumed to partly make up for this. In the majority of EU Member States, students have to pay fees in principle, and in several cases third-country national students have to pay higher fees than EU nationals⁹³. According to the OECD, countries that charge their international students the full cost of education reap significant trade benefits.⁹⁴

⁹² OECD Education at a glance 2011, p. 319

⁹³ Eurydice, *Modernisation of Higher Education in Europe: Funding and the Social Dimension*, 2011; Austria for example charges average tuition fees for students who are not citizens of the EU or the European Economic Area (EEA) that are twice as high as the fees charged for citizens of these countries (in case of public institutions). Similar policies are found in Ireland, the Netherlands, Poland (only for public institutions), the Slovak Republic, Slovenia, the UK, Denmark and Sweden (from OECD Education at a glance 2011); OECD Education at a glance 2011, Indicator B5 – "How Much Do Tertiary Students Pay and What Public Subsidies Do They Receive?".

⁹⁴ OECD Education at a glance 2011, p. 324.

ANNEX IV - ASSESSMENT OF ADMINISTRATIVE AND IMPLEMENTATION COSTS FOR OPTIONS 3 AND 4

Familiarisation/training

Implementation costs for familiarisation with the obligations associated to options 3 and 4 (including training the personnel of MS Immigration Services) have been calculated for all Member States except Denmark: In the absence of comparable information about the number of staff in charge of issuing authorisations in MSs, the following estimations have been made. The calculations should be interpreted with a high degree of caution.

Option 3

For option 3, an average of 4 senior officials (director, deputy directors and heads of unit) per MS would need to familiarise themselves with any modified and new obligations (assumption: 8 working hours, for an estimated total of 32 working hours per MS). An average of 40 officials per MS would be involved in training about the obligations (assumption: 8 hours of training, for an estimated total of 320 hours per Member State; the number of officials has been estimated on the same basis as was the case for highly-skilled workers under the impact assessment for the Blue Card Directive (SEC(2007) 1403). The costs have been differentiated depending on whether or not countries already make use of the optional rules under Directive 2004/114 or not. Eleven Member States have not yet made use of the optional rules, hence additional costs have been assumed, even if national rules exist for the respective groups.

Table 1 Familiarisation/training costs Option 3

Proposal on conditions of entry and residence for third country national students and researchers, school pupils, volunteers, remunerated and unremunerated trainees, au pairs (EU except DK)						Tariff (€ per hour)		Time (hour)		Price (per action or equip)	Freq (one-off)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No			Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Provisions on authorisations, rights, procedural guarantees, intra-EU mobility, and labour market access	Familiarising with the new obligations on students	MS Immigration Services	23		32		736	1	26	26	19.136			100%	

2		Provisions on authorisations, rights, procedural guarantees, intra-EU mobility, access to job-seeking and labour market access	Training members and employees about the new obligations on students	MS Immigration Services	23		320		7.360	1	26	26	191.360			100%
3		Provisions on authorisations, rights, and procedural guarantees	Familiarising with the newly obligatory provisions on school pupils, volunteers and unremunerated trainees	MS Immigration Services	23		72		1.656	1	11	11	18.216			100%
4		Provisions on authorisations, rights, and procedural guarantees	Training members and employees about the newly obligatory provisions on school pupils, volunteers and unremunerated trainees	MS Immigration Services	23		600		13.800	1	11	11	151.800			100%

Familiarisation/training costs (€)

380.512

Option 4

For option 4, an average of 6 senior officials (director, deputy directors and heads of unit) per MS would need to familiarise themselves with any modified and new obligations (assumption: 12 working hours, for an estimated total of 72 working hours per MS). An average of 50 officials per MS would be involved in training about the obligations (assumption: 12 hours of training, for an estimated total of 600 hours per Member State; the number of officials has been estimated on the same basis as was the case for highly-skilled workers under the impact assessment for the Blue Card Directive (SEC(2007) 1403). The costs have been differentiated depending on whether or not countries already make use of the optional rules under Directive 2004/114 or not. Eleven Member States have not yet made use of the optional rules, hence additional costs have been assumed, even if national rules exist for the respective groups. For remunerated trainees and au-pairs, no matter whether or not national rules exist, familiarisation and training costs have been calculated for all 26 MSs.

Table 2 Familiarisation/training costs Option 4

Proposal on conditions of entry and residence for third country national students and researchers, school pupils, volunteers, remunerated and unremunerated trainees, au pairs (EU except DK)						Tariff (€ per hour)		Time (hour)		Price (per action or equip)	Freq (one-off)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No			Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Provisions on authorisations, rights, procedural guarantees, intra-EU mobility, et access to job-seeking and labour market access	Familiarising with the new obligations on students and researchers	MS Immigration Services	23		72		1.656	1	26	26	43.056			100%	
2			Provisions on authorisations, rights, procedural guarantees, intra-EU mobility, access to job-seeking and labour market access	Training members and employees about the new obligations on students and researchers	MS Immigration Services	23		600		13.800	1	26	26	358.800			100%	
3			Provisions on authorisations, rights, and procedural guarantees	Familiarising with the newly obligatory provisions on school pupils, volunteers and unremunerated trainees	MS Immigration Services	23		72		1.656	1	11	11	18.216			100%	
4			Provisions on authorisations, rights, and procedural guarantees	Training members and employees about the newly obligatory provisions on school pupils, volunteers and unremunerated trainees	MS Immigration Services	23		600		13.800	1	11	11	151.800			100%	
5			Provisions on authorisations, rights, intra-EU mobility and procedural guarantees	Familiarising with the new obligations on remunerated trainees	MS Immigration Services	23		36		828	1	26	26	21.528			100%	
6			Provisions on authorisations, rights, intra-EU mobility and procedural guarantees	Training members and employees about remunerated trainees	MS Immigration Services	23		300		6.900	1	26	26	179.400			100%	

7	Provisions on authorisations, rights, and procedural guarantees	Familiarising with the new obligations on au-pairs	MS Immigration Services	23	36	828	1	26	26	21.528	100%
8	Provisions on authorisations, rights, and procedural guarantees	Training members and employees about au-pairs	MS Immigration Services	23	300	6.900	1	26	26	179.400	100%
Familiarisation/training costs (€)										973.728	

Implementation costs for both options

Implementation costs for processing applications have been assumed to be the same for both options for the types of work, as no reliable information exists on the change of the current system with permits to one allowing for both permits and long-stay visa. The total number of working hours for processing an application and issuing a decision/an authorisation has been estimated to 12 working hours, with additional time being added to account for administering cases of intra-EU mobility (adding 8 working hours) for students, and 16 working hours for researchers (combined for immigration authorities and research organizations), with no extra costs for mobility provisions as these are already existent for researchers.

