EUROPEAN
COMMISSION

Brussels, 27.4.2022
SWD(2022) 656 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the document

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

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 (recast)

{COM(2022) 655 final} - {SEC(2022) 201 final} - {SWD(2022) 655 final}

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Glossary

Term or acronym	*Meaning or definition*
AHQ	Ad Hoc Query
CJEU	Court of Justice of the European Union
DG	Directorate General
EGEM	Expert Group on Economic Migration
EMN	European Migration Network
EU	European Union
EU Charter	Charter of Fundamental Rights of the European Union
FRA	Fundamental Rights Agency
FTE	Full Time Equivalent
GDP	Gross Domestic Product
JRC	Joint Research Centre
NGO	Non-governmental organisation
RSB	Regulatory Scrutiny Board
REFIT	Regulatory Fitness and Performance Programme
TCN	Third country national

1. 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

During the last 20 years, the EU has adopted seven directives laying down common rules for the admission, and the rights, of third-county nationals in the EU for purposes of study and research[1], seasonal work[2], highly skilled work[3], intra-corporate transfers[4] family reunification[5], and concerning the status of third-country nationals who are long-term residents[6]. This legislative framework has contributed to developing safe legal pathways to the EU. The vast majority of migrants arrive in Europe legally. In 2019, the EU Member States issued more than 3 million first residence permits to third country nationals (hereinafter 'TCNs'), of which over 1 million were for employment purposes. In the last decade, third-country workers filled a significant share of new jobs[7], helping to meet labour market needs. During the COVID-19 pandemic, the contribution of TCNs to the European economies, labour markets and public services has become all the more evident. For instance, 13% of key workers performing essential functions – from doctors to nurses and drivers – are migrants[8].

As part of the EU framework for legal migration, Directive 2011/98/EU on a single application procedure for a single permit for TCNs 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[9] – hereinafter 'the Directive' – was adopted on 13 December 2011. Ireland and Denmark are not taking part in the implementation of the Directive.

The Directive establishes a single application procedure – this means that an eligible TCN does not need to apply for a work permit and a residence permit, but can obtain them combined through the same procedure. It also guarantees a common set of rights for eligible TCNs, based on equal treatment with nationals of the Member State that grants the single permit. As an 'umbrella' Directive, it is therefore a key instrument in EU immigration policy.

The following categories of TCNs are eligible to obtain a single permit:

- TCNs who apply to reside in a Member State to work
- TCNs who have already been admitted to a Member State for the purpose of work
- TCN who have already been admitted to a Member State for purposes other than work but who are allowed to work

The Directive nevertheless contains notable exceptions[10].

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1 OJ L 132, 21.5.2016, p. 21–57.
2 OJ L 94, 28.3.2014, p. 375–390.
3 OJ L 155, 18.6.2009, p. 17–29.
4 OJ L 157, 27.5.2014, p. 1–22.
5 OJ L 251, 3.10.2003, p. 12–18.
6 OJ L 16, 23.1.2004, p. 44.
7 OECD (2018), "The contribution of migration to the dynamics of the labour force in OECD countries: 2005-2015"
8 https://ec.europa.eu/jrc/en/news/crucial-contribution-migrant-workers-europes-coronavirus-response
9 OJ L 343 of 23.12.2011, p. 1.
10 For example: posted workers, intra corporate transferees, seasonal workers, beneficiaries of temporary or international protection, beneficiaries of protection under national low, long term residents, those whose removal has been suspended, self - employed workers, seafarers (Article 3.2)

In 2019[11], 2 984 261 single permit decisions[12] were reported for the Directive, of which 1 212 952 decisions were for issuing first permits. The other decisions were for renewing or changing permits. Of all the permits issued in 2019, 1 172 028 (39 %) were issued for 'remunerated activities', 928 483 (31 %) for family reasons, 395 428 (13 %) for education and 368 509 (12 %) for other reasons based on available statistics[13].

Figure 1. First permits issued for remunerated activities by reason, length of validity and citizenship

GEO/TIME	2014	2015	2016	2017	2018	2019	2020
European Union - 27 countries (from 2020)	456.614	589.552	737.482	905.331	983.742	1.197.788	903.398
European Union - 28 countries (2013-2020)	573.321	707.632	854.558	1.009.543	1.091.892	1.197.788	:

Source: Eurostat [migr_resocc]

During the 10 years of application of the Directive, the Commission has received 12 complaints on the implementation of the Directive by the Member States (including i.a. on the issue of not respecting statutory deadlines for issuing a single permit or social security-related issues), followed up by 6 EU Pilots and 4 infringement proceedings[14]. Two of the infringement proceedings (which dealt with disproportional fees and family benefits) have been now closed. The two pending proceedings cover mainly the area of social security and in particular access to family benefits. With regard to the EU Pilots, some of the issues raised have been solved following the agreement of the concerned Member States to adapt their legislation notably in the areas of recognition of titles, access to good and services and not respecting of deadlines. The issues that remain open relate to access to some social security benefits and not respecting statutory deadlines.

The Fitness Check on legal migration adopted in 2019[15] launched an in-depth evaluation with the view to assessing whether the EU legal migration framework is still fit for purpose, identifying any inconsistencies and gaps and looking for possible ways to streamline and simplify the existing rules. The evaluation of the Directive under the Fitness Check and the work performed in preparation of the implementation report[16], also adopted in 2019, identified a number of personal and material gaps, inconsistencies and shortcomings as well as practical issues arising from the application of the Directive by the Member States. These included:

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11 Source: Eurostat (migr_ressing).

12 As far as the reporting of statistics is concerned the 'Single Permit' is understood as a residence permit that includes both those that reside for the purpose of work and those admitted for other reasons, but have the right to work. The statistical definition of 'Single Permit' corresponds to Art. 2(c), Directive 2011/98/EU.

13 The reason for issuing the permit is not available for about 4% of total single permits issued in 2019. Given the changes in migration flows in 2020 due to the Covid-19 pandemic, statistics for 2019 have been used in the analysis.

14 Seehttps://ec.europa.eu/commission/presscorner/detail/en/MEMO_17_4767; https://ec.europa.eu/commission/presscorner/detail/en/inf_20_2142

15 See the Executive summary of the Fitness check in Annex 7 and the full report: https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en#:~:text

16 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0160&from=EN

- Complexity and inconsistencies relating to the single application procedure, mainly as regards the participation of different authorities in the application process, which sometimes adds several administrative steps to the process of obtaining entry visas and labour market-related authorisations;
- Problems with the transposition of the equal treatment provisions, including the exclusion of some categories of TCNs and lack of coverage of some social security branches; and
- Issues with the practical application of procedural safeguards.

The Fitness Check, in particular, recommended in its conclusions 'considering putting forward legislative measures to tackle the inconsistencies, gaps and other shortcomings identified, so as to simplify, streamline, complete and generally improve EU legislation'.

On the other hand, the Fitness Check also confirmed the numerous benefits of harmonisation in the field of legal migration. In particular, Member States clearly stressed the EU added-value of the Single Permit Directive. Harmonised and simplified procedures and a common set of rights, increased legal certainty and predictability for third-country nationals and employers were among the areas in which EU action was considered to have brought the most positive effects and the most EU added value. The Communication of the Commission on a New Pact on Migration and Asylum[17], adopted on 23 September 2020, stressed that "the EU's common migration policy needs to reflect the integration of the EU economy and the interdependence of Member States' labour markets. This is why EU policies need to foster a level playing field between national labour markets as migration destinations. They should also help Member States use their membership of the EU as an asset in attracting talent." The New Pact also sets out that: "More could be done to increase the impact of the EU legal migration framework on Europe's demographic and migration challenges. There are a number of inherent shortcomings in the EU legal migration system (such as fragmentation, limited coverage of EU rules, inconsistencies between different Directives, and complex procedures) that could be addressed through measures ranging from better enforcement to new legislation".

Consequently, the New Pact announced a plan to address the main shortcomings in the area of legal migration with three new sets of measures, responding to the overall objectives of attracting the talent the EU needs and facilitating intra-EU mobility of third-country workers already in the EU. The review of the Single Permit Directive is part of these measures, with the objective – as set out in the New Pact – 'to look at ways to simplify and clarify the scope of the legislation, including admission and residence conditions for low and medium skilled workers'. The other two measures announced are the revision of the Directive on long-term residents[18], which is currently under-used and does not provide an effective right to intra-EU mobility, and exploring the feasibility of developing an EU Talent Pool for third-country skilled workers which could operate as an EU-wide platform for international recruitment.

[17] COM/2020/609 final

[18] Directive 2003/109/EC; an impact assessment on this directive has been prepared and presented together with the present assessment.

The revision of the Single Permit Directive and of the Long-Term Residents Directive has been included in Annex II of the 2021 Commission work programme[19].

This initiative was also included in Annex II of the 2021 Commission work programme , therefore it is part of the regulatory fitness programme (REFIT). The Fit for Future Platform also issued its opinion on how to simplify and reduce unnecessary burdens, including by modernising existing EU legislation through digitalisation, which is reflected in the proposal. The opinion was adopted on 10 December 2021. The Platform made the following two recommendations:

Suggestion 1: Streamline and digitalise the single permit application and visa applications to reduce the administrative burden and costs on applicants and on authorities.

Suggestion 2: Simplifying procedures on change of employer and increasing ownership of workers will provide concrete benefits to national administrations and applicants.

The two legislative initiatives, the revision of the Long-term residents Directive and the revision of the Single Permit Directive, are complementary as they address two different phases of the overall migration process: the latter aims at simplifying the first admission of third-country workers in the EU, and improving their rights, while the former aims at facilitating the acquisition of long-term resident status for those third-country nationals (including workers) who have settled down in the EU, as well as further improving their rights.

The European Parliament, in its Resolution of 21 May 2021 on new avenues for legal labour migration[20], welcomed the Commission's planned review of the Single Permit Directive, suggesting that 'to reach a broader category of workers, the scope and the application of the directive should be expanded'.

The revision of the Single Permit Directive would contribute to better achieving the Directive's already existing objective of establishing a more level playing field for efficient management of migration flows by ensuring simplified and efficient procedures and addressing identified shortcomings that cannot be addressed by non-legislative measures. This would also contribute to the fairer treatment of the third country nationals and have a positive, though relatively modest, impact on addressing the EU labour shortages and economic growth.

2. 2. PROBLEM DEFINITION

2.1. 2.1. What are the problems?

The evaluation of the implementation of the current Directive, the Fitness Check and the consultation process carried out for this impact assessment have revealed a number of gaps, inconsistencies and shortcomings.

[19] https://ec.europa.eu/info/sites/default/files/2021_commission_work_programme_annexes_en.pdf

[20] European Parliament resolution of 20 May 2021 on new avenues for legal labour migration (2020/2010(INI))

The key identified problems can be grouped in three areas:

1) complex and inefficient application procedures and unclear rights which decrease EU attractiveness for third country nationals;
2) certain categories of migrants are not covered by the scope of the Directive or any other EU legal instruments; there are differing rules on admission conditions for low- and medium-skilled;
3) third-country workers are not sufficiently protected from exploitation.

The above-mentioned evaluation and consultation process showed that migrants already residing in, or considering moving to, the EU are negatively affected by the shortcomings of the current Directive, which result in administrative burden, lengthy waiting times, uncertainty and confusion as to applicable rules and outcomes, or may even discourage them from applying[21]. Diverse sets of rights and complex procedures resulting from a fragmented implementation of the Directive hamper the EU's attractiveness in their eyes, as well as their integration in the host societies.

EU employers, including large companies, are negatively affected by the identified shortcomings of the Directive, in particular by the complex and inefficient application procedures, which often deter employers from resorting to international recruitment due to the risk of prolonged procedures and high related costs. This is particularly true for start-ups and small and medium enterprises (SMEs) which are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.)[22]. Even in the face of skills shortages which cannot be filled locally, employers rarely resort to international recruitment as the long procedures to obtain the necessary visas, employment authorisations and the single permit are deterrents for international recruitment[23].

EU citizens are also indirectly negatively affected as the EU's labour migration system insufficiently contributes to tackling skills shortages[24], shrinking work population and

[21] Third meeting of the Commission Expert Group (EG) on the Views of Migrants of 2 March 2021; Consultation of the European Public Employment Services network of 10 March 2021; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM) of Wednesday 14 April 2021; Consultation with representatives of the Civil Society of 20 April 2021; Second meeting of the EU legal migration practitioners network of 29 April 2021 (see Annex 2 for more details).

[22] For example: Bank aus Verantwortung (2017) Study: "Focus on Economics – Foreign workers in German SMEs: a strong plea for free labour markets", available at: https://www.kfw.de/KfW-Konzern/Service/Download-Center/Konzernthemen/Research/Fokus-Volkswirtschaft/?redirect=78471

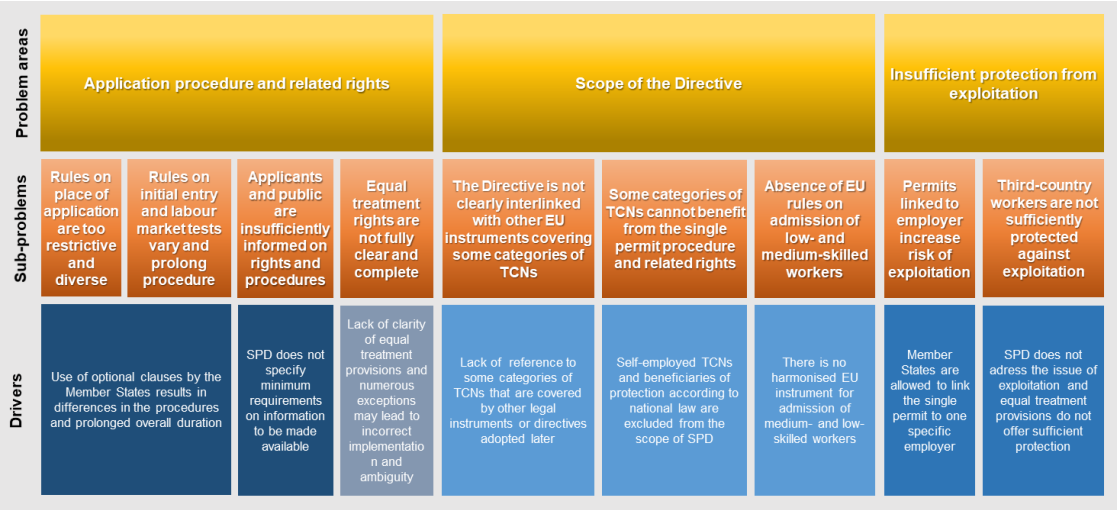
[23] Ibid.

[24] With the COVID-19 crisis, the contribution of migrants to the European economies, labour markets and public services has become all the more evident. In the EU, 25% of the workers in the personal care and food preparation sectors are non-EU born. In the last decade, migrant workers accounted for a significant part of new jobs helping to fill labour market needs. A study quantifying the contribution of essential workers suggests that 13% of key workers are immigrants. Furthermore, mobility restrictions due to COVID-19 have further increased existing shortages especially in the health care and agricultural sector. In spite of the short-term impact on global unemployment due to the COVID pandemic, it is expected that some of these structural shortages will persist in the medium and long term. Nearly 7 in 10 (69%) of companies are already reporting talent shortages and difficulty hiring, which represents a 15-year high (ManPower Talent Shortage Report, surveying 41700 hiring managers in 42 countries, including several EU Member States: ManpowerGroup Talent Shortage Study).

increasing old-age dependency ratio[25]. This can affect the financial viability of the Member States' welfare systems and the overall EU economic growth.

The main driver for these problems is a **regulatory failure**, i.e. weaknesses of the current overall EU regulatory framework on issuing single permits to TCNs. Many provisions of the Directive give a large margin of discretion to the Member States for their implementation, allowing for inconsistent rules, more or less favourable to third-country workers. This weakens harmonisation of the rules at the EU level. There are also inconsistencies between the Single Permit Directive and other legal migration Directives adopted later, particularly as regards the definition of the categories of migrants excluded from its scope.

The following table presents the main problems and underlying drivers.



2.1.1. Problem area 1: Complex and inefficient application procedures and unclear rights decrease EU attractiveness for third country nationals

Individual decisions to migrate are determined by many factors, some of which are out of the influence of the immigration policy. However, the role of an efficient labour migration system is essentially to eliminate barriers and facilitate admission while assuring a focused selection, as well as to increase the appeal of a given destination by granting an attractive package of rights and benefits which also facilitates integration. Complex, inconsistent and sometimes inefficient procedures can act as a deterrent to legal migration which is becoming increasingly crucial to filling existing and emerging skills shortages[26].

Sub-problem 1.1: Procedures are complex and sometimes inefficient

The provisions related to the single application procedure were meant to contribute to achieving the overall objective of the EU legal framework of establishing a level playing field for management of migration (comparable procedures across the Member States) and to

[25] European Commission, Cedefop (2018): Skills forecast: trends and challenges to 2030. Available at: https://www.cedefop.europa.eu/files/3077_en.pdf

[26] The most in-demand occupations, for which enterprises are competing globally, are related to logistics, manufacturing, sales, IT and administrative support. ManPower Talent Shortage Report, surveying 41700 hiring managers in 42 countries: ManpowerGroup Talent Shortage Study

ensuring simplified and efficient procedures ('one-stop-shop', fixed deadlines, transparency). This also contributes to the fair treatment of the third country nationals.

Prior to the adoption of the Single Permit Directive, a number of Member States had already a range of relevant legal instruments and domestic procedures applicable to the admission of third country nationals for the purpose of paid employment. Out of 21 Member States for which information was available, 10 countries already had in place some form of a single application procedure for a joint resident and work permit. However, the other 11 Member States had two separate authorisations and procedures in place for work and residence permits. Thus, the Directive introduced an important simplification of procedures for third-country nationals that was not in place in most of the Member States.

As stated above, during the Fitness Check, Member States clearly stressed the EU added-value of harmonised rules under the Single Permit Directive. However, the ten-year experience with the Directive, supported by the conclusions of the 2019 Fitness Check on legal migration, calls for a review of some of the provisions. The evaluation of the Directive under the Fitness Check and the work performed in preparation of the implementation report, showed that in practice the procedures remain often complex, sometimes inefficient and differ between Member States resulting in a degree of confusion about the steps to follow and some of the rights granted to TCNs under the Directive.

The main identified problems are the following:

a) Inefficient rules on the place of application for a single permit

The Directive leaves up to the Member States to decide where applicants can lodge an application whether in their country of origin or once they arrive to the Member State. Only in three Member States is it possible to lodge any application and receive a permit while residing in a third country[27]. It also emerged from the consultations[28] that in some Member States TCNs already staying legally in a Member State could not apply for a single permit in the Member State where they were residing. This means that TCNs already staying in the EU may be forced to travel back to their country of origin first. An example provided was the case of students who had to return to their country of origin after finishing studies in the EU to apply for a new visa/permit allowing them to work.

b) Initial entry visa procedures create administrative inefficiencies and can prolong the overall single permit procedure

In cases where the application can only be lodged in the territory of a Member State, applicants have to obtain an entry visa. Once in the Member State, the TCN can apply for the single permit. What is considered a visa for initial entry is not defined in the Directive. In some cases, Member States issue short-stay visas for that purpose, in others a long-stay visas. Visa procedures are outside the scope of the Directive and the deadline for issuing decisions

[27] (CY, HR, SI) https://ec.europa.eu/home-affairs/system/files/2019-03/201903_en-legal-migration-check-annex-2a-icf-201806.pdf

[28] Third meeting of the Commission Expert Group (EG) on the Views of Migrants, opinion of the Fit for Future Platform.

on the single permit does not take account of the time needed to obtain a visa. The practical application study of the Fitness Check[29] shows that the time required to apply for a visa sometimes extends considerably the overall procedure, in some cases by as much as three months[30]. Moreover, complaints showed that a TCN can be denied admission because the entry visa is rejected or delayed, even though the substantive conditions for issuing a permit had in principle been fulfilled[31].

Eight Member States do not foresee any particular timeframe for the granting of an entry visa if the applicant does not yet hold a valid permit before entering the Member State[32]. Furthermore, some Member States require the documentation to obtain a single permit to be submitted and assessed twice, at the time of the entry visa application and for the application for the actual single permit, once the TCN is in the territory of the Member State concerned. This creates administrative burden for both the applicant and the employer, as well as for the authority handling the application. It can also result in unnecessarily prolonged procedures. There is a need for clear provisions that ensure coordination between the two processes, so as to provide for fair and transparent procedures.

Representatives of the Civil Society also confirmed the need to ensure a reasonable and uniform application processing period while avoiding duplication of efforts from both the migrants' and employers' perspective, and that of the national authorities[33].

Moreover, from the migrants' perspective, transparency, a timely application process and smooth administrative requirements would constitute real attraction factors. Participants of the consultations representing migrants emphasised the need for digitalising the application process to simplify the procedures, improve coordination between the authorities, and avoid duplications in the requested documents and unnecessarily long procedures [34].

Finally, the opinion of the Fit for Future Platform highlighted that lack of coordination between different administrations, inefficiencies between national visa and single permit and national requirements create duplications and lengthy procedures. The opinion quoted evidence that suggests that few Member States issue electronic permits or procedures for obtaining a physical permit after the authorities have already taken a positive decision and after the arrival to the Member State on a visa, which can take months in some cases. In some Member States, a substantive check of underlying documents takes place twice, while other Member States suggest that there are no indications of duplication in the administrative checks and in the investigations of the diplomatic representations, which receive the

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29 Annex 8, Assessment of practical implementation.

30 According to the Fitness check and the information received from the Member States via an EMN ad hoc query, deadlines for issuing visas vary between 15 days in BG and LV and 90 in LU and NL. Legislation of some Member States (SE) does not have deadlines. Eight Member States do not fix any particular timeframe for the granting of an entry visa if the applicant does not yet hold a valid permit before entering the Member State.

31 However, this was clarified in the Ben Alaya judgment (Case C-491/13), where the CJEU clearly stated that no admission conditions can be imposed other than those listed in the Directives.

32 BE, CY, CZ, DE, EE, LT, MT, SK (https://ec.europa.eu/home-affairs/system/files/2019-03/201903_en-legal-migration-check-annex-2a-icf-201806.pdf).

33 Consultation with representatives of Civil Society.

34 Third meeting of the Commission Expert Group (EG) on the Views of Migrants.

authorization directly from the "single access points for immigration" at the prefectures to issue entry visas.

A large number of documents for issuing residence and work permits, which are requested from applicants could be acquired ex officio, except documents which are not issued by public authorities (travel documents, evidence of qualification/professional qualifications, proof that they have not been convicted in their country of origin, etc.). Information concerning the documentation and procedure for issuing residence and work permits is not easy to retrieve and is difficult to interpret. Traditional paper submissions of applications lengthens the processing and increases costs linked to applications.

c) Rules on labour market tests vary among Member States and excessively prolong the process for a TCN to get the single permit

The Directive sets out a four-month deadline for the adoption of a decision on the single permit application. However, some Member States carry out labour market tests first. Labour market tests are a mechanism that aims at ensuring that migrant workers are only admitted after employers have unsuccessfully searched for national workers, EU citizens or legally residing TCNs with access to the labour market[35]. Member States are allowed to establish such tests to determine the number of TCNs entering their territory for work purposes.

These tests are not harmonised at EU level, therefore employers and TCNs face a variety of differing national procedures. Some Member States oblige the employer or the TCN to obtain an employment clearance before lodging an application for a single permit, while others[36] – before the TCN can apply for a visa. In other Member States[37], the employer is required to publish the vacancy for a specific period of time (e.g. a month) locally before offering the position to a TCN. Labour market tests last generally between 15 days and one month, however in one Member State the average time in 2018 exceeded two months[38]. This can prolong the overall procedure even up to six months. As confirmed by representatives of migrants and the civil society[39], such a long waiting time discourages many potential employers thus limiting the chances of TCNs, especially less-skilled migrants, to get employed and affecting people's mobility in the labour market.

Similar concerns emerged from the Fitness Check public consultation. Employers, non-EU service providers and private recruitment agencies, when asked to identify the problems encountered when employing or transferring non-EU staff, highlighted among others the strict labour market tests imposed by national authorities[40]. Moreover, almost half of the TCN respondents agreed that the current conditions to enter, live and work in EU countries were an

35 EMN Glossary.
36 FR, RO, ES, BG, PT.
37 E.g. LV and LT.
38 EU pilots are currently ongoing with three Member States for excessively long proceedings.
39 Third meeting of the Commission Expert Group (EG) on the Views of Migrants, Consultation with representatives of the Civil Society.
40 https://ec.europa.eu/home-affairs/system/files/2019-03/201903_legal-migration-check-annex-3aii-icf_201806.pdf

obstacle for them when migrating to the EU, referring in particular to the lengthy and cumbersome application procedures and the labour market test[41]. In addition, the opinion of the Fit for Future platform highlighted that a number of Member States have put in place additional administrative procedures (e.g. 'labour market authorisations' or obligations to register with local, tax and social security authorities) that can further undermine the simplification objective.

d) Applicants and general public are insufficiently informed of rights and procedures

The Fitness Check and the Implementation Report highlighted a need to further improve the information that Member States have to make available, as well as the requirements for the presentation of the information, in terms of language availability, explanations of the administrative process and documentary requirements As stated in the Implementation Report, some Member States do not even clearly set out an obligation for the competent authorities to provide adequate information on the documents required to make a complete application [42].

Consultations also brought to light strong concerns of some stakeholders representing migrants as to the availability of information about the existence, procedures and benefits of the single permit as well as the need to ensure that TCNs receive clearer information regarding the requirements, rights, and duties stemming from the Directive. Consulates are often unaware of the procedures included in the Directive and are not properly trained to provide potential applicants with this key information[43]. All this results in increased vulnerability of migrants to exploitation, higher proportion of erroneous applications and the need for applicants to resort to services of intermediaries, in particular in cases where the application can only be done in the country of origin. Also the opinion of the Fit for Future Platform highlighted the need to inform third-country nationals about the conditions of regulating their stay and about their rights, as well as to inform the employers about the conditions of employment and work for third-country nationals through professional associations.

Lack of transparency and efficiency has also been highlighted in academic literature, underlining the need for Member States to always have information available online in at least English or another commonly used language[44].

Sub-problem 1.2: Insufficient clarity of certain provisions on equal treatment rights

One of the main objectives of the EU legal migration framework is to ensure that TCNs subject to the EU *acquis* are treated fairly and fully integrated in the society of the host Member State.

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41 https://ec.europa.eu/home-affairs/system/files/2019-03/201903_legal-migration-check-annex-3aii-icf_201806.pdf

42 (BG, EE, PT and SI) COM(2019) 160 final, p.9.

43 Third meeting of the Commission Expert Group (EG) on the Views of Migrants.

44 Lange T. (2015), The Single Permit Directive: A limited Scope, A Simple Procedure and Limited Good Administration Requirements.

Under the terms of Article 12 of the Directive, single permit holders enjoy equal treatment with nationals in a number of areas, including working conditions, freedom of association, social security benefits, education, recognition of academic and professional qualifications, tax benefits, access to goods and services and employment advice services. Pursuant to Article 12(2), Member States have the option to restrict equal treatment. Most Member States have not applied all the options, only Cyprus has chosen to adopt all optional restrictions, whereas some (BG, CZ, ES, HR, LU, RO and SK) did not apply any of the options.

The reference to equal treatment with regard to "*procedures for obtaining housing as provided by national law, without prejudice to the freedom of contract…"* and its relation to the exemption of Article 12(2)(d)(ii) (allowing Member States to restrict access to housing) is unclear, in particular as to whether it includes access to private housing. The Commission has received a number of complaints related to national legislation not allowing TCNs to purchase private property.

In addition, Article 12(1)(e) provides for equal treatment with regard to "branches of social security, as defined in Regulation (EC) No 883/2004". These branches include also family benefits, with regard to which problems have arisen where a family member of the single permit holder continued to reside in the country of origin. Recital 24 of the Directive contributes to the confusion by stating that the Directive *"(…) should not grant rights in relation to situations which lie outside the scope of Union law, such as in relation to family members residing in a third country. This Directive should grant rights only in relation to family members who join third-country workers to reside in a Member State on the basis of family reunification or family members who already reside legally in that Member State"*.

In a recent judgment referring to Italian legislation[45], the European Court of Justice found that a provision excluding children residing outside the EU from the calculation of family benefits is not compatible with EU law if family members of the citizens of the Member State concerned living abroad are taken into account for this purpose[46].

The Court concluded that *"it cannot be inferred from* [recital 24] *that Directive 2011/98 must be interpreted as meaning that the holder of a single permit whose family members reside not in the territory of the Member State concerned, but in a third country is excluded from the right to equal treatment provided for by that directive"*[47].

Also with regard to family benefits, the Directive allows Member States to exclude from family benefits TCNs who are allowed to work on the basis of a visa. Some Member States issue long-stay visas that allow the holder to work before obtaining the single permit. In these cases, the duration of the visa can be longer than 6 months, leaving the TCN without access to family benefits merely on the basis of the type of permit issued.

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[45] Case C-302/19 - Istituto nazionale della previdenza sociale (INPS) v WS. Judgment of the Court of 25 of November 2020.

[46] The Court stated that *"both the non-payment of the family unit allowance and the reduction of its amount, depending on whether all or some family members do not reside in the territory of the Italian Republic, are contrary to the right to equal treatment laid down in Article 12(1)(e) of Directive 2011/98, since it constitutes a difference in treatment between holders of a single permit and Italian nationals"* Judgement in Case C-302/19, paragraph 42.

[47] Ibid, paragraph 31.

Lack of clarity concerning equal treatment rights combined with insufficient information on procedures and rights, as highlighted above, can lead to confusion for potential applicants that can negatively affect the attractiveness of the EU or TCNs' integration in the host society.

Drivers

The main driver for this set of problems is a **regulatory failure**, as the existence of numerous optional clauses in the Directive and wide discretion left to the Member States has led to a very complex landscape in the way national migration authorities implement the single application procedure, inefficiencies and lack of clarity on the equal treatment rights. The differences in the implementation by Member States of the Single Permit Directive are due mainly to the 'optional clauses' that the Directive authorises as a result of a compromise achieved by co-legislators. Divergences also result from different interpretation and bad application of some provisions. This leads to fragmentation that many stakeholders identified as negatively affecting simplification and transparency. This is confusing for the prospective employers or TCN applicants and decreases attractiveness of the EU. In particular:

a) Article 4(1) obliges Member States to allow the application to be introduced by TCNs from a third country or, if so provided for by national law, in the territory of the Member State in which the TCN is legally present. Where the application can only be lodged from abroad, the TCNs may have to travel back to their country of origin first.
b) According to Article 4(3) the single application procedure is without prejudice to the visa procedures that may be required for initial entry. Where applications can only be lodged in the destination Member States, the procedure to first obtain an entry visa can significantly extend the duration of the overall procedure;
c) Article 1(2) of the Directive states that its provisions are "without prejudice to the Member States' powers concerning the admission of TCNs to their labour markets". During the consultations, stakeholders representing legal migration practitioners and economic and social partners referred several times to the impact of labour market tests on the duration of the procedures and the role they play in discouraging international recruitment[48];
d) Article 9 obliges Member States to provide, upon request, adequate information to the third country national and the future employer on the documents required to make a complete application. However, it does not specify any minimum requirements in this regard. The wording of Article 14 is very general and only requires that Member States make available to the general public a regularly updated set of information concerning the conditions of admission and residence in their territory in order to work.
e) In relation to equal treatment rights, regulatory failure takes the form of a lack of clarity with respect mainly to access to family benefits and housing and the exclusions

[48] Consultations with representatives of the European Public Employment Services network, Economic and Social Partners and the EU legal migration practitioners network.

of specific categories of third-country workers, which may lead to incorrect implementation and ambiguity.

Problem area 2: Certain categories of migrants are not covered by the scope of the Directive or by any other EU legal instruments and there are differing rules on admission conditions for low- and medium- skilled TCNs

Sub problem 2.1: The Directive is not clearly aligned with other EU instruments covering some categories of TCNs

The personal scope of the Directive, laid down in Article 3, excludes **seasonal workers** and **intra corporate transferees**. These two categories of TCNs are subject to sectorial directives which were adopted later[49]. As a result, the Single Permit Directive certainly does not apply to seasonal workers and intra-corporate transferees that are covered by the sectorial directives, nor does it currently cover categories of TCNs considered as seasonal workers or intra corporate transferees under national law.

Furthermore, it is currently unclear if the exclusion of **workers posted from third countries** in Article 3(2)(c) refers only to TCNs that have been posted from one Member State to another or also those posted from a third country. Directive 96/71/EC on the posting of workers only applies to posting within the EU. Workers posted by an employer established in a third country are not covered by any other Directive. As a result, workers posted from third countries in the framework of the movement of persons under GATS Mode 4[50] may be also excluded from the scope of the Directive and not benefit from the single permit procedure and related rights.

These problems result in administrative inefficiencies and in particular in the lack of clarity for migrants' employers, who do not know exactly what legal regime and attached rights apply to them.

Sub-problem 2.2: Some categories of TCNs cannot benefit from the single permit procedure and related rights

Self–employed TCNs are expressly excluded from the scope of the Directive and are therefore deprived of the benefits of a single application and procedure, as well as of certain procedural guarantees and equal treatment rights provided by the Directive. Unlike seasonal workers and intra corporate transferees who are covered by EU sectorial directives, self-employed TCNs are mostly covered by national rules. For self-employed TCNs, the

[49] Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of TCNs in the framework of an intra-corporate transfer, OJ L157 of 27.5.2014 p. 1. Directive 2014/36/EU on the conditions of entry and stay of TCNs for the purpose of employment as seasonal workers, OJ L 94 of 28 March 2014, p. 1.

[50] Under the General Agreement on Trade in Services (GATS), services can be traded internationally in four different ways — known as the four modes. Mode 4 refers to the presence of persons of one WTO member in the territory of another for the purpose of providing a service. It does not concern persons seeking access to the employment market in the host member, nor does it affect measures regarding citizenship, residence or employment on a permanent basis.

coherence and the effectiveness of the legal framework are affected by the fragmented system in place.

