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PROPOSAL

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 650 final
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the status of third-country nationals who are long-term residents (recast)

Delegations will find attached document COM(2022) 650 final.

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2022/0134 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the status of third-country nationals who are long-term residents (recast)

{SEC(2022) 200 final} - {SWD(2022) 650 final} - {SWD(2022) 651 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal is part of a package of measures proposed as a follow-up to the Commission's Communication on a New Pact on Migration and Asylum[1], adopted on 23 September 2020, which underlined the need to address the main shortcomings of the EU policy on legal migration, responding to the overall objective of attracting the skills and talent the EU needs. As one of the measures of this 'Skills and talent' package, the Pact announced a recast of Directive 2003/109/EC on long-term residents, with the objective to create a true EU long-term resident status, in particular by strengthening the right of long-term residents to move and work in other Member States. The package also includes the recast of the Single Permit Directive 2011/98/EU[2] and an accompanying Communication setting out a new approach towards an ambitious and sustainable EU legal migration policy, attracting talent to our labour markets and creating safe channels to reach Europe[3].

The vast majority of migrants arrive and reside in Europe legally. The overall number of third-country nationals legally residing in the EU is 23 million, representing 5.1 % of the EU population[4]. Out of this, over 10 million[5] third-country nationals hold a long-term or permanent residence permit. This is the target group that Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents[6] – hereafter 'the Directive' – is meant to cover.

The Directive sets out the conditions under which third-country nationals who have legally and continuously resided in a Member State for at least five years can acquire 'EU long-term resident status' ('EU LTR status'). The advantages of this status are numerous: it is permanent, it grants equal treatment rights in many areas (including full access to employed and self-employed activities), and it ensures reinforced protection against expulsion. While these advantages may also be granted by permanent resident statuses regulated under national law (the Directive allows these parallel national schemes), the EU LTR status additionally grants the possibility to move and reside in other Member States, on the basis of three comprehensive grounds: exercise of an economic activity (work or self-employment); studies and vocational training; other purposes. This right to intra-EU mobility is not, however, an automatic right, but is subject to a number of conditions.

The evaluation of the Directive under the Fitness Check on legal migration[7], which was completed in 2019, and its implementation reports[8] identified a number of shortcomings with regard to the achievement of the objectives, as well as practical issues arising from the application of the Directive by the Member States.

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1 COM/2020/609 final
2 COM/2022/655.
3 COM/2022/657.
4 https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics#Migrant_population:_23_million_non-EU_citizens_living_in_the_EU_on_1_January_2020
5 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_reslong&lang=en
6 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).
7 https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en#:~:text=
8 COM(2011)585, First implementation Report; and COM(2019)161, Second implementation report.

This proposal aims to create a more effective, coherent and fair system to acquire EU long-term resident status. This system should be a key tool to promote the integration of third-country nationals who settled legally and on a long-term basis in the EU.

The proposal aims at making it easier to acquire EU long-term resident status, in particular: by allowing third-country nationals to cumulate residence periods in different Member States in order to fulfil the requirement concerning the duration of residence; and by clarifying that all periods of legal residence should be fully counted, including residence periods as students, beneficiaries of temporary protection, or residence periods initially based on temporary grounds. Periods of legal stay under a short-term visa are not considered as periods of residence, and should not be counted.

The proposal also aims to strengthen the rights of long-term residents and their family members. This includes the right to move and work in other Member States, which should be closely aligned to the right that EU citizens enjoy. Allowing third-country nationals who are already EU long-term residents in one Member State to change jobs and move to another Member State for work can help improve labour market effectiveness across the EU, addressing skills shortages and offsetting regional imbalances. It can also improve the EU's overall attractiveness to foreign talent.

The proposal additionally puts in place a mechanism to ensure a level playing field between the EU long-term residence permit and national permanent residence permits in terms of procedures, equal treatment rights, and access to information, so that nationals from non-EU countries have a real choice between the two permits. It also facilitates circular migration by making it easier for long-term residents to return to their country of origin without losing their rights, benefiting both the countries of origin and the countries of residence.

The European Parliament, in its Resolution of 21 May 2021 on new avenues for legal labour migration[9], welcomed the Commission's planned revision of the Directive, stating that this 'presents an opportunity to enhance mobility and simplify and harmonise procedures'. In its Resolution of 25 November 2021 with recommendations to the Commission on legal migration policy and law[10], the European Parliament requested the Commission to amend the Directive to grant EU long-term residents an effective right to intra-EU mobility and to reduce the number of years of residence required to acquire EU long-term resident status from five to three years.