The frequency of the action has been associated to a presumed increase of 10% of successful applications which in terms of additional numbers among the respective groups could be considered an optimistic scenario. For researchers, a 10% increase would mean an additional 695 researchers (up from 6,945 to 7,640), equalling on average an additional 26 researchers per Member States. For third-country nationals coming to the EU for study and education purposes (students, school pupils, volunteers and unremunerated trainees), a 10% increase would mean an additional 50,000 third-country nationals (up from 500,000 to 550,000), equalling on average an additional 1,923 third-country nationals per MS). It is assumed that 10% of all third-country national students would make use of intra-EU mobility provisions (50,000). Groups that would be added under Option 4 are currently partly covered under national rules. As adding them to the Directive will not in itself automatically increase the numbers, no separate quantification has been added in terms of implementation costs for these groups. Given that each application for a permit, whether or not it will be successful in the end, has to be submitted, and given that for unsuccessful applications an additional burden can be expected due to potential complaints, the costs have been assumed to be equal for all applications. The hourly tariffs of Member States' personnel are estimated to be Euro 23, based on EU average hourly labour costs in public administration (NACE L), extracted from Eurostat.

Table 3 Administrative costs researchers (for Options 3 and 4)

Proposal on conditions of entry and residence of third-country highly skilled workers						Tariff (€ per hour)		Time (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No.			Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Application for individual authorisation or exemption	Processing application/Producing new data	MS Immigration Services and research institutions (applications)	23		12		276	26	26	695	186.576			100%	
3			Application for individual authorisation or exemption	Issuing permit/decision	MS Immigration Services-Intra EU mobility	23		4		92	26	26	695	62.192			100%	
Administrative costs researchers (€)														248.768				

Table 4 Administrative costs students, school pupils, volunteers, and unremunerated trainees; (Option 4 with remunerated trainees and au-pairs)

Proposal on conditions of entry and residence of third-country highly skilled workers						Tariff (€ per hour)		Time (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No			Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Application for individual authorisation exemption	Processing or application/Producing new data	MS Immigration Services (applications)	23		8		184	1,923	26	50,000	9.199.632			100%	
3			Application for individual authorisation exemption	Issuing permit/decision	MS Immigration Services (applications)	23		4		92	1,923	26	50,000	4.599.816			100%	
4			Application for individual authorisation exemption	Processing data	MS Immigration Services-Intra EU mobility	23		4		92	2,115	26	50,000	4.600.000			100%	
5			Application for individual authorisation exemption	Submitting information	MS Immigration Services-Intra EU mobility	23		4		92	2,115	26	50,000	4.600.000			100%	

**Administrative costs students, school
pupils, volunteers and
unremunerated trainees (€)**

22.999.448

Annex V: Overview of national immigration rules and flows of third-country national au-pairs and remunerated trainees; volunteers, school pupils and unremunerated trainees; students' access to job-seeking or the labour market following graduation

Third-country national au pairs

Number of au-pairs (EU-national and third-country national au-pairs) hosted in each Member State in the last three years (2009, 2010, 2011). Many EU au pairs are not counted in the figures as their registration is not compulsory or a work permit is not needed.

Year	2009	2010	2011
Member State			
AT	-	-	-
BE	420	462	425
BG	-	-	-
CY	No information	No information	No information
CZ	-	-	-
DE	5,364	5,240	5,080
DK	No information	No information	No information
EE	No information	No information	No information
EL	-	-	-
ES	-	-	-
FI	-	-	75
FR	-	-	(6,000)
HU	-	-	-
IE	No information	No information	No information
IT	-	-	71
LT	-	-	-
LU	-	-	-
LV	-	-	-
MT	41	54	84 (1 EU)
NL	1,321	1,376	1,181
PL	-	-	-
PT	-	-	-
RO	No information	No information	No information
SE	190	200	134

SK	-	-	-
SI	-	-	-
UK	-	-	-

Immigration regulations in each Member State specific to third-country national au-pairs.

Member State	Immigration regulations (<i>admission conditions, need for a work permit, maximum duration of stay, rights granted, permitted duties, etc.</i>)
AT	a. <i>Permit/VISA</i> - Residence permit b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - An authorised job agency located, - Au pair not previously listed as au pair in Austria for longer than a year in the last five years - Registration with the legal social insurance (ASVG). - Free board and lodging - Host family to pay for private insurance and participation in language courses and cultural events. - Get part of the family life of the host family (at least one parent with a child) c. <i>Age</i> - Au pair not younger than 18 and not older than 28 d. <i>Length</i> - Confirmation initially issued for six months, possibly extended for a maximum of six months under certain criteria. e. <i>Working conditions (pocket money, working hours)</i> - The wage of Au Pairs employed from 1 January 2012 is at least 376.26 euro (monthly subsistence payment). - Weekly working time of 20 hours - help with the household chores including child care f. <i>Language (knowledge proof, courses)</i> - Get to know the country and people of Austria and shall deepen the knowledge of German acquired in their home countries with the help of the host family, - Proof a minimum of German knowledge (school lessons or one semester of study or a language course) before the start of the employment by presenting a school report or other certificate in German or English translation.
BE	a. <i>Permit/VISA</i> - national passport valid for at least 1 year, - a certificate a good conduct and behaviour, - a medical certificate - work permit B.

	b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - Finished secondary school. In case the au pair applies before obtaining a secondary education diploma, a certificate by the school, stating that the au pair is currently finishing the last year of secondary school is sufficient; - Well accommodated, private bedroom; - Insurance for the au pair throughout the entire duration of the stay to cover illness, hospitalisation and accidents; - At least have one child under the age of 13; - Certificate of good conduct for all (residing) adult family members; - No valid work permit issued for another au pair. c. <i>Age</i> - Au pair between 18 and 26 years of age, with an additional condition that the au pair receives a work permit before turning 26 d. <i>Length</i> - May not exceed 1 year - It can be renewed once, in so far as the period does not exceed 1 year e. <i>Working conditions (pocket money, working hours)</i> - At least 450€ per month, to be put in a specific bank account for the au pair - One day off per week minimum, and one full week-end off per month; - Not have previously obtained a work permit of any kind in Belgium; - Not allowed to take any other work in Belgium than that of au pair; - Change of host family possible once, in so far as the total period does not exceed 1 year and all other conditions are met. f. <i>Language (knowledge proof, courses)</i> - Basic knowledge of the language of the guest family or commit to follow an intensive language course immediately after arrival in Belgium; - Attend a course regularly. The school attended by the au pair must provide a 3-month certificate, proving that the au pair has completed the course;
BG	The common rules for residence and work permit regimes are valid also for au-pairs. In their case the residence periods are not calculated for the period needed for granting a long-term residence status.
CY	No information
CZ	No specific legislation
DE	a. <i>Permit/VISA</i> b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - activity in a family where the mother tongue is German c. <i>Age</i> - Au pair under age 25 d. <i>Length</i> - Activities up to 1 year e. <i>Working conditions (pocket money, working hours)</i> f. <i>Language (knowledge proof, courses)</i> - basic knowledge of the German language