Some consultations saw calls for a clear definition of self-employed TCNs[51] at EU level which could cover third-country nationals who would like to move to a Member State without a job offer but are interested in starting their own business or conducting self-employed activities. Stakeholders representing Public Employment Services, however rejected the idea of EU-harmonised admission conditions for self-employed TCNs, rather advocating for admission of this category to remain regulated at the national level[52].

The above applies also to the **beneficiaries of protection according to national law, international obligations or the practice of a Member State**. It is currently not clear whether, if allowed to work, they are covered by the procedure of Chapter II and the equal treatment provisions of Chapter III. The European Migration Network study on national protection[53] noted that in a number of areas, such as labour market, education, integration services and social benefits, beneficiaries of protection according to national law are unable to benefit from equal treatment. The Fitness Check concluded that there is currently a gap at EU level as regards the rights of holders of purely national protection statuses[54].

Sub-problem 2.3: Differing rules on admission of low- and medium-skilled workers reduce attractiveness of the EU for legal migration

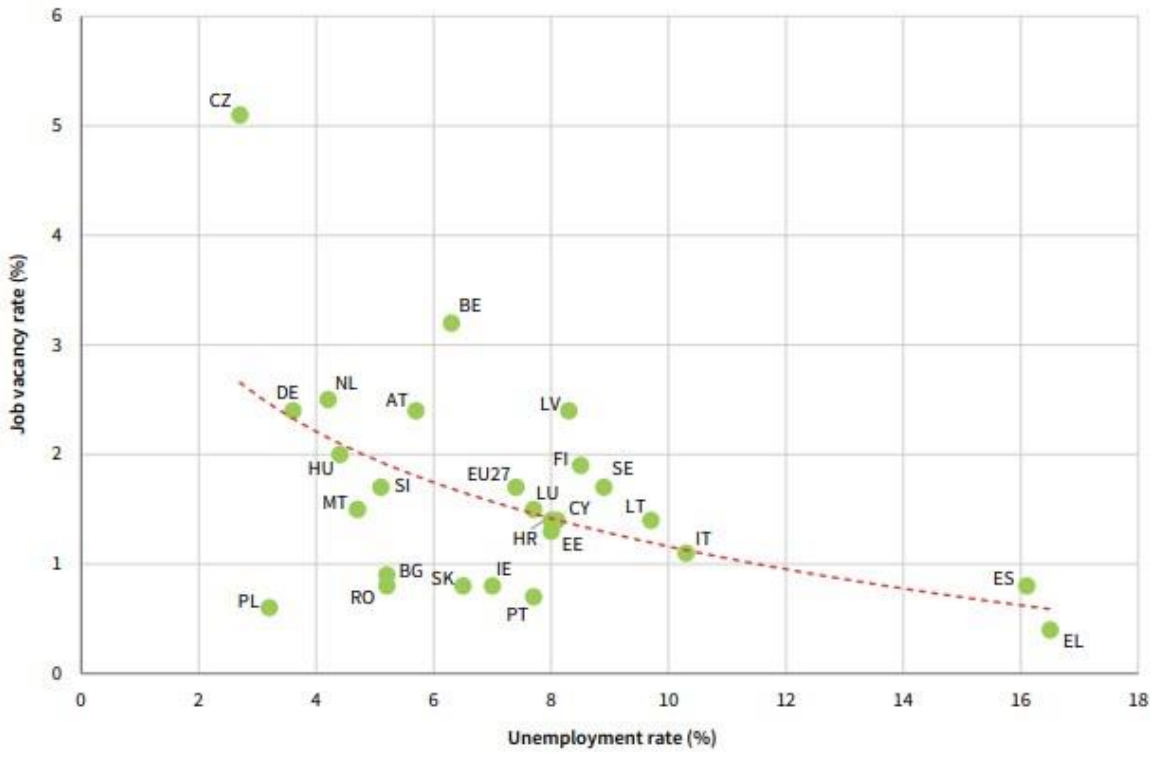
Low- and medium-skilled workers encompasses a heterogeneous range of workers defined with focus on their qualifications[55] or with regard to their skill levels[56] ranging from agricultural workers to some types of health workers. The conditions of admission and residence of low- and medium-skilled TCNs are not covered by the EU legal migration directives, with the exception of seasonal workers covered under Directive 2014/36/EU. As a result, there is no level-playing field between the Member States in attracting such migrants who can contribute to addressing existing and future labour shortages in the EU. At the same time, the complexity arising from diverging rules is confusing for prospective migrants and acts as a deterrent of legal migration. In addition, certain rights of low- and medium-skilled workers are not guaranteed by EU law unlike those of other categories of workers regulated at EU level (e.g. EU Blue Card for the highly skilled, intra corporate transferees, etc.). These schemes contain a number of advantages like for example the right to intra-EU mobility which can act as incentives to move to the EU.

[51] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM).
[52] Consultation of the European Network of the Public Employment Services.
[53] EMN (2020). Comparative overview of national protection statuses in the EU and Norway.
[54] Swd_2019-1055-staff-working-part2.pdf (europa.eu)
[55] International Organization for Migration (IOM) defines low and medium skilled TCNs based on their educational attainment.
[56] International Labour Organisation (ILO) ISCO-08 classification is also used, which differentiates between 10 major groups – highly-skilled from 1 to 3, medium-skilled from 4 to 8, and with low skilled as 9.

In terms of application procedure and the right to equal treatment, the Single Permit Directive covers most categories of third-country workers, including low- and medium-skilled workers, other than seasonal workers.

The EU experienced significant labour shortages in the third quarter of 2019[57], i.e. vacancies not covered by Member States' or other EU nationals[58], in those Member States where unemployment reached a record low. Despite concerns that the Covid-19 pandemic would result in a long-term economic downturn, the unemployment rate in the EU has been steadily decreasing since March 2021, albeit still exceeding the pre-crisis levels[59]. While some Member States face shortages in highly skilled jobs, for others shortages are rather in medium and low-skilled occupations, hence there are disparate labour market needs between different Member States. In several Member States (for example, Greece and Spain), there are no quantitative labour shortages, with unemployment levels not having recovered in the aftermath of the global financial crisis. In contrast, in Belgium, the relatively high levels of unemployment are coupled with high vacancy rates, indicating low levels of labour market matching efficiency, which is indicative of qualitative labour shortages. Czechia, on the other hand, stands out for its very high job vacancy rate and comparatively low unemployment rate, indicating that quantitative labour shortages are a major issue for the economy.

Average job vacancy rate versus average unemployment rate by Member State – Beveridge points, EU27, Q3 2020



[57] European Commission, Joint Employment Report, COM (2019) 653 final.

[58] European Commission, EMN (2015), Determining labour shortages and the need for labour migration from third countries in the EU.

[59] In June 2021, the EU 27 unemployment rate dropped from a peak of 7.7 in September 2020 to 7.1% (having been dropping for three consecutive months), although it remains still above a pre-pandemic low of 6.6%.

Source: Eurofound, Tackling labour shortages in EU Member States

The European Commission's 2020 analysis identified sectors of most widespread shortages in European countries and regions covered by the report (topped by four healthcare related occupations, five software related occupations and ten craft occupations), as well as the main sectors with most severe shortages (topped by the same four healthcare occupations and five software related occupations)[60].

Drivers

On the one hand, one of the drivers of the problems above is the **regulatory gap at EU level,** which consists in excluding from the scope of the Directive several categories of TCNs that could potentially contribute to the Single Permit's objectives, such as self-employed persons, or those benefitting from protection under national law. These gaps can affect the EU overall competitiveness, particularly in relation to innovative entrepreneurs that could contribute to job creation and boost innovation. Although these categories are currently regulated at national level, the legal requirements are very different from one Member State to another.

In addition, there are no references in Article 3 to some categories of TCNs that are excluded from the scope of the Directive since they are covered by sectorial directives of the EU legal migration framework that were adopted later or by other legal instruments. Consequently, the current wording results in an exclusion of similar categories of workers but that do not fall within the scope of those directives from the safeguards and rights provided by the Directive.

On the other hand, another **driver** is the lack of a specific EU instrument for admission of medium- and low-skilled workers although the Directive confers certain rights (including equal treatment with nationals) and procedural guarantees.

Problem area 3: Workers are not sufficiently protected from exploitation

There are two main aspects of the problem:

a) Linking the single permit to one employer or activity increases the risk of exploitation and creates administrative burden

This issue is one of the recurrent concerns raised by stakeholders in various consultations by representatives of migrants, economic and social partners, and legal migration practitioners[61]. In all Member States examined under the Fitness Check, except for Greece and Portugal, certain permits to work are linked to a specific employer. The Directive establishes that on the basis of the permit, a TCN can exercise the specific employment activity authorised under the permit. Moreover, in all Member States except for Cyprus and Germany, TCNs need to apply for a change of permit if they lose their job or want to change employment. As highlighted by the opinion of the Fit for Future Platform, this results in higher risks of people

[60] European Commission, Analysis of shortage and surplus occupations 2020, using administrative data from Public Employment Services but also work permits issued from migration services, p. 9.

[61] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Consultation with the Economic and Social Partners; Second meeting of the EU legal migration practitioners' network, Contact Group on Legal Migration.

losing their residence permit when they lose their job and can increase exploitation, as permits which are linked to a single employment relationship lead to dependency and exploitation and pull people into irregularity. This might create significant costs for workers, employers and public administration.

The requirements in the event of changing the employer or occupation differ across Member States.

- In some Member States (e.g. Cyprus, Malta and Italy), if TCNs hold a permit that allows them to work, they only need to request a permission to change employer, but are not required to apply for a change of their status.
- In contrast, in some other Member States, TCNs are required to apply for a new work permit since the permit issued is limited to a specific employer.
- Yet in other Member States, such as Finland and Estonia, a change of status is only necessary in case of a change of employment to a different sector than that authorised by the permit.

This creates twofold issues: firstly, where a change of status is required, such requirements create administrative burden both for permit holders who are forced to apply for a new permit and for the national authorities who, as a result, have to process more applications.

Secondly, stakeholders representing migrants and the civil society have highlighted that permits linked to a single employment relationship lead to dependency, increase the vulnerability of TCNs to exploitation and can pull people into irregularity. Migrants can feel prevented from complaining, denouncing abusive working conditions or exploitative episodes or resigning from their position, out of fear of losing their job and consequently their permit. This was also confirmed by the opinion of the Fit for Future platform.

A position paper of a civil society organisation, shared in the framework of the 2020 public consultation on the future of EU legal migration[62], advocated for the revision of this particular aspect of the Directive. Specifically, it emphasised that under the Directive, migrants should be allowed to convert their permits more easily into other types of permits/authorisations as well as to change the employer. Consulted stakeholders were in favour of making the possibility to change the employer a mandatory provision of the Directive and stressed the importance of also allowing TCNs who had lost their employment to have adequate time to look for other employment opportunities without losing their permit. The implementation report found that only in a small number of Member States did third country workers have the same rights as nationals to change their job or employer (FI, FR, IT and SI)[63].

b) Insufficient protection of third-country workers from labour exploitation

[62] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12594-Public-consultation-on-legal-migration/public-consultation.

[63] See COM(2019) 160 final, p 9.

Another area highlighted by stakeholders was the need to improve the protection of TCNs from labour exploitation[64] under the EU legislative framework. Preventing the abuse and exploitation of legally residing TCNs is highly relevant in relation to the overall objectives of the legal migration acquis, and its importance has been emphasised in the stakeholder consultations and in the literature. For example, the European platform on undeclared work considers migrant workers as particularly vulnerable to the effects of undeclared work and supports strengthening Member States' capacity to ensure equal treatment, notably as regards pay and working conditions, social security and tax benefits. Labour exploitation is tackled differently across the EU in terms of sanctions and other legal consequences. Employers can face a number of sanctions, among the most common are administrative and criminal sanctions. How sanctions are calculated and applied differs substantially from Member State to Member State[65].

The legal migration Directives, except for Directive 2014/36/EU on Seasonal Workers, do not provide specific mechanisms to ensure the enforcement of equal treatment provisions. (i.e. there are no provisions relating to inspections, monitoring nor sanctions against employers). Directive 2009/52/EC ("the Employers' sanctions Directive") only concerns the employment of illegally staying TCNs, therefore not covering TCNs legally residing under the legal migration acquis. Moreover, the current rules at EU level that focus on withdrawing, or not renewing permits of TCNs if the employer has been guilty of exploitative practices, may constitute in practice a disincentive for third-country workers in vulnerable situations to report situations of abuse or exploitation[66].

Estimating the scale of the problem is challenging for a number of reasons[67]. First, there is no universally agreed definition of 'labour exploitation'. This, combined with the fact that labour exploitation is hard to detect, places victims of exploitation at a particular risk of being sanctioned for illegal work, while they also face numerous barriers to access justice[68]. Although data on third-country nationals working undeclared is scarce, there are hints that they could be more often engaged in undeclared work – and consequently exposed to exploitative working conditions. While irregularly staying third-country nationals are most at risk of labour exploitation, some groups of regularly-staying migrants also face this risk

64 European Union Agency for Fundamental Rights, Severe Labour Exploitation, Workers Moving within or into the European Union, (2015).

65 201903_en-legal-migration-check-annex-2a-icf-201806.pdf (europa.eu)

66 Difficulties in proving labour exploitation: In an Austrian case, a man from Montenegro worked in forestry and agriculture in a rural area in Upper Styria. He worked for three months unpaid, but when he complained about the withheld wages, his employer told him to prove that money was owed to him. The worker lost his job and the accommodation which had been provided to him by the employer. He hitchhiked to Graz, where he was found by a member of the public with nothing to eat or drink. The victim was supported to report his case to the Anti-Discrimination Office in Styria, which forwarded it on to the Chamber of Labour. The employer continues to emphasise the lack of proof, and alleges that he paid the worker in cash.

67 Comparing and aggregating data on the range of practices linked to labour exploitation across the EU would imply availability of comparable: (1) criminal justice data on a range of reported crimes (from severe forms of labour exploitation, to forced labour, to trafficking for the purposes of labour exploitation); (2) data from institutions issuing sanctions on administrative violations linked to labour laws and standards. Second, as with other categories of crimes, the levels of unreported crime are significant.

68 Nierop, P. et Al. (2021), Counteracting undeclared work and labour exploitation of third country national workers.

because of their vulnerability. Overall, legal migration pathways for third-country nationals mainly focus on high-skilled sectors, and consequently, low and medium skilled migrants risk working in undeclared employment, especially in sectors with high workforce demand, such as domestic work or agriculture, despite this sector being covered by the Seasonal Workers Directive. The International Labour Organisation estimated that in 2016 there were 684,000 victims of 'modern slavery' in the EU[69].

During the targeted consultations, some stakeholders emphasised the need for a more ambitious, horizontal approach in the legal migration legislation, and conveyed dissatisfaction with the implementation of the Directive in general in some Member States[70]. Others considered that national rules already adequately addressed protection, inspections, monitoring, and sanctions[71]. The topic of labour exploitation is tackled differently across the EU in terms of sanctions and other legal consequences, with some Member States imposing financial sanctions to punish exploitation while others foreseeing a combination of both financial penalties and deprivation of liberty[72].

Drivers

The main driver of this problem is a **regulatory gap**:

a) Article 11(c) of the Directive establishes that the permit holder has the right to "exercise the specific employment activity authorised under the single permit in accordance with national law". This provision can result in difficulties regarding changing a job as it results in the need to apply for a new permit;

b) Currently the Directive does not address directly the issue of exploitation of TCNs, as this issue remains regulated under national law in a very diverse and fragmented way.

Though equal treatment provisions of the Directive aim at ensuring that TCNs have the same rights as EU nationals and therefore aim at preventing abuses and exploitation, not all equal treatment provisions are applicable to all categories of third-country workers. For example, self-employed workers are explicitly excluded from the scope of the Directive and are not covered by the EU acquis. Also, the provisions on equal treatment in the EU legal migration directives are subject to limitations and are sometimes optional for Member States, while mechanisms to ensure their enforcement are not provided for in the Directives with the exception of the Seasonal Workers Directive.

Moreover, as stated above, while inspections, monitoring and sanctions against employers constitute a further means to address, among other issues, labour exploitation, the scope of

[69] International Labour Organization (ILO), Walk Free Foundation and International Organization for Migration (IOM), Global Estimates of Modern Slavery – Forced labour and Forced Marriage, (2017); The Walk Free Foundation, Global Slavery Index (2016), pp.58-66. The data does not include Malta.

[70] Stakeholders consulted by the EESC in the context of the Fitness check.

[71] Fifth meeting of the Informal Expert Group on Economic Migration (EGEM).

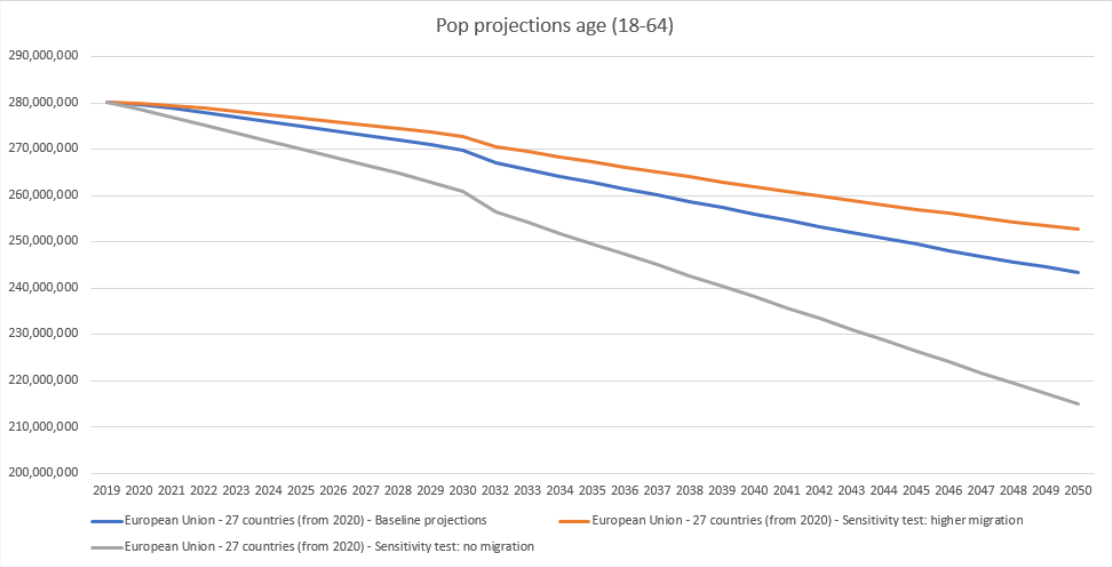
[72] European Commission (2019). Legal Migration Fitness Check Annex 2A Evidence base for practical implementation. Ten Member States (BG, CY, ES, FI, HR, LU, NL, PT, RO, SK) have already specific measures in place to prevent labour exploitation of TCNs.

the Employers' sanctions Directive is limited to the employment of illegally staying TCNs, therefore not covering TCNs legally residing under the legal migration *acquis*.

2.2. 2.2. How will the problem evolve?

Without EU action the identified problems will persist: prospective employers and TCNs will continue facing excessively long and unnecessarily complex procedures which in turn will continue to be one of the factors deterring employers from filling the shortages through international recruitment and affecting EU's attractiveness for migrants with skills needed in Europe. TCNs will continue being more vulnerable to labour exploitation as a result of insufficient safeguards and the dependency on a single employer. A number of the problems result from additional requirements introduced by the Member States in terms of duplicating procedures (such as by conducting a substantive analysis of underlying documents both at the stage of visa application and single permit application on arrival) or by requiring third-country nationals to apply for a new permit every time they want to change an employer. The revision of the Single Permit Directive can contribute to alleviating a part of the current administrative burden.

Furthermore, maintaining the status quo would have a long-term negative impact on the Member States' ability to tackle EU's increasing demographic challenges and the progressively shrinking labour force. Population projections of working age population



Source: Eurostat, EUROPOP2019 (proj_19np)

Therefore, without addressing the ineffectiveness and inefficiencies of the EU immigration system, the EU as a whole will have additional self-imposed difficulties with attracting workers of all skills levels it needs for its economy. Nevertheless, it should be borne in mind that the proposed revision would represent merely an incremental improvement of the procedure and increased protection of third country workers that already exists. The proposed measures are mainly technical, targeted changes that will contribute to further facilitating current procedures that can bring some real, if modest benefits, to EU competitiveness in areas where a global market for skills and talent exist.

Further implementation efforts could be made and more infringements launched on the current Directive but these would not fix the main problems described above. The main weaknesses of the Directive are structural and, consequently, cannot be solved by better compliance and stronger enforcement of the current rules.

3. 3. WHY SHOULD THE EU ACT?

3.1. 3.1. Legal basis

The legal basis for Union action in the area is established in Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union (TFEU), in connection with Article 79(1) of the same Treaty. These provisions state that the "Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of TCNs residing legally in Member States, (…)". For this purpose, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, "shall 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 (…)" and "(b) the definition of the rights of TCNs residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States".

3.2. 3.2. Subsidiarity: Necessity of EU action

The principle of subsidiarity applies since this is an area of shared competence[73]. A subsidiarity check was already carried out in the impact assessment at the moment of the first proposal on the Single Permit in 2007 (COM (2007) 638 final). The need for a common EU framework on legal migration is linked to the abolition of internal border controls within the EU and the creation of the Schengen area. In this context, the migration policies and decisions of one Member State affect other Member States, so it is deemed necessary to have a set of common EU rules in relation to the conditions and procedures for allowing TCNs to enter and reside in the EU, and to lay down their rights following admission[74].

3.3. 3.3. Subsidiarity: Added value of EU action

- The TFEU empowers the Union to develop a common immigration policy, so this is a clear objective to be pursued at EU level. At the same time, legal migration is an area of shared competence between the EU and the Member States, and the Treaty also reserves explicitly to the Member States the right to set volumes of admission for labour migrants they admit. The Fitness Check showed that the legal migration Directives, including the Single Permit Directive, have had a number of positive effects that would not have been realised by Member States acting alone. While positions on specific aspects often vary (e.g. across Member States, NGOs, businesses, individual migrants), all stakeholders,

[73] In particular, any measure proposed in the area of legal migration "shall not affect the right of Member States to determine volumes of admission of TCNs coming from third countries to their territory in order to seek work, whether employed or self-employed" (Article 79(5) TFEU).

[74] See Fitness Check, page 3.

including Member States, confirmed the continued overall added value of the EU legal migration acquis[75]. The main positive effects identified by the Fitness Check are: a degree of harmonisation of conditions, procedures and rights, helping to create a level playing field across Member States; simplified administrative procedures; improved legal certainty and predictability for employers, administrations and TCNs; improved recognition of the rights of TCNs (namely the right to be treated on an equal basis with nationals in a number of important areas, such as working conditions, access to education and social security benefits, and procedural rights). However, despite these positive effects, the Fitness Check also concluded that there is clearly room for further harmonisation and simplification at EU level. Through the Single Permit Directive the EU sought to address two issues which have not been fully achieved:

- to simplify administrative procedures for all third-country workers and employers throughout the EU by introducing a single permit application procedure[76] and
- to eliminate a "rights' gap" regarding eligible third country nationals as opposed to own nationals by introducing equal treatment in certain categories of rights (this way the EU wanted to reduce unfair competition emanating from that gap, thus protecting the EU citizens from a cheap labour and treating third country workers fairly).

The revision of the Directive aims precisely at such further clarification and simplification to ensure more efficient procedures when handling an application and an improved equal treatment in employment-related fields for workers admitted to the Member States. The Directive only establishes equal treatment in employment related fields. Therefore, it does not interfere with Member States' competence to define the content of the actual rights. Since the Directive covers different categories of third-country workers, including low- and medium-skilled who may be more susceptible to exploitation, introducing provisions on employer sanctions similar to those included in the Seasonal Workers Directive would cover a much wider range of workers. By prescribing specific common processes and instruments to prevent, identify and sanction labour exploitation, it is expected to contribute to the protection of all third-country workers covered by the scope of the Directive from labour exploitation, thus contributing to strengthening the level playing field across Member States. Exploitation and sub-standard working conditions of third-country workers need to be overcome by granting certain socio-economic rights and mechanisms to monitor them in a binding, and thus enforceable, EU-level instrument.

The Directive provides only for a minimum level of harmonisation as regards procedural simplification. It imposes only a general obligation for Member States to provide for a "one-stop-shop" system and a general prohibition on issuing additional documents. Further simplification of the procedure would not interfere with the Member States internal procedures when handling an application.

[75] Ibid, page 94.

[76] This means that an eligible third-country national does not need to apply separately for a work permit and a residence permit, but can obtain them combined through the same procedure.

4. 4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1. 4.1. General objectives

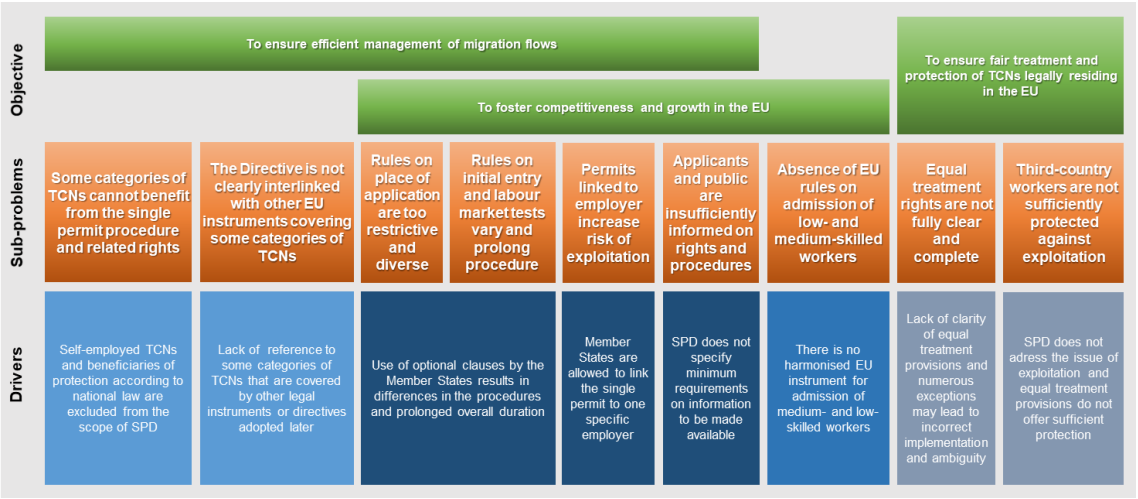
Based on the problem analysis, and taking into account the role of the Directive within the overall EU's legal framework in the field of legal migration, the general policy objectives of the initiative are:

(1) to ensure efficient management of migration;
(2) to foster competitiveness and growth in the EU;
(3) to ensure fair treatment and protection of TCNs legally residing in the EU.

4.2. 4.2. Specific objectives

The specific policy objectives correspond to the problem areas analysed above:
(1) to simplify admission procedures;
(2) to ensure greater efficiency of application procedures;
(3) to address EU labour shortages;
(4) to enhance equal treatment of TCNs with EU citizens;
(5) to protect third-country national workers from labour exploitation.

The table below presents an overview of general and specific objectives and their relation with the identified problems and drivers:



5. 5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

5.1. 5.1. What is the baseline from which options are assessed?

The current Directive would continue to be applied without legislative changes. However, existing monitoring and enforcement activities of the current legislation would continue, as reported in the Commission implementation report of 2019. This would include ongoing follow-up to open infringement procedures and court cases, as well as EU Pilots.

The baseline should also take into account the revision of the Long-term Residents Directive, which is expected to create a more coherent, efficient and fair system to acquire the EU long-

term resident status, facilitate intra-EU mobility of long-term residents and improve their rights and those of their families. However, as the number of applicants for the long-term resident status is very low and there is no clear link with single-permit holders, the likelihood that the change in rules on obtaining long-term resident permit would significantly affect third-country nationals' decisions to migrate and apply for single permits is very limited.

Without EU action, the problems identified will continue to exist and possibly, further exacerbate. Third-country nationals falling within the scope of the Directive will continue facing difficulties when applying for a permit. They will still have to invest additional time and resources to understand, prepare and follow their applications, and encounter long waiting times before receiving the permits.

Along the same lines, Member State authorities will continue to encounter inefficiencies caused by the multi-step procedures (labour market test, visa application, single permit procedure) and as a result of the duplication of efforts and complex processes. The consequences of these persisting inefficiencies may be that employers are likely to continue being deterred from resorting to international recruitment even in the face of skills shortages. For the same reason, TCNs are less attracted to the EU as a destination, as they are deterred by the administrative hurdles and delays.

TCNs will also continue to be more vulnerable to labour exploitation and situations of undeclared work due to the fact that the single permit in some Member States is tied to a single employer and to the overall lack of monitoring of their working conditions (and associated protection measures). In addition to potentially placing them in a harmful or irregular working situation, the current problems may also give rise to an increase in irregular stays (e.g. TCNs losing their job and hence their permit to stay, continuing to stay illegally).

Problems associated with a lack of equal treatment will also persist, in particular with regard to access to housing and family benefits. The lack of equal treatment is likely to have a negative impact on the degree to which TCNs feel accepted by society and are able to fully integrate.

As mentioned above, the majority of issues raised in the ongoing infringement proceedings and EU Pilots concern excessively long processing times and equal treatment rights. However, the revision of the Single Permit Directive aims at further facilitating the application procedure and clarifying and improving the equal treatment provisions. The problems identified are not directly related to the incorrect implementation by Member States but to shortcomings of the current legal framework which can only be tackled by legislative action. The main areas to be revised cannot be followed-up through infringement proceedings as they either do not fall within the scope of the Directive or are subject to optional clauses and therefore to Member States discretion.

For the assessment of the policy options, the following main baseline assumption has been made:

Whilst a lot has been published on how migration to the EU could evolve after the COVID-19 pandemic, views expressed in literature and by experts vary greatly. For example, a

Commission study from 2020[77]noted that the EU could see an increase in third-country nationals wanting to move to the EU, as a result of the anticipated global economic downturn. Initial 2020 data on the issuance of residence permits provide a mixed picture, with some Member States witnessing a strong reduction in permits issued and others seeing an increase instead. Another study assessing possible immigration scenarios[78] noted that experts expect an increase in migration towards the EU between 21% and 44 % from the recorded average annual figure for the 2008–2017 period, especially in future scenarios in which countries cooperate multilaterally. A stronger increase is expected with regard to highly skilled immigration. Overall, however, the study emphasises that experts are not confident in their responses, and disagree substantially on the size of international migration. Given these divergences and uncertainty, a linear trend has been chosen, which envisages a slightly lower number of third-country nationals being granted a single permit than was the trend over the last two years before the COVID-19 pandemic (2018 and 2019) based on a lower take-up in previous years, which still results in a more than doubling of the number of permit issuances over a 10-year period.

The detailed assumptions used to estimate the costs and the economic impacts of the policy options are presented in individual assessments, and further explained in Annex 3 and 4.

5.2. 5.2. Description of the policy options

Based on the problem definition and objectives described above, three different policy options have been identified, one non-legislative and two legislative.

Option 1: Non-legislative option

This policy option would involve non-legislative actions aimed at enhancing the implementation of the Directive:

- performing comparative analyses and targeted studies (e.g. in the framework of the EMN) on specific aspects of the implementation of the Directive,
- developing non-binding guidelines on the interpretation of the provisions of the Directive in the form of the Single Permit Directive Handbook.
- recommendations on aspects currently not deemed to be covered by the single permit procedure (such as the duration and interplay of the entry visa application procedure, labour market tests with the single permit application process) or on the provisions of the directive which allow wide discretion to the Member States,
- promoting innovative approaches e.g. to digitalisation and streamlining of processes, also possibly by adopting recommendations
- evaluating experiences of the Member States and stakeholders in the context of enforcing the Directive, and
- enforcement activities (including launching infringement proceedings).

[77] Focus on the impact of COVID-19 on migratory flows, asylum, smuggling and returns, study for internal use only.

[78] Acostamadiedo, E., R. Sohst, J. Tjaden, G. Groenewold and H. de Valk (2020). Assessing Immigration Scenarios for the European Union in 2030 – Relevant, Realistic and Reliable? International Organization for Migration, Geneva, and the Netherlands Interdisciplinary Demographic Institute, the Hague.

Option 2: Basic legislative revision of the Directive

The option aims at simplifying the application procedure and clarifying what categories of third-country workers are covered by the Directive, as well as covering beneficiaries of national protection with the single procedure.

Application procedure:

- Facilitating the application procedure by allowing TCNs to lodge applications both from outside and within the Member State territory, depending on the circumstances of the application, and clarifying that the initial entry visa shall be issued if all the conditions to issue the single permit are fulfilled[79].
- Specifying that only one substantive assessment of documents should be done by the competent authorities, either at the stage of the entry visa application or resident permit application, and that the visa procedure falls within the four-month period for processing the application for a single permit.
- Modifying Article 1(2) to clarify that the labour market test is considered to constitute a component of the single application procedure and should fall within the four-month period.

Personal scope:

- Further clarifying the categories falling outside the scope of application of the Directive (intra-corporate transferees, seasonal workers and workers posted within the EU) by making clear references to the relevant acquis.
- Including beneficiaries of protection according to national law in the scope of the Directive.

This option would also foresee adopting soft law measures (e.g. recommendations) to improve and harmonise the implementation of equal treatment rights foreseen by the Single Permit Directive.

Option 3: Legislative revision of the Directive as in Option 2 plus regulating rights and protection

The option builds on Option 2 and, in addition, aims at improving some equal treatment rights and improving protection from labour exploitation by legislative action.

Rights:

- Ensuring the permit is not only linked to one employer to avoid excessively frequent changes to the permit that makes the permit holder too dependent on the employer. In addition, ensuring the possibility to work while an application for a new permit is being processed in case of a change of employer (Art. 11(c)).

