



Comments on the latest positions of the European Parliament on Labour Migration in view of the Trilogues

Single Permit Directive (recast) – COM/2022/ 655 final

Long-term Residence Directive (recast)- COM/2022/650 final

Our organisations represent Churches throughout Europe – Anglican, Orthodox, Protestant and Catholic – as well as Christian agencies particularly concerned with migrants, refugees, and asylum seekers. As Christian organisations, we are deeply committed to the inviolable dignity of the human person created in the image of God, as well as to the concepts of the common good, global solidarity and the promotion of a society that welcomes strangers and values freedom, security and justice in policy and practice.

As the European Parliament and Council are working to reach a compromise on two labour migration directives (Single Permit (SP) and Long Term Residence (LTR)), we would like to underline our hope for enhanced mobility and rights for third-country nationals, the prospects for efficient procedures and a broader inclusivity, which would signal a proactive stride towards reinforcing the EU's commitment to equal treatment and integration. The forthcoming interinstitutional negotiations will hopefully work to harmonize regulatory frameworks while further advancing the interests of both member states and third-country nationals alike.

In many of the recent discussions surrounding the SPD, a significant emphasis has been placed on the need to address structural labor shortages and enhance the rights and protection of third-country nationals (TCNs) working in European Union (EU) member states. As Christians, we welcome legislative initiatives that guarantee the fair and equal treatment of strangers, and that will result in supporting humans - irrespective of their nationality -to live a life in freedom and dignity.

Taking into consideration the recent endorsement of the reform (recast) of the 2011 SPD and recast of the LTR and the proposed amendments by the EU Parliament, we consider this development to be a positive stride forward. The initial proposal together with amendments proposed by the European Parliament mark a significant step in the right direction.

A welcoming atmosphere for TCN within the EU is vital for a functioning labour driven migration. Hence, the member states and the Commission should be cautious and aware of the fact that any discrimination against TCN discourage people to migrate to Europe. Thus, an effort is needed to change discriminatory rhetoric towards migrants in general to keep Europe attractive to migrants.

Recast of the Single Permit Directive

Regarding the SPD , we support the intention to accelerate the application procedures for third-country nationals seeking legal residence and employment opportunities in EU member states. It is a

notably commendable move to proactively approach in addressing various concerns, including the exploitation of TCN. Enabling in-country applications in this context is an important and promising proposal. Other measures prioritizing the protection of migrant workers' rights and ensuring fair treatment are most welcome.

The European Parliament's position to support the right to change employers is welcome. However, the proposed mandatory notification procedure raises administrative concerns, as it entails potential retention of labour market checks when a worker transitions between sectors, potentially hindering seamless job shifts. The Parliament's inclusion of a nine-month period for unemployed workers to seek alternative employment underscores a commitment to preventing exploitation. A significant step forward is the notion of a transitional permit, allowing workers subjected to labour exploitation to retain their permit for up to 12 months while seeking new job opportunities. Both proposals are most welcome.

However, we would like to strongly encourage the European legislators to explicitly address entry conditions for low and medium-skilled migrant workers, as per the suggestions in the Pact on Migration and Asylum. In this context, also a facilitated access to the labour market for applicants of international protection should be considered. As long as these important areas of labour migration are not addressed, either in a stand-alone instrument or – preferably – a cross-cutting directive for all labour migration into the EU, the approach will fall short of its ambitions and remain a piecemeal endeavour ignoring pressing challenges in the EU.

Recast long-term residence Directive

Regarding the LTR proposal we welcome provisions to encompass dependent children, who are deemed eligible for the long-term permit, provided their primary caregiver already possesses the same status. The provision allowing beneficiaries to temporarily depart from EU territory for up to 24 consecutive months without jeopardizing their granted status is most welcome and could be one of the few feasible instruments to allow for circular or pendular mobility. Additionally, we support the notion of accumulation of residence periods, as this enhances the mobility of TCNs.

We welcome the position of the European Parliament to extend the scope of application to seasonal workers and those who have been granted temporary protection, affording them access to both the single and long-term permit frameworks. This comprehensive inclusionary stance seeks to address diverse facets of labor mobility and protection for TCN . We also consider the proposed shortening of the period from 5 to 3 years before an application can be made to be positive, , though we are of the opinion that the period could be shortened even further.