DK	a. <i>Permit/VISA</i> - residence permit for a max of 24 months, but no longer than au pair period - not equal to work permit - not previously have stayed in Denmark as an au pair with different host families for more than one year - not previously have held a Danish residence permit b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - not have the same nationality as one or more members of the host family - not be related to one or more members of the host family - not be married, have been married or currently be living with a partner - not have any children - completed the equivalent of nine years of schooling - not previously have had two or more au pair stays in other Western countries - host family of at least one parent and one child under 18 living at home - at least one parent must be a Danish citizen (not valid for EU citizens or those having lived in DK for a long period) - fill in and sign the au pair contract developed by the Danish Agency for Labour Retention and International Recruitment - not have other au pairs - pay trip home if resident of a country outside Europe - provide with appropriate care if au pairs falls ill - take out three types of insurance: for work-related injuries, covering leisure time and accidents, and covering the costs of you returning to your homeland in case of death or serious illness or accident c. <i>Age</i> - between 17 and 29 (both years included) at the time of application d. <i>Length</i> - Activities up to 1 year e. <i>Working conditions (pocket money, working hours)</i> - Contribute to the household by carrying out chores related to the family's daily housekeeping, such as babysitting, cleaning and washing clothes. - daily chores for three to five hours per day, six days per week, - one full day off every week - Not take on responsibilities related to personal care or sick care of adult members of the host family - minimum monthly allowance of DKK 3,150 - free food and lodging (private bedroom) - risk of deportation for working illegally in Denmark. - risk of fine or imprisonment also for the host family f. <i>Language (knowledge proof, courses)</i> - working knowledge of Danish, Swedish, Norwegian, English or German - sufficient time to follow language courses and pursue cultural and professional interests
EE	No information
EL	-
ES	Working for a family in exchange for stay and being maintained by that family

	while improving one's professional and linguistic skills shall be regulated in accordance with the provisions set forth in international agreements concerning au-pair placements
FI	a. <i>Permit/VISA</i> - General rules on residence permits for work purposes are applied; - A residence permit must be applied for before coming to Finland. b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - Live in the host family like a family member - Not related to the host family c. <i>Age</i> - Aged between 17 and 30 years d. <i>Length</i> - Up to 1 year - Extension not allowed e. <i>Working conditions (pocket money, working hours)</i> - Pay for up-keeping with light domestic work, but not a full-time child-minder or housekeeper; - Not worked as an au pair before, in Finland or in another country. f. <i>Language (knowledge proof, courses)</i> - Interested in the Finnish or Swedish language and the Finnish culture, and studied them beforehand
FR	a. <i>Permit/VISA</i> - "Student" visa - This long-stay visa equivalent to a residence permit (<i>visa long séjour valant titre de séjour = VLS-TS</i>) can be issued for a maximum of twelve months and can be renewed. b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - Medical certificate issued less than 3 months before the placement stating general state of health - Proof of the level of studies should also be provided. - Written agreement between the au-pair and the host family to be approved by the <i>Direction régionale des entreprises, de la concurrence et de la consommation, du travail et de l'emploi (DIRECCTE)</i> prior to the entry of the third country national in France or during the first week after arrival. - Board and lodging shall be provided by the reception family - The host family has to pay employers' general social security contributions. c. <i>Age</i> - Aged from 18 to 30 years (<i>stagiaires aides-familiaux</i>) d. <i>Length</i> - From three months to one year. It can be extended up to 18 months. e. <i>Working conditions (pocket money, working hours)</i> - Working time cannot exceed 5 hours per day. - One full day-off per week, at least one Sunday a month - Pocket money between 75 and 90 times the guaranteed minimum which corresponds to 3.44 € (that is between 261.75 and 314.10 € per month) f. <i>Language (knowledge proof, courses)</i>

	- Enrol to specialized French language courses for foreigners in France.
HU	General admission and residence rules apply to them with that exemption if they to perform work for or under the direction and/or supervision of others, for remuneration, under contract for employment relationship they shall be authorized for the purpose of gainful employment.
IE	No information
IT	This category falls within regulations provided for by paragraph 1 of article 27 of the Consolidation Act on Immigration of 1998, encompassing all workers which are not contemplated by the annual entry quotas. The employer has the responsibility to address the Single Desk for Immigration at the Prefecture of the province where the work should be carried on. The same employer, in case he/she knows the employee to hire, needs to apply for a specific authorization to employed “au pair” work as per the art. 27 comma 1 letter r.
LT	General rules regarding temporary residence permit and work permit are applied. The work permit and the temporary residence permit are usually issued for the period of one year.
LU	The young persons who are reception as au-pair must have been hired with a working contract in the terms and conditions establish by Title II of the First Book of the Labour Code. http://www.legilux.public.lu/leg/textescoordonnes/codes/code_travail/Code_du_Travail.pdf
LV	Theoretically, au-pairs could enter as employed persons according to Immigration Law and Cabinet of Ministers Regulations No.553 “Work Permits for Third-country Nationals”.
MT	a. <i>Permit/VISA</i> b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - national situation in respect of surpluses or shortages in the given occupation and sector; - the employer’s history and situation in terms inter alia of recruitment and redundancy patterns; - business investments and contractual commitments; - skill level, relevant experience and overall suitability for the position in question are also taken into account - home-based carers are at present not subject to a labour market test - medical certificate - carers for children, a clear case for the need to recruit foreign nationals - take out a private health insurance, not required for home-based carers, for persons working with persons with disability and persons needing constant care c. <i>Age</i> d. <i>Length</i> e. <i>Working conditions (pocket money, working hours)</i> f. <i>Language (knowledge proof, courses)</i>
NL	a. <i>Permit/VISA</i>

	- Valid passport - No previous stay in the Netherlands on a residence permit - Most third country nationals need a provisional residence permit to enter NL <i>b. General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - Health insurance with cover in the Netherlands - Not-married status - No risk to public order - No duty of care or responsibility for the actual care of one's own family members (children or parents, for instance) - Undergo an examination for tuberculosis in the Netherlands - No previous work for the same family abroad - Host family to support the au pair during the stay in the Netherlands - Minimum of 2 persons in the host family - Declaration of awareness signed by both parties - Sufficient income to support themselves and the au pair - Sign a sponsor declaration New regulations since October 1, 2012 - The au pair may not pay a sum of money, for example as a registration fee and/or a mediation fee and/or a fee for following a course in preparation of the stay in the Netherlands (prescribed by the au pair's own government) to a (Dutch or foreign) mediation agency or exchange organisation, that in total exceeds 10% of the maximum amount a host family is allowed to pay an au pair each month as pocket money. - The au pair is not allowed to pay a sum of money as a security deposit (or bond) to a (Dutch or foreign) mediation agency or exchange organisation. - The au pair is not allowed to conclude a contract with a host family or a (Dutch or foreign) mediation agency or exchange organisation pursuant to which the au pair is obliged to pay money or a penalty by way of a sanction for failing to comply with one or more provisions of this contract. - The au pair is not allowed to perform activities for persons who require more specialised care, which requires specific skills. These duties are not light domestic activities. <i>c. Age</i> - over age of 18 but no older than 25 <i>d. Length</i> <i>e. Working conditions (pocket money, working hours)</i> - Only carry out light domestic work to assist the host family - Max of 8 hours' work per day and a max of 30 hours per week; - 2 days off per week - Daily schedule for the au pair - The maximum amount allowed to pay now stands at 340 euros per month <i>f. Language (knowledge proof, courses)</i>
PL	No specific legislation.