[79] To note that Article 5(3)of the Students and Researchers Directive states that the visa shall be issued if all conditions are fulfilled to reflect the *Ben Alaya* Court case (contrary to the Intra-Corporate Transferees-, Seasonal Workers- and Blue Card Directives etc. where the relevant provision only states that the issuance of the visa shall be facilitated).

- Clarifying Art. 12(2)(d) to stipulate that access to private housing is not included in the derogation provided for by this Article.
- Clarifying the equal treatment of TCNs with EU nationals with regard to calculating family benefits: if calculation of family benefits of EU nationals takes into account family members residing outside the EU, this should also apply to TCNs.
- Removing the possibility for Member States to exclude those working on the basis of a visa from family benefits if the visa has a duration of more than 6 months.

Protection from labour exploitation:

- This option would also seek to expand the material scope of the Directive to include provisions relating to inspections, monitoring and sanctions against exploitative employers, similarly to the Seasonal Workers' Directive.

	Objectives	Policy measures
Baseline scenario	The framework remains unchanged.	
Option 1: Non-legislative option: actions to improve the effectiveness of the Directive	EU and MS increase coordination of the implementation of the Directive	1.1. Enhancing implementation of the Directive and practical cooperation between Member States 1.2. SPD Handbook, Commission guidelines, promotion of innovative approaches
Option 2: Hybrid option **Legislative revision to simplify the procedure** **+** **Non-legislative measures on rights**	Simplifying the procedure	2.1. Amending the provision on the "place of application" 2.2. Including the entry visa as part of the single application procedure 2.3. Including labour market tests as part of the single application procedure 2.4. Mandating the provision of adequate information + 2.5. Non-legislative measures (recommendations) regarding equal treatment rights
Option 3: Legislative revision of the Directive to simplify the procedue, improve rights and protection from exploitation	Including measures of Option 2 + clarifying the scope, improving equal treatment rights and protection from exploitation	In addition to the amendments set out above in option 2: 3.1. Ensuring the permits are not linked to only one employer 3.2 Clarifying equal treatment for access to private housing 3.3. Clarifying equal treatment in granting family benefits to family members residing in third countries 3.4. Removing the possibility to exclude those working on the basis of a visa (valid for more than six months) from family benefits 3.5. Clarifying the categories falling outside the scope of application of the Directive 3.6. Including beneficiaries of national protection at least in the equal treatment chapter 3.7. Including provisions relating to inspections, monitoring and sanctions against exploitative employers

5.3. 5.3. Options discarded at an early stage

The following two options have been identified but not retained for further in-depth assessment.

a) Including self-employed TCNs in the scope of the Directive.

The considered option consisted in **including self-employed TCNs in the scope** of application of the Directive, without regulating the respective admission conditions. Including self-employed workers in the scope of the Directive would mean that these workers, when coming from third countries to establish themselves in a Member State, would also be able to benefit from the single application procedure, procedural safeguards and the right to equal treatment, if such rights are not already provided in the national legal order. In order to include this category in the scope of the Directive, it might be necessary to introduce

a common definition of 'self-employed workers' in the Directive[80], as the category represents a complex landscape of a diverse variety of workers[81].

Distinguishing between self-employed workers and employees is difficult. In some cases, self-employment has been used by companies to reduce labour costs for salaried employment and to gain a competitive advantage by avoiding social security contributions and circumventing labour law regulations[82]. Hybrid forms of employment – such as 'dependent' and 'bogus' self-employment – have emerged, especially in the platform-driven section of the economy (for example, where platform workers, previously classed as self-employed, have been recognised by court cases as employees, e.g. Uber[83]). These types of working arrangements can represent a significant challenge for national labour and social legislation as well as for the financing of social security systems[84].

While some experts and stakeholder groups representing the civil society, business organisations and trade unions expressed support for including self-employed workers in the scope of the Directive[85], Member States consulted were opposed to including self-employed workers due to complexities surrounding this category[86].

Overall, given the inherent complexities and expressed reluctance of Member State authorities, this measure would merit a more in-depth assessment and wider stakeholder discussion, including a mapping of definitions and currently available pathways for self-employed workers in Member States. This would also aim at ensuring that a potential inclusion of this category in the scope of the Directive would not lead to abuses of this pathway and potential exploitation of workers (de facto employees).

b) Including admission conditions for low- and medium-skilled workers in the Single Permit Directive

Admission conditions for low- and medium-skilled workers are currently regulated at national level and present a complex landscape. Firstly, Member States have adopted different approaches to labour migration and admission of TCN workers, including annual quotas (e.g. Italy), points-based systems (e.g. Austria), market-based approaches (e.g. Sweden). Secondly, many Member States have specific admission channels for low and

[80] Third meeting of the Commission Expert Group (EG) on the Views of Migrants (2 March 2021) and Fifth meeting of the Informal Expert Group on Economic Migration (EGEM) (18 May 2021).

[81] Including freelance workers, own-account workers, independent professionals, platform workers (also known as 'gig economy' workers), performers in the arts industry as well as innovative entrepreneurs.

[82] Social policy in the European Union (2018), Chapter 5 "The social situation of the self-employed in Europe: labour market issues and social protection" available at: https://www.etui.org/sites/default/files/Chapter%205_9.pdf

[83] https://fair.work/en/fw/blog/landmark-case-recognises-uber-drivers-as-workers-what-are-the-implications-for-gig-workers-in-the-uk-and-beyond/#continue

[84] Ibid.

[85] Fifth meeting of the Informal Expert Group on Economic Migration (EGEM) and Consultation with representatives of the Civil Society.

[86] Working Party on Integration, Migration and Expulsion, Contact Group on Legal Migration.

medium-skilled workers of certain nationalities[87]. Thirdly, labour market testing across EU Member States is organised differently.

Introducing conditions for low- and medium-skilled workers in the Directive would thus have to marry these complexities to establish a level-playing field and leave flexibility to Member States where needed to adapt the admission framework to their national contexts and needs.

Experts representing business organisations, trade unions, and civil society[88] suggested that for highly skilled workers, a common EU strategy indeed does make most sense, while a sectoral approach could be explored regarding low and medium-skilled workers, focusing on those areas in which most labour shortages occurred. However, civil society, trade union stakeholders have questioned the appropriateness of the sectoral approach, underlining that it would limit the availability of legal channels to Europe and the matching of skills (at all levels) with jobs available[89]. Beyond these complexities, stakeholders representing business organisation, trade unions, civil society, legal practitioners and Member States[90] expressed scepticism about the need and benefits of regulating admission conditions of low and medium-skilled workers at the EU level as in their view they are sufficiently addressed by national legislation and the single permit procedure. Furthermore, some experts have expressed the view that as the Directive is a horizontal 'procedural' Directive, it is not the appropriate legal instrument to introduce admission conditions only for specific categories of workers.

6. 6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

To determine the preferred option, the policy options have been assessed and compared in the light of the following criteria:

- Effectiveness, i.e. to what extent the option meets the policy objectives;
- Efficiency, i.e. the relative weight of the costs and benefits of the option;
- Coherence with the EU legal framework.

No significant environmental impact is expected from the initiative and has thus not been assessed further.

The selected impacts are assessed qualitatively and, where possible, quantitative analysis has been done based on a number of key assumptions (see Annexes 3 and 4).

The table below presents an overview of policy options and their expected effectiveness in achieving the objectives of the initiative.

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87 Such as Belarus and the Philippines (Czech Republic); West Balkan countries (Germany) and Belarus (Poland) as part of specific cooperation policies and partnerships with regions and third countries as well as specific occupations, such as chefs (Ireland) and drivers of international freight vehicles (Lithuania). EMN Annual Report on Migration (2020).

88 Consultation with the Informal Expert Group on Economic Migration.

89 European Commission (2019). Legal Migration Fitness Check, Public and stakeholder consultations EU Synthesis Report.

90 Consultation with the Economic and Social Partners (5 May 2021), Fifth meeting of the Informal Expert Group on Economic Migration (EGEM), Consultation with the Contact Group on Legal Migration.

	Obj 1: To simplify admission procedures	Obj 2: To ensure greater efficiency of application procedures	Obj 3: To address EU labour shortages	Obj 4: To enhance equal treatment of TCNs with EU citizens	Obj 5: To protect TCN workers from labour exploitation
Policy Option 1: Non-legislative option					
1.1 Enhancing implementation of the Directive and practical cooperation between MS	No effect	Moderately effective	No effect	No effect	No effect
1.2 Single Permit Directive Handbook, Commission guidelines, promotion of innovative approaches	No effect	Moderately effective	No effect	No effect	No effect
Policy Option 2: Hybrid option					
2.1 Amending the provision on the "place of application"	Very effective	Effective	Moderately effective	No effect	No effect
2.2 Including the entry visa as part of the single application procedure	Effective	Effective	Moderately effective	No effect	No effect
2.3 Including labour market tests as part of the single application procedure	Very effective	Effective	Moderately effective	No effect	No effect
2.4 Mandating the provision of adequate information	Moderately effective	Moderately effective	Moderately effective	Moderately effective	Moderately effective
2.5 Non-binding recommendations to harmonise the implementation of equal treatment rights	No effect	No effect	No effect	Moderately effective	Moderately effective
Policy Option 3: Legislative revision					
3.1 Ensuring the permits are not linked to only one employer	Effective	Effective	Effective	Effective	Effective
3.2 Clarifying equal treatment for access to private housing	No effect	No effect	No effect	Effective	No effect
3.3 Clarifying equal treatment in granting family benefits to family members residing in third countries	No effect	No effect	No effect	Effective	No effect
3.4 Removing the possibility to exclude those working on the basis of a visa (valid for more than six months) from family benefits	No effect	No effect	No effect	Effective	No effect
3.5 Further clarifying the categories falling outside the scope of application of the Directive	No effect	No effect	No effect	Effective	Effective
3.6 Including beneficiaries of national protection at least in the equal treatment chapter	No effect	No effect	No effect	Effective	Effective

3.7 Including provisions relating to inspections, monitoring and sanctions against exploitative employers	No effect	No effect	No effect	Effective	Effective

6.1. 6.1. Option 1: Non-legislative option – actions to enhance complementary and supporting activities

Option 1 would involve, on top of the dynamic baseline activities, several new non-legislative actions aiming to enhance the implementation of the Directive and the promotion **of complementary and supporting activities.** These actions would include:

- conducting additional comparative analyses and targeted studies (e.g. in the framework of the EMN) on specific aspects of the implementation of the Directive, such as e.g. the implementation of equal treatment provisions with regard to access to property or social security benefits, the form and timing of labour market tests in different Member States and the related procedures,
- developing non-binding guidelines on the interpretation of the provisions of the Directive in the form of the Single Permit Directive Handbook. Such a handbook would be developed in close cooperation and extensive discussions with the Member State experts of the Contact Group Legal Migration, before being adopted in the form of a Commission recommendation,
- adopting recommendations on aspects that are currently not deemed to be covered by the single permit procedure (such as the duration and interplay of the entry visa application procedure, labour market tests with the single permit application process) or on the provisions of the directive which allow wide discretion to the Member States,
- promoting innovative approaches e.g. to digitalisation and streamlining of processes, also possibly by adopting recommendations, and
- evaluating experiences of the Member States and stakeholders in the context of enforcing the Directive.

Effectiveness in achieving the objectives

No major effects on simplification of admission procedures are expected.

Under Option 1, the European Commission would seek to improve the implementation of the Directive and its clarity by introducing new, non-legislative actions. Firstly, the development of guidelines in the form of a Single Permit Handbook, which would be developed in discussions with the Member State experts of the Contact Group Legal Migration and adopted as a Commission recommendation, which is expected to help Member States improve the interpretation of the provisions of the Directive. Other recommendations on issues going beyond the current scope of the Directive, such as e.g. the timing and coordination of visa and labour market test procedures with the single permit procedure would also be considered. Comparative research is expected to facilitate the improved collection of information and exchange of good practice between Member States which may focus on e.g. labour market tests, transition to digitalised application processes, but also the approaches at national level to dealing with labour shortages. This, combined with the promotion of innovative approaches, may create a virtuous circle if Member States are

incentivised to follow the most effective practices as a model. The Commission would also foster sharing best practices between Member States, i.a. on providing detailed, clear and user-friendly information to TCNs on the fees, procedures and requirements of the single permit procedure, digitalisation and streamlining of processes. Some Member States[91] have already developed migration portals aimed at providing clear information on the immigration requirements while highlighting why Member States constitute attractive destinations. Sharing best practices in this area and coordinating the approach to the provision of information application across Member States could improve the quality of information provided to the employers and TCNs. As a result, applicants may become more aware of the process and documentation requirements provided that Member States decide to implement the best practices. Other Member States may become incentivised to consider digitalising their application processes more or look into improving the coordination between different procedures and competent authorities. Guidelines, especially if endorsed by the Member States in the form of a Handbook, could contribute to more consistent and transparent application procedures among the Member States.

In terms of effectiveness in achieving the objectives, actions aimed at improving transparency of the single permit procedure and facilitating the understanding of the scheme's functioning at the national level may lead to some improvement in attracting TCNs. However, the potential is expected to be overall limited by the structural shortcomings of the Directive and the non-binding nature of the measures. In addition, if considered as a standalone option, the actual impact would remain marginal, given that the different labour market needs between Member States and shortages would remain mostly unaddressed.

Limited effects are also expected with regard to enhancing equal treatment of third-country workers. Under Option 1, the enforcement of the Directive by launching and following-up on infringement procedures will be continued. However, the scope for improvement of the implementation is very limited, as the differences in implementation of equal treatment provisions by the Member States are linked to their vague wording resulting from a compromise achieved by co-legislators. The legislative practices of Member States could be somewhat approximated through an improved exchange of knowledge and information or targeted non-binding recommendations. Specific attention could also be given to the best ways to prevent labour exploitation of TCNs although this would require enhanced cooperation between Member States migration and employment authorities. Member States may also be encouraged to exchange best practices and share information on perceived trends and possible single permit scheme abuses and to inspire Member States to fight against labour exploitation better and more effectively. This, in turn, would help in protecting TCNs from abuses. However, if not supported by stronger complementary actions, the measure may prove ineffective.

Social impacts and impacts on fundamental rights

National authorities are expected to gain a better understanding of the Directive and good practices in its implementation by others through exchanges of best practices and the

[91] Such as Finland https://enterfinland.fi/ or Germany: https://www.make-it-in-germany.com/en/.

promotion of innovative approaches (e.g. digitalised procedures, coordination of processes between different authorities), which may lead to some efficiency gains in the single permit procedures. However, the impact is expected to remain low as the measures under this policy option are not binding.

The possible availability of clearer information on the single application procedure may result in a reduced dependency of applicants on **legal practitioners**. Nevertheless, considering that the policy option does not set minimum binding standards on the type of information given or how the information should be provided, this will thus mostly depend on how national authorities implement the guidelines.

Third-country nationals would benefit from some measures under Option 1 to the extent that recommendations and good practices in providing easy access to clear and comprehensive information on the process and documentation requirements are promoted and followed as a model. TCNs would then be able to make a better-informed choice while having a more efficient application experience. However, given the non-binding nature of the measures, the impact would remain limited and continue to depend mostly on national decisions to enforce and make the best use of the recommendations/guidelines promoted by the Commission.

Option 1 is not expected to have any significant social impact on EU citizens.

No impacts are expected on **third countries.**

No specific **fundamental rights** impacts of Option 1 have been identified.

Economic impacts

The economic effects of this measure are expected to remain marginal given that the measures are not legally binding, and Member States would not be forced to invest and improve their systems.

Efficiency

Administrative compliance costs

In those Member States where information provision currently is insufficient, some administrative costs might be generated if they decide to improve information provision, such as staff costs, cost of materials (incl. online information portals, leaflets), IT costs, etc. (please see Annex 4 for further details).

Enhanced complementary and supporting activities and better exchange of information among Member States would also generate moderate additional administrative costs (i.e. organisation of meetings; cost of materials; tailored training for national administrators/officers). Expected costs also relate to IT adjustments (i.e. the transition to digitalised applications; improvement of online migration portals; campaigns).

Also, additional compliance costs might be incurred if Member States national authorities decide to implement additional changes following best practices shared.

Some marginal costs might be envisaged at the European level as the Commission would implement a series of activities, including the launching of studies, tailored research, the organisation of additional meetings and expert exchanges, in particular in the context of developing a Single Permit Handbook. This could lead to additional procurement, or to providing funding to existing EU networks, such as the European Migration Network (EMN).

Coherence with other EU policies

Overall, Option 1 would contribute to ensuring a wider awareness of the Directive among TCNs, through better-disseminated information and improved national practices. This increased awareness of the Directive among TCNs is coherent with the New Pact on Migration and Asylum's[92] objective of attracting international skills and talent in the EU.

Overall assessment

Overall, Option 1 might moderately contribute to ensuring a wider awareness of the Directive and could help contribute to administrative simplification and ensuring a more uniform application of EU legal migration acquis. However, considering that it is a non-binding solution, its impact will ultimately depend on the willingness of Member State authorities to implement the developed guidelines and recommendations and adjust their actions in line with the best practices shared. It cannot, therefore, be expected to deliver fully the objectives of the Pact and the calls of the European Parliament for legislative action. In particular, increased enforcement (including launching infringement proceedings) would not contribute to resolving the identified problems since most of them result from regulatory failure.

6.2. 6.2. Option 2: Legislative revision of the Directive - application procedure

Option 2 foresees legislative revisions, mostly focussing on improving the overall efficiency of the Directive by simplifying the application procedure. Option 2 includes the following policy measures:

- 2.1: Place of application (Article 4(1)).
- 2.2: Visa procedure for initial entry (Article 4(3)).
- 2.3: Including labour market tests as part of the single application procedure.
- 2.4: Mandating the provision of adequate information.
- 2.5: This option also foresees soft law measures (e.g. recommendations) to improve and harmonise the implementation of equal treatment rights foreseen by the Single Permit Directive.

Effectiveness in achieving the objectives

Option 2 is expected to contribute to simplifying admission procedures and thus to address specific issues that have been identified as hampering the achievement of this objective of the Directive.

[92] European Commission (2020) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, p. 24.

Four specific measures under Option 2 are expected to particularly contribute to simplification and reduction of administrative burden:

- Requiring Member States to always allow TCNs to lodge applications both from outside the EU and within the Member States (2.1.);
- Clarifying that if an entry visa is required, visa processing is considered to form part of the single application procedure and should fall within the four-month period (2.2.);
- Clarifying that the labour market test is considered to form part of the single application procedure and should fall within the four-month period (2.3.);
- Mandating Member States to provide adequate information (2.4.).

Together, these four measures will ensure that only one substantive assessment of documents is carried out by the competent authorities, either at the stage of the entry visa application or the single permit application and that the labour market test and the visa procedure (if required) are conducted within the four-month period for processing the application for a single permit. Currently, there is evidence[93] that these additional procedures can extend the timeframe for granting the single permit in some Member States. Requiring Member States to consider these procedures as part of the single permit procedure will ensure that the duration of the overall assessment does not exceed the four-month period. The perceived benefits of such administrative simplification were strongly confirmed by the stakeholder consultations.

Some of the measures under Option 2 will help harmonise application procedures and establish a level playing field across EU Member States. Firstly, by allowing TCNs to apply from both outside the EU and the territory of the Member States (2.1.), Option 2 will ensure greater harmonisation, as currently Member States have different requirements. Secondly, clarifying that the four month period also includes visa and labour market test procedures (measures 2.2. and 2.3.) will also contribute to better harmonisation.

Greater simplification and harmonisation are expected to contribute to improving the overall attractiveness of the EU and may have some positive effects on the labour market and skills matching and on the employers' willingness to recruit TCNs to address skills shortages. However, a direct correlation is difficult to be established due to a multitude of endogenous and exogenous factors that affect skills matching in the labour market.

Measure 2.5 of adopting non-binding recommendations (soft law) on equal treatment is expected to positively contribute to enhancing equal treatment of TCNs with EU citizens. Where ambiguities exist, such soft law interpretations would facilitate correct implementation for Member States. However, due to its non-binding nature, the expected effectiveness of this measure is lower than of adopting legislative measures which would bring greater legal certainty.

Expected impacts

Social impacts and impacts on fundamental rights

[93] Procedures lasting more than two months have been identified in the framework of EU pilots.

Businesses/employers are expected to benefit from Option 2 in terms of quicker, and potentially wider, access to labour resources from third countries. The streamlining of the procedure could also encourage more employers to hire third-country workers. Any simplifications in the application process are expected to benefit SMEs as they are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.).

Overall, based on the proposed simplification measures under Option 2, **national authorities** are expected to gain efficiencies in their application procedures due to further streamlining of their processes.

Those Member States whose procedures currently exceed the four months' time limit are likely to incur some adaptation costs in the short run but with cost savings in the medium to long-term due to streamlining the procedures. Overall, more efficient procedures and improved equal treatment and prevention of exploitation are likely to improve EU attractiveness which will benefit Member States in skills matching and potentially satisfying labour shortages through migration.

Legal practitioners and judiciary at Member States and EU level will need to familiarise themselves with the new provisions resulting from Option 2, but ultimately Option 2 will lead to a reduction in the demand for their services by TCNs and businesses, mostly as a result of the simplification and improved information provision.

Third-country nationals are expected to benefit from Option 2 by simplifying the application procedure, which will result in potential cost reductions for TCNs as well as their quick integration into the labour market due to resulting efficiencies of the application procedure. They may also benefit indirectly from increased clarity and possibly improved Member States' application of the Directive with regard to TCNs' rights to equal treatment

Option 2 may result in a moderate increase in the number of TCNs arriving to the EU as a result of faster, simpler procedures. **EU citizens** would benefit from the positive impact of Option 2 on overall economic growth given that TCN workers would, to a limited extent, help fill labour shortages and indirectly contribute to reinforcing knowledge-based economy and job creation in the EU. Displacement of EU workers is expected to remain marginal, given that the expected increase is very limited and the fact that that Member States will continue having the option of conducting labour market tests to determine the number of TCNs entering their territory for work purposes and to ensure that the vacancies cannot be filled by EU workers. As a result, also the expected impact on domestic labour markets is expected to be marginal.

As regards third countries (including negative effects such as brain drain), faster and more streamlined application procedure may attract more TCNs wishing to work in the EU and apply for a single permit. This is likely to result in some loss of human capital and labour force in third countries. However, simplification and harmonisation alone may not be a key driver, hence the extent to which this could be the case is very difficult to estimate due to a multitude of factors at play.

The simplification measures (2.1, 2.2, 2.3 and 2.4) are not expected to have direct effects on **fundamental rights** as they focus on efficiency and reducing the administrative burden. However, measure 2.5 on adopting non-binding recommendations on equal treatment is expected to positively contribute to several fundamental rights of the Charter of Fundamental Rights of the European Union, such as, inter alia, right to property (Art.17), non-discrimination (Art. 21) and social security and social assistance (Art. 21). The non-biding recommendations are expected to provide more clarity on these aspects. However, it is difficult to assess to what extent the recommendations will have a positive effect, due to their non-binding nature as well as it is unknown to what extent this tool would be used (i.e. how often would the need for such recommendations arise and the specific focus of such recommendations).

Economic impacts

The key assumptions and calculation methods are detailed in Annex 4. The five measures under Option 2 focus on simplification of the application procedure which is expected to moderately contribute to improving the attractiveness of the EU, which in turn may have some positive effect on the labour market and skills matching.

The following types of economic impacts were considered: tax revenue, consumption, additional earnings, remittances, job vacancies and productivity. The main assumption for the Policy Option 2 and its composite measures is that, as a result of simplifying admission procedures, the EU becomes a more attractive place to live and work for TCNs, which in turn will lead to several positive economic effects, provided their integration into the economy and society is successful. As the majority of Member States apply some form of labour market test, it is assumed that these third-country nationals would nearly exclusively be accessing vacancies that are difficult to fill, or be bringing skills that are unavailable in the EU labour market. Additionally, these third-country nationals would compensate for the ageing EU workforce.

In order to provide a better understanding of the possible economic impacts resulting from the issuance of additional single permits for remunerated activities, on top of the baseline, a (cautious) two-step approach was adopted. First, a moderate increase of the number of permits was assumed at the level of 2.5%. Then, on this basis, some quantifiable impacts were calculated (according to the methodology detailed in Annex 4), as an illustrative example of the possible size of effects over a period of 10 years rather than as firm predictable results of the proposed measures:

- An increase in tax revenue of about EUR 636.9 million
- Increased additional earnings by about EUR 6.6 billion
- Increased consumption for about EUR 2.9 billion.

Resulting in a total economic benefit to the EU by approximately EUR 9.1 billion.

Remittances are expected to increase by around EUR 995.1 million.

As detailed in Annex 4, it was not possible to arrive at quantification of some possible economic impacts, including economic growth and productivity or the impact of covering self-employed workers by the single permit procedure given the high level of uncertainty and complexity of factors intervening at different levels.

Efficiency

Administrative compliance costs

A streamlined and simplified procedure for single permit applications would result in a number of cost savings for employers, TCNs, as well as national authorities.

For TCNs, there are a number of costs typically incurred by applicants (TCNs and/or their employers) in the application process, the costs of compiling the required documentation or the costs linked to legal counsel that may be needed to assist with the application process.

In addition, indirect and opportunity costs are likely to decrease. For example, the overall shorter procedures would mean that the third-country workers would commence their job sooner, which in turn could lead to more efficiency on the labour market in terms of greater job matching and shortages filled, as well as potential increases in productivity. This will also result in fiscal benefits in terms of tax contributions.

National authorities are likely to encounter some adjustment and familiarisation costs in the short and mid-run (including costs for training, IT, etc.) but are expected to gain efficiencies due to more streamlined procedures in the long run. Possible administrative costs associated with non-binding recommendations concerning equal treatment rights are difficult to estimate. This is due to uncertainty around the specific content of the proposed non-binding recommendations and the extent to which Member States will take up the recommendations in practice.

The cost analysis showed that the following average annual costs[94] (taken for cost figures between year 2021 to year 2030) would be incurred for Option 2 (please see Annex 4 for further details):

- One-off costs for national authorities: between EUR 2.2 million and EUR 4.9 million in year 1
- Recurring costs for national authorities: between EUR 200,000 and EUR 400.000 annually
- Recurring cost savings for national authorities: between EUR 200,000 and EUR 3.6 million annually
- Recurring cost savings for TCNs: between EUR 129.4 million and EUR 545.7 million annually
- Recurring cost savings for employers: between EUR 31.7 million and EUR 101.0 million annually.

Coherence with other EU policies

[94] Figures are provided to the nearest hundred thousand or million.

Overall, Option 2 is coherent with EU legal migration law and policy. Option 2 contributes to fulfilling the objective of the New Pact on Migration and Asylum of better enforcement of current legislation in the area of legal migration.

Overall assessment

Overall, the further simplification and streamlining of the procedure foreseen by this option is expected to positively impact the majority of stakeholders concerned, including employers, TCNs and national authorities (despite some cost adjustments needed in the short run). Together, the measures envisaged under Option 2 will contribute to alleviating the administrative burden for applicants, employers and national authorities. By adopting the specific measures, the single permit procedure is expected to be further streamlined. The perceived benefits of such administrative simplification were widely confirmed by the stakeholder consultations[95]. Adopting non-binding recommendations (soft law) on equal treatment can contribute to enhancing equal treatment of TCNs with EU citizens and improving information on the application procedure and related rights.

6.3. 6.3. Option 3: Legislative revision of the Directive to simplify the procedure, improve rights and protection from exploitation

Option 3 builds on the measures included in Option 2 but, in addition, aims also at improving some equal treatment rights and improving protection from labour exploitation by legislative action and clarifying what categories of TCN workers are covered by the scope of the Directive. In addition, the option envisages covering beneficiaries of national protection with the single procedure.

- 3.1: Ensuring the permits are not linked to only one employer.
- 3.2: Clarifying equal treatment for access to private housing.
- 3.3: Clarifying equal treatment in granting family benefits to family members residing in third countries.
- 3.4: Removing the possibility to exclude those working on the basis of a visa (valid for more than six months) from family benefits.
- 3.5: Clarifying the categories falling outside the scope of application of the Directive.
- 3.6: Including beneficiaries of national protection in the scope of the Directive.
- 3.7: Including similar provisions to Art. 17, Art. 24 and Art. 25 of the Seasonal Worker's Directive, on sanctions, compensation, monitoring, assessment and inspections, facilitation of complaints.

Four measures aim to clarify and/or expand the scope of safeguards offered to TCNs:

- Ensuring the permit is not only linked to one employer (2.4.)
- Removing the restrictions on equal treatment for access to private housing (2.6.)

[95] The Contact Group on Legal Migration, the EU legal migration practitioners' network and the Informal Expert Group on Economic Migration.

- Clarifying equal treatment in granting family benefits for family members residing in third countries (2.7.)
- Removing the possibility for Member States to exclude TCNs working on the basis of a visa from equality of treatment in respect of family benefits (2.8.).

In particular policy measure 2.4 on ensuring the permit is not only linked to one employer is likely to contribute to the protection of TCNs from exploitation. Several stakeholders consulted, namely representatives of migrants and the civil society, considered that linking the permit to a single employer placed migrants in a more vulnerable position, as they could feel prevented from denouncing abusive and/or exploitative working conditions for fear of losing their job and consequently their permit[96]. Ensuring some flexibility regarding a change of employer would thus limit the dependence of workers on their respective employers while lowering the risk of abuse by unscrupulous employers[97].

Another measure concerns **extending the equal treatment rights** under the Directive to **beneficiaries of protection according to national law** (2.11).

In those Member States[98], which at present do not guarantee equal treatment rights to national protection status holders, the measure would indeed offer a higher level of protection from labour exploitation, as TCNs would, for example, be guaranteed equal working conditions and freedom of association. In these Member States, some impact may thus be expected, although the number of beneficiaries of a national protection status is relatively low (e.g. in 2019 less than 2,000 first permits were issued in these countries, no stock data is available). In all Member States, the measure would help to reduce legal uncertainty for these categories.

One of the key measures under this option is **expanding the material scope of the Directive to include provisions relating to inspections, monitoring and sanctions against exploitative employers**, similarly to the Seasonal Workers' Directive 2014/36/EU.

Since the Directive covers different categories of third-country workers, including low- and medium-skilled who may be more susceptible to exploitation, including specific provisions on employer sanctions similar to those included in the Seasonal Workers Directive will cover a much wider range of workers. It is also expected to strengthen the level playing field across Member States by prescribing specific processes and instruments to prevent, identify and sanction labour exploitation and thus, it is expected to contribute to the protection of all third-country workers covered by the scope of the Directive from labour exploitation.

All categories of stakeholders generally agreed on the need to improve the protection against labour exploitation through the Directive. At the same time, stakeholders representing the migrants underlined that an increased number of inspections could lead to even more underground work and exploitation[99]. In their view, instead of requiring more stringent

[96] Third meeting of the Commission Expert Group (EG) on the Views of Migrants and Consultation with representatives of Civil Society.
[97] IOM (2009), Laws for Legal Immigration in the 27 EU Member States.
[98] BG, EE, IT, LT, MT, NL, PL only provide access to core social benefits for some national statuses - Comparative overview of national protection statuses in the EU and Norway, EMN Synthesis Report 2019
[99] Third meeting of the Commission Expert Group (EG) on the Views of Migrants.

inspections, clearer monitoring procedures implemented by all Member States could be a more practical solution. Although inspections represent the primary measure for tackling undeclared work of TCNs, they are often not as frequent and effective as anticipated by authorities. Consultations with legal migration practitioners[100] highlighted that introducing higher sanctions might have a counter-productive effect by increasing the reluctance from the employers' perspective to hire TCNs.

Moreover, the consultation with the Legal Migration Contact Group showed that representatives of some Member States do not believe that the issue of exploitation can be tackled at EU level, as it is closely connected to the national labour market system or it should be tackled in other existing instruments, such as the Employer Sanctions Directive, which does not apply to legally residing TCNs. Similarly, some members of the EGEM group considered that the need for a European approach on protection against labour exploitation was disputable as rules for on protection, inspections, monitoring, and sanctions already existed at national level. In their view, more coordination between the European Labour Authority and the national labour law enforcement should be sufficient, including the exchange of information on different procedures and good practices. However, it should be noted that the mandate of the European Labour Authority is limited to ensuring fair and effective enforcement of the EU rules on labour mobility and social security coordination, thus it does not extend to labour exploitation of single permit holders, who are not exercising intra-EU labour mobility.

Finally, experts have also highlighted that any provisions should be aligned with the ILO's Convention on Forced Labour Protocol of 2014 to the Forced Labour Convention, 1930 to which many Member States are already signatories.[101]

Expected impacts

Social impacts and impacts on fundamental rights

Businesses and employers may have to comply with new rules on prevention, inspections and sanctions against labour exploitation. Potentially tougher measures will contribute to preventing, detecting and sanctioning malicious practices of employers against TCNs. The measure is likely to have positive effects and strengthen the level playing field for law-compliant businesses, as it would deter unfair competition.

Expanding the personal scope of the Directive to beneficiaries of national protection and self-employed workers will require adaptation of legislation and practices in Member States. With regard to including provisions relating to inspections, monitoring and sanctions, some adjustment may be required in those Member States where the systems may require adaptation to meet the standards of the Directive.

Legal practitioners and judiciary at Member States and EU level are expected to benefit from the clarifications made with regard to the equal treatment provisions as improved clarity

[100] Consultation with the EU legal migration practitioners' network.
[101] https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

on a number of aspects is likely to facilitate their work, and reduce the extent to which third-country nationals may need to rely on legal advice.

Option 3 is expected to boost the equal treatment of TCN workers by clarifying some inconsistencies and ambiguities in the present Directive. Furthermore, by removing the link to one employer, Option 3 is expected to reduce dependency and the possibilities of labour exploitation by employers. In the Member States which currently do not guarantee the same level of equal treatment rights to the two categories of TCNs Option 3 suggests to add, these two categories of TCNs would benefit from enhanced and harmonised equal treatment rights. This would also help to better protect them against possible abuse and exploitation and improve their integration. Furthermore, establishing common provisions on inspections, monitoring, and sanctions against exploitative employers is expected to positively impact TCN workers. This would help protect TCN workers from labour exploitation by establishing or adapting relevant mechanisms in those Member States where the systems may require adaptation to meet the Directive's standards. Introducing such provisions in the Directive may help strengthen the current framework at EU level.