In conclusion, the proposed reforms to the SPD and the LTR directive are pivotal step toward addressing structural labour shortages, enhancing worker protections, and promoting equal treatment in the European Union. It is our hope that the measures combining simplification, strengthening of rights and protection of labour migrants included in the European Commission's proposals and the European Parliament's amendments will receive positive reactions by the council in the near future.

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- Caritas Europa, www.caritas.eu
 - CCME – Churches' Commission for Migrants in Europe, www.ccme.eu
 - COMECE Secretariat, <https://www.comece.eu/comece/>
 - Don Bosco International, www.donboscointernational.eu
 - Eurodiaconia, www.eurodiaconia.org
 - ICMC – International Catholic Migration Commission, www.icmc.net/europe/
 - Protestant Church in Germany – EKD, <https://www.ekd.de/en/EU-office-brussels-274.htm>

Annex

I. General Context

In April 2022, The European Commission introduced proposals as part of the 'Skills and Talent' Package to tackle migration challenges in the EU. These measures, following the New Pact on Migration and Asylum, aim to create a sustainable EU legal migration policy to address current and future labor market shortages. The package provides new legal channels for non-EU nationals to enter the EU labor market, aiming to attract skilled individuals to maintain the EU's economic competitiveness. The main components include revising the 2011 Single Permit Directive and the 2003 Long Term Residence Directive.

II. "Recast" for the Long-Term Residence Directive

Context:

The European Commission introduced a proposal for a recast Directive concerning the status of long-term third-country nationals (TCNs) residing in the European Union. The existing Directive 2003/109 has governed the legal status of TCNs for nearly twenty years, outlining conditions for granting long-term residence (LTR) status to TCNs who have legally lived in a Member State for at least five years. This Directive also governs their rights, equal treatment, and the ability to move to other Member States.

The LTR status offers several advantages, including permanence, equal treatment in various areas such as employment and self-employment, protection against expulsion, and the option to reside in other Member States under specific conditions. However, a 2019 Fitness Check found shortcomings in achieving the Directive's objectives and identified practical challenges in its implementation by Member States.

In an effort to establish a more effective, equitable, and coherent system for obtaining LTR status, the proposed recast Directive introduces the following key changes:

Accumulation of Residence Periods: TCNs can combine residence periods from different Member States to meet the five-year minimum requirement for LTR status. This includes counting periods under national or temporary protection, temporary grounds, and student status.

Enhanced Rights for Long-Term Residents: Strengthened rights for long-term residents and their families, including the ability to work and move in other Member States.

Control Mechanism: A control mechanism is established to ensure parity between the EU long-term residence permit and national permanent residence permits. This encompasses procedures, equal treatment rights, and access to information.

Overall, the proposed recast Directive aims to address the shortcomings of the existing Directive and create a more effective and fairer framework for granting and managing long-term residence status for third-country nationals within the European Union.

Significance of the Long-Term Residence Directive:

The directive concerning the long-term permit underscores a distinct path. This provision empowers third-country nationals to apply within their respective national authorities for extended residency and labor rights, following a three-year period of lawful residency within the host country. This step is particularly noteworthy, as prevailing norms in most member states mandate a five-year threshold for eligibility to apply for permanent residency.

Key Reform Objectives:

The envisaged long-term permit also introduces notable refinements. The prescribed approval period is to be restricted to 60 days, an advancement aimed at efficient decision-making. In the event of approval, third-country nationals may further leverage this permit to explore work or study opportunities in secondary member states, without the need for supplementary prerequisites like labor market assessments or integration criteria.

III: "Recast" for The Single Permit Directive

Context:

The European Commission presented a communication to the European Parliament and Council, addressing the attraction of skills and talent to the EU. Alongside this communication, a proposal was introduced for a "single permit" procedure, allowing third-country nationals (TCNs) to reside and work within an EU Member State. This proposal, known as a "recast" for the Single Permit Directive, aims to simplify the existing process and establish common rights for third-country workers.