PT	There are no national immigration regulations specifically addressed to third country national au-pairs. They could be admitted in the country with a temporary stay visa, valid for four months and for multiple entries, extended up to one year
RO	No information
SE	a. <i>Permit/VISA</i> - Valid passport b. <i>General conditions (accommodation, insurance, number of children, info on host family, job agencies...)</i> - Not bring any children c. <i>Age</i> - between 18-30 years old d. <i>Length</i> e. <i>Working conditions (pocket money, working hours)</i> - Written job offer from a family in Sweden, indicating doing light housework for no more than 25 hours per week, f. <i>Language (knowledge proof, courses)</i> - Certificate of admission to studies in Swedish - Definite interest in or use for Swedish language studies
SK	No immigration regulations are set specifically to TCN au-pairs (conditions of admission, stay and employment) nor rights and obligations.
SI	No specific legislation.
UK	Third-country national au pairs come to the UK through Tier 5 of the Points Based System. Places are available for citizens of Australia (32,500 places), New Zealand (10,000) Canada (5,000) Japan, Monaco and Taiwan (1,000 each) - Republic of Korea (500) for stays long up to 24 months. No switch possible to other types of permits.

Third-country national remunerated trainees, volunteers, school pupils or unremunerated trainees

a) Number of EU nationals and third-country nationals hosted in each Member State in the last three years (2009, 2010, 2011).

Year	2009	2010	2011
Member State			
AT			
1. remunerated trainees	-	-	-
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	2	-	4
	1,708	1,831	2,023
BE			

1. remunerated trainees	267	200	192
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	11	26	12
BG			
1. remunerated trainees	5	9	21
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	-	-	-
CY	No information	No information	No information
CZ	-	-	-
DE	-	-	-
DK	N/A	N/A	N/A
EE	No information	No information	No information
EL			
1. remunerated trainees	27	11	11
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	6	1	7
	-	-	-
ES	-	-	-
FI			
1. remunerated trainees	-	-	171
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	-	-	-
	-	-	-
FR			
1. remunerated trainees	482	957	973
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	-	-	-
	-	-	-
HU			
1. remunerated trainees	-	-	-
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	-	-	-
	-	-	-

IE			
IT			
1. remunerated trainees	-	-	299
2. unremunerated trainees	-	-	-
3. volunteers	-	-	128
4. school pupils	-	-	-
LT			
1. remunerated trainees			
2. unremunerated trainees			
3. volunteers			
4. school pupils	-	-	52
LU			
1. remunerated trainees	-	-	-
2. unremunerated trainees	3	4	8
3. volunteers	5	4	4
4. school pupils	5	48	109
LV			
5. remunerated trainees +			
6. unremunerated trainees	8	7	11
7. volunteers	6	5	3
8. school pupils	-	-	20
MT			
1. remunerated trainees	-	-	-
2. unremunerated trainees	-	-	-
3. volunteers	-	-	-
4. school pupils	-	-	-
NL			
1. remunerated trainees +			
2. unremunerated trainees	432	326	380
3. volunteers +			
4. school pupils	145	149	182
PL			
PT			
1. remunerated trainees	-	-	-
2. unremunerated trainees	37	29	41
3. volunteers			

4. school pupils	129 1994	56 2754	14 3569
RO	No information	No information	No information
SE 1. remunerated trainees 2. unremunerated trainees + 3. volunteers 4. school pupils	- - 419	- - 765	- - 535
SK 1. remunerated trainees + 2. unremunerated trainees 3. volunteers 4. school pupils	14 2 -	2 27 27	6 47 35
SI			
UK			

Immigration regulations in each Member State specific to third-country national unremunerated (u) and remunerated (r) trainees.

Member State	Immigration regulations (<i>admission conditions, need for a work permit, maximum duration of stay, rights granted, permitted duties, etc.</i>)
AT (u+r)	There are no specific regulations. Third-country national remunerated or unremunerated trainees may obtain other residence titles or a national Visa D.
BE (u+r)	<i>a. Permit/VISA</i> - national passport valid for at least 1 year, - a certificate a good conduct and behaviour, - a medical certificate - work permit B. <i>b. General conditions</i> - Copy of degree has to be submitted <i>c. Age</i> - under age 30 <i>d. Length</i> - up to 1 year - Exceptions (longer than 12 months; older than 30 years) possible in individual cases (scientific research), but to be approved by the Minister

	<i>e. Working conditions</i> - It has to be on-the-job training (combination training – work) - Training full-time and remuneration not less than the legal minimum - Contract has to be translated in mother tongue of applicant or other language that (s)he understands <i>f. Language (knowledge proof, courses)</i>
BG	No specific legislation on third-country national remunerated trainees. Applies Directive 2004/114 on unremunerated trainees.
CY	No specific legislation on third-country national remunerated trainees. Applies Directive 2004/114 on unremunerated trainees.
CZ	No specific legislation on third-country national remunerated trainees. Applies Directive 2004/114 on unremunerated trainees.
DE (u+r)	<i>a. Permit/VISA</i> - general visa regulations - permit granted for 2 years if the training programme lasts 2 years or more <i>b. General conditions</i> - Mandatory approval of the German Federal Labour Office <i>c. Age</i> - under age 30 <i>d. Length</i> - up to 1 year - Exceptions (longer than 12 months; older than 30 years) possible in individual cases (scientific research), but to be approved by the Minister <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>
DK	N/A
EE	Applies Directive 2004/114 on unremunerated trainees.
EL (r)	<i>a. Permit/VISA</i> - Entry Visa - Residence permit <i>b. General conditions</i> - Certificate of acceptance to training programme - Health insurance - Social security obligations <i>c. Age</i> <i>d. Length</i> - 6 + 6 months <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>
ES	Applies Directive 2004/114 on unremunerated trainees.
FI (u+r)	<i>g. Permit/VISA</i> <i>h. General conditions</i> <i>i. Age</i> <i>j. Length</i> - No longer than 18 months (internship is a part of an agreement between