Option 3 may result in a moderate increase in the number of TCNs arriving to the EU as a result of improved rights (improved equal treatment and protection from labour exploitation and self-employed workers and beneficiaries of national protection included in the procedure). At the same time, the expected increase being moderate and subject to the control of Member State authorities my means of labour market tests, the impact on domestic labour markets is expected to be marginal. Considering that Option 3 will also likely lead to improved integration of TCN into the Member State of residence while contributing to more social cohesion, this, in turn, benefits both TCN and **EU citizens**. Displacement of EU workers is expected to remain marginal, given that the expected increase is very limited and the fact that Member States will continue having the option of conducting labour market tests to determine the number of TCNs entering their territory for work purposes and to ensure that the vacancies cannot be filled by EU workers.

Lastly, Option 3 is expected to contribute to improving equal treatment of TCNs, by achieving a level-playing field regarding their employment, and in terms of access to other benefits, such as family allowances, access to private housing, etc. This is expected to contribute to reducing downward pressure on wages and social dumping practices resulting from their vulnerable employment position, and as a result benefitting wider workforces. This may lead to fiscal benefits from tax collection.

As regards third countries (including negative effects such as brain drain), improved prevention of exploitation may positively affect remittances.

Measures under Option 3 are expected to strengthen equal treatment provisions and facilitate the prevention of exploitation, contributing to improving coherence with specific fundamental rights, such as: prohibition of slavery and forced labour (Article 5 of the Charter of Fundamental Rights); right to property (Article 17); equality (Article 20); fair and just working conditions (Article 31); family and professional life (Article 33) and social security and social assistance (Article 34).

Economic impacts

The key assumptions and calculation methods are detailed in Annex 4.

Measure 3.1 (de-linking permits from one employer) and 3.6 (including beneficiaries of national protection) and 3.7 (prevention against labour exploitation) may potentially have a measurable economic impact. The effects of 3.6 are expected to be marginal due to the small population size of beneficiaries of national protection. Measure 3.7 is expected to have a more significant economic impact in terms of reduction of grey and shadow economy from labour exploitation of third-country workers. Tackling exploitation is expected to reduce downward pressure on wages resulting from exploitation and social dumping practices (and as a result benefitting wider workforces). Further benefits include fiscal benefits from tax collection. The positive outcomes would include fairer payment and employers investing in fair working conditions, which may increase labour productivity in the medium to long run.

Reinforcing equal treatment provisions is expected to only marginally contribute to improving the attractiveness of the EU and may have some positive effect on the labour market and skills matching.

In order to provide a better understanding of the possible economic impacts resulting from the issuance of additional single permits for remunerated activities, on top of the baseline, a (cautious) two-step approach was adopted. First, a moderate increase of permits was assumed at the level of 5% (i.e. another 2.5% on top of Policy option 2). Then, on this basis, some quantifiable impacts were calculated (according to the methodology detailed in Annex 4), as an illustrative example of the possible size of effects over a period of 10 years rather than as firm predictable results of the proposed measures:

- An increase in tax revenue of about EUR 1.3 billion
- Increased additional earnings by about EUR 13.2 billion
- Increased consumption for about EUR 5.7 billion.

Resulting in a total economic benefit to the EU of approximately EUR 18.3 billion.

Remittances are expected to increase by around EUR 2.0 billion.

Efficiency

Administrative compliance costs

The administrative compliance costs of measure 3.2 clarifying the provisions on access to private housing are expected to be marginal. As part of policy measure 3.3 (equal treatment with regard to family benefits), an increase in transfer payments is expected in those Member States which also take into account family members of EU citizens residing outside the EU for family benefits Allowing third-country nationals to export family benefits in case their family members reside outside the EU, if in analogical case EU citizens are entitled to do so, stems directly from a recent Court of Justice judgment referring to Italian legislation[102].

[102] Case C-302/19 - Istituto nazionale della previdenza sociale (INPS) v WS. Judgment of the Court of 25 of November 2020.

The judgement clearly states[103] that the objective pursued by the Directive is to establish "a minimum level playing field within the Union, to recognise that third-country nationals contribute to the EU economy through their work and tax payments, and to serve as a safeguard to reduce unfair competition between a Member State's own nationals and third-country nationals resulting from the possible exploitation of the latter".

To conduct a comprehensive impact assessment of such a measure, it is necessary to understand which countries allow the EU citizens to claim family benefit for an EU citizen if the family member does not live in the Member State territory. Data gathered showed that in five Member States (CY, FI, DE, PL, PT) the family members residing outside the EU are considered when calculating the amount of family benefits granted to EU nationals and legally staying third-country nationals. In the Netherlands, family members residing outside the EU are only provided with family benefits in the case of a bilateral agreement between the Netherlands and the country of residence.

It is not feasible to calculate the impact on social systems with the data currently available. The number of family members residing outside the EU is currently unknown.

However, this measure merely aims at setting out in the revised Single Permit Directive an obligation that Member States need to in any case respect and afford financially in the light of the Court's case-law.

With regard to measure 3.4 on removing the possibility of excluding visa holders from family benefits after the 6 months period allowed by the Directive, the majority of Member States already grant equal treatment with regard to family benefits after six months. Therefore the impact of this measure will be limited but it would increase legal certainty and bring into line the remaining Member States. To reinforce protection from labour exploitation, Member States are likely to incur administrative costs for implementing any adjustments in their national legislation. However, no detailed data is available to carry out such cost analysis. With regard to the cost impact to TCNs, given the hidden nature of the phenomenon of labour exploitation, any assumptions on this phenomenon would be too hypothetical.

In addition to the administrative costs of implementing a new legal provision, the expansion of material scope would result in some additional compliance costs for Member States, and possibly some cost savings for employers.

The cost analysis showed that the following average annual costs[104] (taken for cost figures between year 2021 to year 2030) would be incurred for Option 3 (please see Annex 4 for further details):

- One-off costs for national authorities: between EUR 1.9 million and EUR 7.0 million in Year 1
- Recurring costs for national authorities: between EUR 100,000 and EUR 12.4 million annually
- Recurring cost savings for national authorities: between EUR 200,000 and EUR 3.6 million annually

[103] See Jugement in Case C-302/19, paragraph 34.
[104] Figures are provided to the nearest hundred thousand or million.

- Recurring cost savings for TCNs: between EUR 89.0 million and EUR 545.7 million annually
- Recurring cost savings for employers: between EUR 22.2 million and EUR 101.0 million annually.

Coherence with other EU policies

Overall, Option 3 is coherent with EU legal migration law and policy. Option 3 contributes to fulfilling the objective of the New Pact on Migration and Asylum of better enforcement of current legislation in the area of legal migration. It will also improve the coherence with the other legal migration directives by clarifying the categories falling outside the scope of application of the Directive.

Measure 3.1 (Ensuring the permits are not linked to only one employer) will also improve coherence as it is expected to offer similar conditions as the EU Blue Card (e.g. notification towards national authorities of a change of employer; new labour market testing conducted only in case of a change of profession; continued permit validity unless authorities object based on a negative labour market test or eligibility conditions no longer met). **Overall assessment**

Overall, this option is expected to positively impact the majority of stakeholders concerned, including employers, TCNs and national authorities (despite some cost adjustments needed in the short run). The main positive impacts of Option 2 are a further simplification and streamlining of the single procedure, clarification of the personal scope and strengthened equal treatment.

Including beneficiaries of national protection in the scope of the Directive would offer a greater degree of legal certainty and an enhanced set of rights for a category of TCNs, which in at least seven Member States are not fully treated equally.

With regard to expanding the material scope to include provisions relating to inspections, monitoring and sanctions against exploitative employers, this may help strengthen the current framework at EU level. Option 3 is expected to bring about positive change by setting up a level playing field for the prevention, protection and sanction against exploitation of a much wider range of workers than presently with such provisions regulated only for seasonal workers.

7. 7. HOW DO THE OPTIONS COMPARE?

The table below provides an overview of the ratings of the impacts of each policy option, on a score from -3 to +3 (-3 indicating the most negative impact, +3 indicating the most positive impact). It should be noted that, while these ratings allow for a comparison between options, the various ratings for a particular option cannot be cumulated since there is no objective basis to weigh one assessment criterion over another.

Criteria	Baseline		Non-legislative option		Legislative options (The cumulative scoring of Option 3 is presented

					in italics	
	PO0		**Option 1**		**Option 2**	**Option 3**
Effectiveness						
Effectiveness in achieving the objectives						
Specific objective 1: simplifying admission procedures	0		0.5		2	0
						2
Specific objective 2: ensuring greater efficiency of application procedures	0		1		3	0
						3
Specific objective 3: addressing EU labour shortages	0		0.5		1	0
						1.5
Specific objective 4: enhancing equal treatment of TCN workers	0		0		0	3
						3
Specific objective 5: protecting TCN workers from labour exploitation	0		0.5		0	3
						3
Social impacts						
Impact on: TCNs, national authorities, legal practitioners and the judiciary, employers and businesses, third countries	0		0.5		1	1.50
						2.5
Environmental impacts						
	0		0		0	0
Fundamental rights						
	0		0		0	3
						3
Coherence						
Coherence with the New Pact on Migration	0		0.5		1.5	1

and Asylum other legal migration Directives						
						2.5
Efficiency						
Costs						
Administrative compliance costs	0		-0.5		-1.5	-1.5
						-3
Economic impacts						
	0		0.5		2	0
						2

In the assessment of effectiveness, in line with the Better Regulation Guidelines[105], PO0 is considered as the benchmark against which all other options are assessed and scored. Therefore, to the baseline situation is attributed the value of 0/nil for all effectiveness criteria, whereby "0" means no impact compared to the baseline.

In terms of **effectiveness** in achieving the objectives, the highest-scoring policy options are **Option 2** and **Option 3**. Option 2 would be effective in achieving most of the objective of simplifying the procedure, however the effectiveness of enhancing equal treatment of migrant-workers via non-legislative actions is expected to have a modest effect due to its non-binding nature. Option 3 would have stronger similar effect on achieving the objectives, as legislative amendments aimed at enhancing equal treatment of migrant-workers and improving protection of TCNs from labour exploitation are expected to bring more legal certainty and tangible results than the soft law measure. Finally, Option 1 would generally have a very limited impact on achieving the objectives of the revision due to the voluntary nature of the non-legislative actions. While guidelines could help improve the practical implementation of the Directive, measures under Option 1 remain not binding and their outcomes are highly dependent on the willingness of Member States to follow guidelines and adapt administrative practices.

As regards **social impacts**, different categories of stakeholders were considered as part of the assessment and the scoring reflects the cumulative social impacts of each policy option, considering all categories of stakeholders together. Each policy option with the exception of PO0 would, to a greater (Option 2 and Option 3) or lesser (Option 1) extent, achieve a positive impact on TCNs, particularly when simplifying admission procedures, reducing legal uncertainty and boosting equal treatment. Reducing TCNs' dependency on the employer while also lowering the possibilities of labour exploitation by abusive employers would be another important benefit. For these reasons, Options 2 and 3 would have a very favourable impact on TCNs and employers, given that they aim at streamlining the single permit

[105] See in particular: Sections 2.4 and 2.5.

procedure and increasing protection from labour exploitation. All legislative options would potentially simplify the work of national authorities, who would gain important efficiencies when processing applications. All the options would also reduce reliance on legal practitioners, leading to a reduction in the demand for their services by TCNs and employers alike. At the same time, none of the policy options proves problematic in terms of social impacts.

None of the policy options is expected to have significant **environmental impacts**.

Most options **(**with the exception of PO0 which would not result in any changes to the current situation) would also positively impact **fundamental rights**, with Option 3 having [a significantly stronger additional impact compared to Option 2 due to the legislative, and thus binding, nature and legal certainty that the latter is expected to bring about. Particularly relevant articles impacted by most of the policy options are the prohibition of slavery and forced labour (Article 5), the right to property (Article 17), equality (Article 20), family and professional life (Article 33) and social security and social assistance (Article 34).

Regarding **coherence** with other EU policies and the New Pact on Migration and Asylum Pact, Option 2 and 3 are most in line with the spirit of the New Pact, which calls for boosting the attractiveness of new legal migration channels. Both policy options address a number of inconsistencies highlighted in the Fitness Check study and are expected to create closer synergies with other EU policies, including other EU legal migration Directives (notably for PO2), and with the 'spirit' of the EU Charter on Fundamental Rights (specifically for PO3).

In terms of **economic impacts,** both Option 2 and Option 3 would have a positive impact. The key areas in which the POs are expected to contribute positively to economic impact are tax revenue, increases in earnings and consumption (please see Annex 4 for details). Both Option 2 and Option 3 are also expected to increase remittances flows. The economic impacts of Option 3 are more significant, as it is expected to make the EU more attractive for migrants and enhance their living conditions.

In terms of **administrative compliance costs**, all policy options other than PO0 and Option 1 are expected to have a negative effect on administrative costs for national authorities, as they will have to transpose the new legislation, organise training and guidance, implement new and revised procedures, organise communication and information activities, etc.

With regard to principles of **subsidiarity** and **proportionality**, the proposed measures in the legislative options 2 and 3 would be limited to those aspects that Member States cannot achieve satisfactorily on their own, and the administrative burden on stakeholders would not be disproportionate vis-à-vis the objectives to be achieved, also because those measures would only update or complement the already existing procedures. In particular, the required adaptations in the administrative procedures by Member States are considered proportionate in view of the envisaged improvements in the situation of third-country nationals, more opportunities for employers, and simplification for national administrations.

As regards measures against labour exploitation, by prescribing specific common processes and instruments to prevent, identify and sanction labour exploitation, Option 3 would

contribute to the protection of all third-country workers covered by the scope of the Directive from labour exploitation, thus expanding the group currently covered by these safeguards at EU level from seasonal workers only and contributing to strengthening the level playing field across Member States.

Finally, with regard to the **political feasibility**, the fact that Option 1 would not require legislative amendments would be met with favour by those Member States not wanting further legislation on legal migration[106], but would contradict the call of the European Parliament to improve the Directive.

Option 2 and Option 3 would both require legislative amendments. Regarding Option 2, the majority of stakeholders consulted[107] perceived a need to simplify the single permit procedure further, including civil society, practitioners, migrant representatives, and economic and social partners. Member State representatives, although less convinced about the need for a substantial overhaul of the Directive, were aware of the shortcomings of the Directive and agreed that the application procedure could be further simplified to avoid unnecessary administrative burdens and thus, political agreement on Option 2 is likely to be feasible.

Regarding Option 3, more opposition from Member States on certain measures could be expected in comparison to Option 2. Most Member States[108] considered that the link to a single employer remained necessary, at least in the first one or two years, as the single permit is granted to fill a specific gap in the labour market. Regarding the measures aimed at clarifying the scope of equal treatment provisions in Article 12 of the Directive, Member States have acknowledged the benefits of enhancing legal certainty and further clarification. The majority of Member States also supported the idea of strengthening EU rules to prevent labour exploitation, albeit some considered that this issue was better tackled at national level.

It can be expected that all elements of both Option 2 and Option 3 would be supported by the European Parliament.

8. 8. PREFERRED OPTION

After the assessment of the impacts, effectiveness and efficiency of the POs, as well as of their political feasibility and stakeholder acceptance, the preferred option is **Option 3.** Option 3 involves a large set of policy measures that would address existing shortcomings of the Directive and further simplifying and streamlining the single application procedure, strengthening equal treatment rights, as well as further improving coherence of the Directive with the wider EU legal migration acquis by clarifying what categories of third-country workers are not covered by the Directive. In this respect, Option 3 responds partly to

[106] See Annex 2 for more details on stakeholder consultations.

[107] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM); Consultation with representatives of the Civil Society; Second meeting of the EU legal migration practitioners' network; Consultation with the Economic and Social Partners; Consultation of the European Public Employment Services network.

[108] Consultation with the Contact Group on Legal Migration.

Suggestion 1 of the opinion of the Fit for Future Platform proposing to streamline and digitalise the single permit application and visa applications to reduce the administrative burden and costs on applicants and on authorities. In addition, Option 3 expands the personal scope of the Directive to beneficiaries of protection under national law who are currently not fully covered by equal treatment rights, and the material scope of the Directive to include provisions relating to inspections, monitoring and sanctions against exploitative employers.

The impact assessment showed that Option 3 will be highly effective in achieving the objectives and will benefit from good political feasibility (based on the views expressed as part of the stakeholder consultations). Option 3 would also clarify and slightly expand the scope of the current Single Permit (i.e. to beneficiaries of protection under national law), as well as strengthen the rights of TCNs. Option 3 furthermore has the potential to bring strong societal benefits: including beneficiaries of national protection in the scope of the Directive would offer a greater degree of legal certainty and an enhanced set of rights for a category of TCN who currently do not, or only to some extent, benefit from equal treatment. It would also contribute to reinforcing the protection of all third-country workers covered by the Directive against exploitation, i.a. by introducing the possibility to change employers. In that respect, Option 3 would respond well to Suggestion 2 of the opinion of the Fit for Future Platform, recommending to simplify procedures on change of employer and thus increase ownership of workers. Therefore, Option 3 strikes a good balance between extending the personal and material scope and further simplification.

The preferred option aims at further clarification and simplification to ensure more efficient procedures and improved equal treatment in employment-related fields for workers admitted to the Member States, but it does not interfere with Member States' competence to define the content of the actual rights or with their internal procedures for handling an application.

The estimated costs (excluding cost savings) of the preferred option are as follows:

- One-off costs for Member State authorities are expected to range between EUR 2.0 million and EUR 7.0 million (or an average of EUR 2.0 million) in year 1 of the implementation of the preferred option.
- Recurring costs for Member State authorities are expected to range between EUR 100,000 and EUR 12.0 million (or an average of EUR 2.0 million) annually.

Total cost-savings, as also presented below, are estimated to amount to:

- Between EUR 200,000 and EUR 4.0 million annually for Member State authorities (or an average of EUR 700,000 annually).
- Between EUR 22.0 million and EUR 101.0 million (or an average of EUR 26.0 million) annually for employers. These estimates are equally dependent on the number of third-country nationals expected to apply for a permit – savings relate to reduced fees associated with applications, reduced time spent on applications and a reduction in other application-related fees.

- Between EUR 89.0 million and EUR 546.0 million (or an average of EUR 121.0 million) annually for TCNs (these estimates are wide-ranging as they are highly dependent on the number of TCNs expected to apply for a permit – savings relate to reduced fees associated with applications, reduced time spent on applications, reduced travel costs, reduced intermediary fees, etc.)

In order to provide a better understanding of the possible economic impacts resulting from the issuance of additional single permits for remunerated activities, on top of the baseline, a (cautious) two-step approach was adopted. First, a moderate increase of permits was assumed to range between 2.5% and 5% as a reasonable interval. Then, on this basis, some quantifiable impacts were calculated (according to the methodology detailed in Annex 4), as an illustrative example of the possible size of effects rather than as firm predictable results of the proposed measures:

- An increase in tax revenue of about EUR 1.3 billion.
- Increased additional earnings by about EUR 13.2 billion.
- Increased consumption for about EUR 5.7 billion.

Resulting in a total economic benefit to the EU of approximately EUR 18.3 billion.

Remittances are expected to increase by around EUR 2.0 billion.

8.1. 8.1. REFIT (simplification and improved efficiency)

REFIT Cost Savings – Preferred Option (Policy Option 2)		
Description	***Amount***	***Comments***
Cost savings from reduced application costs	Up to EUR 11.0 million per year (over a 10-year period)	Third-country nationals (TCNs)
	Up to 3.0 million per year (over a 10-year period)	Employers
Cost savings from reduced time spent on processing applications	EUR 89.0 million – EUR 278.0 million per year (over a ten-year period)	TCNs
	EUR 22.0 million – EUR 70.0 million per year	Employers[109]
	EUR 200,000 – EUR 4.0	National authorities[110].

[109] Note: a wide range is obtained owing to differences in the extent of cost savings estimated across policy actions/ measures associated with the preferred option (driven in part by differing assumptions around the number of affected applicants/ applications across these measures).

	million (over a ten-year period)	
Cost savings from reduced travel costs	Up to EUR 137.0 million per year (over a 10-year period)	TCNs, primarily entailed by measure 2.1 (on place of application)
Cost savings (reduced intermediary fees)	Up to EUR 106.0 million per year (over a 10-year period)	TCNs, primarily entailed by measure 2.1
	Up to EUR 25.0 million per year (over a 10-year period)	TCNs, primarily entailed by measure 2.1
Cost savings (reduction in other application-related fees – e.g. certification fees, translation of documents, etc.)	Up to EUR 14.0 million per year (over a 10-year period).	TCNs, primarily entailed by measure 2.1
	Up to EUR 4.0 million per year (over a 10-year period).	TCNs, primarily entailed by measure 2.1

8.2. 8.2. One in, one out approach

This section describes the expected impacts of the preferred option on EU businesses and citizens.

- ***Impacts on EU businesses***

Quicker access to labour resources from third countries. Businesses/employers are expected to benefit from Option 2 in terms of quicker, and potentially wider, access to labour resources from third countries. The streamlining of the procedure could also encourage more employers to hire third-country workers. Any simplifications in the application process are expected to benefit SMEs as they are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.).

Cost savings. A streamlined and simplified procedure for single permit applications would result in a number of cost savings for employers. In addition, indirect and opportunity costs are likely to decrease. For example, the overall shorter procedures would mean that the third-country workers would commence their job sooner, which in turn could lead to more efficiency on the labour market in terms of greater job matching and shortages filled, as well as potential increases in productivity. This will also result in fiscal benefits in terms of tax contributions.

[110] Note: a reduction in administrative burden / cost savings can be expected in the medium-to-long term as the benefits of a more streamlined application procedure start to realise – savings will accrue as a result of fewer resources (staff and time) required on the processing of applications and, hence, used more efficiently across the organisations.

Compliance costs with new rules on labour exploitation. Businesses and employers may have to comply with new rules on prevention, inspections and sanctions against labour exploitation. Potentially tougher measures will contribute to preventing, detecting and sanctioning malicious practices of employers against TCNs. The measure is likely to have positive effects and strengthen the level playing field for law-compliant businesses, as it would deter unfair competition.

The preferred option is not expected to entail significant costs (other than possible limited compliance costs) or disadvantages for EU businesses vis-à-vis the status quo. On the other hand, cost-savings of between EUR 22.2 million and EUR 101.0 million (or an average of EUR 26.0 million) annually are estimated for employers. These estimates are dependent on the number of third-country nationals expected to apply for a permit – savings relate to reduced fees associated with applications, reduced time spent on applications and a reduction in other application-related fees.

- ***Impact on EU citizens***

Marginal impact on the displacement of EU workers, more social cohesion. The preferred option may result in a moderate increase in the number of TCNs arriving to the EU as a result of improved rights (improved equal treatment and protection from labour exploitation and self-employed workers and beneficiaries of national protection included in the procedure). At the same time, the expected increase being moderate and subject to the control of Member State authorities my means of labour market tests, the impact on EU citizens and domestic labour markets is expected to be marginal. Considering that the preferred option will also likely lead to improved integration of TCN into the Member State of residence while contributing to more social cohesion, this, in turn, benefits both TCN and EU citizens. Displacement of EU workers is expected to remain marginal, given that the expected increase is very limited and the fact that Member States will continue having the option of conducting labour market tests to determine the number of TCNs entering their territory for work purposes and to ensure that the vacancies cannot be filled by EU workers.

Reducing downward pressure on wages and social dumping. Lastly, the preferred option is expected to contribute to improving equal treatment of TCNs, by achieving a level-playing field regarding their employment, and in terms of access to other benefits, such as family allowances, access to private housing, etc. This is expected to contribute to reducing downward pressure on wages and social dumping practices resulting from their vulnerable employment position, and as a result benefitting wider workforces. This may lead to fiscal benefits from tax collection.

The preferred option is not expected to entail any costs or disadvantages for EU citizens vis-à-vis the status quo.

9. 9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

The monitoring and evaluation of the revised Directive will need to be assured at all stages of the policy cycle (including implementation, application and evaluation), assessing progress and achievements against the specific objectives:

- To simplify admission procedures;
- To ensure greater efficiency of application procedures for TCNs;
- To address EU labour shortages;
- To enhance equal treatment of TCNs with EU citizens;
- To protect third-country national workers from labour exploitation.

At **the implementation stage**, as for all other recasts and new directives, the Commission is expected to organise contact committee meetings with the EU-25 Member States to discuss and clarify any issues that may arise during the transposition phase.

Once the transposition period has expired, the Commission will launch a conformity assessment of the transposition of the amended Directive into national laws in all EU-25.

In addition, the Commission will present a report evaluating the implementation, functioning and impact of the directive approximately two or three years after the transposition deadline and every three or four years thereafter. These reports will thus also play a key role in the next phase, namely the application stage.

During the **application stage**, the practical implementation and functioning of the amended Directive will be monitored against the specific objectives as listed above, using a series of relevant and measurable outcomes. It will be important to ensure that the indicators can be measured through methods and sources which are easily available and credible. Eurostat statistics and official national statistics should be used as much as possible to monitor the number of single permits issued, while existing EU agencies and networks, such as the European Migration Network, can be used to undertake punctual research into themes related to single permit.

To obtain stakeholder views, the Commission could consider launching a Special Barometer or a Public Consultation to obtain both quantitative and qualitative inputs. It will also be key for the Commission to continue making use of the existing expert groups who have also been contributing to the impact assessment study. Finally, additional research may also be procured, where considered necessary, through public tendering.

Indicators to monitor progress made towards the objectives of the initiative have been identified on the basis of the preferred policy option. The subsequent monitoring and evaluation of the Directive are important to assess its efficiency and effectiveness in addressing the underlying problems and meeting policy objectives. The table below includes a proposed list of indicators that could be used to assess the progress and effectiveness of the preferred option in achieving the main policy objectives, as well as methods of data collection.

Specific objective	Indicators	Sources

Specific objective 1: To simplify admission procedures	1. Average and maximum administrative processing times for a single permit application (including additional procedures); 2. Number of information campaigns carried out 3. Degree of completeness of public information provided	Reporting by Member States authorities Evaluations of practical application of the Directive
Specific objective 2: To ensure greater efficiency of application procedures for TCNs	4. Degree of coherence and harmonisation of Member States rules in regards to personal, material scope and equal treatment 5. Effective and correct transposition and application of the revised Directive	Reporting by Member States authorities Evaluations of practical application of the Directive
Specific objective 3: To address EU labour shortages	6. Estimated extent of the sector shortages at EU level (job vacancies rate in specific sector occupations according to employers' requests) 7. Estimated extent of the skill shortages at EU/Member State level filled by third-country workers	ESTAT Labour Force Survey (LFS) Surveys at EU and national level (e.g. European Migration Network, Eurobarometer)
Specific objective 4: To enhance equal treatment of TCNs with EU citizens	8. Extent to which equal treatment is granted to TCN 9. TCN views on equal treatment 10. Other stakeholder views on equal treatment	Reporting by Member States authorities Evaluations of practical application of the Directive Consultation with stakeholder groups
Specific objective 5: To protect third-country national workers from labour exploitation	11. Extent to which Member States have put in place appropriate prevention, detection and sanction mechanisms to protect TCN workers from labour exploitation 12. Number by Member States of successful prosecutions against employers for abuses on TCN workers or inadequate working conditions suffered by third-country workers	Reporting by Member States authorities Evaluations of practical application of the Directive European Platform for Undeclared Work

Annex 1: Procedural information

10. 10. LEAD DG, DECIDE PLANNING/CWP REFERENCES

DG Migration and Home Affairs (DG HOME) is the lead DG. The agenda planning reference is PLAN/2021/11127.

11. 11. ORGANISATION AND TIMING

The Communication for the New Pact on Migration and Asylum of 23 September 2020[111] announced, among various initiatives, a revision of the Single Permit Directive, in order to look at ways to simplify and clarify the scope of the legislation, including admission and residence conditions for low and medium skilled workers and to address the shortcomings identified under the Fitness Check on Legal Migration and its implementation report.

Additionally, the 2021 Commission Work Programme announced on 19 October 2020 that the revision of the Single Permit Directive is part of the number of measures to be proposed on legal migration[112]. The proposal is included in the Commission Work Programme (Annex II), under the Commission priority "Promoting our European Way of Life".[113]

The Inception Impact Assessment report was published on [XXX] 2021.

The Inter-service Steering Group was set up by the Secretariat-General to assist in the preparation of the initiative. The representatives of the following Directorates General participated in the ISG work: BUDG, EAC, ECHO, EMPL, ESTAT, GROW, INTPA, DIGIT, EEAS, RTD, HR, JRC, NEAR, MOVE, AGRI, JUST, TAXUD, Legal Service.

The ISG met three times on 26 November 2020, 7 May 2021 and 30 August 2021.

12. 12. CONSULTATION OF THE RSB

On 22 September 2021, the Directorate-General for Migration and Home Affairs submitted the draft Impact Assessment to the Regulatory Scrutiny Board, which examined the draft Impact Assessment on 20 October 2021. The Board issued a positive opinion with reservations on 25 October 2021. The Board pointed to a number of elements of the impact assessment that should be addressed. The table below summarises the main recommendations for improvement, and how they have been addressed in this Impact Assessment report.

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[111] COM (2020) 609 final, Communication from the Commission on a New Pact on Migration and Asylum, https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601287338054&uri=COM%3A2020%3A609%3AFIN

[112] COM(2020) 690 final, Commission Work Programme 2021, A Union of vitality in a world of fragility, p.7, https://eur-lex.europa.eu/resource.html?uri=cellar%3A91ce5c0f-12b6-11eb-9a54-01aa75ed71a1.0001.02/DOC_1&format=PDF

[113] COM(2020) 690 final, Annexes to the Commission Work Programme 2021, p. 14, https://eur-lex.europa.eu/resource.html?uri=cellar%3A91ce5c0f-12b6-11eb-9a54-01aa75ed71a1.0001.02/DOC_2&format=PDF

Main recommendations for improvement	**Changes in the Impact Assessment Report**
1. Clarify the narrow scope of the revision of the Directive	• The problem definition has been revised, also based on the results of the Fitness check, and a hierarchy between problems has been improved, with a clearer intervention logic linking problems, objectives and options better.
2. Explain better underlying reasons for the proposed further harmonisation of the procedure taking into account differing labour-market needs for migration between Member States.	• The problem definition has been revised to strike a better balance between focusing on the identified problems and the indirect impacts of the lack of action. • It has been better clarified that a number of the identified problems result from the implementation of the Directive, however not as a result of additional requirements introduced by the Member States, but in terms of duplicating procedures (such as by conducting a substantive analysis both at the stage of visa application and single permit application on arrival or by requiring third-country nationals to apply for a new permit every time they want to change an employer. The proposed changes can contribute to alleviating a part of the current administrative burden. • Differences in labour market needs between Member States have been better reflected.
3. Narrowing down and better justifying the scope of the revision.	• The issues and measures related to self-employed and to mid- and low-skilled workers were discarded from the outset. • The policy options have been revised to follow the thematic areas identified in the problem definition, with the new Option 2 focusing on the simplification of the procedures, with only soft law measures foreseen with regard to the equal treatment, while Option 3 builds on the measures of Option 2, but in addition proposes legislative changes concerning the clarification of equal treatment rights and new provisions aiming at improving the protection of third-country workers from labour exploitation.. • The baseline option has been modified by reflecting the likely outcomes of the ongoing infringement procedures. • The range of assessed measures has been expanded to consider alternative solutions per thematic area, including those proposed by stakeholders (for instance for sanctions and inspections).
4. Better analyse the domestic labour market impact of the likely inflow of third-country nationals.	• The report has been revised to contain a more balanced depiction of possible impacts of the proposed targeted measures on the attractiveness of the EU labour market as a whole, as well as on the Member States' domestic labour markets and administrative systems.
5. Better assess the impacts on	• The report has been revised to contain a more balanced depiction of possible impacts of the proposed targeted

national administrations.	measures on the Member States' administrative systems. • The calculation of costs and costs savings for national administrations has been further elaborated in Annex 4.
6. Reflect the views of stakeholders more systematically.	• Views of stakeholders have been more systematically and clearly presented throughout the report and clearly considered in the assessment. The report now clearly differentiates between the views expressed by the member States and other types of stakeholders. Visibility of dissenting opinions has been enhanced.

13. 13. EVIDENCE, SOURCES AND QUALITY

As detailed in Annex 2, the Impact Assessment is based on a series of studies, reports, stakeholders and experts' consultations, of which the most relevant ones are highlighted below.

A wide consultation, including a public consultation, was already conducted in the context of the **Fitness Check** on EU legislation on legal migration[114] published in 2019, which was supported by a study conducted by an external consultant.

Between 23 September and 30 December 2020, another online public consultation on the future of legal migration was conducted via the Commission's 'Have your say' portal[115].

Targeted consultations, asking more technical questions on the revision of the Directive, took place in the first half of 2021. Some of these consultations were carried out by the Commission independently and some in the context of a study commissioned to an external contractor.

Replies to the two above-mentioned public consultations came from EU citizens, organisations and TCNs (residing inside or outside the EU), business associations and organisations, non-governmental organisations, academic/research institutions, trade unions, ministries, public service entities. Targeted consultations included competent authorities in the Member States, business associations and organisations, non-governmental organisations, academia, think tanks and public service entities. The replies to the consultations gave a very comprehensive overview of the main problems in the functioning and implementation of the Directive. The Inception Impact Assessment collected the feedback both from the public consultation and targeted consultations.

Taken together, the consultations carried out by external consultant and the Commission independently have generated a good amount of data. However much of this data is of a general nature, especially with regard to questions of costs/administrative burdens. For this reason, the Impact Assessment relies on a qualitative methodology capable of accommodating quantitative measures and reflecting quantitative estimates from other sources. The cost estimates that are provided in the Impact Assessment are based on a combination of factors, including representative data on costs provided by certain Member States and stakeholders.