The Commission's focus on work permits has been ongoing, as seen in the 2020 New Pact on Migration and Asylum, which explored admission conditions for low and medium-skilled workers. Despite initial considerations, this idea was abandoned due to Member States deeming their national legislations sufficient. The current 2011 Single Permit Directive, applicable at the EU level, outlines the procedure for TCNs to work and reside in an EU Member State through a Single Permit combining work and residence. However, limitations exist, excluding certain worker categories and leaving entry conditions and permit renewal to national regulations.

In response, the Commission proposed a "recast" in April 2022, aiming to simplify the Single Permit Directive's scope, protect migrant workers from exploitation, and enhance its effectiveness. Key provisions include allowing TCNs to apply for a single permit within the member state, merging single permit and visa applications, and requiring member states to assess applications within four months to prevent delays.

The recast Directive emphasizes accessible information, obliging member states to provide details about entry conditions, residence, rights, obligations, and procedural safeguards. Additionally, member states must offer sufficient information upon request to both TCNs and employers regarding required application documents. Fees for processing applications and issuing permits are to be proportionate.

Regarding equal treatment, the recast Directive addresses gaps between single permit holders and nationals, as well as irregular migrant workers. It ensures that single permits are not withdrawn during unemployment for at least the first three months and provides allowances for changing employers during this period. Member states are required to take preventive measures and establish penalties to ensure equal treatment.

Furthermore, the recast focuses on protecting lawful migrant workers' rights, enabling labor inspections, supporting worker representatives' access to workplaces, and establishing complaint mechanisms and legal redress procedures. The Directive also permits third parties, such as NGOs, to act on behalf of legal migrants in national courts.

The central points of the proposal encompass allowing in-country applications, a four-month decision timeframe, improved access to application information, proportionate fee collection, protection of

single permit holders during unemployment, measures to ensure equal treatment, and enhanced rights protection for lawful migrant workers, including third-party representation in national courts.

Significance of the Single Permit directive :

The Single Permit Directive recast holds substantial importance as it encompasses both a residence and work permit while extending a suite of rights to eligible individuals seeking employment in EU member states. Essentially, it seeks to establish a foundational framework for guaranteeing a minimum set of protections and entitlements for workers in the EU.

Opportunities for Reform:

The proposed reform presents a noteworthy opportunity to not only bolster workers' rights but also enhance procedural safeguards, ultimately aiming to counteract instances of exploitation. The instrument's potential, though promising, has been hindered by structural issues, including the absence of EU-level provisions pertaining to the change of employer, a critical aspect requiring attention.

Key Reform Objectives:

Central to the reform is the concept of affording all single permit holders the flexibility to transition between employers, thereby preventing them from being bound to a single employer and reducing susceptibility to potential exploitation. By enabling smoother transitions, the likelihood of workers being confined to unfavorable working conditions decreases, granting them a stronger ability to advocate for their rights and labor conditions.

Enhancements in Procedure and Protection:

Beyond facilitating employer changes, the reform introduces mechanisms to streamline application timelines, protecting workers from extended waiting periods. Equally vital is the inclusion of measures to safeguard workers against exploitation, encompassing heightened penalties for employers and increased labor inspections, effectively addressing concerns that were previously unaddressed within the initial iteration of the single permit.

Furthermore, we support the objective of constraining the application procedure timeline to a maximum of 90 days. This commitment to streamlined and expedited procedures not only safeguards third-country nationals (TCNs) from protracted waiting periods but also serves as an additional motivating factor for employers to consider hiring TCNs. This aligns with the broader aim of creating a more efficient and balanced process.

An additional noteworthy enhancement that signifies progress is the reinforcement of protections for the rights of lawful migrant workers, accompanied by the significant provision that permits third parties, including NGOs, to advocate on behalf of migrants in national courts. This commendable measure contributes to bridging the disparity between single permit holders and nationals, marking a significant stride toward equitable treatment.

Access to Equal Treatment:

Moreover, the recast strives to ensure that TCNs enjoy equal treatment, irrespective of their employment duration or permit status. The proposal seeks to eliminate discrimination based on factors such as contract duration or permit type when accessing social benefits, housing, and other forms of social support available at the national level.