	states or of a non-governmental organisation's exchange programme) - No longer than a year (Trainee must hold university degree and transferred to Finland within a company to work as a trainee) - No longer than 18 months (aged between 18 and 30 years, studying Finnish or Swedish at a university outside Finland, or the internship is in a field matching a trainee's studies or qualifications) k. <i>Working conditions</i> l. <i>Language (knowledge proof, courses)</i>
FR (r)	a. <i>Permit/VISA</i> - "trainee" long-stay visa equivalent to a residence permit, whose validity period depends on the training duration b. <i>General conditions</i> - Tripartite training agreement to be signed between the trainee, the higher education institution or the employer established abroad, and the company in France and to be approved by the Prefect of the department in which the training will take place - Proof of sufficient financial resources, corresponding to the monthly French government scholarship (615 euros, for training periods that are part of degree programs) or to the minimum monthly wage (for employees of a company abroad). c. <i>Age</i> d. <i>Length</i> - 6 months (for professional training), - the duration of the programme (if training part of a degree programme) - 12 up to 18 months (for employees of a company abroad). e. <i>Working conditions</i> f. <i>Language (knowledge proof, courses)</i> Applies Directive 2004/114 on unremunerated trainees.
HU (r)	General admission and residence rules apply also to remunerated trainees
IE	No information
IT (u+r)	Remunerated trainees are not contemplated by the annual entry quotas but are required to apply to the Single Desk for Immigration for the issuance of the compulsory work authorization. The so-called contract of apprenticeship is very common among this category and implies a combination of remunerated work and training. It is a real employment contract of fixed duration (essentially regulated by Articles 47-53 of the Legislative Decree no. 276/2003) and is characterized by a mixed cause (because the work is compensated not only with remuneration but also through the training that the employer is obliged to provide). Applies Directive 2004/114 on unremunerated trainees. The Ministry of Labour and Social Policies has decided on the maximum amount of foreign citizens to be admitted for study purposes: - 5,000 to follow vocational training courses for recognition of a qualification or certification of skills acquired for periods not exceeding 24 months;

	- 5,000 for conducting trainings and orientation activities promoted by authorised organisers envisaged by art. 2 paragraph 1 of the Decree of the Ministry of Labour and Social Policies of 25th March 1998, n. 142, depending on the completion of a training course.
LT (u+r)	a. <i>Permit/VISA</i> - Residence permit (submitted abroad) - Work permit (r) b. <i>General conditions</i> - Training agreement c. <i>Age</i> d. <i>Length</i> - Up to 1 year e. <i>Working conditions</i> f. <i>Language (knowledge proof, courses)</i>
LU (r)	Remunerated trainees are considered as "salaried workers" and subject to the conditions foreseen by article 42 of the Law of 29 August 2008 on free movement of persons and immigration. Applies Directive 2004/114 on unremunerated trainees.
LV (r)	a. <i>Permit/VISA</i> - Temporary residence permit - Work permit b. <i>General conditions</i> - been enrolled as a secondary school pupil; - been invited to take part in an internship programme; - been invited to undergo in-service training; - been invited to undergo vocational training c. <i>Age</i> d. <i>Length</i> - Up to 1 year e. <i>Working conditions</i> <i>Language (knowledge proof, courses)</i>
MT	-
NL (u+r)	a. <i>Permit/VISA</i> - Valid passport - Work permit b. <i>General conditions</i> - Health insurance with cover in the Netherlands - Engaged in studies at an educational institution outside the Netherlands - No risk to public order - No duty of care or responsibility for the actual care of one's own family members (children or parents, for instance) - Examination for tuberculosis in the Netherlands (this obligation does not apply to aliens having the nationality of Australia, Canada, Israel, Japan, Monaco, New Zealand, Suriname, United States of America and Switzerland) c. <i>Age</i> d. <i>Length</i> e. <i>Working conditions</i>

	- must be working for a Dutch company as part of a compulsory work placement <i>f. Language (knowledge proof, courses)</i>
PL	-
PT (u)	Applies Directive 2004/114 on unremunerated trainees.
RO	Applies Directive 2004/114 on unremunerated trainees.
SE	Does not apply Directive 2004/114 on unremunerated trainees.
SK (u+r)	<i>a. Permit/VISA</i> - Work permit p to 1 year <i>b. General conditions</i> - prove the purpose of stay, - clear criminal record, - financial means - accommodation <i>c. Age</i> <i>d. Length</i> <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>
	Applies Directive 2004/114 on unremunerated trainees.
SI	Applies Directive 2004/114 on unremunerated trainees.
UK	-

Immigration regulations in each Member State specific to third-country national volunteers.

Member State	Immigration regulations (<i>admission conditions, need for a work permit, maximum duration of stay, rights granted, permitted duties, etc.</i>)
AT	<i>a. Permit/VISA</i> - residence title for persons in social services <i>b. General conditions</i> - adequate means of subsistence - accommodation according to local standards - public security considerations - service not under the scope of the Aliens' Employment Act, it is carried out at a non-commercial, non-party and charitable organisation, - service non-commercial, the organisation accommodating the person provides a letter of indemnity, and the educational character of the service is given. <i>c. Age</i> <i>d. Length</i>

	- up to 1 year, not renewable <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>
BE	Category subject to the common law, i.e. the law of 15.12.1980 and the royal decree of 8.10.1981 regarding the residence and the law of 30 April 1999 and the royal decree of 9.06.1999 regarding the employment. The sole purpose of working as a volunteer will never be accepted to obtain residence right in Belgium (no financial resources).
BG	No specific legislation for volunteers.
CY	Applies Directive 2004/114 on volunteers.
CZ	Applies Directive 2004/114 on volunteers.
DE	This occupation does not require the consent of the German Federal Labour Office.
DK	Not bound by the Directive.
EE	Applies Directive 2004/114 on volunteers.
EL	Applies Directive 2004/114 on volunteers.
ES	Applies Directive 2004/114 on volunteers.
FI	-
FR	
HU	<i>a. Permit/VISA</i> - residence permit for the purpose of voluntary service <i>b. General conditions</i> - Signed agreement <i>c. Age</i> <i>d. Length</i> - up to 1 year, not renewable <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i> Applies Directive 2004/114 on volunteers.
IE	Not bound by the Directive.
IT	<i>a. Permit/VISA</i> - VISA for volunteering <i>b. General conditions</i> - Admission to volunteer programme - Special agreement between parties <i>c. Age</i> - Between 20 and 30 <i>d. Length</i> <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i> Applies Directive 2004/114 on volunteers.