The analysis presented here has been partly constrained by limitations in data availability. The Covid-19 pandemic had a negative impact and caused distortions on the incoming migration flows and the intra-EU mobility, with led to a limited amount of reliable

[114] SWD(2019) 1055 final.

[115] https://ec.europa.eu/home-affairs/content/public-consultation-future-eu-legal-migration_en

migration statistics for the years 2020-2021. Therefore, it was more difficult to estimate and quantify the potential impacts of the policy options and of various factors that influence the attractiveness and labour migration flows, e.g. entry requirements, level of rights and the (real or perceived) "burdens".

Annex 2: Stakeholder consultation

This annex provides a synopsis report of all stakeholder consultation activities undertaken in the context of this Impact Assessment.

1. Consultation strategy

The overall aim of the consultation activities was to collect the views of the relevant stakeholders on the policy initiatives in the area of legal migration at both national and EU level and to offer them the opportunity to inform the impact assessment and, in particular, the development of policy options addressing the problems identified. The consultations sought to collect inputs pertaining to:

(1) collect objective data, information, and evidence to feed into the Impact Assessments;

(2) collect views on the issues at stake and suggested EU involvement, as well as opinions, ideas and concerns about possible solutions and impacts.

In preparing the initiative, Commission services carried out an initial mapping of primary stakeholders, which include: (i) EU institutions and agencies; (ii) relevant authorities in the EU Member States; (iii) networks of NGOs working at the EU level; (iv) subject-matter experts; (v) economic and social partners; (vi) trade unions; (vii) international organisations and (vii) employers' associations.

Over the course of the consultation process, Commission services used a variety of methods and forms of consultation, which included:

- Targeted consultations with stakeholders both independently and as part of the study that supported the development of this Impact Assessment.

- An opportunity for all interested parties to provide feedback on the Inception Impact Assessment via the Commission's 'Have your say' platform;

The study was commissioned by the Commission's Directorate-General for Migration and Home Affairs (DG HOME) and conducted by an external contractor.

More specifically, a wide consultation process, including a public consultation, was already conducted in the context of the Fitness Check on EU legislation on legal migration[116] published in 2019, which was supported by a study conducted by an external consultant. Subsequently, between 23 September and 30 December 2020, another online public consultation on the future of legal migration was conducted via the Commission's 'Have your say' portal[117]. In total, 226 responses were received to the questionnaire and 38 written contributions from a wide range of actors representing all relevant stakeholders[118].

[116] SWD(2019) 1055 final.

[117] https://ec.europa.eu/home-affairs/content/public-consultation-future-eu-legal-migration_en

[118] Contributions were received from EU citizens, organisations and third-country nationals (residing inside or outside the EU), business associations and organisations, non-governmental organisations,

This public consultation aimed to identify areas where the EU framework on legal migration could be further improved, including through possible new legislation. It included questions relevant for the revision of both the Long-term residents Directive and the Single permit Directive.

The majority of respondents' views to this consultation were aligned that the EU should take both new legislative and practical measures in the area of legal migration. Improving the information on legal pathways (92% or 208 out of 226 total responses), improving systems to recognise professional qualifications and validate professional skills acquired (92% or 207 responses) and the support in the exchange of good practices (87% or 197 responses) were perceived as the most prominent practical measures that the EU should focus its initiatives on.

The European Union may, in the coming years, face shortages in certain occupations that may create the need to recruit third-country workers, also taking into account the economic impact of the COVID-19 crisis. In spite of the short-term economic impact due to the COVID pandemic, it is expected that some of these - structural - shortages will persist in the medium and long term. Respondents considered that health professionals (77% or 175 respondents) were the top shortage occupation; followed by personal care workers (68% or 154 respondents), agricultural, forestry and fishery labourers (58% or 132 respondents) and information and communications technology professionals (51% or 115 respondents).

Another key theme explored by the Public Consultation was the protection of third-country workers' rights and fighting against their exploitation. A majority of respondents strongly agreed or agreed on the importance of developing horizontal EU rules on labour inspections and employers' sanctions (77% or 174 respondents) and with the idea that through public employment services and the involvement of third-country workers into the labour market policies the EU should encourage the development of targeted support measures (74%, or 168 responses). A majority of respondents agreed or strongly agreed that the EU should strengthen its current rules to sanction those employing and exploit irregular migrants, with 73% (or 166 responses).

In light of the consultations already conducted, no dedicated public consultation took place in the framework of this impact assessment.

Targeted consultations were however organised in the first half of 2021, with the purpose to cover more technical questions compared to the ones included in the public consultations. In particular, they helped defining the policy options and assessing their impact.

This synopsis report presents a succinct overview and the conclusions of the consultations undertaken in relation to the impact assessment on the revision of the Directive. The main results are summarised below and, where appropriate, referenced and taken into account in the Impact Assessment report.

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academic/research institutions, trade unions, ministries, public service entities, religious organisations, a law firm and a foundation.

2. Overview of the consultations

A number of targeted consultation meetings were held in 2021 as part of the study in support of the Impact assessment on the revision of the Directive.

- 1 March: the Portuguese presidency of the Council of the EU held a Working Party on Integration, Migration and Expulsion, to have an exchange of views on the legislative initiatives in the field of legal migration, where the Commission also presented the results of the public consultation.
- 2 March: meeting of the newly established Expert Group on the Views of Migrants in the field of Migration, Asylum and Integration.
- 10 March: meeting of the European Network of Public Employment Services.
- 14 April: meeting of the Commission Informal Expert Group on Economic Migration (EGEM).
- 20 April: meeting with representatives of the Civil Society.
- 29 April: meeting of the EU Legal Migration Practitioners Network.
- 5 May: meeting with Economic and Social Partners.
- 18 May: meeting of the Contact Group on Legal Migration.
- Ad hoc queries were also launched in the framework of this impact assessment to the members of the European Migration Network[119].

Ad hoc queries were also launched in the framework of this impact assessment to the members of the European Migration Network[120].

During all targeted meetings, the Commission presented the Single Permit Directive's main objectives and proposed a discussion on several shortcomings highlighted in the Fitness Check on legal migration and the implementation report carried out it 2019. In addition, the discussions focused on the main concerns relating specifically to the subject matters regulated by the Directive, as well as recommendations to address them. Topics and areas discussed included:

- The simplification of the single application procedure (including place of application, timeframes, labour market tests, the digitalisation of the application procedure and the duplication of effort between authorities);
- The right to equal treatment (including access to housing and family benefits);
- The exclusion of categories of TCNs from the scope of the Directive (namely, self-employed, posted and seasonal workers);
- The absence of a harmonised EU instrument for admission of medium- and low-skilled workers;
- The need for protection of TCNs against labour exploitation (including the topic of dependency on a single employer, as well as provisions relating to inspections, monitoring and sanctions against exploitative employers).

[119] EMN (2021) Ad Hoc Query 2021.37 and 2021.36 to support an impact assessment study on the revision of the Long-term Residents and Single Permit Directives.

[120] EMN (2021) Ad Hoc Query 2021.37 and 2021.36 to support an impact assessment study on the revision of the Long-term Residents and Single Permit Directives.

An overview of the results and main points raised during the seven targeted consultations can be found in section 2 below.

3. Results

Need for simplification of the single application procedure

The majority of stakeholders[121] perceived a need to simplify the procedure further to acquire a single permit. On the other hand, most representatives from the Contact Group on Legal Migration do not consider that further simplification of the single application procedure is needed, while only three perceived the opposite.

The main point shared by representatives from the Contact Group on Legal Migration, the EU legal migration practitioners' network and the Informal Expert Group on Economic Migration is that the application procedure should be further simplified to avoid unnecessary administrative burden linked to a **duplication of effort** between authorities.

Concerning **labour market tests**, representatives from the European Public Employment Services network, the Economic and Social Partners and the EU legal migration practitioners network specified that, while they do not fall under the scope of the Directive, labour market tests often further increase the time to process the single permit application. In addition, most members of the Contact Group on Legal Migration considered that labour market tests should only be regulated at the national level, with one representative suggesting that the period time needed to conduct the labour market tests should not be counted in the timeframe within which the single permit application should be processed and another expressing the view that that the time to conduct the tests should be reduced.

Regarding **timeframes**, representatives from the Economic and Social Partners, the Contact Group on Legal Migration, the European Public Employment Services network, the Informal Expert Group on Economic Migration and the EU legal migration practitioners network perceived that a limited timeframe to process single permit applications should be included in the revision of the Directive as the current processing times are too long. In addition, representatives from the Civil Society and the Economic and Social Partners recommended introducing a minimum validity period of the permit to ensure stability for both employers and employees.

In addition, representatives from the Economic and Social Partners, the Contact Group on Legal Migration, Civil Society and the Informal Expert Group on Economic Migration shared the view that the **digitalisation of the application procedure** could be a solution to simplify administrative processes. A representative from the Contact Group on Legal Migration suggested also introducing residence permits in digital form. Members from the Civil Society underlined that digitalisation should be implemented as early as possible in the application process to avoid requesting information or documentation twice (visa and single permit) from the applicant or the employer.

[121] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM); Consultation with representatives of the Civil Society; Second meeting of the EU legal migration practitioners' network; Consultation with the Economic and Social Partners; Consultation of the European Public Employment Services network

Concerning the **place of application**, representatives from the Economic and Social Partners, the Commission Expert Group on the Views of Migrants, Civil Society and the EU legal migration practitioners' network expressed the view that the revised Directive should include the possibility for TCNs already residing in a Member State to apply for a permit directly in that Member State.

Equal treatment

Regarding the right to equal treatment, representatives from the Civil Society and the Economic and Social Partners perceived that among the key challenges is the **lack of implementation of some parts of the Directive and the possibility to exclude certain aspects of social protection.** In this sense, Civil Society representatives underlined that the creation of consistency in the area of social security and social assistance rights requires a **horizontal approach** and not a step-by-step approach in each individual Directive.

In addition, the Commission Expert Group on the Views of Migrants underlined a need to explicitly include in the Directive the possibility to open a procedure against national authorities in discrimination cases. It was also recommended that the lack of enforcement of the Directive in terms of equal treatment should be addressed by including an **"accountability mechanism"**, which includes a conformity assessment and work with contact groups on the monitoring of its implementation.

Finally, a representative from the EU legal migration practitioners' network reported that regarding **equal treatment in the area of housing** in their Member State, access is limited as only persons with a permanent address may be eligible to make use of public housing opportunities, while TCNs who have a single permit, are automatically excluded from public housing opportunities. Members of the network also underlined that the situation of **family members of single permit holders** needs to be addressed in the revised Directive. In some cases, family members of single permit holders are not entitled to access a Member State's healthcare system and have to therefore subscribe to private insurance policies that might have insufficient coverage. It was also recommended that the revised Directive clarifies the situation where single permit holders are not entitled to be accompanied by their underage children.

Exclusion of categories of TCNs

Views on the inclusion of **self-employed TCNs** in the scope of the Directive varied among stakeholders. According to representatives of the Commission Expert Group on the Views of Migrants and of the Informal Expert Group on Economic Migration, the definition of self-employed workers is not clear and should be clarified before extending the scope of the Directive[122].

[122] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM).

A number of stakeholders supported the idea of **extending the scope of the Directive to self-employed TCNs**[123]. In particular, representatives from the EU legal migration practitioners' network underlined that because self-employed TCNs are excluded from the scope of the Directive, this creates situations where the latter are compelled to enter fake employment contracts. In addition, a representative from the Contact Group on Legal Migration highlighted that the possibility to include self-employed workers in the scope of the Directive should be done on a case-by-case basis. Nevertheless, while all Civil Society representatives agreed that attracting self-employed TCNs would have EU added value, some suggested being cautious, as, in situations where there is no regular pathway to access employment, TCNs might choose to apply as self-employed when they are actually employees, which lead to further abuse and exploitation.

Among those that opposed the idea of revising the scope of the Directive to include self-employed TCNs, representatives from the European Public Employment Services network underlined that this category should **remain regulated at the national level**. In addition, members of the Contact Group on Legal Migration pointed out that the category of self-employed workers covers a wide range of working fields, making it difficult to harmonise legislation in this area and that the latter could be covered by the Blue Card Directive or the Long-term Residents Directive.

Concerning other categories excluded from the scope of the Directive, representatives from the Informal Expert Group on Economic Migration and the Contact Group on Legal Migration considered that the Directive should also include **posted workers** to harmonise procedural rights. In addition, Economic and Social Partners perceive that the exclusion of **seasonal workers** from the scope of the Directive needs to be also addressed.

Absence of a harmonised EU instrument for admission of medium- and low-skilled workers

Views on the conditions for **medium and low-skilled workers** varied among stakeholders. Representatives from the Commission Expert Group on the Views of Migrants perceived that there is a need to further **simplify the single permit procedure** by introducing a single set of admission conditions for low and middle-skilled TCN workers in the Directive. In addition, while some members of the Economic and Social Partners supported the idea of facilitating the procedures for these categories of workers, stressing the importance of simplifying their admission in view of skills shortages, others argued that the EU already attracts low and middle-skilled workers and hence there is **no need for further facilitation of the procedures**. With the exception of one Member State, most representatives from the Contact Group on Legal Migration perceived that **no change is needed** regarding the admission conditions for low and medium-skilled workers as they are already covered by the Directive. It was further elaborated that in all categories, **no differentiation should be made between low, medium, and high-skilled TCN workers**, a view also supported by the Commission Expert Group on the Views of Migrants.

[123] Consultation with representatives of the Civil Society; Second meeting of the EU legal migration practitioners' network; Consultation with the Contact Group on Legal Migration (only 4 members underlined that self-employed TCNs need to be included in the scope of the Directive).

Representatives from the **Informal Expert Group on Economic Migration** shared the view that there is no need to have a common approach to proactively attract low and medium-skilled workers and that a **sectoral approach** could be explored in the case of these workers, underlining that it_would be relevant to decide at EU level which are the sectors where the issuance of the permit would benefit from more streamlined procedures. Finally, members of the Civil Society considered that the ILO classification concerning the low and medium-skilled workers should be re-evaluated, with some representatives advising to avoid these terms as they carry a negative connotation.

Protection against labour exploitation

The majority of stakeholders[124] perceived that, in terms of protection against labour exploitation, the topic of **permits being issued and valid in relation to a single employer** should be addressed in a future revision of the Directive.

Among the issues underlined by stakeholders in relation to the dependency on a single employer are the **increased vulnerability of TCNs** as it could prevent them from complaining about abusive working conditions (Commission Expert Group (EG) on the Views of Migrants; Informal Expert Group on Economic Migration; Economic and Social Partners), the **loss of the single permit** when TCNs lose their jobs (Economic and Social Partners; EU legal migration practitioners' network) and **preventing employees from changing employers and evolving within the same company** (EU legal migration practitioners network).

In this sense, representatives from the Commission Expert Group on the Views of Migrants, the EU legal migration practitioners' network and the Economic and Social Partners shared the view that the revised Directive should introduce a **period of time during which unemployed TCNs are allowed to look for other opportunities** without risking to lose their permit. In addition, members of the Civil Society and the Economic and Social Partners highlighted that it is important to ensure **the possibility of changing employers, which should allow a change of occupation and employment sector**.

On the other hand, most Contact Group members on Legal Migration considered that **the link to a single employer is necessary**, highlighting arguments such as the fact that the single permit is granted to fill a specific gap in the labour market and that labour migration is demand-driven. Nevertheless, two members saw room for more flexibility, underlining that the link to a single employer imposes a burden on immigration authorities in the event of a change of employer and suggests that the transfer of "responsibility" to another employer changes jobs is facilitated.

Views on the **provisions relating to inspections, monitoring and sanctions against exploitative employers** varied among stakeholders. For instance, some representatives from the Informal Expert Group on Economic Migration considered that the need for a

[124] Third meeting of the Commission Expert Group (EG) on the Views of Migrants; Fifth meeting of the Informal Expert Group on Economic Migration (EGEM); Consultation with representatives of the Civil Society; Second meeting of the EU legal migration practitioners' network; Consultation with the Economic and Social Partners.

European approach to protection against labour exploitation is disputable as there are already rules at the national level for the protection, inspections, monitoring, and sanctions. Moreover, more coordination between the European Labour Authority and the National Labour law enforcement should be enough. Other members shared the view that concerns about exploitation could also be addressed in the context of the revision of the Directive, suggesting that the different procedures and good practices of Member States are embedded in the revised Directive. In addition, representatives from the Commission Expert Group on the Views of Migrants, the EU legal migration practitioners' network, the Economic and Social Partners and the Contact Group on Legal Migration expressed concerns regarding increasing **inspections and sanctions**, as this could have a negative effect on TCNs as it might lead to more underground work and exploitation or make employers reluctant to hire a TCN. With regard to **monitoring mechanisms**, members of the Commission Expert Group on the Views of Migrants expressed the view that NGOs and trade unions should be included in monitoring and evaluation mechanisms, while the Economic and Social Partners underlined that specific attention should be paid to professions for which a monitoring system is difficult to implement, such as domestic workers in private households.

1. Direct feedback on the inception impact assessment

Direct input received on the inception impact assessment stressed the need for streamlined and efficient procedures, stability and legal certainty for migrant workers, possibility of lodging in-country applications. Civil Society representatives expressed concerns regarding a full amendment of the Directive due to the risk that Member States might suggest modifications which would entail more restrictive measures.

2. Conclusion

The findings from the targeted consultation meetings showed several shortcomings that need to be addressed in the revised Directive, according to stakeholders.

Regarding the single application procedure, the majority of stakeholders perceived a need to simplify the procedure further to acquire a single permit. Among the points raised by representatives in favour of simplifying the single application procedure were:

- Simplifying the application procedure could prevent the unnecessary administrative burden linked to a duplication of effort between authorities.
- Regarding labour market tests, the view was raised by some representatives that they often further increase the time to process the single permit application and that they should only be regulated at the national level.
- A limited timeframe to process single permit applications should be included in the revision of the Directive as the current processing times are too long.
- The digitalisation of the application procedure could be a solution to simplify administrative processes.

- Concerning the place of application, representatives expressed the view that the revised Directive should include the possibility for TCNs already residing in a Member State to apply for a permit directly in that Member State.

Concerning the right to equal treatment, representatives perceived that among the key challenges is the lack of implementation of some parts of the Directive and the possibility to exclude certain aspects of social protection. Among the recommendations shared by stakeholders were undertaking a horizontal approach in the area of social security and social assistance and addressing the lack of enforcement by including an "accountability mechanism".

In addition, the definition of self-employed workers is not clear and should be clarified before extending the scope of the Directive according to some stakeholders. Those who supported the idea of extending the scope of the Directive to self-employed TCNs underlined that under the current situation, these workers are compelled to enter fake employment contracts. Among those that opposed the idea of revising the scope of the Directive to include self-employed TCNs, it was highlighted that this category should remain regulated at the national level. Some stakeholders also perceived that the Directive should also include posted workers to harmonise procedural rights and that the exclusion of seasonal workers from the scope of the Directive needs to be also addressed.

Views on the conditions for medium and low-skilled workers varied greatly among stakeholders, with some perceiving there is a need to further simplify the single permit procedure by introducing a single set of admission conditions for these workers in the Directive. Other stakeholders argued that the EU already attracts low and middle-skilled workers and hence there is no need for further facilitation of the procedures. Another point shared on the topic underlined that no differentiation should be made between low, medium, and high-skilled TCN workers. Stakeholders also shared the recommendation to undertake a sectoral approach in the case of these workers, underlining that it would be relevant to decide at EU level which are the sectors where the issuance of the permit would benefit from more streamlined procedures.

Finally, in terms of protection against labour exploitation, the topic of permits being issued and valid in relation to a single employer should be addressed in a future revision of the Directive according to stakeholders, who underlined issues such as the increased vulnerability of TCNs, the loss of the single permit when they lose their jobs and the inability to change employers and evolve within the same company. It was also recommended that the revised Directive introduces a period of time during which unemployed TCNs are allowed to look for other opportunities without risking losing their permit and that it ensures the possibility of changing employers, which should allow a change of occupation and employment sector. Among those who considered that the link to a single employer is necessary, arguments such as the issuance of a single permit in relation to a specific gap in the labour market and demand-driven labour migration were raised.

Views on the provisions relating to inspections, monitoring and sanctions against exploitative employers also varied among stakeholders, with some considering that the need for a European approach to protection against labour exploitation is disputable as there are already rules at the national level for the protection, inspections, monitoring, and sanctions. Other stakeholders shared the view that concerns about exploitation could also be addressed in the context of the revision of the Directive, suggesting that the different procedures and good practices of Member States are embedded in the revised Directive. Concerns regarding increasing inspections and sanctions were expressed, underlining the possible negative effects on TCNs. It was finally recommended that NGOs and trade unions are included in monitoring and evaluation mechanisms.

Annex 3: Who is affected and how?

14. 14. PRACTICAL IMPLICATIONS OF THE INITIATIVE

Third country nationals already residing in, or considering migrating to, the EU are negatively affected by the shortcomings of the current complex EU immigration system, which results in administrative burden, lengthy waiting times, uncertainty and confusion as to applicable rules and outcomes, or may even discourage them from applying. Limited sets of rights limit the EU's permit attractiveness in their eyes.

Countries of origin can be positively affected through brain gain, circular migration and increasing remittance flows.

EU employers, including big employers, start-ups and SMEs, can be positively affected as they currently face limitations and excessive (administrative) burden when attempting to hire TCNs and address skills shortages.

National, regional and local authorities of Member States, including ministries, consulates, embassies, can be positively affected by streamlining procedures to avoid duplications and better informed single permit applications.

Indirectly, EU citizens are also negatively affected by the current situation as the EU's labour migration system, in addition to other obstacles, insufficiently contributes to tackling skills shortages, demographic ageing and increasing old-age dependency ratio efficiently. This affects the financial viability of the Member States' welfare systems.

15. 15. SUMMARY OF COSTS AND BENEFITS

The tables below present the estimated costs and benefits associated with the preferred option ("moderate legislative intervention"). Benefits are mainly in the form of direct cost savings across three distinct groups: TCNs, employers and national authorities. On the other hand, costs were mainly identified for national authorities and include both one-off and recurring costs. Where applicable, a wide range is obtained owing to significant differences in the extent of cost savings estimated across policy actions/ measures driven in part by differing assumptions around the number of affected applications – see Annex 4 for more details.

I. Overview of Benefits (<u>total</u> for <u>all</u> provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Cost savings (application costs)	Cost savings are estimated to be in the order of **EUR 11.0 million** every year (over a ten-year period). *Please note that all figures are rounded to the nearest million)*	These cost savings would accrue to **third-country nationals (TCNs)** as a result of a direct reduction in application costs (Measure 2.1)
	Cost savings are estimated to be in the order of **EUR 3.0 million** every year (over a ten-year period).	These cost savings would accrue to **employers** as a result of a direct reduction in application costs (Measure 2.1)

	Please note that all figures are rounded to the nearest million)	
Cost savings (reduced time spent)	Cost savings are estimated to range **between EUR 89.0 million and EUR 278.0 million** every year (over a ten-year period). *Please note that all figures are rounded to the nearest million)*	These cost savings would accrue to **TCNs** as a result of a reduction in fees associated with and the time spent on the application process (Measures 2.1, 2.2, 2.3, 2.4 and 3.1). A wide range is obtained owing to significant differences in the extent of cost savings estimated across policy actions/ measures (driven in part by differing assumptions around the number of affected applicants/ applications)
	Cost savings are estimated to range **between EUR 22.0 million and EUR 70.0 million** every year (over a ten-year period). *Please note that all figures are rounded to the nearest million)*	These cost savings would accrue to **employers** as a result of a reduction in the fees associated with and the time spent on the application process (Measures 2.1, 2.2, 2.3, 2.4 and 3.1). A wide range is obtained owing to significant differences in the extent of cost savings estimated across policy actions/ measures (driven in part by differing assumptions around the number of affected applications)
	Cost savings are estimated to range **between EUR 200,000** (rounded to the nearest 100,000) **and EUR 4.0 million** (rounded to the nearest million) every year (over a ten-year period).	These cost savings would accrue to **national authorities** as a result of a reduction in the time spent on the application process (Measures 2.1, 1.2, 2.3, 2.4). A wide range is obtained owing to significant differences in the extent of cost savings estimated across policy actions/ measures (driven in part by differing assumptions around the number of affected applications)
Cost savings (reduced travel costs)	Cost savings are estimated to be in the order of **EUR 137.0 million** every year (over a ten-year period).	These cost savings will be primarily entailed by Measure 2.1 (on place of application). These costs are assumed to be borne by **TCNs** only.
Cost savings (reduced intermediary fees)	Cost savings are estimated to be in the order of **EUR 106.0 million** every year (over a ten-year period).	These cost savings will be primarily entailed by Measure 2.1 (on place of application) for **TCNs**.
	Cost savings are estimated to be in the order of **EUR 25.0 million** every year (over a ten-year period).	These cost savings will be primarily entailed by Measure 2.1 (on place of application) for **employers**.
Cost savings (reduction in other application-	Cost savings are estimated to be in the order of **EUR 14.0 million**	These cost savings will be primarily entailed by Measure 2.1 (on place of application) for **TCNs**.

related fees)	every year (over a ten-year period).	
	Cost savings are estimated to be in the order of **EUR 4.0 million** every year (over a ten-year period).	These cost savings will be primarily entailed by Measure 2.1 (on place of application) for **employers**.
Indirect benefits		
Economic impacts	An increase in tax revenue by EUR 1.3 billion	Based on a linear evolution of the number of single permits issued over the next 10 years, and an increase resulting from the preferred option (5%).
	Increased additional earnings by about EUR 13.2 billion	As above
	Increased consumption by about EUR 5.7 billion	As above
	Resulting in a total economic benefit to the EU of about EUR 18.3 billion.	As above
Economic impacts for third countries	Remittances are expected to increase by approximately 2.0 billion.	As above

II. Overview of costs (by provision) – Preferred option (in EUR)

		Third-country nationals		**Employers**		**National authorities**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Policy measure 2.1	Direct costs	0	0	0	0	150,000 - 2,000,000 (500,000)	20,000 - 200,000 (70,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy measure 2.2	Direct costs	0	0	0	0	102,000 - 2,000,000 (500,000)	10,000 - 100,000 (40,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a

Policy Measure 2.3	Direct costs	0	0	0	0	200,000 - 600,000 (200,000)	20,000 - 200,000 (40,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 2.4	Direct costs	0	0	0	0	800,000 - 3,000,000 (1,000,000)	20,000 - 300,000 (90,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.1	Direct costs	0	0	0	0	Up to 600,000	20,000 - 200,000 (60,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.2	Direct costs	0	0	0	0	Up to 100,000	5,000 - 50,000 (11,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.3	Direct costs	0	0	0	0	200,000 - 700,000 (300,000)	21,000 - 250,000 (50,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.4	Direct costs	0	0	0	0	200,000 - 900,000 (400,000)	300,000 - 12,000,000 (2,000,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.5	Direct costs	0	0	0	0	n/a[125]	n/a[126]
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a

[125] Quantification was not possible
[126] Quantification was not possible

Policy Measure 3.6	Direct costs	0	0	0	0	n/a[127]	n/a[128]
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Policy Measure 3.7	Direct costs	0	0	0	0	300,000 - 2,000,000 (1,000,000)	40,000 - 400,000 (100,000)
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a

Note: average estimates are provided in brackets. Please note that estimates have been reported to the nearest ten thousand, hundred thousand or million (as necessary)

[127] Quantification was not possible
[128] Quantification was not possible

Annex 4: Analytical methods

This annex presents the overall analytical methods used, and assumptions made, for the quantification of costs (and cost savings) and economic impacts.

The approach used for the cost-assessment is a Standard Cost Model. Costs and, where relevant, cost savings were itemised and quantified to the extent possible across each of the proposed measures. These were then aggregated across measures to estimate the overall average or total costs to all relevant stakeholder groups associated with the proposed Policy Options.

In addition, a theory-based model was used for the estimation of economic benefits to measure the impact of the proposed Policy Options on tax revenue, remittances and consumption. This model uses various equations, the parameters of which are taken from the literature or qualitative evidence such as experts' advice and validation. No other econometric models were used, as it was not deemed feasible on the basis of the data available.

Annex 6 of the study accompanying this impact assessment includes the assumptions and methods used to estimate the costs and economic impacts of each measure and policy option, as well as Excel tables with detailed calculations.

General

For the assessment of the policy options and policy measures, the following main baseline assumption has been made:

Without EU action, the number of single permit holders (stock and flow) will evolve in a linear way, based on extrapolation using Eurostat statistics from 2013[129]-2019[130].

Whilst a lot has been published on how migration to the EU could evolve after the COVID-19 pandemic, views expressed in literature and by experts vary greatly. For example, a Commission study from 2020[131] noted that the anticipated global economic downturn due to COVID-19 and the forecasted uneven speed of recovery across world regions may provide an incentive to for more third-country nationals to migrate to Europe, however no estimate was provided. Initial 2020 data on the issuance of residence permits provide a mixed picture, with some Member States witnessing a strong reduction in permits issued and others seeing an increase instead. Another study assessing possible immigration scenarios noted that experts expect an increase in migration towards the EU between 21% and 44% from the recorded average annual figure for the 2008-2017 period, especially in future scenarios in which countries cooperate multilaterally. A stronger increase is expected with regard to highly skilled immigration. Overall, however, the study emphasises that experts are not confident in their responses, and disagree substantially on the size of international migration. Given these divergences and uncertainty, a linear trend has been chosen, which envisages a slightly lower number of third-country nationals being granted a single permit than was the trend over the

[129] No earlier data is available

[130] At the time of data extraction and up to end August 2021, only partial and not yet final 2020 data was available on Eurostat, which meant that it could not be used for the purpose of this study.

[131] Focus on the impact of COVID-19 on migratory flows, asylum, smuggling and returns, study for internal use only

last two years before the Covid-19 crisis (2018 and 2019) based on a lower take-up in previous years, which still results in a more than doubling of the number of permit issuances over a 10-year period.

Figure 1. Single permits baseline extrapolated based on 2018 and 2019 data

TIME	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
European Union - 27 countries (from	192.285	261.534	371.572	532.531	523.647	593.025	662.402	731.780	801.158	870.535	939.913	1.009.291	1.078.668	1.148.046	1.217.424
Belgium	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:
Bulgaria	139	145	277	472	448	519	591	662	733	805	876	947	1.019	1.090	1.161
Czechia	5.631	12.202	:	:	:	14.753	18.493	22.233	25.973	:	:	:	29.713	33.454	37.194
Denmark	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:
Germany (until 1990 former territory	37.703	50.878	65.549	160.575	:	143.203	167.338	191.473	215.608	239.743	263.878	:	288.012	312.147	336.282
Estonia	1.339	1.532	1.791	2.102	2.309	2.547	2.785	3.023	3.261	3.499	3.737	3.975	4.213	4.451	4.689
Ireland	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:
Greece	0	:	0	:	:	:	0	0	:	0	:	:	:	0	0
Spain	32.899	33.589	40.155	49.465	41.199	41.567	41.936	42.305	42.673	43.042	43.411	43.779	44.148	44.516	44.885
France	20.921	23.143	28.590	66.267	54.469	61.567	68.666	75.764	82.862	89.960	97.058	104.157	111.255	118.353	125.451
Croatia	2.423	6.542	23.754	46.586	:	43.794	52.476	61.158	69.840	78.521	87.203	:	95.885	104.567	113.249
Italy	2.919	1.911	1.775	1.745	:	-4.484	-7.485	-10.487	-13.489	-16.491	-19.492	:	-22.494	-25.496	-28.498
Cyprus	7.238	8.068	9.632	10.505	:	10.510	11.100	11.691	12.282	12.873	13.463	:	14.054	14.645	15.235
Latvia	1.730	2.125	3.590	4.412	:	4.807	5.503	6.198	6.894	7.590	8.285	:	8.981	9.676	10.372
Lithuania	3.000	7.097	9.148	17.911	:	:	19.697	23.732	27.767	31.801	35.836	:	:	39.870	43.905
Luxembourg	627	1.098	1.243	1.556	:	1.751	1.993	2.235	2.477	2.719	2.961	:	3.204	3.446	3.688
Hungary	5.707	14.264	31.417	38.511	:	43.192	50.949	58.706	66.463	74.220	81.978	:	89.735	97.492	105.249
Malta	3.010	5.446	9.911	12.441	:	14.113	16.527	18.942	21.356	23.770	26.184	:	28.599	31.013	33.427
Netherlands	600	1.333	1.655	2.511	:	2.609	3.007	3.405	3.803	4.200	4.598	:	4.996	5.394	5.792
Austria	:	:	0	2.658	:	:	0	:	:	5.316	7.974	:	:	0	:
Poland	32.382	43.151	58.872	61.638	76.219	87.512	98.805	110.098	121.391	132.684	143.977	155.270	166.563	177.856	189.149
Portugal	4.983	6.607	20.129	20.111	20.297	22.892	25.486	28.080	30.674	33.268	35.862	38.456	41.051	43.645	46.239
Romania	1.367	2.448	4.141	14.512	10.752	12.541	14.330	16.119	17.908	19.697	21.486	23.275	25.064	26.853	28.642
Slovenia	6.903	12.235	20.938	20.271	:	:	27.582	32.609	37.636	42.664	47.691	:	:	52.718	57.746
Slovakia	1.852	5.357	11.072	16.087	:	16.945	20.037	23.128	26.220	29.311	32.403	:	35.494	38.586	41.677
Finland	5.440	6.278	6.413	15.137	:	12.848	14.464	16.081	17.698	19.314	20.931	:	22.548	24.164	25.781
Sweden	13.472	16.085	21.520	:	21.055	22.724	24.393	26.062	27.731	29.400	:	31.069	32.738	34.407	36.076

Source of underlying data: Eurostat

Baseline scenario (linear trend assumed)											Accumulated	Net effects compared to baseline
2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
523.647	593.025	662.402	731.780	801.158	870.535	939.913	1.009.291	1.078.668	1.148.046	1.217.424	**9.575.888**	
Increase in SPH by 2.5%												
2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
536.738	607.850	678.962	750.074	821.187	892.299	963.411	1.034.523	1.105.635	1.176.747	1.247.859	**9.815.285**	239.397
Increase in SPH by 5%												
2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
549.829	622.676	695.522	768.369	841.215	914.062	986.909	1.059.755	1.132.602	1.205.448	1.278.295	**10.054.682**	478.794

Costs and cost savings

The costs and possible cost-savings that the policy measures are expected to trigger have been calculated by three main stakeholder groups, namely 1) national authorities, 2) employers / businesses and 3) third-country nationals. Where possible, the specific costs per Member State were estimated, based also on evidence as to whether the policy measure would require a significant change in a Member State or not.

