



EUCIS-LLL POSITION REVISION OF THE VISA DIRECTIVE

June 2013

The purpose of the Council Directive 2004/114/EC of 13 December 2004 is to determine the conditions and procedures for admission of third-country nationals to the territory of the Member States for a period exceeding three months for the purposes of research, studies, pupil exchange, remunerated and unremunerated training or voluntary service. The implementation of this directive shows a number of weaknesses. These shortcomings concern key issues such as admission procedures including cost, rights and procedural safeguards for obtaining residence permits and visas. Every day, third country educators, learners and volunteers face difficulties before, during and after learning mobility experience. Fostering mobility exchanges is a key to develop mutual understanding and global citizenship but also to strengthen the attractiveness of our education and training systems in a global world. This is why EUCIS-LLL strongly supports the European Commission's efforts to improve the rules on admission of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service or "au pairs" by [revising the existing Directive 2004/114](#).

The need to harmonise and strengthen common procedures on the national and EU level

The 2011 Commission report on the application of the Directive shows a very patchy implementation across the EU, as three Member States are not bound by it (DK, IR, UK) and fourteen have been prone to infringement proceedings for not having transposed it or provided sparse information. As we do not want a "à la carte" European legislation with costly infringement procedures and harmful consequences on the learners, EUCIS-LLL calls Member States to fully and immediately implement the revised directive as soon as it is adopted, and the Commission to keep on rigorously monitoring progress.

1. Rules should become mandatory for all Member States

Procedures should be implemented in a consistent way within each Member States. Indeed the amount of documents needed and the diversity of different regulations per hosting country make the visa application a very complicated process. This also concerns residence permit applications. Bureaucratic burdens should be reduced with the adoption of clear and transparent rules.

EUCIS-LLL welcomes the proposal to mandate the deadline for Member States to give a decision within 60 days; we would even strongly recommend reducing the procedure to 30 days (which is so far only applied in exceptional circumstances), and this for all target groups of the directive. This rule should also apply for appeal procedures. It also welcomes the fact that a successful visa applicant shall be granted a long-stay visa and/or a residence permit by the Member State where the application has been made (article 5). This principle should be guaranteed and implemented in all Member States. Besides, allowing students who graduate in the Union and researchers to look for a job after expiry of the authorisation is a very satisfactory progress of the new Directive and should

be extended to the other target groups, as it is a crucial step towards better knowledge societies.

2. Increase transparency and support in the visa application process, for example by:

- Providing applicants with clear deadlines for issuing the documents;
- Giving them the opportunity to check the current status of their application;
- A check if applications are complete being made right after submitting and no additional documents being required post hoc;
- Indicating the reasons for unsuccessful applications within a set number of days (see proposal above of 30 days maximum);
- Providing applicants with information on procedural rights and safeguards, including the right to question. This can happen through information tools in relevant institutions, similar to passenger rights posters in airports.

Third-country national should be able to apply for biometric visas and residence permits from their home countries, even if there is no respective embassy present, for example through other EU embassies.

3. Eliminate or limit costs for issuing visas and residence permits

The costs for visa and residence permits can range from 30 to 650 EUR and can deter the decision to do an exchange programme especially for those from already disadvantaged groups. The new Directive should call for free-cost residence permits and visas for all candidates, or at least set a clearer rule on what is a 'proportionate fee'.

Besides, the new Directive introduces conditionalities regarding the resources candidates should have to cover their stay as an additional guarantee. Such a requirement is unacceptable as it further limits mobility participation (especially for the most vulnerable) and should not be mentioned in the new Directive.

4. Mobility in the EU: the same rule for all

Third country nationals covered by this Directive entering into the EU are often unable to travel to other EU countries. EUCIS-LLL thus welcomes the improved rules of article 26 that would facilitate students and paid trainees to spend periods of between 3 and 6 months in another EU Member State. This rule should also apply to unpaid trainees and volunteers. All visa holders should enjoy freedom of movement throughout the EU during the period of their visa.

5. Requirements for hosting organisations

EUCIS-LLL welcomes the provisions set in articles 7, 8 and 9 for researchers 11, 12, 13 and 14 for school pupils, remunerated and unremunerated trainees, volunteers and au-pairs. The criteria for the recognition of hosting organisations should be included within the Directive for researchers and trainees as well as for the other groups. EUCIS-LLL particularly welcomes the need to justify traineeship provisions by the host organisation (i.e. Europe Youth Forum's [Charter](#) on quality traineeships and apprenticeships).

In the case of pupil exchanges, host organisations should be able to officially invite pupils from third countries, so that residence permits are tied to the programme participant status alone (and not to a school or a host family). In order to facilitate this procedure, those host organisations should be recognised by Member States as the new Directive recommends.

6. Abolish any requirement of speaking the language of the EU host country prior to arrival

EUCIS-LLL welcomes the Directive's recommendation for candidates to receive basic language training and introduction to the historical and political context of the host country, as an invitation to discover another socio-cultural environment. Yet providing evidence of sufficient language knowledge before departure does not reflect at all the reality of learning mobility. Speaking the language of the host country prior to departure has never been a prerequisite for a successful exchange experience; indeed one of the main reasons learners come to Europe is to learn the national language of the host country; besides, more and more candidates and hosts are able to speak English, which should not replace the learning of the host country language but should be part of the reasons to suppress compulsory language tests prior to departure.

7. Remove the possibility of Member States to follow the principle of reciprocity of exchanges under the scope of the directive

Indeed this provision prevents intercultural dialogue and the development of contact and friendships between citizens coming from countries that might face difficult diplomatic relations.

In Conclusion EUCIS-LLL wishes to see a fairer treatment of third country nationals coming to Europe for learning purposes. It hopes that its recommendations will be taken into account in the drafting of the new Directive. It also looks forward a rapid and harmonious implementation of its provisions in all the Member States, as their bad political will could hinder the strong political signal sent by the EU with this Directive.

For more information see:

- [EFIL- EEE-YFU joint reaction](#)
- [European Youth Forum](#)

The European Civil Society Platform on Lifelong Learning (EUCIS-LLL) gathers 33 European organisations working in education and training. Together, they cover all sectors of education and training including networks for secondary and higher education, vocational education and training, adult education and popular education; networks for students, school heads, parents, HRD professionals, teachers and trainers. www.eucis-lll.eu