LT	Temporary residence permit for up to 1 year
LU	Applies Directive 2004/114 on volunteers.
LV	<i>a. Permit/VISA</i> - Temporary residence permit - a valid travel document, <i>b. General conditions</i> - Agreement between parties - an application, - a photo, - documents certifying sufficient financial means, - documents on intended place of residence (address), - x-ray examination, - state duty payment <i>c. Age</i> - Between 20 and 30 <i>d. Length</i> - Up to 1 year <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>
MT	
NL	No specific legislation. Permit for up to a year within a program under the European Voluntary Service. <i>a. Permit/VISA</i> - a valid passport, - no previous stay in the Netherlands on a residence permit <i>b. General conditions</i> - health insurance with cover in the Netherlands - unmarried status - no duty of care or responsibility for the actual care of one's own family members (children or parents, for instance) - no risk to public order - undergo an examination for tuberculosis in the Netherlands (this obligation does not apply for nationals from Australia, Canada, Israel, Japan, Monaco, New Zealand, Suriname, United States of America and Switzerland) - not allowed to pay a sum of money as a security deposit (or bond) to a (Dutch or foreign) mediation agency or exchange organisation - not allowed to perform activities for persons who require more specialised care, which requires specific skills - Those who do not participate in a program in the context of the European Voluntary Service are obliged to stay in a host family. - the family must consist of a minimum of 2 persons - the exchange organisation must sign a sponsor declaration and it must be approved by the 'Nederlands Jeugd instituut' <i>c. Age</i> - Between 15 and 25 <i>d. Length</i> - Up to 1 year

	<i>e. Working conditions</i> - no previous work for the same host family abroad <i>f. Language (knowledge proof, courses)</i>
PL	-
PT	Applies Directive 2004/114 on volunteers.
RO	Applies Directive 2004/114 on volunteers.
SE	Does not apply Directive 2004/114 on volunteers.
SK	<i>a. Permit/VISA</i> - Work permit p to 1 year <i>b. General conditions</i> - prove the purpose of stay, - clear criminal record, - financial means - accommodation <i>c. Age</i> <i>d. Length</i> <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i> Applies Directive 2004/114 on volunteers.
SI	Applies Directive 2004/114 on volunteers.
UK	Not bound by the Directive.

Immigration regulations in each Member State specific to third-country national school pupils.

Member State	Immigration regulations (<i>admission conditions, need for a work permit, maximum duration of stay, rights granted, permitted duties, etc.</i>)
AT	<i>g. Permit/VISA</i> - residence permit <i>h. General conditions</i> - adequate means of subsistence - accommodation according to local standards - public security considerations - enrolled in a public school, a private school under public law, a statutory school under public law or they are pupils in a certified, non-scholastic educational institution. - underage pupils have to provide proof of the care of an adult with authorized residence in Austria. - pupils are not entitled to family reunification. <i>i. Age</i>

	<i>j. Length</i> - The residence permit may only be prolonged if the pupil provides evidence of successful study. In circumstances beyond the third-country national's control or which are inevitable or unforeseeable, a stay permit may be prolonged despite unsuccessful study. <i>k. Working conditions</i> <i>l. Language (knowledge proof, courses)</i>
BE	There is an exemption of the obligation to obtain a labour permit with respect to: students who have not yet reached the age of eighteen, who are recruited with indentures or with an agreement regarding alternating training, recognized by the competent authority (no legal residence is required!); students who legally stay in Belgium and who are recruited with indentures or with an agreement regarding alternating training, recognized by the competent authority.
BG	Applies Directive 2004/114 on school pupils.
CY	Applies Directive 2004/114 on school pupils.
CZ	Applies Directive 2004/114 on school pupils.
DE	Same regulations as set out in the regulations governing university study purposes.
DK	Not bound by the Directive.
EE	Applies Directive 2004/114 on school pupils.
EL	Relating to school pupils, national migration law does not include rules on the entry of stay of such categories
ES	Applies Directive 2004/114 on school pupils.
FI	-
FR	Applies Directive 2004/114 on school pupils.
HU	The rules of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Government Decree 114/2007 (V. 24.) Korm. on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals are governed to trainees, volunteers and school pupils.
IE	Not bound by the Directive.
IT	<i>a. Permit/VISA</i> - VISA for reasons of study <i>b. General conditions</i> - recognized secondary education programme in the framework of an exchange scheme managed by an officially recognized organisation as per national legislation <i>c. Age</i> - Between 14 and 17 <i>d. Length</i> <i>e. Working conditions</i> <i>f. Language (knowledge proof, courses)</i>

	Applies Directive 2004/114 on school pupils.
LT	-
LU	Directive 2004/114 applies to school pupils. Those are <u>additional provisions</u>. <i>Permit/VISA</i> - VISA for reasons of study <i>General conditions</i> - admission to a secondary education institution and technical high schools recognized secondary education programme in the framework of an exchange scheme managed by an officially recognized organisation as per national legislation - parental authorization if not 18 years old - proof of its participation, either in an exchange program establish by a bilateral framework or a European program in the field of education and long learning formation - proof that the exchange organization is responsible for the applicant during all the time of its stay especially in relation with the stay and return expenses - is hosted by a selected family or a reception structure during all the time of its stay, in accordance with the rules of the exchange program in which the applicant participates - health insurance <i>Age</i> - Between 14 and 21 <i>Length</i> - Up to 1 year <i>Working conditions</i> <i>Language (knowledge proof, courses)</i> Applies Directive 2004/114 on school pupils.
LV	<i>Permit/VISA</i> - Temporary residence permit - a valid travel document, <i>General conditions</i> - Agreement between parties - an application, - a photo, - documents certifying sufficient financial means, - documents on intended place of residence (address), - x-ray examination, - state duty payment - for minors, there should be permission from parents submitted and information indicated on a physical person who will be responsible for the child during his stay in Latvia <i>Age</i> <i>Length</i> - For the length of the study <i>Working conditions</i> <i>Language (knowledge proof, courses)</i>

MT	-
NL	a. <i>Permit/VISA</i> - Permit - valid passport, - no previous stay in the Netherlands on a residence permit b. <i>General conditions</i> - health insurance with cover in the Netherlands - unmarried status - no duty of care or responsibility for the actual care of one's own family members (children or parents, for instance) - no risk to public order - examination for tuberculosis in the Netherlands (this obligation does not apply for nationals from Australia, Canada, Israel, Japan, Monaco, New Zealand, Suriname, United States of America and Switzerland) - not allowed to pay a sum of money as a security deposit (or bond) to a (Dutch or foreign) mediation agency or exchange organisation - not allowed to perform activities for persons who require more specialised care, which requires specific skills - the family must consist of a minimum of 2 persons - sign a sponsor declaration - the exchange organisation must sign a sponsor declaration and it must be approved by the IND c. <i>Age</i> - Between 15 and 25 d. <i>Length</i> - Up to 1 year, within a program under the European Voluntary Service e. <i>Working conditions</i> - no previous work for the same host family abroad f. <i>Language (knowledge proof, courses)</i>
PL	-
PT	Applies Directive 2004/114 on school pupils.
RO	Applies Directive 2004/114 on school pupils.
SE	a. <i>Permit/VISA</i> - Residence permits are not granted for studies at primary and lower-secondary level, with the exception of lower-secondary education at boarding schools, arranged before arrival b. <i>General conditions</i> - Before the permit can be granted, a letter from the relative organisation is required, alongside confirmation of admission and information on the organisation's contact person in Sweden - If under 18, permission is required from their legal guardian, as minors lack legal competence and are therefore not eligible to apply themselves - <u>For other forms of study such as upper-secondary studies:</u> - Means of support for the study period - Studies must be full-time - intention to leave Sweden upon completion of the study period c. <i>Age</i> d. <i>Length</i>

	- Up to 1 year e. <i>Working conditions</i> f. <i>Language (knowledge proof, courses)</i>
SK	Applies Directive 2004/114 on school pupils.
SI	Applies Directive 2004/114 on school pupils.
UK	Not bound by the Directive.