For each policy option assessed in the main body of the report, a cost range has been provided per cost category (one-off / recurrent costs or costs savings per main stakeholder group above). This range is based on an extraction of the minimum and maximum values of each cost category across the policy measures included in the policy option. As these ranges are wide, they can also accommodate moderate increases in the number of single permits issued which go beyond the baseline (such as the range of 2.5-5% used to calculate the economic impacts, as detailed further below).

Estimation of costs / cost savings for national authorities

The calculations of administrative/ compliance **costs** for national authorities were based on a general formula:

Number of hours taken per FTE * number of FTEs * hourly wages * number of authorities affected

Typically, the number of hours and number of FTEs assumed for activities, such as transposition, monitoring, reporting, familiarisation, adaptation, training, communication/ information provision, etc. were based on own assumptions. Such activities are not dependent on the number of affected applications; hence they are not included in the above formula.

The following sources and assumptions were used:

- Hourly wages were sourced from Eurostat ("Mean hourly earnings by sex, economic activity and collective pay agreement" [EARN_SES18_12__custom_1049436]; selection: "Public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation; other service activities")

- Number of affected authorities: assumed there are on average two authorities involved (e.g. agencies/ authorities dealing with immigration and employment matters)

The calculation of ***cost savings*** were calculated using the formula below:

Number of hours saved per application * number of FTEs/ application * hourly wages *number of affected applications * number of authorities affected

Typically cost savings for national authorities would be in the form of reduced time spent on processing applications (notably as a result of simpler/ streamlined application procedures). The number of hours saved varied by measures, but was overall based on assumptions around the difference in current processing times (sourced primarily from the Fitness check on legal migration and EMN ad-hoc queries) and those when following the requirements laid out in the policy measures.

The following sources and assumptions were used:

- Hourly wages were sourced from Eurostat ("Mean hourly earnings by sex, economic activity and collective pay agreement" [EARN_SES18_12__custom_1049436]; selection: "Public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation; other service activities")

- The number of FTEs per application: one FTE will likely look after multiple applications. The assumption is: 0.0008 FTE/application (based on own calculations and data from Finland in the Fitness check)

- The number of affected authorities: assumed there are at most two authorities involved (e.g. agencies/ authorities dealing with immigration and employment matters).

Estimation of costs savings for employers and third-country nationals

General cost savings across policy measures for third-country nationals/ employers include:

1) **Application cost** savings (e.g., not having to complete a visa application):

- Data were sourced on average visa/ application fees[132] (primary source: Fitness Check on legal migration) and the number of (potentially) affected applications/ applicants (primary source: Eurostat data – "Single Permits issued by type of decision, length of validity [MIGR_RESSING__custom_1048120]". Linear extrapolation was used to obtain indicatives figures of applications over the period 2020-2030)[133].

- A general assumption was made that 80% of all applications are made by third-country nationals themselves, the remaining 20% by employers

- Cost savings were calculated as:

  *Averaged visa / application fee * affected applications * 0.8 (third-country nationals)*

  *Averaged visa / application fee * affected applications * 0.2 (Employers)*

- These cost savings were assumed to occur in affected Member States only – determined by data gathered on Member States that are not yet doing what the new law mandates (primarily sourced from EMN data queries). Those Member States that already satisfy the requirements of the new rules were excluded from the calculation of cost savings

2) **Time savings** (typically resulting from reduced time spent on visa/ permit applications):

- Data were sourced on average time taken to complete an application, mainly from the Fitness Check on legal migration (including gathering the necessary supporting documents and waiting for an outcome – proxy data were used for waiting times

[132] Data may not have been available for all affected Member States but only a few. These estimates were used to calculate an average and used for Member States where data were not available.

[133] Please note that further assumptions were made, where necessary, as regards the number of affected applications – for example, in the context of Measure 3.1, not all applicants are required to apply for a visa (before the single permit application) – some third countries have special agreements with the Member States exempting TCNs from a visa application. It is therefore assumed that 25% of all applications would be affected.

drawing on data available on time taken to process applications by national authorities)

- Assumptions (drawing on expert judgment or actual wording of new law) were made as regards the reduction in the time it would take to complete an application once a specific measure comes into effect (e.g. Member States would need to process applications within a four-month timeframe, i.e. 4* 30 or about 120 days)

- Data on hourly wages were sourced from Eurostat ("Labour cost levels by NACE Rev. 2 activity"[LC_LCI_LEV__custom_1078329]; selection made: "Industry, construction and services (except public administration, defence, compulsory social security)"

- Data on affected applications sourced from Eurostat (see previous bullet point). Depending on the measure, assumed that all or a certain proportion of applications would be affected

- Time/ cost savings were calculated as:

  *Number of hours saved * affected applications* 0.8 * foregone hourly wages (third-country nationals)*

  *Number of hours saved * affected applications* 0.2 * foregone hourly wages (employers)*

3) **Travel cost savings** (e.g., from being able to complete an application within the territory of a Member States):

- Savings assumed to accrue in Member States which do not allow third-country nationals to apply within their territory and require visas (sourced from EMN data queries).

- Assumption made on proportion of applicants who have to travel back to apply from their home country

- Data on travel fares sourced from air travel platforms – estimates gathered on average cost of a two-way ticket from Europe to the other continents. An overall average air fare across all continents was used.

- It was assumed that air fares are borne by third-country nationals themselves

- Travel cost savings calculated as:

  *Average travel costs / air fares * affected applications*

4) **Other cost savings** (e.g., not having to pay intermediary fees, not having to pay additional application- related fees – e.g. certification of documents, etc.):

- **Data on such fees** gathered from (i) **Fitness Check on legal migration**; and (ii) **additional desk research** (e.g. 2015 UNODC paper, 2019 FRA paper)

- Again, specific assumptions were made regarding the number of affected applications depending on the measure under investigation

- Cost savings calculated as:

  *Average fee saved * affected applications *0.8 (third-country nationals)*

  *Average fee saved * affected applications *0.2 (Employers)*

Reporting costs/ cost savings across policy options

Each policy option comprises a package of policy measures. Reporting costs/ cost savings at policy option level proved challenging as cost items were generally repeated/ duplicated across policy measures (e.g. transposition costs, monitoring costs, etc.) and could not therefore be aggregated. To avoid double-counting, it was decided to report ranges. Hence, the estimates reported across policy options should be treated as ballpark figures/ ranges, i.e. they provide a mere indication of the extent of actual costs/ cost savings associated with a particular option.

The range of figures reported for one-off vs recurring costs and cost savings (across the policy options) are based on minimum and maximum cost/ cost savings estimates gathered from estimations across policy measures. Average figures are often reported, though they should be treated with caution. This is because certain policy options comprise a larger number of measures compared to others. Hence, where averages are calculated across a larger number of measures, the resulting (average) figure is usually smaller (owing to total cost/ cost savings figures across a specific cost item/ category being divided by a larger number of measures). In the real world, however, the fact that average figures are smaller for policy options, where a larger number of measures are concerned, could be attributed to economies of scale - i.e. unit (administrative/ compliance/ enforcement) costs fall as total costs are spread across a larger number of policy actions/ measures.

Reporting ranges may also give a sense of "under-representation". As such, some policy options build on other policy options and contain additional measures/ actions (e.g. option 2). It would make sense for cost/ cost savings estimates to be higher for these options. However, this is not necessarily the case as, when comparing option to option, the following must be considered:

- Costs/ cost savings could not be determined/ quantified for one or more measures (e.g. owing to a lack of data); hence overall costs/ cost savings for a particular option do not change significantly (even if that option comprises a higher number of measures than another option);
- Some cost items (or categories of costs) do not apply in the context of certain measures (e.g., IT set-up costs, which are often substantial, may not be relevant to all measures); as a result, as before, overall costs for a particular option do not change significantly (even if that option comprises a higher number of measures than another option).

Economic impacts

The main assumption for the policy options and the measures included is that, as a result of simplifying admission procedures and strengthening the rights of single permit holders, the EU becomes a more attractive place to live and work for third-country nationals, and that this in turn will lead to several positive economic effects, provided their integration into the economy and society is relatively successful. Moreover, as the majority of Member States apply some form of labour market test, it is assumed that these third-country nationals will nearly exclusively be filling vacancies that are difficult to fill, or will be bringing skills that

are unavailable in the EU labour market. Additionally, these third-country nationals would contribute to mitigating the ageing of the EU workforce.
However, the economic impacts of the policy options were difficult to quantify given the magnitude of uncertainty and complexity of factors intervening at different levels, in addition to purely administrative and procedural ones. Different demographic, social and economic pull and push factors intervene and interact with regard to immigration, labour markets and the business cycle at macro-level, including technological transformation; factors which are independent from the measures under consideration.

Literature offers some clues on the links and, to some extent, interaction between patterns of migration from third countries, and different economic impacts based on theoretical assumptions. For example, a report by the International Monetary Fund (IMF)[134] linked immigration inflows with beneficial impacts on the economic and employment growth of the receiving country, as well as foreign direct investment and, in the long run, innovation. Migration is also often found to have a positive effect on public finances in the long term, with its overall impact estimated to be around 0.5% of GDP for advanced economies[135]. Increased migration has also been linked to the lowering of informational barriers through the knowledge of other nations' languages, regulations, and market opportunities. Whereas the impact of migration on wages and employment of natives is more contentious, there is evidence to suggest this could be null or even positive in some cases.

Limited evidence is available regarding the link between introducing more efficient admission procedures and strengthened rights on the one hand, and increased migratory flows. It has however been suggested that the decision to migrate may be affected by 'external factors' such as visa requirements, work permits, bureaucratic processes surrounding migration and related costs[136]. In fact, there is some evidence that suggests that the easing of immigration restrictions on foreign workers may lead to increased migration. However, these barriers/motivators to migration do not seem to be as well understood as, for example, employment opportunities or family reunification. Instead, increased migration flows are, within the literature reviewed, mostly associated with economic success and the growth of urban areas within countries[137].

To address gaps and validate draft assumptions and assessments made, the study team also consulted, at several points during the study, with an Expert Panel made up of five experts from the Odysseus Academic Network for Legal Studies on Immigration and Asylum in Europe, the Migration Policy Institute and Fragomen, a law firm specialised in labour migration, inviting them to review, discuss and validate aspects for which the evidence base was poor.

In what follows, where it was considered possible to provide some estimates of possible (policy options 2 and 3), an increase of respectively 2.5% and 5% was assumed on top of the baseline concerning the number of additional single permits issued for remunerated activities, rather as an illustrative example than as firm predicted effects. These assumptions were validated by our panel of experts.

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[134] IMF (2021). Working Paper: The Impact of International Migration on Inclusive Growth; A Review. Available at: The Impact of International Migration on Inclusive Growth: A Review (imf.org)

[135] IMF (2021). Working Paper: The Impact of International Migration on Inclusive Growth; A Review. Available at: The Impact of International Migration on Inclusive Growth: A Review (imf.org)

[136] Migration Policy Institute (2013), How Free is Free Movement? Dynamics and Drivers of Mobility Within the European Union. Available at: How free is free movement? Dynamics and drivers of mobility within the European Union (migrationpolicy.org)

[137] IMF (2021). Working Paper: The Impact of International Migration on Inclusive Growth; A Review. Available at: The Impact of International Migration on Inclusive Growth: A Review (imf.org)

Unless mentioned otherwise, all economic impacts have been expressed over a period of 10 years, with the policy option and policy measure assessments presenting each time the total impact over that period.

Estimation of tax revenue

The impact on tax revenues of higher TCNs arriving and staying in the EU is based on the assumption that they will pay taxes on gross income. As these jobs positions were unfilled, and hence additional to the existing workforce, it is fair to assume that tax revenues would increase proportionally to the wages times the % tax rate.

For the policy measures anticipating an increase in single permit holders for the purpose of work, the increase in tax revenue, has been calculated as follows:

[% of taxes paid on gross income] * [EU-average gross annual earnings] * [Number of additional third-country nationals]

The EU average gross annual earnings in industry and services is taken from Eurostat [TPS00175]. The average EU tax share is calculated based on Eurostat data (ICW_TAX_01)

Estimation of consumption

The increase in consumption is calculated based on the assumption that third-country nationals who opt to come to the EU as a result of the policy measures, become 'new consumers.

The additional consumption is then proportional to the number of third-country nationals times the average yearly household consumption.

Yearly consumption is based on experimental Eurostat statistics on mean and median economic resources of households by income, consumption and wealth quantiles - experimental statistics [icw_res_02]. The average median household consumption has been calculated as follows:

[yearly consumption per household] *[Number of additional third-country nationals]

Economic impact as additional earnings

The additional number of TCNs arriving into the European labour market is expected to contribute to additional earnings. This means that job vacancies are filled in and assuming TCNs will be paid the average gross annual salary, the effect results in an additional mass of earnings that contribute to the European GDP. This is calculated as follows:

[EU-average gross annual earnings] * [Number of additional third-country nationals]

Estimation of remittances

The increase in remittances is calculated by multiplying the average share of income which third-country nationals send home, estimated at 15%, with the EU average annual median income, and by the number of additional third-country nationals who come to the EU.

The share of remittances is taken from a UN online publication, "Remittances matter: 8 facts you don't know about the money migrants send back home"[138]. It represents a global, not EU-specific share. This estimate must be taken with caution because it is based on a world-wide sample and the patterns of remittances may vary markedly across continents and type of migrants.

As the additional number of third-country nationals who additionally may come to the EU are expected to increase consumption and economic growth, some of it may be offset by the remittances sent abroad. However, the negative effect of remittances is not expected to dominate the positive benefits on the EU economy.

Remittances are calculated as follows:

[proportion of income sent as remittances]*[EU-average annual median income]*[Number of additional third-country nationals]

Impact on skills shortages

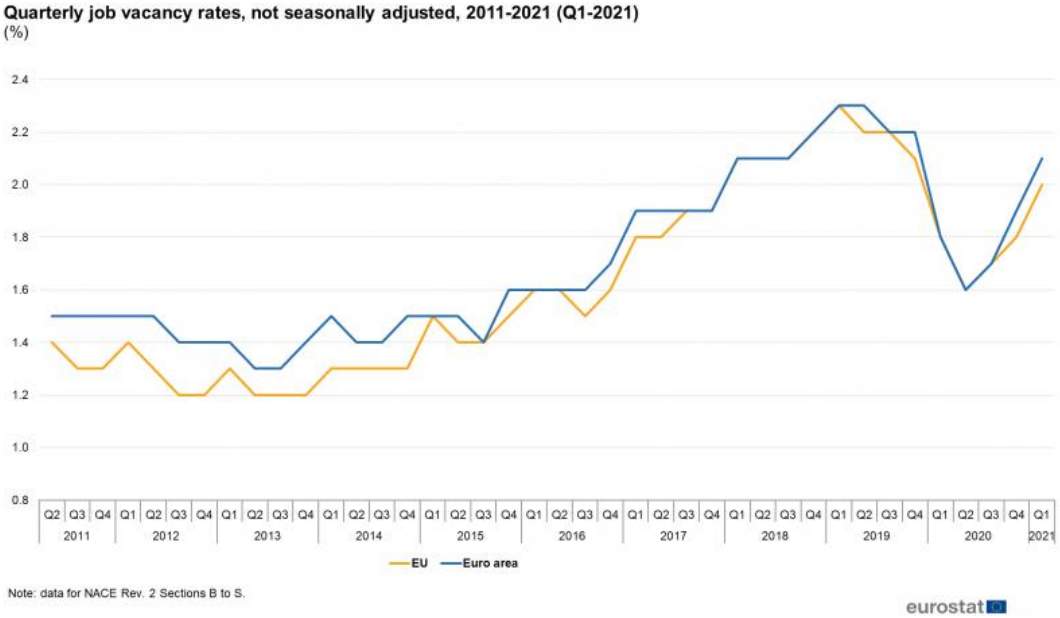
As the migrants are subject to labour market tests, we assume that nearly all of them would be accessing vacancies that are difficult to fill, or would provide skills that are unavailable in the EU labour market, these third-country will help ease skills shortages, by filling job vacancies. Statistics on job vacancies provide information on the level and structure of labour demand from enterprises.

Data on the quarterly and annual number of job vacancies is published by Eurostat[139] for a number of European countries[140]. Aggregated data at the EU-27 level are not available because some Member States do not provide harmonized data and there are differences in coverage because of divergent criteria. Nonetheless, on the basis of available quarterly data from 2013Q1 until 2021Q2, there are on average approximately 1.75 million unfilled job vacancies every quarter, which is also similar to the annual level of unmet vacancies by EU companies.

However, given the magnitude of job vacancies and the expected number of additional TCNs, such a gap would be addressed only to a limited extent when assuming an increase in single permit issuances from 2.5%-5%, namely, between 1.45 and 1.7%. Considering that the number of third-country nationals would be far below the total number of job vacancies, it is unlikely any effect on salaries in the domestic labour market resulting from the additional third-country nationals.

At the same time, if the number of job vacancies in the EU per quarter tended to remain stable between 2013 and 2019, the outbreak of the COVID-19 pandemic has resulted in a dramatically reduced number of vacancies notified to the Public Employment Services (PES) in the first two quarters of 2020 compared to similar periods in 2019 (-30 p.p. in 2020Q1 and -60 p.p. in 2020Q2). Correlatively, the job vacancy rate, not seasonally adjusted, showed an increasing tightness of the labour market since 2017 and a sharp decrease and rebound in 2020, corresponding to the height of the COVID-19 crisis[141]. In fact, the job vacancy rate reflects, in part, the actual unmet demand for labour as well as potential mismatches between the offer and demand of skills in the labour market.

[138] https://www.un.org/development/desa/en/news/population/remittances-matter.html
[139] Job vacancy number by NACE Rev. 2 activity - quarterly data (from 2001 onwards) Eurostat [jvs_q_nace2]
[140] BG, HR, CZ, EE, DE, HU, LV, LT, LU, NL, PL, PT, RO, SK, SI, SE
[141] Job vacancy rate by NACE Rev. 2 activity - quarterly data (from 2001 onwards) Eurostat [jvs_q_nace2]



Partly due to steep recovery trajectory, job vacancy rates, especially in the Euro Area, are likely to return to and remain at pre-COVID 19 crisis levels Additionally, regular and comprehensive surveys of companies recruitment needs are signalling a historically high level of employers worldwide (69%) experiencing difficulties to attract and retain suitable candidates for their recruitment needs[142]. Such difficulties were intensified by the COVID crisis and are likely to last, increasing the level of employers experiencing recruitment difficulties and the time during which unfilled vacancies will remain open in the foreseeable future in advanced economies, because of the global and simultaneous competition for suitable candidates and in-demand skills. However, while some Member States face emerging shortages in highly skilled jobs, others rather in medium and low-skilled occupations, hence there are disparate labour market needs between different Member States, also due to divergent professional credentials requirements for certain occupations such as healthcare assistants. The European Commission's 2020 report on shortage and surplus occupations identified sectors of most widespread shortages in European countries and regions covered by the report (topped by four healthcare related occupations, five software related occupations and ten craft occupations), as well as main sectors with most severe shortages (topped by the same four healthcare occupations and five software related occupations)[143].

Estimation of productivity

The estimation of productivity is based on the assumption, reviewed together with the expert panel, that if third-country nationals who migrate to the EU are able to integrate successfully, this will lead to an increase in their productivity. Although higher productivity could be estimated by an increase in wages, the exact figure is difficult to obtain given the uncertainty described above about the increase in migration and its effect on wage levels. For this reason, no quantification or monetisation has been attempted.

[142] ManPower Talent Shortage Report, surveying 41700 hiring managers in 42 countries: ManpowerGroup Talent Shortage Study

[143] European Commission, Analysis of shortage and surplus occupations 2020, using administrative data from Public Employment Services but also work permits issued from migration services. p. 9

Annex 5: Assessment of the Policy Measures

Option 2: Legislative revision of the Directive - application procedure and non-legislative measure on equal treatment

Policy Measure 2.1: Place of application (Art. 4(1)) Allowing applications both from within and outside the Member States

Figure 1. Place of application (Art. 4(1)) Allowing applications both from within and outside the Member States

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	At present, where Member States require third-country nationals to submit the application (without or together with the employer), Art. 4(1) of the Directive also requires these Member States to either allow such application to be lodged from a third country, or from the territory of the Member States in which the TCN is legally present. This provision is applied in a highly diverse way, which has meant in practice that TCNs often have to go through duplicate procedures (e.g. visa and the single permit). CY, EE, FI, HR, LT, MT, RO, SE, SI, SK. Five of the 17 Member States who responded to the EMN AHQ only allow applications for a single permit from the country of origin or residence (other than the territory of the Member State).[144] Furthermore, in Cyprus, Germany, Slovakia and Sweden require some specific categories of TCNs residing in the Member State and changing their migration status to file the application in the country of origin which would mean that they would need to exit the Member State and re-apply for the permit. Member States that allow both submissions from within the Member State and outside the Member State and which were able to provide data on the disaggregation of place of application as follows: **Estonia**: In 2020, approximately 18% of applications are submitted via consulates/embassies, 77% of all applications are submitted within the country. **Finland**: In 2020, 62 % of the first residence permit applications based on employment (5 466 applications) were lodged outside of Finland and 38 % (3 305 applications) were lodged in Finland. **The Netherlands:** Applications almost exclusively submitted within the Netherlands.

[144] AT, CY, FR, LU and SE. In SE, there are certain exceptions from this main rule and most applications are made electronically.

	Slovenia: For 2020, 203 applications were lodged abroad (diplomatic representations or consular posts), while 15.664 applications were lodged in the territory of the Republic of Slovenia The policy measure would facilitate and simplify the application procedure if Member States permitted lodging applications both from outside and within their territory. No matter their location, third-country nationals could thus opt for the application process, which is most cost-effective for them in their current situation. Allowing third-country nationals to apply from outside the EU for a single permit is expected to shorten the procedure and the time for processing of the application in those Member States which require additional steps, such as short or long-term visas. Such additional steps would no longer be required and applications would be reviewed by competent national authorities only once. In the spirit of simplification, eligibility for the single permit should be assessed by one single authority and other authorities that may be involved should not reassess eligibility. This measure is expected to positively benefit national authorities and third-country nationals applying for single permits in terms of simplification and reduction of administrative burden by facilitating the procedure which would be adapted to the different circumstances of the applicant. (see below for assessment of impacts on different stakeholders) The perceived benefits of administrative simplification were strongly confirmed by the stakeholder consultations, including the EGEM meeting and the Consultation with representatives of the Civil Society[145], where many members expressed concerns of the current practices in some Member States.
Objective 2: To ensure greater efficiency of application procedures	A streamlined procedure of single permit application would result in a number of cost savings for employers, national authorities and TCNs. National authorities of the Member States which do not allow applications from third countries will incur some adjustment costs in the short to medium term but in the long-run, the measure is expected to result in cost savings. The different types of cost savings are examined below under Costs. Furthermore, as the current practices differ across Member State, the measure will result in a uniform application modality across the EU. This in turn is expected to improve the attractiveness of the EU as third-country workers would be allowed to apply from a third country as well as from the territory of the Member State. The ultimate impact of this measure is more efficient labour market access and ultimately better economic growth at EU level. As there is a multitude of factors influencing attractiveness and decision to

[145] Consultation held on 20th April 2021

	migrate at macro, meso and micro (personal) level, the extent to which this specific measure will contribute to better attractiveness is difficult to calculate and to isolate the effects of other factors.
Objective 3: To address EU labour shortages	See Objective 2 above
Objective 4: To enhance equal treatment of TCNs with EU citizens	No specific effects expected on this objective
Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains above, on different stakeholder categories, including: **Employers/businesses** Employers are expected to benefit from this measure in terms of quicker access to labour resources from third-countries. The facilitation of the procedure could also encourage more employers to hire third-country workers. SMEs are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.) and thus any simplifications in the application process are expected to benefit SMEs.[146] **National authorities** National authorities in those Member States which currently do not allow applications from a third country will be encouraged to further streamline their processes resulting in some adaptation costs in the short run but with cost savings in the medium to long-term due to facilitating the application process. This will alleviate any duplication of effort in examining application procedures. Overall, this measure is expected to have positive impact on national authorities despite some cost adjustments needed in the short run.

[146] For example: Bank aus Verantwortung (2017) Study: "Focus on Economics – Foreign workers in German SMEs: a strong plea for free labour markets", available at: https://www.kfw.de/KfW-Konzern/Service/Download-Center/Konzernthemen/Research/Fokus-Volkswirtschaft/?redirect=78471

	Furthermore, streamlining of processes across Member States will lead to a more harmonised approach at EU level. Such streamlining is also relevant in the context of new developments in the digitalisation of application procedures that is currently ongoing in some Member States. The COVID-19 pandemic has encouraged many Member States as well as countries globally to explore further processing of digital applications rather than physical and in-person applications. Such developments may further render the place of applications irrelevant due to the wider adoption of online processing of applications and Member States may become more open to processing applications from third countries. **Third-country nationals** The measure would allow third-country workers to submit applications both from the third country and when in the EU. This will positively impact TCNs as they would no longer need to travel to some EU Member States and wait for the permit to be issued, nor force those already legally in the EU to return to their country of origin to lodge the application. This will also result in cost savings (as discussed above). TCNs will be able to commence their employment quicker and will not be subject to time waste in limbo. Thus, TCNs will not be subject to legal uncertainty whilst in the Member State and waiting to obtain their single permit. **Legal practitioners/judiciary** Familiarisation with new procedures **Third countries** This simplification measure is likely to contribute to faster and more streamlined application procedure which in turn may attract more third-country nationals wishing to come to the EU and applying for a single permit. Typically, due to the simplification, high to medium skilled workers in shortage occupations will be recruited directly from third countries which is likely to result in some loss of human capital and labour force in third countries. However, this simplification measure alone as such may not be a key driver and hence, the extent to which this could be the case is very difficult to estimate due to a multitude of factors at play. There are other positive factors at the interplay of migration and development, such as inter alia remittance flows to developing countries, possibilities for circular migration promoting skills transfers.
Economic impacts	Overall, as detailed in Annex 4, a specific quantification of the extent of the potential economic impact cannot be calculated at the level of the individual measures, due to the level of uncertainty and complexity of factors. Nevertheless, a qualitative assessment of measure 2.1 points to the fact that it is expected to contribute to improving the attractiveness of the EU and may have some positive effect on the labour market and skills matching. Firstly, the main economic impact of this measure, as described above is

	availability of labour on the EU labour market – i.e. third-country workers would have quicker access to the labour market. This in turn could lead to more efficiency on the labour market in terms of greater job matching and vacancies and shortages filled as well as potential increases in productivity. Second, other indirect impacts from the increased attractiveness of the EU are economic growth, increased tax revenue, productivity and consumption. However, this measure alone is unlikely to have sizable economic impact on its own.
Environmental impacts	No specific environmental impacts from this measure.
Fundamental rights	No specific impacts on fundamental rights from this measure.
Costs	
Administrative compliance costs	A streamlined procedure of single permit application would result in a number of cost savings for TCNs, their employers as well as national authorities. The different types of cost savings include: - Reduced application costs as the visa application is no longer required - Reduced time spent on applications and reduced travel costs - Reduced intermediary fees Some one-off and recurring costs would be incurred by national authorities, including for transposition, training, IT systems updates and maintenance, monitoring, evaluation and reporting. It is estimated that Measure 2.1 could confer yearly benefits/cost savings (a yearly average is taken from estimates computed for the period 2021- 2030) of almost EUR 400.0 million and EUR 63.0 million for TCNs and employers respectively. As for Member State authorities, (overall) one-off costs are expected to amount to about EUR 3,000,000 in the first year, while (overall) recurring costs EUR 300,000 every year thereafter. Cost savings are expected in the medium to long term, amounting to about EUR 200,000 (per annum). Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, this simplification measure is expected to positively impact the majority of stakeholders concerned. Overall, this measure is expected to have a positive impact on employers and third-country workers as well as national authorities despite some cost adjustments needed in the short run.	

Policy Measure 2.2: Visa procedure for initial entry (Article 4(3))

Figure 2. Visa procedure for initial entry (Article 4(3)) Visa to be issued if all single permit conditions are met, only one substantive assessment allowed, deadline 4 months

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	Article 4(3) establishes that the single application procedure shall be without prejudice to the visa procedures that may be required for initial entry. In the Member States where an entry visa is required, the procedure does not fall within the four-month deadline for processing a single permit application, thus delaying the overall application process. This provision is applied in a highly diverse way, which has meant in practice that TCN often have to go through duplicate procedures (e.g. visa and the single permit). The policy measure would facilitate and simplify the application procedure if Member States are required to complete the entire application assessment within 4 months period, including the processing of the visa application. In combination with the previous measure on Place of application (i.e. allowing third-country nationals to apply from outside the EU for a single permit), this measure is expected to shorten the procedure and the time for processing of the application where short or long-term visas are needed. This measure is expected to positively benefit third-country applications and those Member States in which currently such procedures are placed in terms of simplification and reduction of administrative burden. (see below for assessment of impacts on different stakeholders) The perceived benefits of administrative simplification were strongly confirmed by the stakeholder consultations, including the EGEM meeting and the Consultation with representatives of the Civil Society[147], where many members expressed concerns of the current practice in some Member States.
Objective 2: To ensure greater efficiency of application procedures	A streamlined procedure of single permit application would result in a number of cost savings for TCNs, their employers as well as national authorities. National authorities of the Member States which do not allow applications from third countries will incur some adjustment costs in the short to medium term but in the long-run, the measure is expected to result in cost savings. The different types of cost savings are examined below under Costs. Furthermore, as the current practices differ across Member State, the measure permit will result in a uniform application modality across the EU.

[147] Consultation held on 20th April 2021

	This in turn is expected to improve the attractiveness of the EU as third-country workers would no longer have to wait for the visa application in addition to the 4 months period during which the single can be issued. The ultimate impact of this measure is more efficient labour market access and ultimately better economic growth at EU level. As there is a multitude of factors influencing attractiveness and decision to migrate at macro, meso and micro (personal) level, the extent to which this simplification specific measure will contribute to improved attractiveness is difficult to calculate and to isolate the effects of other factors.
Objective 3: To address EU labour shortages	See Objective 2 above
Objective 4: To enhance equal treatment of TCNs with EU citizens	No specific effects expected on this objective
Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains above, on different stakeholder categories, including: **Employers/businesses** Employers are expected to benefit from this measure in terms of quicker access to labour resources from third-countries due to increase efficiencies. Although TCNs may be allowed to commence work on certain visas, they would not benefit of the full extent of rights that a single permit would offer. The facilitation of the procedure could also encourage more employers to hire third-country workers. SMEs are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.) and thus any simplifications in the application process are expected to benefit SMEs. **National authorities**

	National authorities in those Member States where visa application is also required and which in addition to the single permit procedure, exceeds the 4 months period will be encouraged to further streamline their processes resulting in some adaptation costs in the short run but with cost savings in the medium to long-term due to the faster and more efficient processing of the application. This will alleviate any duplication of effort in examining application procedures. Overall, this measure is expected to have positive impact on national authorities despite some cost adjustments needed in the short run. Furthermore, streamlining of processes across Member States will lead to a more harmonised approach at EU level. Such streamlining is also relevant in the context of new developments in digitalisation of application procedures that is currently ongoing in some Member States. The COVID-19 pandemic has encouraged many Member States as well as countries globally[148] to explore further processing of digital applications rather than physical and in-person applications.[149] Such developments may exacerbate efficiency and streamline of processing of applications. **Third-country nationals** The measure would speed up the application procedure in those EU Member States where visa application is also required, and which exceeds the 4 months period as per Art. 4(3). This will positively impact TCNs as they would no longer have to wait for the permit to be issued for more than 4 months as stipulated in the Directive. This will also result in cost savings (as discussed below). TCNs will be able to commence their employment quicker and will not be subject to time waste in limbo. Thus, TCNs will not be subject to legal uncertainty whilst in the Member State and waiting to obtain their single permit. **Legal practitioners/judiciary** Familiarisation with new procedures **Third countries** This simplification measure is likely to contribute to faster and more streamlined application procedure which in turn may attract more third-country nationals wishing to come to the EU and applying for a single permit. Typically, due to the simplification, high to medium skilled workers in shortage occupations will be recruited directly from third countries which is likely to result in some loss of human capital and labour force in third countries. However, this simplification measure alone as such may not be a

[148] OECD(2019) https://www.oecd.org/coronavirus/policy-responses/what-is-the-impact-of-the-covid-19-pandemic-on-immigrants-and-their-children-e7cbb7de/

[149] EMN (2020), The impact of COVID-19 in the migration area in EU and OECD countries, Available at: https://ec.europa.eu/home-affairs/sites/default/files/docs/pages/00_eu_emn_covid19_umbrella_inform_en.pdf

	key driver and hence, the extent to which this could be the case is very difficult to estimate due to a multitude of factors at play. There are other positive factors at the interplay of migration and development, such as inter alia remittance flows to developing countries, possibilities for circular migration promoting skills transfers.
Economic impacts	While it is not possible to estimate the specific potential economic impact of the individual measure (an assessment has, where possible, been carried out at the level of the policy options), qualitatively, this measure's contribution to increasing the attractiveness of the EU will positively impact the EU labour market and economic growth. Indeed, such a qualitative assessment points to the fact that the main economic impact of this measure is availability of labour on the EU labour market – i.e. third-country workers would have quicker access to the labour market. This in turn could lead to more efficiency on the labour market in terms of greater job matching and vacancies and shortages filled as well as potential increases in productivity. Other indirect impacts from the increased attractiveness of the EU, due to a potential increase in third country nationals in the EU, are economic growth, increased tax revenue, productivity and consumption.
Environmental impacts	No specific environmental impacts from this measure.
Fundamental rights	No specific impacts on fundamental rights from this measure.
Costs	
Administrative compliance costs	Measure 2.2 is estimated to attract yearly benefits/cost savings of over EUR 300.0 million to TCNs. Estimated yearly benefits for employers are an estimated EUR 70.0 million. For Member State authorities, (overall) one-off costs are expected to amount to about EUR 2.0 million (rounded to the nearest million) in the first year, while (overall) recurring costs EUR 200,000 every year thereafter. Cost savings are also expected to be accrued in the medium to long term, amounting to about EUR 2.0 million yearly (rounded to the nearest million). Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, this simplification measure is expected to positively impact the majority of stakeholders concerned by reducing the timeframe for assessing applications by national authorities. Overall, this measure is expected to have a positive impact on employers and third-country workers as well as national authorities despite some cost adjustments needed in the short run.	