Third-country national students' access to job-seeking and/or the labour market following graduation (selected Member States)

Member State	Description
AT	After completion of studies, graduates can, if they wish to stay in Austria and obtain a “Red-White-Red Card” (providing access to the labour market with a specific employer), obtain a written confirmation for further 6 months on the legality of their stay with the possibility to apply for the “Red-White-Red Card” in subsequence. This confirmation, which is a right to residence <i>sui generis</i> , is provided for the purpose of job search and cannot be prolonged.
BE	Students are obliged to leave the Member State following their studies. International students are permitted to stay if they are offered a job, PhD position or if they want to engage in self-employment.
CY	International students cannot apply for relevant work permits and authorisation to stay without leaving Cyprus following completion of study. Students can only remain if they are employed for research purposes. Third-country nationals can apply for transfer from student to other migration statuses, with students applying for asylum status in many instances.
DE	After graduation, international students can be issued with a graduate job seeker permit for 18 months. Self-employment is included. Another type of permit (worker, researcher, highly qualified person). International students are not entitled to social benefits.
EE	International Student is required to immediately leave the Member State and has no right to stay after the end of the study period and find a job. International students can stay if they continue existing working in the same job during the period of studies. In such a case, they can apply for a residence permit for working. In order to obtain such a permit, it is required that the employee is paid a remuneration that is approximately 1.5 times higher than the average salary. Self-employment requires capital (€16 000) or investment (€65 000).

Member State	Description
	Applicants for residence permit for working as well as for business fall under the immigration quota which is established annually and is approximately 1 000 persons per year.
EL	Third-country nationals who have completed their studies are not allowed continuing residing in Greece, after the completion of their studies.
FI	An international student who, after graduation, is offered work can apply for a residence permit extension for the purpose of employment. An international student may also be issued a job seeking permit for six months. Applications for job seeking permits are rare. A temporary residence permit is issued for a six month period. International students can also apply for self-employment. International students are not entitled to social support.
FR	Scheme established enabling the issue of temporary residence authorisations for six months, non-renewable if the third-country national has graduated with a qualification that is at least equivalent to a Master's Degree course and they wish to complement their studies with some initial professional experience. An international student may be allowed to stay to seek a job for six months. The authorisation enables the student to work at any job up to the limit of 60% of the official work week. At the end of the six month period, a graduate who has a job or an offer of employment related to the qualification obtained and which is remunerated at a full-time monthly rate of at least 1.5 times the minimum monthly wage is permitted to remain in France to further the professional activity. In this case, the individual is exempt from eligibility requirements based on the employment situation in France. If the employment contract is lower than 1.5 times the minimum wage, the individual is subject to the labour market test. International students are <u>not entitled to unemployment support</u>.
IE	Irish Third Level Graduate Scheme provides for international students in degree courses or above to remain in the Member State for one year (Level 8) or six months (Level 7) following the completion of their studies. This scheme aims to facilitate the ease of transition for international graduates to the labour market. Following the expiration of the one year allowance, students must then transfer onto an employment permit or Green Card permit. Applicants can remain in Ireland during the duration of the application process. Students remaining in Ireland on the scheme are entitled to work 40 hours per week.
IT	Conversion of the permit to study in permit for work purposes occurs only when

Member State	Description
	envisaged in the annual flow decrees and within the scheduled quantitative limits.
LV	Third-country national students are not offered the opportunity to remain in the state for the purposes of seeking employment following the completion of studies. In case a third-country national wants to apply for a residence permit for employment, based on an employment contract, the potential employer must register a vacancy with the State Employment Agency. The applicant must apply for the registered vacancy within a month. Following this, the employer has the right to request a 'sponsorship' for a third-country national and submit the necessary documents. When the sponsorship has been approved by the Office of Citizenship and Migration Affairs, the third-country national has the right to submit the necessary documents to apply for a temporary residence permit. If the applicant is to be employed based on a contract for work-performance, a vacancy with the State Employment Agency does not have to be registered. Together with a temporary residence permit, a work permit is issued to the third-country national, without which he or she has no right to work. The work permit gives the right to work at one employer in a definite, specific position. If the third-country national, having received a temporary residence permit, loses the job position, the residence permit and work permit are annulled, and they must leave Latvia, due to the fact that a third-country national who has entered Latvia for the purposes of employment, cannot become an employment seeker and receive the respective state allowances. In separate cases, if the individual has found another employer, they may apply for a new residence permit without leaving the Republic of Latvia. Note: no reference was found about whether the above includes self-employment.
LT	Students cannot stay after graduation except when they change the grounds for arrival to alternative ones. The possibility to extend the period after graduation when students are allowed to stay and seek employment for up to six months is being considered.
LU	International student can stay in the Member State after graduation for a first professional experience. However the application must be submitted before the expiration of their residence permit. A salaried worker residence permit can be authorised for a maximum of 2 years if the applicant has obtained their higher education diploma, wishes to complete their education with first professional experience, the economic activity is related to their study and they are in possession of a work contract that is declared vacant. The individual does not need to leave Luxembourg in order to file the application. No extra period for job seeking or other purposes is granted to international students.
NL	International students can apply to stay in the Member State following completion of their studies. A temporary residence permit can be applied for which will give the international