Policy Measure 2.3: Including labour market tests as part of the single application procedure

Figure 3. Clarifying when the labour market test is to be launched in the procedure and that the labour market test (Art. 1(2)) is to be undertaken within the 4-months deadline for the processing of applications

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	Article 1(2) of the Single Permit Directive lays down that its provisions are "without prejudice to the Member States' powers concerning the admission of third-country nationals to their labour markets". The obligation to obtain an employment clearance for market needs tests before applying for a single permit can sometimes also cause unnecessary prolongation of the single application procedure. Indeed, some Member States reported that labour market test (LMT) process is not part of the 4-months maximum duration of the single permit application.[150] The measure would aim at clarifying when the labour market test is to be launched in the procedure and that the labour market test (Art. 1(2)) is to be conducted within the 4-months deadline for the processing of applications – and by doing so, it is expected to positively contribute to simplification and reduction of administrative burden. Similarly to the measures on Place of application and Visa procedure, this measure will also contribute to streamlining procedures, including the assessment of the Labour Market Test within the 4-months maximum period for the assessment of the single permit application.
Objective 2: To ensure greater efficiency of application procedures	A streamlined procedure of single permit application, including the labour market tests, would result in a number of cost savings for employers, national authorities and TCNs. From the perspective of TCNs, a more efficient procedure would result in cost savings related to indirect costs associated with waiting to obtain the permit and legal uncertainty (e.g. in case of rejection). From the perspective of national authorities, a more efficient and streamlined process would mean less FTEs spent per processing an application. Furthermore, as the current practices differ across Member State, the measure will result in a uniform application modality across the EU. This in turn is expected to improve the attractiveness of the EU due to more streamlined and efficient procedures. The ultimate impact of this measure is

[150] EMN Ad-Hoc Query (June 2021): EE, EL, DE, LU, PL, PT (from 18 Member States responding to the AHQ)

	more efficient labour market access and ultimately better economic growth at EU level. As there is a multitude of factors influencing attractiveness and decision to migrate at macro, meso and micro (personal) level, the extent to which this simplification will contribute to better attractiveness is difficult to calculate and to isolate the effects of other factors.
Objective 3: To address EU labour shortages	A more streamlined and efficient assessment of the application could result in encouraging employers to resort to international recruitment which in turn can alleviate labour shortages.
Objective 4: To enhance equal treatment of TCNs with EU citizens	No specific effects expected on this objective
Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains above, on different stakeholder categories, including: **Employers/businesses** Employers are expected to benefit from this measure in terms of quicker access to labour resources from third-countries. The facilitation of the procedure could also encourage more employers to hire third-country workers. SMEs are likely to bear a disproportionate burden when hiring TCNs in comparison to large enterprises due to more limited resources (e.g. legal fees, understanding of immigration law and process, etc.) and thus any simplifications in the application process are expected to benefit SMEs. **National authorities** National authorities in those Member States labour market tests are conducted outside the 4 months period will be encouraged to further streamline their processes resulting in some adaptation costs in the short run but with cost savings in the medium to long-term due to the faster and more efficient processing of the application. In the spirit of simplification, the applicant should apply to one single authority (one entry point). Other

	authorities may be involved (e.g. authorities assessing the labour market test) and should provide their opinion/decision as part of the process. Overall, this measure is expected to have positive impact on national authorities despite some cost adjustments needed in the short run. Furthermore, streamlining of processes across Member States will lead to a more harmonised approach at EU level. Such streamlining is also relevant in the context of new developments in digitalisation of application procedures that is currently ongoing in some Member States. The COVID-19 pandemic has encouraged many Member States as well as countries globally[151] to explore further processing of digital applications rather than physical and in-person applications.[152] Such developments may exacerbate efficiency and streamlining of processing of applications. **Third-country nationals** The measure would speed up the application procedure in those EU Member States where labour market test is an additional step in the process and which exceeds the 4 months period as per Art. 4(3). This will positively impact TCNs and employers as they would no longer have to wait for the permit to be issued for more than 4 months as stipulated in the Directive. This will also result in cost savings (as discussed below). TCNs will be able to commence their employment quicker and will not be subject to time waste in limbo. Thus, TCNs will not be subject to legal uncertainty whilst waiting to obtain their single permit. **Legal practitioners/judiciary** Familiarisation with new procedures **Third countries** This simplification measure is likely to contribute to faster and more streamlined application procedure in those Member States where currently the labour market test may prolong the overall decision (i.e. as set within the 4 months period). This in turn may attract more third-country nationals wishing to come to the EU and applying for a single permit. Typically, due to the simplification, high to medium skilled workers in shortage occupations will be recruited directly from third countries which is likely to result in some loss of human capital and labour force in third countries. However, this simplification measure alone as such may not be a key driver and hence, the extent to which this could be the case is very difficult to estimate due to a multitude of factors at play. There are other positive factors at the interplay of migration and development, such as inter alia

[151] OECD(2019) https://www.oecd.org/coronavirus/policy-responses/what-is-the-impact-of-the-covid-19-pandemic-on-immigrants-and-their-children-e7cbb7de/

[152] EMN (2020), The impact of COVID-19 in the migration area in EU and OECD countries, Available at: https://ec.europa.eu/home-affairs/sites/default/files/docs/pages/00_eu_emn_covid19_umbrella_inform_en.pdf

	remittance flows to developing countries, possibilities for circular migration promoting skills transfers.
Economic impacts	As outlined in Annex 4, due to high levels of uncertainty and complexity of other factors which are impossible to isolate, the potential economic impacts of the individual measures could not be quantified. However, as measures 2.1 and 2.2, a qualitative assessment shows that measure 2.3 will positively impact the EU's labour market and economic growth. The main economic impact of this measure as described above is availability of labour on the EU labour market – i.e. third-country workers would have quicker access to the labour market. This in turn could lead to more efficiency on the labour market in terms of greater job matching and vacancies and shortages filled as well as potential increases in productivity. Other indirect impacts from the increased attractiveness of the EU, due to a potential increase in third country nationals in the EU, are economic growth, increased tax revenue, productivity and consumption.
Environmental impacts	No specific environmental impacts from this measure.
Fundamental rights	No specific environmental impacts from this measure.
Costs	
Administrative compliance costs	It is estimated that Measure 2.3 could bring yearly benefits/cost savings of over EUR 129.0 million and EUR 32.0 million to TCNs and employers respectively. As for Member State authorities, (overall) one-off costs are expected to amount to about EUR 900,000 in the first year, while (overall) recurring costs EUR 200,000 every year thereafter. Cost savings, on the other hand, are expected to average to about EUR 4.0 million per annum over the medium-to-long term. Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, this measure is expected to positively impact the majority of stakeholders concerned by reducing the timeframe for assessing applications by national authorities. Overall, this measure is expected to have a positive impact on employers and third-country workers as well as national authorities despite some cost adjustments needed in the short run.	

Policy Measure 2.4: Mandating the provision of adequate information

Figure 4. Provision of information (Art.9): Mandating the provision of adequate information

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	A direct result of more adequate provision of information would be administrative simplification since applicants will be more aware and familiar with the process and documentation requirements and less likely to send queries or submit wrong or incomplete documents.
Objective 2: To ensure greater efficiency of application procedures	There are several examples of good practices in Member States which have developed a 'one-stop-shop' with clear and concise information, such as the 'Enter Finland' portal[153] or the Make it in Germany portal.[154] Such portals not only provide detailed and user-friendly information on the immigration requirements but in some cases highlight why the Member State is an attractive destination. This is especially important within the global competition for talent. Having a certain standard for minimum and adequate information provision would ensure a uniform approach to provision of information across Member States and an even level playing field between member States which in turn may positively result to the overall EU attractiveness (linked to objective 1 above). Better information provision is expected to increase the overall transparency and efficiency at different stages of the application process.
Objective 3: To address EU labour shortages	By providing adequate information on the immigration process, requirements and obligations and rights linked to the permit, Member States can increase attractiveness for third-country nationals as TCNs would not be discouraged due to unclear information or what may seem complex or ambiguous requirements.
Objective 4: To enhance equal treatment of TCNs with EU citizens	Better provision of information is likely to help increase the knowledge of rights and benefits stemming from the single permit.
Objective 5: To protect third-country national	Better provision of information, including in the native language(s) of the third-country national if possible or in English, is likely to result in more awareness of their rights and requirements.

[153] https://enterfinland.fi/
[154] https://www.make-it-in-germany.com/en/

workers from labour exploitation	
Impacts	
Social impacts	**Employers/businesses** This measure is expected to also positively benefit employers and business as they will benefit from adequate provision of information, especially when the burden of application falls on the employer (or where it is shared with the TCN). This will also likely to impact positively SMEs for whom application procedure was too complex and prohibitive in terms of costs (as SMEs are unlikely to have the purchasing power and human resources to attract TCNs workers in specific occupations as big companies may be able to do). **Member States** This measure is expected to also positively benefit Member States. Better quality information across Member States may incentivise more TCNs to migrate to the EU which is essential in the context of the global competition for talent. Furthermore, better quality information will contribute to a more efficient application process. **Legal practitioners/judiciary** No effect **Third-country nationals** The measure would benefit TCNs as they would be able to access adequate information and better quality information in those Member States which currently fall short of this provision. TCNs would be able to make a better informed choice as well as have more efficient application experience if the application process and documentation requirements are clearly set out. Furthermore, the measure could result in cost savings as TCNs will have better information at their disposal and may not need to rely on intermediaries and third parties. **Third countries** The provision of information as an attraction and simplification measure is likely to contribute to better understanding of the application procedure which in turn may attract more third-country nationals wishing to come to the EU and applying for a single permit as well as reduce dependency on intermediaries. However, the provision of information alone as such may not be a key driver and hence, the extent to which this could be the case is very difficult to estimate due to a multitude of factors at play. There are other positive factors at the interplay of migration and development, such as inter alia remittance flows to developing countries, possibilities for circular migration promoting skills transfers.
Economic	Due to the high level of uncertainty and complexity in influential factors the

impacts	specific economic impact of this individual measure is impossible to quantify, and has rather been calculated at the aggregate level of the police options instead. Nevertheless, a qualitative assessment shows that this measure is expected to indirectly contribute to the attractiveness of the EU due to better information provisions and ultimately to a more efficient and dynamic labour market. Some Member States already have developed and invested in portals and other provision of information, and thus, this measure would mainly impact those Member States which currently do not provide sufficient and/or adequate information. This increased attractiveness to the EU may then lead to potential increases in third-country nationals in the EU which may have an impact on economic growth, increased tax revenue, productivity and consumption. Nevertheless, it is important to keep in mind that, as mentioned above, specific economic impact would be even more difficult to estimate for this measure as this is only an indirect result and subject to many endogenous and exogenous factors that contribute to better attractiveness of the EU.
Environmental impacts	No environmental specific impacts identified.
Fundamental rights	No specific fundamental rights impacts identified.
Costs	
Administrative compliance costs	Measure 2.5 is expected to lead to cost savings for employers and TCNs as application costs will be reduced. National authorities are expected to incur some one-off (mostly associated with transposition) and recurring costs for updating their portals and other information outlets. They may also benefit from cost savings as less applications are likely to be incomplete or containing errors. The measure is estimated to attract yearly benefits/cost savings of about EUR 200.0 million for TCNs. Estimated yearly benefits for employers are an estimated EUR 50.0 million. For Member State authorities, no significant cost savings are envisaged. Overall one-off costs, on the other hand, are expected amount to about EUR 5.0 million in the first year, while (overall) recurring costs EUR 400,000 every year thereafter. Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, this measure is expected to have a positive impact in terms of increased attractiveness, contribute to administrative simplification and ensure a more uniform application of EU legal migration acquis. However, some Member States already have well	

developed provision of information, so the measure mainly concerns those Member States which do not have well developed information provision.

Policy Measure 2.5: Non-legislative measure: Non-binding recommendations to harmonise the implementation of equal treatment rights

Figure 5. Non-binding recommendations to improve the implementation of equal treatment rights

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	No specific effects expected on this objective
Objective 2: To ensure greater efficiency of application procedures	No specific effects expected on this objective
Objective 3: To address EU labour shortages	No specific effects expected on this objective
Objective 4: To enhance equal treatment of TCNs with EU citizens	This measure of adopting non-binding recommendations (soft law) on equal treatment is expected to positively contribute to Objective 4. Art. 12 (2) of the Directive allows for a number of possible exclusions and restrictions to TCNs' right to equal treatment in respect of some areas. The Fitness Check showed that the numerous exclusions can lead to different interpretations by Member States but also to lack of clarity. Lack of clarity and ambiguity concerning equal treatment rights can lead to confusion for potential applicants that can negatively affect the attractiveness of the EU or TCNs' integration in the host society. Thus, such soft law measure of non-binding recommendations issued to Member States by the European Commission are a potential tool to address this problem and as such, it is expected to positively contribute to the enhancement of equal treatment rights in comparison to the status quo (baseline). Where ambiguities exist, such soft law interpretations would facilitate correct implementation for Member States. However, due to its non-binding nature, this measure is a weaker option than the legislative measures on equal treatment under Option

	3 which are expected to bring greater legal certainty than non-binding (soft law) recommendations.
Objective 5: To protect third-country national workers from labour exploitation	This measure is expected to contribute positively to the protection of TCN workers from labour exploitation as Member States will receive recommendations on ambiguous equal treatment aspects of the Directive or where provisions have been applied or interpreted incorrectly in national legislation. Enhancement of equal treatment rights would also contribute to better protection against labour exploitation. However, as mentioned above, legislative measures would be preferable as they will contribute with increased legal certainty.
Impacts	
Social impacts	**Employers/businesses** No specific impacts identified. Any impacts will depend on the specifics of the recommendations and whether and how Member States take up on the non-binding recommendations. **Member States** Member States would benefit from this measure as they would receive guidance and non-binding recommendations which would help them apply the provisions of the Directive correctly and would likely result in better harmonisation. **Legal practitioners/judiciary** No specific impacts identified. **Third-country nationals** The measure would benefit TCNs indirectly as it is expected to bring clarity and potential simplification. The measure would improve Member States' application of the Directive to the effect of clarification of TCNs' rights to equal treatment. **Third countries** No specific impacts identified.
Economic impacts	Depending on the specific content of the non-binding recommendations and the extent to which Member States take up on those recommendations, the measure may contribute to increased attractiveness of the EU due to better clarity of equal treatment provisions, but due to the high level of uncertainty and complexity, it is not possible to measure such potential effects.
Environmental impacts	No environmental specific impacts identified.
Fundamental rights	This measure of adopting non-binding recommendations (soft law) on equal treatment is expected to positively contribute to several fundamental rights of the Charter of Fundamental Rights of the European Union, such as, inter alia, right to property (Art.17), non-discrimination (Art. 21) and social security and social assistance (Art. 21). The non-biding recommendations are expected to provide more clarity on these aspects. However, it is

	difficult to assess to what extent the recommendations will have a positive effect, due to their non-binding nature as well as it is unknown to what extent this tool would be used (i.e. how often would the need for such recommendations arise and the specific focus of such recommendations).
Costs	
Administrative compliance costs	There may be administrative/ compliance costs associated with this measure, though these are difficult to estimate. This is due to uncertainty around the specific content of the proposed non-binding recommendations and the extent to which Member States will take up the recommendations in practice
Overall assessment	
Overall, this measure is expected to have a positive impact in terms of enhancing equal treatment of TCNs with EU citizens. A soft law measure, such as non-binding recommendations issued to Member States by the European Commission, are a potential tool to address ambiguity and lack of clarity and as such, it is expected to positively contribute to the enhancement of equal treatment rights in comparison to the status quo (baseline). Where ambiguities exist, such soft law interpretations would facilitate correct implementation for Member States. However, due to its non-binding nature, this measure is a weaker option than the legislative measures on equal treatment under Option 3 which are expected to bring greater legal certainty than non-binding (soft law) recommendations.	

Option 3: Legislative revision of the Directive to simplify the procedure, improve rights and protection from exploitation

Policy Measure 3.1: Ensuring the permits are not linked to only one employer

Figure 6. Permit not linked to an employer: Ensuring that the permit is linked to a specific profession or sector and not to the employer (Art. 11(c))

Policy Measure 3.1.: Ensuring the permits are not linked to only one employer

Figure 7. Permit not linked to an employer: Ensuring that the permit is linked to a specific profession or sector and not to the employer (Art. 11(c))

Assessment criterion	**Assessment**
Policy objectives	
Objective 1: To simplify admission procedures	Article 11(c) of the Directive establishes that the permit holder has the right to "exercise the specific employment activity authorised under the single permit in accordance with national law". This provision can result in difficulties when TCNs wish to change employer, as they may have to lodge a new application or request an updating of the current one. This makes the permit holder too dependent on the employer. Allowing the third-country worker to be able to change employers whilst

	residing on the territory of the Member State will contribute to a certain extent to simplification and reduction of administrative burden, as TCNs may no longer need to update or change the permit in case of a change of employer. Certain administrative requirements may remain in terms of notifying the relevant authorities of the change of employer but may not require a complete new application.
Objective 2: To ensure greater efficiency of application procedures	As the current practices differ across Member States, the measure will result in a uniform application modality across the EU. This in turn is expected to improve the attractiveness of the EU due to more streamlined and efficient procedures. The ultimate impact of this measure is more efficient labour market access and ultimately better economic growth at EU level.
Objective 3: To address EU labour shortages	More flexibility for the TCN to change employer would mean more readily available resources on the labour market when it comes to filling in shortage occupations.
Objective 4: To enhance equal treatment of TCNs with EU citizens	The measure is expected to contribute to equal treatment of TCNs to national workers and EU citizens as to their position and flexibility on the labour market. Conversely, the issue of social dumping and protection of national workforces comes to the fore.
Objective 5: To protect third-country national workers from labour exploitation	Several stakeholders consulted as part of the impact assessment considered that linking the permit to one single employer placed migrants in a more vulnerable position, as they would feel prevented from complaining, denouncing abusive working conditions or exploitative episodes or resigning from their position, for fear of losing their job and consequently their permit[155]. Literature stressed that permit conditions that do not allow for the change of employers or professions might significantly enhance third-country nationals' vulnerability both in terms of job loss[156] and potential exploitation and abuse. Ensuring some flexibility regarding a change of employer would potentially avoid an unhealthy dependence of the workers on their respective employers while lowering the risk of abuse by unscrupulous employers[157].
Impacts	

[155] Third meeting of the Commission Expert Group (EG) on the Views of Migrants, 2 March 2021 and Consultation with representatives of Civil Society, 20 April 2021 (see Annex for further details).
[156] OECD (2020), What is the impact of the COVID-19 pandemic on immigrants and their children.
[157] IOM (2009), Laws for Legal Immigration in the 27 EU Member States.

Social impacts	Different social impacts will be considered based on the effects chains above, on different stakeholder categories, including: **Employers/businesses** Employers and businesses are expected to positively benefit due to the reduction of administrative barriers. **National authorities** For national authorities, the measure would mean that they will not have to re-assess the application in full, in the case of change of an employer. **Third-country nationals** TCNs are expected to benefit positively from the adoption of this measure as they will be able to change employers more easily and their residence in the Member State will not depend solely on specific employers which may put them in a vulnerable position and at risk of exploitation as discussed above. **Legal practitioners/judiciary** Familiarisation with new procedures **Third countries** No significant impacts expected.
Economic impacts	Due to the high levels of uncertainty and complexity of contributing factors, the potential economic impact could not quantified at the level of the specific individual measure, but has rather been calculated at the aggregate level of the policy options instead. A qualitative assessment highlights that measure 2.4 poses a significant potential positive impact on the EU's labour market. Indeed, positive labour market impacts are expected in terms of increased labour mobility, structural effects from the added flexibility to the labour market (i.e. more flexible supply and labour force). It is assumed that the number of additional TCNs attracted to the EU will increase, which will in turn have a positive impact on increased tax revenue, economic growth, productivity and consumption.
Environmental impacts	No specific environmental impacts from this measure.
Fundamental rights	No specific environmental impacts from this measure.
Costs	
Administrative compliance costs	The measure is expected to lead to cost savings for TCNs and employers, as they would spend less time on waiting for a decision, which means that they are unable to commence employment. National authorities will also spend less time on the application procedure in the longer term. National authorities would incur some one-off and recurring costs for transposition, adapting internal procedures and training. It is estimated that Measure 3.1 could confer yearly benefits/cost savings of

	about EUR 90.0 million and EUR 20.0 million (rounded to the nearest million) for TCNs and employers respectively. Member State authorities are expected to incur one-off costs of about EUR 600,000 in the first year, while recurring costs could amount to about EUR 300,000 every year thereafter. Cost savings are also expected to accrue, amounting to about EUR 1.0 million every year.
Overall assessment	
Overall, the measure is expected to positively contribute to a number of areas, including protection from labour exploitation as well as more flexibility on the labour market, specifically when it comes to shortage occupations.	

Policy Measure 3.2: Removing restrictions on equal treatment for access to private housing

Figure 8. Equal Treatment: Housing: Removing restrictions on equal treatment for goods and services or clarifying the text to ensure that there is no exemption on access to private housing (Art. 12(2)(d)(ii))

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	No specific effects expected on this objective
Objective 2: To ensure greater efficiency of application procedures	No specific effects expected on this objective
Objective 3: To address EU labour shortages	No specific effects expected on this objective
Objective 4: To enhance equal treatment of TCNs with EU citizens	Art. 12(1)(g) of the Directive provides for equal treatment of third-country workers with nationals of the Member State with regard to "*access to goods and services […] including procedures for obtaining housing as provided by national law, without prejudice to the freedom of contract in accordance with Union and national law*". In reference to this provision, 12 (2) (d)(ii) provides for the optional possibility for Member States to restrict "*access to housing*".

	Currently, nine Member States have transposed the optional clauses in Article 12(2) restricting equal treatment regarding *inter alia* access to housing.[158] Cyprus has chosen to adopt all optional restrictions, and the other seven Member States (BG, CZ, ES, HR, LU, RO and SK) did not apply any of the options[159]. Data from the EMN Ad-hoc query showed that five Member States (AT, EE, FI, PL, SI) apply exclusions from the right to access to private housing, while eleven others (CY, EL, FR, DE, HU, LV, LU, NL, PT, SK, NO) do not.[160] In addition, in all five Member State that apply exclusions from the right to access to private housing, there are restrictions on the purchase of private property for EU long-term residence or other TCNs. Clarifying the text of the main Directive article and the exclusions in Art. 12(2)(d) to stipulate that access to private housing is not included among those restrictions, would guarantee that no difference in treatment exists between TCNs and EU nationals. Third-country nationals would be able to access housing opportunities which in turn is expected to improve integration into the receiving society and their living environment and conditions.
Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	Different social impacts will be considered on different stakeholder categories, including: **Employers/businesses** No expected impacts on this group of stakeholders **Member States** Member States would be positively impacted as the measure will help boost a greater level of integration of migrants in their respective society. The measure would ease access to private housing that leaves TCNs more freedom in choosing/purchasing houses that best suit their needs. In some cases, the measure could also help reduce spatial segregation. **Third-country nationals**

[158] Fitness Check on EU Legislation on legal migration (2019), SWD(2019) 1056 final, part 1
[159] COM(2019) 160 final.
[160] EMN (2021) AHQ for Impact assessment on revision of the Long-term Residents and Single Permit Directives (Question 3)

	A measure aimed at ensuring that there are no restrictions to access to private housing would allow third-country workers to enjoy a higher degree of equal treatment in those Member States which applied such restrictions in their national legislation. This is expected to positively impact TCNs' access to private housing and improve their household's living conditions. Nevertheless, as Member States could still restrict access to public / social housing, those in a more precarious economic situation may still face difficulties. Another positive expected outcome is that TCNs will no longer be subject to legal uncertainty whilst in the Member State and depending on the legislation of the country where they reside. This measure is also expected to increase third-country nationals' integration in the country they are residing in. **Family Members of third-country nationals holding a single permit** The measure would also improve housing and living standards for family members residing in Europe who cohabitate with permit holders. **Legal practitioners/judiciary** No expected impacts on this group of stakeholders **Third countries** No expected impacts on third countries
Economic impacts	The potential economic impacts remain impossible to quantify at the level of a specific individual measure, due to a variety of factors that are too uncertain to determine. Rather, potential economic impacts have been calculated at the aggregate level of the policy options instead. Nevertheless, a qualitative assessment underlines that given that the scale of the problem appears to be very small, as it refers only to those countries where national legislation limit TCNs in buying (or possibly renting) houses, the overall economic impacts, such as potential increased tax revenues and the economic growth of those concerned Member States, might also be particularly limited. Despite the small scale of this issue a qualitative assessment of economic impact also points to the fact that broadening the housing market to additional buyers is likely to have some positive impacts at the local level. Local economies could, in fact, benefit from a small increase in fiscal revenue coming from the relevant real estate taxes paid by TCNs and the local housing market could somewhat improve, yielding better prices for sellers.
Environmental impacts	No specific environmental impacts from this measure
Fundamental rights	- Art. 21 Non-discrimination. Foreseeing a measure ensuring that there is no exemption on access to private housing would give TCNs the same social rights granted for EU

	citizens. In this sense, while overcoming any discrepancy in equal treatments between EU and Non-EU citizens, this measure is expected to positively promote fundamental non-discrimination.
Costs	
Administrative compliance costs	Considering that only nine Member States have transposed the optional clauses in Article 12(2) restricting equal treatment regarding, among others, access to housing, and even fewer are known to have applied the restriction on private housing, the scale of the issue might result very small. **Direct Costs for Member States**: Foreseeing a provision that ensures that access to private housing is granted for permit holders, is only expected to generate some and marginal administrative compliance costs to adapt the current national procedures in those Member States affected. It is estimated that Measure 3.2 will bring about (overall) one-off costs to Member States authorities of about EUR 300,000 in the first year, while (overall) recurring costs could amount to about EUR 50,000 every year thereafter. Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Simplification	No specific simplification costs are expected from this measure
Overall assessment	
Overall, this measure is expected to positively impact third-country nationals who will access and improve their household's living conditions in those Member States where restriction to private housing is now in place, favouring equal treatment and non-discrimination of TCNs	

Policy Measure 3.3: Access to Family Benefits - Introducing a recital in order to clarify that if EU nationals can export family benefits to third countries in case the family members reside outside the EU, this should also apply to third-country nationals

Figure 9. Access to Family Benefits - Foreseeing a provision that allows taking into account the family members outside the EU when calculating the amount of family benefits to be paid to TCNs

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	No specific effects expected on this objective
Objective 2: To ensure	No specific effects expected on this objective

greater efficiency of application procedures	
Objective 3: To address EU labour shortages	No specific effects expected on this objective
Objective 4: To enhance equal treatment of TCNs with EU citizens	At present, access to family benefits by EU citizens and TCNs varies across Member States. Member States are free to establish their own rules on entitlement to benefits and services, and all countries offer some family benefits, but amounts and conditions differ widely. Also, in the case of claiming child benefit for a child or children who are not residing in the territory of the Member States, national legislation might take different approaches. However, a measure that will enable TCNs to also be entitled to receive family benefits for those family members reside outside the EU, would ensure that no difference in treatment exists between holders of a single permit and EU nationals. Such a measure would guarantee that the single permit holder's family member(s) are considered when determining the TCN's entitlement to family benefits. To conduct a comprehensive impact assessment of such a measure, it is necessary to understand which countries allow claiming child benefit if the family member does not live in the Member State territory. Data from the EMN Ad-Hoc Query showed that in five Member States (CY, FI, DE, PL, PT) the family members residing outside the EU are considered when calculating the amount of family benefits granted to EU nationals and legally staying third-country national.[161] In the Netherlands, family members residing outside the EU are only provided with family benefits in the case of a bilateral agreement between the Netherlands and the country of residency. Foreseeing a provision that allows taking into account the family members outside the EU when calculating the amount of family benefits to be paid to TCNs (if this is the case for EU nationals) would ensure that no difference in treatment exists between holders of a single permit and EU nationals. No matter where the family member(s) of the single permit holder is located, they would be considered when determining entitlement of the permit holder to family benefits, and the third country workers would benefit from the same treatment as the EU citizens.

[161] EMN (2021) AHQ for Impact assessment on revision of the Long-term Residents and Single Permit Directives (Question 9)

Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	Different social impacts will be considered on different stakeholder categories, including: **Employers/businesses** Employers depending on the Member States might be responsible for the entire or partial cost related to the payment of family benefits (such as child care) to employees. Such a measure could thus also affect this category of stakeholders. However, the size of this impact might be difficult to examine considering the different rules applied at the national levels. This measure would affect those Member States that take into account for family benefits calculations, family members of EU nationals residing outside the EU but not family members of TCNs nationals. Employers are expected to indirectly benefit from this measure as third-country nationals would be more attracted to work in Europe. **Member States** In those Member States where this measure would apply, Member States might encounter some positive and negative effects. Concerning the latter, the EU countries might may face an increase in the costs that need to be borne to ensure the inclusion of additional family members when determining entitlement to family benefits. Conversely, Member States might envisage economic growth and increased tax revenue as a result of the improved attractiveness of the EU. However, as many factors influence the extent of these effects, latter impacts, such as the number of Member States affected by the change, any estimation of the number of third-country workers TCNs who have family members abroad, the impact on the decision to migrate, etc., it will not be possible to the assessment might result in difficulty calculating and isolating the effects of other factors and quantification may therefore not be possible. **Third-country nationals** The measure would allow third-country workers to enjoy equal treatment as foreseen for EU nationals regarding family benefits also in the case their family member is residing outside the EU. This will positively impact TCNs as they would have a uniform scheme that recognises such benefits among all the EU they will equal treatment with the nationals of the Member State

	in which they are residing. **Family Members of third-country nationals holding a single permit** The measure would also improve living standards for family members of those third-country nationals residing in Europe, whether they reside in Europe or their country of origin. **Third countries** Third countries are likely to experience some positive effect on possible brain drain as family members of third-country nationals would be ultimately more inclined to, at least initially, keep residing in their country of origin, as they would not feel the need to move to Europe. On the other hand, other TCNs may feel more inclined to move to the EU and leave family members behind, because of this opportunity offered.
Economic impacts	The quantifiable economic impacts could not be estimated at the level of the specific individual measure due to the uncertainty and complexity of influential factors, but have rather been calculated at the aggregate level of the policy options. A qualitative assessment suggests that the introduction of this measure could prompt potential positive impacts to the EU's labour market, economic growth, as well as increased tax revenue, consumption and productivity. In fact, policy measure 2.7 might, in some Member States, provide additional transfer payments destined for dependent family members living in third countries. This will have the positive economic impact of improving their living conditions and thus indirectly also improving the economy. The policy measure may also, again where applicable, make labour migration to the EU more attractive, as migrating third-country nationals would consider that their dependent family members would be taken care of. This in turn would contribute to increased tax revenue, productivity, consumption and economic growth in the Member States, which would grant this benefit. .
Environmental impacts	No specific environmental impacts from this measure
Fundamental rights	- Art. 21 Non-discrimination. Foreseeing this measure in those countries where EU citizens are allowed to receive family benefits also if the family members reside outside would give TCNs the same social rights granted for EU citizens. In this sense, while overcoming any discrepancy in (equal) treatments between EU and Non-EU citizens, this measure is expected to positively affect the promotion of the fundamental non-discrimination right. - Art. 34 Social security and social assistance. Such a measure would ensure higher financial resources for TCNs while improving the household's living conditions. Thus, this measure is expected

	to provide a better living and economic existence for all TCNs while helping in combating social exclusion and poverty, as prescribed under Article 34 of the EU Charter of Fundamental Rights.
Costs	
Administrative compliance costs	Foreseeing a provision that allows third-country nationals to export family benefits also in case the family members reside outside the EU would result in some costs that Member States have to afford to ensure such further coverage and implement a new procedure. Measure 3.3 is estimated to bring about (overall) one-off costs to Member State authorities of about EUR 1.0 million in the first year and (overall) recurring costs of about EUR 300,000 every year thereafter. Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, this measure is expected to positively impact third-country nationals and their family members while ensuring equal treatment. This measure is also expected to have a positive impact in terms of increased attractiveness. However, difficulties in comparing different countries' systems might occur, so assessing the costs could prove challenging.	

Policy Measure 3.4 - Removing the possibility to exclude those working on the basis of a visa from family benefits (if the visa is valid for more than six months)

Figure 10. Assessment measure: Equal Treatment: Removing the possibility to exclude those working on the basis of a visa from family benefits (if the visa is valid for more than six months)

Assessment criterion	Assessment
Policy objectives	
Objective 1: To simplify admission procedures	No specific effects expected on this objective
Objective 2: To ensure greater efficiency of application procedures	No specific effects expected on this objective
Objective 3:	No specific effects expected on this objective

To address EU labour shortages	
Objective 4: To enhance equal treatment of TCNs with EU citizens	Art. 12(1)(e) of the Directive provides for equal treatment of third-country workers with nationals of the Member State with regard to "branches of social security". These branches include, among other things, family benefits. In reference to this provision, Article 12 (2)(b) provides for the optional possibility for Member States to exclude from family benefits third-country nationals who are allowed to work on the basis of a visa. This means that if a Member State issues long stay visas for a duration exceeding six months which allow the holder to work before obtaining the single permit, the third-country national would not be entitled to access to family benefits for up to a year. Currently, the majority of Member States have not applied all the options laid down in Article 12(2) to restrict equal treatment. Only Cyprus has chosen to adopt all optional restrictions, while BG, CZ, ES, HR, LU, RO and SK did not apply any of the options.[162] To understand the scale of the issue it is still not clear how many Member States have implemented the option that restricts access to family benefits for visa holders, in accordance with Article 12(2)(b). A measure aimed at removing the possibility of excluding those migrants working on the basis of a visa valid for more than six months from family benefits would ensure that regardless of the type of document they have been issued with, they will enjoy equal treatment. They would no longer be subjected to different legislation, and their rights would no longer depend on the type of document that the Member State issued.
Objective 5: To protect third-country national workers from labour exploitation	No specific effects expected on this objective
Impacts	
Social impacts	**Employers/businesses** Employers, depending on the Member State, might be responsible for the entire or partial cost related to the payment of family benefits to employees. However, the size of this impact is difficult to examine considering the various rules applied at the national levels. Moreover, employers are

[162] COM(2019)160

	expected to indirectly benefit from this measure as third-country nationals may be more attracted to work in Europe. **Member States** Member States where this measure would apply, might experience some positive and negative effects. Regarding the negative effects, the concerned EU countries might face some increase in the costs as they would need to adapt their rules to ensure that also visa holders who were excluded could also have access to family benefits. On the other hand, Member States might experience some economic growth and increased tax revenue thanks to the improved attractiveness of the EU. **Third-country nationals** The measure would allow third-country workers to enjoy equal treatment regarding family benefits also in the case they are allowed to work on the basis of a visa valid for more than six months. Such a measure would positively affect visa holders as they would be subject to a uniform scheme that recognises such benefits in all the EU Member States. They would not face legal uncertainty due to the different legislation of the EU countries or depending on the type of document the country issued. This policy measure would also improve their living standards as they would be eligible for additional benefits/resources. The policy measure would apply to third-country workers holding a visa that exceeds six months in those Member States that made use of the optional clause foreseen in Article 12 (2)(b). The scale of the issue is however unclear. **Family members of third-country nationals** allowed to work on the basis of a visa (if the visa is valid for more than six months) The measure would also improve living standards for family members of those third-country nationals allowed to work in the EU based on a visa whose duration exceeds six months. **Third countries** Third countries may experience marginal brain drain as TCNs may feel more motivated to move to the EU because of the removal of such restriction. **Legal practitioners/judiciary** Legal practitioners might encounter additional queries to clarify the procedures applicable to their own Member State to request family benefits. The need for legal counselling and/or recourse to appeals can thus be increased if such a measure is implemented.
Economic impacts	Potential economic impacts remain impossible to quantify at the level of a specific individual measure, due to the levels of uncertainty from influencing factors. These have rather been calculated at the aggregate level of the policy options instead. However, a qualitative assessment points to

	the fact that this measure may have a positive economic impact on the labour market, thus economic growth, tax revenue, productivity, consumption and remittances. For instance, in those Member States where the policy measure would apply, this might result in some additional transfer payments destined for those third-country workers originally excluded from family benefits. However, this measure will have the positive economic impact of improving the living conditions of TCNs and consequently indirectly improve the general economy. The policy measure may also make labour migration to the EU more attractive, as migrating third-country nationals would consider this additional benefit they would benefit from. This, in turn, would contribute to increased tax revenue and economic growth in the Member States, which would grant this benefit.
Environmental impacts	No specific environmental impacts from this measure
Fundamental rights	- Art. 21 Non-discrimination. Foreseeing this measure in those countries that excluded from family benefits third-country nationals who are allowed to work on the basis of a visa would give TCNs the same social rights granted for EU citizens. In this sense, while overcoming any discrepancy in (equal) treatments between EU and Non-EU citizens, this measure is expected to positively promote the fundamental non-discrimination right. - Art. 34 Social security and social assistance. Such a measure would ensure higher financial resources for TCNs while improving their living conditions. Thus, this measure is expected to provide a better living and economic existence for all TCNs while helping in combating social exclusion and poverty, as prescribed under Article 34 of the EU Charter of Fundamental Rights.
Costs	
Administrative compliance costs	Removing the possibility to exclude those working based on a visa from family benefits will generate some administrative compliance costs for Member States to ensure such further coverage. Moreover, Member States might face additional administrative costs linked to the need to provide information to TCNs, state reasons in writing for decisions rejecting a request to obtain family benefits, and provision of documentation. EUR 2.0 million are the estimated (overall) one-off costs expected in the first year for Member State authorities from Measure 3.4. Total recurring costs, on the other hand, could amount to about EUR 12.0 million annually, owing to the need to review additional applications for benefits. Annex 6 of

	the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Generally, this measure is expected to improve third-country workers' living standards. It would also entitle them to enjoy equal treatment regarding family benefits also in the case they are allowed to work on the basis of a visa valid for more than six months. This measure is also expected to reduce legal uncertainty significantly while increasing the EU attractiveness.	

Policy Measure 3.5: Further clarifying the categories falling outside the scope of application of the Directive (intra-corporate transferees, seasonal workers and workers posted from third countries) by making clear references to the relevant acquis

Figure 11. Assessment of measure: Personal scope: further clarifying the categories falling outside the scope of application of the Directive (intra-corporate transferees, seasonal workers and workers posted from third countries) by making clear references to the relevant acquis.

Assessment criterion	**Assessment**
Policy objectives	
Objective 1: To simplify admission procedures	No effect on this policy objective
Objective 2: To ensure greater efficiency of application procedures	No effect on this policy objective
Objective 3: To address EU labour shortages	No effect on this policy objective
Objective 4: To enhance equal treatment of TCNs with EU citizens	The assumption is that at present, the Directive not only excluded TCNs who are intra-corporate transferees, seasonal workers and posted workers covered by the other EU Directives from its scope, but also those who are covered by national schemes with different requirements and conditions that those stipulated by the Directives. Some impact could be expected in those Member States which at present do

	not cover these categories by the single permit procedure, as they are not guaranteed procedures and harmonised equal treatment rights. In all Member States, the measure would help to reduce legal uncertainty for these categories.
Objective 5: To protect third-country national workers from labour exploitation	In those Member States which at present do not guarantee harmonised equal treatment rights to the three categories identified, the measure would indeed offer a higher level of protection from labour exploitation, as TCNs would, for example, be guaranteed equal working conditions and freedom of association.
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains, on different stakeholder categories, including: **Employers/businesses** No specific impact identified **National authorities** National authorities would have to extend the scope of the equal treatment rights currently granted under the Directive and the single permit procedure to a marginally wider group of TCNs. On the upside, this would mean some simplification in those countries which currently may have adopted a fragmented approach to the granting of equal treatment rights to these categories. On the downside, it may lead to some additional costs to ensure the implementation of these rights. **Third-country nationals** In Member States which at present do not guarantee harmonised equal treatment rights to the three categories identified, TCNs would benefit from enhanced and harmonised equal treatment rights, which would in addition help to better protect them against possible abuse and exploitation. **Third countries** Some increase in remittances may be expected.
Economic impacts	The potential economic impacts cannot be estimated at the level of a specific individual measure, but have been calculated at the aggregate level of the policy options instead. As is detailed in Annex 4, highlights how potential economic impacts were impossible to quantify, due to the fact that a variety of important factors were too uncertain to determine. Nonetheless, a qualitative assessment underlines that this measure would bring a positive economic impact, especially in the form of tax revenue and economic growth, if a higher share of TCNs would feel more inclined to remain in the EU now that they are granted equal treatment.
Environmental impacts	No specific environmental impacts from this measure.

Fundamental rights	In Member States which at present do not guarantee harmonised equal treatment rights to the three categories identified, TCN would benefit from enhanced and harmonised equal treatment rights. The fundamental rights that would be enhanced for the categories concerned are those covered by the equal treatment rights in the Directive, thus including Art. 17 Right to property, Art. 31 Fair and just working conditions, Art. 33 Family and professional life and Art. 34 Social security and social assistance. In addition, Art. 21 Non-discrimination would be enhanced.
Costs	
Administrative compliance costs	This measure aims to bring about equal treatment for certain categories of TCNs, notably: intra-corporate transferees, seasonal workers and posted workers, who are not covered by the other legal migration Directives and are excluded from the Directive. In Member States which, at present, do not guarantee harmonised equal treatment rights to the three categories identified, TCNs would benefit from enhanced and harmonised equal treatment rights. The measure may bring about some (additional) costs for Member States, notably costs associated with the provision of equal treatment rights to TCNs falling under the three categories identified. The quantification of costs associated with Measure 3.5 is nonetheless problematic as it is difficult to estimate the number of TCNs, across the different categories, who would likely be affected by the measure. **Given the high degree of uncertainty around parameters of interest and the lack of reliable data, quantification is not pursued for Measure 3.5**.
Overall assessment	
Overall, this measure would offer a greater degree of legal certainty and an enhanced set of rights for the three categories of TCNs, as they may not be covered by harmonised equal treatment rights and the single permit procedure in some Member States.	

Policy Measure 3.6 Including beneficiaries of national protection at least in the equal treatment chapter

Figure 12. Assessment of measure: Including beneficiaries of national protection at least in the equal treatment chapter

Assessment criterion	**Assessment**
Policy objectives	
Objective 1: To simplify admission	No effect on this policy objective

procedures	
Objective 2: To ensure greater efficiency of application procedures	No effect on this policy objective
Objective 3: To address EU labour shortages	No effect on this policy objective
Objective 4: To enhance equal treatment of TCNs with EU citizens	At present, at least seven Member States exclude beneficiaries of some national protection statuses from equal treatment (access to social assistance).[163] In these Member States, some impact may thus be expected, although the number of national protection statuses is relatively low (e.g. in 2019 less than 2,000 first permits were issued in these countries, no stock data is available). In all Member States, the measure would help to reduce legal uncertainty for these categories.
Objective 5: To protect third-country national workers from labour exploitation	In those Member States which at present do not guarantee harmonised equal treatment rights to national protection status holders, the measure would indeed offer a higher level of protection from labour exploitation, as TCNs would, for example, be guaranteed equal working conditions and freedom of association.
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains, on different stakeholder categories, including: **Employers/businesses** Some impact on employers may occur as these categories of TCNs could now be subject to the single procedure in some Member States, which could reduce the administrative burden associated with their recruitment. **National authorities** National authorities in at least seven Member States would have to extend the scope of the equal treatment rights currently granted under the Directive to a somewhat wider group of TCNs. On the upside, this would mean some simplification in those countries which currently may have adopted a fragmented approach to the granting of equal treatment rights to these categories. On the other hand, it may lead to additional costs to

[163] BG, EE, IT, LT, MT, NL, PL only provide access to core social benefits for some national statuses - Comparative overview of national protection statuses in the EU and Norway, EMN Synthesis Report 2019

	ensure the implementation of these rights. **Third-country nationals** In Member States which at present do not guarantee harmonised equal treatment rights to this category of TCNs, they would benefit from enhanced and harmonised equal treatment rights, which would in addition help to better protect them against possible abuse and exploitation, and improve their integration. **Third countries** No effect.
Economic impacts	The potential economic impact brought by this specific individual measure cannot be quantified, due to a variety of uncertain and complex factors. Instead, potential economic impacts have been calculated at the aggregate level of the policy options. However, a qualitative assessment indicates that any potential economic impact of this measure is expected to be low. The positive effect on the integration of this group of TCNs may also improve their chances on the labour market, which would thus result in an increase in tax payments and a small contribution to the economic growth of the Member States. The economic impacts are expected to be marginal due to the small population size of beneficiaries of national protection and the fact that there is no direct link to the economic impacts of this measure.
Environmental impacts	No specific environmental impacts from this measure.
Fundamental rights	In the seven Member States which currently do not guarantee equal treatment, the fundamental rights that would be enhanced for this category are all those covered by the equal treatment rights in the Directive, thus including Art. 17 Right to property, Art. 31 Fair and just working conditions, Art. 33 Family and professional life and Art. 34 Social security and social assistance. In addition, Art. 21 Non-discrimination.
Costs	
Administrative compliance costs	This measure aims to bring about harmonised equal treatment rights to TCNs who have a national protection status. The measure aims to offer a higher level of protection from labour exploitation to this specific category of TCNs as TCNs would be guaranteed equal working conditions and freedom of association. The measure is expected to bring about (additional) costs for Member States, notably costs associated with the provision of equal treatment rights to TCNs falling under the above category. The quantification of costs associated with Measure 3.15 is nonetheless problematic:

	The Member States which do not presently guarantee harmonised equal treatment rights to TCNs within the concerned category (i.e. "affected Member States") are not known. The number/ proportion of affected TCNs is not certain – there is evidence that TCNs with national protection statuses could be relatively low; however stock data are not available. **Given the degree of uncertainty around parameters of interest and the lack of reliable data, quantification is not pursued for Measure 3.6**.
Overall assessment	
Overall, this measure would offer a greater degree of legal certainty and an enhanced set of rights for a category of TCN which in at least seven Member States are not fully treated equally.	

Policy Measure 3.7 Include similar provisions to Art. 17, Art. 24 and Art.25 of the SWD, including: Sanctions, Compensation Monitoring, assessment and inspections Facilitation of complaints

Figure 13. Include similar provisions to Art. 17, Art. 25 and Art.25 of the SWD, , including: Sanctions, Compensation Monitoring, assessment and inspections Facilitation of complaints

Assessment criterion	**Assessment**
Policy objectives	
Objective 1: To simplify admission procedures	No effect on this policy objective
Objective 2: To ensure greater efficiency of application procedures	No effect on this policy objective
Objective 3: To address EU labour shortages	No effect on this policy objective
Objective 4: To enhance equal	See Objective 5 below

treatment of TCNs with EU citizens	
Objective 5: To protect third-country national workers from labour exploitation	The Seasonal Workers Directive 2014/36/EU is the first sectoral EU legal migration Directive to include specific provisions on employer sanctions. This is due to the particular vulnerability of seasonal workers and the high number of violations against these workers. The effectiveness of the Seasonal Workers Directive has not been evaluated yet.[164] A recent EMN Study on seasonal workers[165] showed that eleven Member States reported having specific procedures to protect seasonal workers who lodge complaints (as per Article 25), while the remaining Member States confirmed having in place general procedures which apply to both EU and non-EU workers and allow seasonal workers to make such complaints. In 18 Member States, specific sanctions were introduced for employers failing to fulfil their obligations towards seasonal workers. The Study also found that there may still be many cases of abuse (including issues of trafficking) that are not reported, mainly because seasonal workers are not aware of their rights, or they are reluctant to report infringements by employers due to their dependence on those employers. Information provision to seasonal workers remains difficult, although some best practices have been implemented (e.g. by directly approaching seasonal workers with information at their workplace). Article 17(1) provides for effective, proportionate and dissuasive sanctions against employers who have not fulfilled their obligations. Article 24 obliges Member States to provide for measures to prevent possible abuses and to sanction infringements, including monitoring, assessment and, where appropriate, inspection in accordance with national law or administrative practice. Article 25 further provides for effective complaints mechanisms and facilitation of complaints. The Single Permit Directive is an umbrella Directive and covers different categories of third-country workers (including low and medium skilled who may be more susceptible to exploitation). Including similar provisions in a revised Single Permit Directive would contribute to the protection of all third country workers falling within scope of the Directive from labour exploitation. The need to protect third-country nationals and avoid labour exploitation[166] was one of the areas highlighted by stakeholders consulted via the Open

[164] At the time of the Fitness Check study, the adoption of the SWD was considered too recent to evaluate its impact yet.

[165] Available at: https://emn.ie/wp-content/uploads/2020/12/2020_eu_seasonal_workers_study_synthesis_report_en.pdf

[166] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/swd_2019-1055-staff-working-part2.pdf, p.20

	Public Consultation held within the framework of the Fitness check was. Stakeholders consulted in the more recent Public Consultation on the future of legal migration, concluded in December 2020, emphasised the need for a more ambitious, horizontal approach in the legal migration legislation, and conveyed dissatisfaction with the implementation of the Directives in general in some Member States. Stakeholders also considered that enforcement of equal treatment provisions and protection against exploitation should be carried out by making general labour inspection and complaints mechanisms more accessible and effective for all migrant workers[167]. In this sense, in order to increase Member States' capacity to address irregularities with a cross-border dimension, one of the objectives of the European Labour Authority (established in 2019) is to support national authorities in carrying out concerted and joint inspections, including by facilitating the implementation of the inspections. However, the mandate of the European Labour Authority is limited to ensuring fair and effective enforcement of the EU rules on labour mobility and social security coordination, thus it does not extend to labour exploitation of single permit holders, who are not exercising intra EU labour mobility. In terms of the stakeholders involved at national level, the Commission Expert Group on the Views of Migrants highlighted that NGOs and workers unions should be included in monitoring and evaluation mechanisms. This has been reinforced also in a recent study which highlights that in some Member States, NGOs do not have access to courts for equal treatment cases. In some contexts, however, NGOs may be the ones with greater awareness and trust-based communication channels to TCNs and thus, the study suggests that the Directive could grant NGOs and other third parties this legal standing[168]. Furthermore, a recent EMN study on protecting the rights of seasonal workers[169] concluded that typically several actors are responsible for monitoring (through e.g. ad hoc inspection) and for imposing sanctions for any violations. Still, there may be many cases of abuse (including issues of trafficking) not reported, mainly because seasonal workers are not aware of their rights, or they are reluctant to report infringements by employers due to their dependence on those employers. Information provision to seasonal workers remains difficult, although some best practices have been implemented (e.g. by directly approaching seasonal workers with information at their workplace).

[167] European Commission (2021). Report on the consultation on the future of EU legal migration
[168] Available at: https://www.epc.eu/content/PDF/2021/Immigration_Issue_Paper.pdf
[169] Available at: https://emn.ie/wp-content/uploads/2020/12/2020_eu_seasonal_workers_study_synthesis_report_en.pdf

	However, the consultation with the Legal Migration Contact Group showed that national representatives of some Member States do not believe that the issue of exploitation should be tackled at EU level as it is closely connected to the national labour market system or should be tackled in other existing instruments, such as the Employers Sanctions Directive. Similarly, some members of the EGEM group considered that the need of a European approach on protection against labour exploitation is disputable as there are already rules at national level for the protection, inspections, monitoring, and sanctions. In their view, more coordination between the European Labour Authority and the National Labour law enforcements should be enough, including the exchange of different procedures and good practices of the Member States in the revised Directive, or to make them accessible in a place at EU level from which Member States can find examples of how to implement a better protection against exploitation. Experts have highlighted that any provisions should be aligned with the ILO's Convention on Forced Labour Protocol of 2014 to the Forced Labour Convention, 1930 to which many Member States are already signatories.[170]
Impacts	
Social impacts	Different social impacts will be considered based on the effects chains, on different stakeholder categories, including: **Employers/businesses** Potentially tougher measures against exploitation will contribute to preventing, detecting and sanctioning malicious practices of employers and businesses against third-country nationals. The measure is likely to have positive effects and strengthen the level playing field for law-compliant businesses, as it would deter unfair competition. **National authorities** Some adjustment may be required in those Member States where the systems may require adaptation to meet the standards of the Directive. As highlighted above, Member States and other experts have expressed their views and preferences for the issue to be tackled at national level. Thus, reluctance from some Member States to adopt further measures at EU level can be expected. **Third-country nationals** Positive social impact to third country workers is expected as the measure will help protect them from labour exploitation through establishing or adapting monitoring, complaints and sanctions mechanisms in those Member States that the systems may require adaptation to meet the standards of the Directive.

[170] Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

	Third countries Some positive impacts on remittances can be expected as a result of limiting exploitative practices.
Economic impacts	Whilst the potential economic impact could not be quantified at the level of this specific individual measure, due to the complexity and uncertainty of influential factors, it has been calculated at the aggregate level of the policy options. Nonetheless, a qualitative assessment points to the fact that it will have a substantial positive economic impact, through expanding the material scope and tackling exploitation. In fact, Positive economic impacts can for example be expected in terms of reduction of grey and shadow economy from labour exploitation of third country workers. Tackling exploitation is expected to also reduce downward pressure on wages resulting from exploitation and social dumping practices (and as a result benefitting wider workforces). Further benefits include fiscal benefits from tax collection. The positive outcomes would include fairer payment and employers investing in fair working conditions which may increase labour productivity in the medium to long run.
Environmental impacts	No significant impacts
Fundamental rights	Article 5 Prohibition of slavery and forced labour This measure is expected to positively contribute to preventing labour exploitation and thus an overall positive impact is expected to fundamental rights of third county workers, specifically to Art 5 of the Charter of Fundamental Rights to the European Union.
Costs	
Administrative compliance costs	Scale of the problem: Estimating the size of the problem of labour exploitation is challenging for a number of reasons. First, there is no definition of 'labour exploitation'[171]. This, combined with the fact that labour exploitation is harder to detect, places victims of moderate cases of exploitation at particular risk of being sanctioned for illegal work, while also facing numerous barriers to access justice as victims of labour exploitation[172]. Therefore, comparing and aggregating data on the range of

[171] There is no universally agreed definition of labour exploitation, as a phenomenon it is a continuum which ranges from with slavery and forced labour on one end and sub-standard employment conditions or terms on the other end. Labour exploitation may take a number of specific forms including among other things no salary paid or salary considerably below legal minimum wage; lack of social security payments; extremely long working hours; very few or no days of leave; working conditions differ significantly from what was agreed; worker lives at the workplace; passport / id retained, limited freedom of movement. (Source: European Commission (2018), 1055 final, Legal Migration Fitness Check Final Evaluation Report: Supporting Study)

[172] Nierop, P. et Al. (2021), Counteracting undeclared work and labour exploitation of third country national workers

	practices linked to labour exploitation across the EU would imply availability of comparable: (1) criminal justice data on a range of reported crimes (from severe forms of labour exploitation, to forced labour, to trafficking for the purposes of labour exploitation); (2) data from institutions issuing sanctions on administrative violations linked to labour laws and standards. Second, as with other categories of crimes, the levels of unreported crime are significant. **Cost items**: Costs for prevention measures (e.g. dissemination of information): FTEs and other costs Costs for inspections: e.g. number of FTEs and other material costs for carrying out inspections Cost for setting up or adapting monitoring systems at national level: IT costs, staff costs (one-off cost) FTEs for processing a complaint (unit cost) Cost for setting up or adapting complaint mechanisms: IT costs, staff costs (one-off cost) FTEs for processing a complaint (unit cost) Revenue of sanctions to employers Cost for implementing sanctions It is estimated that Measure 3.7 would bring about (overall) one-off costs of about EUR 7.0 million in the first year and (overall) recurring costs of about EUR 600,000 every year thereafter to Member State authorities. Annex 6 of the accompanying study includes the main assumptions and methods used to estimate the costs of each measure, as well as Excel tables with detailed calculations.
Overall assessment	
Overall, positive social impact on third country workers is expected as the measure will help protect them from labour exploitation through establishing or adapting monitoring, complaints and sanctions mechanisms in those Member States that the systems may require adaptation to meet the standards of the Directive. However, Member States and other experts consulted have expressed reluctance for issue of exploitation to be tackled at EU level as it is closely connected to the national labour market system. The impact is very difficult to be quantified due to the hidden nature of the phenomenon as well as the number of assumptions that would need to be made. Experts have highlighted that any provisions should be aligned with the ILO's Convention on Forced Labour Protocol of 2014 to the Forced Labour Convention, 1930 to which many Member States are already signatories.[173]	

[173] Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029

Annex 6: Executive Summary of the Fitness Check

15.1. 1. Context and objectives

The EU legal migration framework is laid down in several directives[174], adopted between 2003 and 2016, which cover various categories of third-country nationals and regulate various aspects of the migration process (in particular admission and residence conditions, equal treatment rights and mobility within the EU).

The main purpose of this fitness check is to assess whether the EU legal migration framework is still fit for purpose, to identify **any inconsistencies and gaps**, and to look for possible ways **to streamline and simplify existing rules**. The fitness check, which started in 2016, was supported by a thorough **consultation process** – including an open public consultation and targeted consultation of key stakeholders (Member States, the European Parliament, the European Economic and Social Committee, Non-Governmental Organisations, and economic and social partners) – as well as by an external study.

15.2. 2. Key findings

The fitness check assessed the EU's *acquis* on legal migration against **five criteria**: relevance, coherence, effectiveness, efficiency, and EU added value.

Relevance

EU policy on legal migration remains broadly in line with the **general objectives** set at the 1999 European Council in **Tampere** and translated into the **Lisbon Treaty**, namely to ensure efficient management of migration flows to the EU and fair treatment for legally resident third-country nationals. However, there have been changes in the policy **specific objectives**, following changes in the overall political framework in the field of migration: from setting common minimum standards on rights, admission and residence conditions for *all* third-country nationals, to attracting *the third-country nationals that the EU economy 'needs'*, who can contribute to addressing skills and labour shortages, thus making the EU more competitive.

The evaluation has shown that **the objectives of the Directives are still relevant** to the EU's current needs in terms of legal migration. However, a number of potential **gaps** between objectives and needs have been identified. These relate mainly to the directives' **material scope:** they do not cover various problems occurring in the course of the various 'migration phases', such as the procedures for obtaining an entry visa, nor include – at least as far as admission conditions are concerned – major categories of third-country nationals, such as non-seasonal low- and medium-skilled workers, job seekers, service providers covered by the EU's trade commitments except intra-corporate transferees, and self-employed people/entrepreneurs.

Although these gaps are generally covered by **national rules** (for instance, all Member States have national schemes for the admission of low- and medium-skilled third-country workers), and although these categories are partly covered at EU level as

[174] Nine directives are covered (though only those that have been in force for several years have been assessed in terms of effectiveness and efficiency): family reunification (2003); long-term residents (2003); students and researchers (2004, 2005; recast in 2016); EU Blue Card (2009); Single Permit (2011); seasonal workers (2014); intra-corporate transferees (2014).

regards admission procedures and equal treatment (through the Single Permit Directive), the result is **a fragmented system**. Though additional, more reliable data is needed to assess the magnitude of these gaps precisely, these gaps will need to be addressed by future policy developments. The evaluation also recognises the need to better understand and consider how socioeconomic and environmental factors (including climate change) may affect the relevance of the EU legal migration *acquis*.

Coherence

The analysis has shown that the legal migration directives and their objectives **are consistent and complement one another overall**. However, it has also revealed a number of specific **internal coherence issues**, most of them due to: a) the '**sectoral approach**', which implies that different directives regulate in different ways the specific needs and characteristics of the categories of migrants covered; and b) the different historical origins of the directives, each of which had its own specific characteristics, policy constraints and negotiation history. Some internal coherence issues (e.g. in terms of different procedural requirements across different categories) have actually affected **the extent to which the directives' objectives have been achieved** and/or have created **unnecessary administrative burdens**.

Different national implementation choices have also exacerbated certain inconsistencies: in particular, the different ways in which the directives' numerous **'optional clauses'** have been implemented, and the possibility for Member States to retain **parallel national schemes** for highly-skilled workers and long-term residents. For instance, the existence of national permits for permanent residents has limited the impact on the harmonisation of different types of long-term residence status provided for by the Long-Term Residents Directive, which has been less successful than intended (three million EU long-term residents' permits vs. seven million national ones). Furthermore, the current regulatory framework for recruiting the same category of highly-skilled workers (which is possible under both the EU Blue Card and national schemes) is complex for third-country nationals and employers alike.

As regards **external coherence**, the EU legal migration directives interact with many **other EU policies** (especially those relating to asylum, irregular migration, borders and visas, justice and fundamental rights, employment and education, external relations, and trade). Although n**o major inconsistencies** have emerged from the evaluation, there are many aspects where **more efficient interaction and complementarity with other policies** could be developed, especially with overall EU policy on growth and employment –in a context in which migration is likely to play an increasingly important role in addressing labour and skills shortages in an ageing European society – and with EU external policy.

Effectiveness

The extent to which the objectives of the legal migration *acquis* are achieved depends both on a wide range of policy and legal instruments at EU and national level and on a number of social and economic factors which go beyond implementing the *acquis*. Although it was difficult to isolate the precise impact of the legal migration *acquis* on the attainment of the overall objectives, it proved possible to identify a number of **positive effects**.

Firstly, national systems for legal migration have been **brought into line with each other to some extent** as regards the categories of third-country nationals covered, with varying degrees of harmonisation for admission conditions, procedures and

rights. Secondly, the directives have had a generally positive impact on the **level of rights** granted to third-country nationals and on the protection of family life. Finally, the *acquis* has also contributed to the objective of managing economic migration flows into the EU more efficiently, so as to help address labour and skills shortages on the EU labour market, thereby contribute making the **EU more competitive overall**.

However, the same factors that have caused the coherence issues highlighted above (i.e. the sectoral approach, the existence of parallel national schemes, and the inclusion of optional clauses in the directives) have also **prevented the specific objectives from being achieved in full**. For instance, the provisions to facilitate **intra-EU mobility** under the first generation of directives are often not very different from first admission procedures and are therefore not fully effective (though the overall impact of the intra-EU mobility rules will need to be reassessed once the more far-reaching provisions included in the later directives on intra-corporate transferees and students and researchers are implemented in full). The impact on other specific objectives, such as promoting the **integration** of third-country nationals and **preventing labour exploitation**, has also been limited, as the directives go only part of the way to addressing these issues.

While some of the obstacles that have prevented these objectives from being achieved in full go beyond the *acquis* – and some go beyond migration policy in general (relating e.g. to economic, labour market and fiscal policies; individual choices and preferences; language issues) – **there are a number of inherent shortcomings in the EU framework** (e.g. fragmentation, limited coverage of EU rules, incorrect implementation or application of the common rules). These could be addressed through measures ranging from better enforcement to, possibly, legislative measures.

Efficiency

The same challenges encountered in measuring the effectiveness of the legal migration directives (especially external factors affecting migrant flows, and the fact that determining how many economic migrants are admitted is a national prerogative) have also affected the evaluation of the directives' efficiency. The **lack of sufficient evidence to assess the precise costs and benefits** associated with implementing the legal migration directives suggests that there is a need to improve the collection of relevant data at both national and EU level.

This is why the efficiency assessment has focused on **qualitative identification** of the types of costs and benefits associated with the EU legal migration *acquis* by stakeholder, on the one hand, and on the **direct administrative costs and benefits** associated with implementing the directives, on the other (compliance costs, administrative fees payable by applicants, costs incurred by the public administration when reviewing applications, issuing permits or handling appeals. On the latter, in particular, the partial evidence available suggests that, while the costs for renewals tend to not be fully covered by the corresponding fees, for most types of permits the fees sufficiently cover the administrative costs incurred by the public administration. Overall, administrative costs for third-country nationals seem to be higher than for public authorities, which is consistent with the feedback received through the public consultation. The administrative costs for employers are also estimated to be quite high.

Finally, the assessment of the practical application of the directives has identified **different practices** in implementation by the Member States, with different levels of

efficiency (e.g. simple and easily accessible application forms; clear information on permits and rights, provided in several languages; a single agency managing the application process; facilitated visa procedures). This also shows that there is **further scope for simplifying** procedures for managing legal migration flows.

EU added value

Overall, the legal migration directives have brought **positive effects** that would have not been achieved by the Member States acting alone. All stakeholders, including Member States, have confirmed **the continued EU added value of having a shared EU legal framework for legal migration**.

The main positive effects identified by the evaluation are:

- a degree of **harmonisation of conditions, procedures and rights**, helping to create a level playing field across Member States;
- **simplified administrative procedures**;
- **improved legal certainty and predictability** for third-country nationals, employers, and administrations;
- **improved recognition of the rights of third-country nationals** (namely the right to be treated on an equal basis with nationals in a number of important areas, such as working conditions, access to education and social security benefits, and procedural rights);
- **improved intra-EU mobility** for certain categories of third-country nationals (e.g. ICTs, researchers and students).

15.3. 3. Follow-up

The legal migration directives evaluated in this fitness check may be considered largely 'fit for purpose'. The fitness check identified several **positive effects** of the EU framework on legal migration, proving the **continued relevance** and **added value** of having an EU framework to regulate this field.

However, the current legal migration framework had a limited impact vis-à-vis the overall migration challenges that Europe is facing, and the fitness check has identified a number of **critical issues** in this respect. If the EU wants to achieve in full the Treaty objective of developing a common legal migration policy as a key element of a comprehensive policy on management of migratory flows, these issues will need to be addressed in future through a wide range of measures, such as:

- achieving a more harmonised and effective approach to **attract highly skilled workers** from third countries, as the Commission had proposed in the Blue Card reform;
- ensuring stronger **enforcement** of the directives, to improve their implementation and practical application – and therefore their overall effectiveness;
- promoting **information campaigns** to raise awareness of the rights and procedures established by EU legal migration instruments – this would help addressing the coherence issues with regard to the Member States' implementation, and increasing the relevance and EU added value of these instruments;

- improving the **gathering of data, evidence and information** on the implementation of the *acquis* by supporting expert networks, research and studies, and improving the way Member States communicate statistics – this would contribute to improve the efficiency and effectiveness of the acquis;
- facilitating **information-sharing and cooperation between Member States**, especially in relation to the **intra-EU mobility** of third-country nationals – this would help exploiting to the fullest the EU added value and facilitate the application of the intra-EU mobility rules;
- providing Member States – through non-binding instruments – with **clarification and interpretative guidance** on applying the legal migration directives in a harmonised way – this would help addressing the identified coherence issues;
- considering putting forward **legislative measures** to tackle the inconsistencies, gaps and other shortcomings identified, so as to simplify, streamline, complete and generally improve EU legislation.