Member State	Description
	student the opportunity to seek a job for a maximum period of one year after having completed their studies. The international student is permitted to work during this time to earn a living and is not required to have a work permit. If the international student finds a job with a gross annual salary of at least €26 931, they are eligible for a regular residence permit. This wage criterion is lower for graduated international student migrants than for other highly educated migrants. Self-employment is also possible, with international student needing to apply for a residence permit to work on a self-employed basis.
PL	Graduates can apply for the right to stay in Poland on the basis of a residence permit for a specified period of time on the grounds of being employed, running economic activity or marriage to a Polish citizen. When there are no such grounds, the foreigner must leave Poland.
PT	International students can stay if they want to enter the labour market. The permit to engage in professional activities is temporary, valid for a period of one year and renewable for successive periods of two years. Foreign nationals who are enrolled in the employment centres can apply for jobs, enjoying the following rights: the right to efficient and personalised service; right to information, especially with regard to training facilities and job offers, socio-economic means, professions and labour and employment conditions, social benefits, employment market and social employment market. International students can engage in self-employment.
SI	Can stay if an application is lodged with the competent authority for a subsequent residence permit for a different purpose prior to expiry of period for which authorisation is granted. Opportunity to obtain a personal work permit valid for three years provided that that (a) they attended the final year of their studies in Slovenia and gained at least higher education) and find an employer or become self-employed within two years after the completion of their studies or (b) they completed a research programme and find an employer or become self-employed within one year. The work permits allow employment, self-employment or work for any employer. This may be extended once for a year if the third-country national has been employed or self-employed during the last six months prior to the application and as such registered in the social security system. The permit can be re-issued for a period of three years under the same conditions as the first one.
SE	Can stay if they have a job or an employment offer.
SK	At present, students from third countries are not allowed to stay after the completion of their studies and seek employment. The only possibility for an international student

Member State	Description
	is to try to obtain an employment permit during studies, and apply for a change of the purpose of temporary residence from study or special activity to employment purposes after the completion of studies. However according to the <i>Migration Policy Action Plan of the Ministry of Labour, Social Affairs and Family of the Slovak Republic for the Period 2012–13</i>, one of the measures foreseen would enable international students who have successfully completed their studies at a secondary school or higher education institution to stay for a period of three months after the completion of studies and seek employment.
UK	Graduates with a skilled job offer with a minimum salary of £20, 000 from an employer accredited by the UKBA may stay and work under a Tier 2 visa. International graduates may also be eligible for a Tier 1 (graduate entrepreneur) visa. With such a visa, the graduate is granted leave for 12 months which may be extended for a further 12 months. The graduate may work at their business and up to 20 hours a week in other work to support themselves. The standard visa requirements must be met and they must have access to a minimum of £50 000. The number of places is limited to 1 000 per year.

Annex VI: Glossary of key terms

Au pair	A third-country national temporarily received by a family in the territory of a Member State in exchange for light housework and to take care of children in order to improve his/her linguistic skills and his/her knowledge of the host country;
Authorisation	A residence permit issued by the authorities of a Member State allowing a third-country national to stay legally on its territory, in accordance with Article 1(2)(a) of Regulation (EC) No 1030/2002 or a long-stay visa
Brain drain	The loss suffered by a country as a result of the emigration of a (highly) qualified person.
Brain gain	The benefit to a country as a result of the immigration of a highly qualified person.
Charter of fundamental rights	Reaffirms, with due regard for the powers and tasks of the Union and for the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights.
Committee on Immigration and Asylum (CIA)	A European Commission led expert group aimed at facilitating an informal exchange of views between Member State administrations and the Commission services on political and legal issues related to migration, border and asylum.
Community preference	The preference given by a Member State to workers who are nationals of other Member States over workers who are nationals of third countries in regard to access to their labour market.
Cultural diversity	Diverse forms of culture across time and space which is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind and is a source of exchange, innovation and creativity.
Dependant	Any person who is granted entry and residence by a Member State to stay with their family member (i.e. the person referred to as ‘sponsor’ in Directive 2003/86/EC) and who has explicitly filed an application for reasons of family reunification.
Educational establishment	A public or private establishment recognised by the host Member State and/or whose courses of study are recognised in accordance with its national legislation or administrative practice on the basis of transparent criteria for the purposes set out in this Directive
Employment	Exercise of activities covering whatever form of labour or work regulated under national law or established practice for and under the direction and supervision of an employer
EU mobility programmes	EU funded programmes promoting mobility of third country nationals to the EU
EU immigration Portal (EUIP)	A website with hands-on information for foreign nationals interested in moving to the EU acting as a first point of entry for up-to-date, practical information on EU and national immigration procedures and policies.

European Migration Network (EMN)	A body established by Council Decision 2008/381/EC that serves to meet the information needs of Union institutions and of Member States' authorities and institutions, by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. It also serves to provide the general public with information on these subjects.
Family member	Generally, persons married to a migrant, or having a relationship legally recognised as equivalent to marriage, as well as their dependent children and other dependants who are recognised as members of the family by applicable legislation. In the context of the Family Reunification Directive 2003/86/EC (and 2003/109/EC, Long-Term Residents), a third-country national, as specified in Article 4 of said Directive and in accordance with the transposition of this Article 4 into national law in the Member State concerned, who has entered the EU for the purpose of Family Reunification.
Family reunification	The establishment of a family relationship which is either: (a) the entry into and residence in a Member State, in accordance with Council Directive 2003/86/EC, by family members of a third-country national residing lawfully in that Member State ("sponsor") in order to preserve the family unit, whether the family relationship arose before or after the entry of the sponsor; (b) between an EU national and third-country national established outside the EU who then subsequently enters the EU.
First Member State	The Member State which first grants a third-country national an authorisation on the basis of this Directive
Global Approach to Migration and Mobility (GAMM)	The external dimension of the European Union's migration policy which brings together migration, external relations and development policy to address migration in an integrated, comprehensive and balanced way in partnership with third countries.
Long-stay Visa	An authorisation issued by a Member State as provided for in Article 18 of the Schengen Convention or issued in accordance with the national law of Member States not implementing the Schengen <i>acquis</i> in full
Member State	A EU Member State bound by the Directive
School pupil	A third-country national admitted to the territory of a Member State to follow a recognised programme of secondary education in the context of an exchange scheme operated by an organisation recognised for that purpose by the Member State in accordance with its national legislation or administrative practice;
Students	A third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to its national legislation

Remunerated trainee	A third-country national admitted to the territory of a Member State for a training period in return for which he/she receives remuneration in accordance with its national legislation and whose temporary presence in the territory of a Member State is closely connected with increasing his/her skills and qualifications in his/her chosen profession
Remuneration	The payment, whatever the form it takes, received in consideration for the services performed and being considered under national legislation or established practice as a constituent element of an employment relationship
Research	Creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications
Researcher	A third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required
Research organisation	Any public or private organisations which conducts research and which has been approved for the purposes of this Directive by a Member State in accordance with the latter's legislation or administrative practice
Third-country national	Any person who is not a citizen of the European Union within the meaning of Article 20(1) of the TFEU
Unremunerated trainee	A third-country national admitted to the territory of a Member State for a training period without remuneration in accordance with its national legislation
Voluntary service	A programme of activities of practical solidarity, based on a scheme recognised by the State or the Union, pursuing objectives of general interest
Volunteer	A third-country national admitted to the territory of the Member State to follow a recognised voluntary service scheme

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