Since the entry into force of the Directive in 2003, the Commission has received a significant number of complaints (in particular from applicants or holders of the EU LTR status), some of them followed up by infringement proceedings, and numerous issues were also subject to judgements of the Court of Justice of the European Union (hereinafter: CJEU). This recast also aims to address the main shortcomings that emerged from infringement proceedings and to codify the case law of the CJEU.

- **Consistency with existing provisions in the policy area**

This proposal is consistent with the Commission's New Pact on Migration and Asylum[11], adopted on 23 September 2020, which underlined the need to address the main shortcomings of the EU policy on legal migration, responding to the overall objective of attracting the skills and talent the EU needs.

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

[10] European Parliament resolution of 25 November 2021 with recommendations to the Commission on legal migration policy and law (2020/2255(INL).

[11] COM/2020/609 final

This proposal is complementary to other EU instruments adopted in the area of legal migration and asylum, and in particular those Directives that regulate residence statuses that can lead to long-term residence: the EU Blue Card Directive 2009/50/EC on highly-qualified workers[12], the Single Permit Directive 2011/98/EU[13], Directive (EU) 2016/801 on Students and Researchers[14], Directive 2003/86/EC on Family reunification[15] (hereinafter: legal migration Directives), the Return Directive 2008/115/EC[16] and Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection[17].

This proposal is consistent with the Action Plan on Integration and Inclusion 2021-2027[18] providing a common policy framework to help Member States as they further develop and strengthen their national integration policies for third-country nationals, including EU long-term residents.

- **Consistency with other Union policies**

This proposal is consistent with and supportive of the objectives of the Commission's Communication of 27 May 2020 entitled 'Europe's moment: Repair and Prepare for the Next Generation'[19], which sets the Union's path to recovery towards a greener, digital and more resilient economy and society, where the need to improve and adapt skills, knowledge and competences becomes all the more important. Measures to improve the integration and the intra-EU mobility of third-country nationals who are long-term residents have to be seen in that broader context.

It is also in line with the European Skills Agenda[20], which called for a more strategic approach to legal migration, oriented towards better attracting and keeping talent, and specifically to the need of better matching, clear procedures and the recognition of third-country nationals' competences on the EU labour market.

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[12] Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.6.2009, p. 17), revised by Directive (EU) 2021/1883 of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC (OJ L 382, 28.10.2021, p. 1–38).

[13] Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (OJ L 343, 23.12.2011, p. 1–9). The recast of the Single Permit Directive is also part of the Skills and Talent package.

[14] Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

[15] Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

[16] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

[17] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

[18] COM(2020) 758 final.

[19] COM(2020) 456 final.

[20] COM(2020) 274 final.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis of the proposal is Article 79(2) TFEU, which empowers the European Parliament and the Council to act in accordance with the ordinary legislative procedure and to adopt measures on: (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 third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States.

• Subsidiarity (for non-exclusive competence)

The principle of subsidiarity applies since this is an area of shared competence[21]. 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 the entry and residence of third-country nationals in the Member States, and to define their rights following admission[22].

The Fitness Check showed that the legal migration Directives, including the long-term residents Directive, have had a number of positive effects that would not have been realised by Member States acting alone, such as 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.

The recast of the long-term residents Directive aims at further harmonisation and simplification. In particular, improved rights would benefit third-country nationals and facilitated access to EU long-term resident status would ensure a secure and stable residence status for third-country nationals who would not otherwise satisfy the conditions for acquiring citizenship status. Furthermore, efficient rules on intra-EU mobility can only be established at EU level, since no national migration policy has ever provided facilitations for applications from third-country nationals residing in another Member State. Furthermore, the Member States' prerogative to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work relates only to third-country nationals coming from outside the EU, and does not apply to their intra-EU mobility. Therefore, EU rules have an important influence on the efficient mobility of third-country nationals across the Member States.

• Proportionality

The changes to the long-term residents Directive introduced by this proposal are limited and targeted, aimed at effectively addressing the key shortcomings identified in the implementation and evaluation of the Directive. According to the Impact Assessment, the proposed changes are limited to those aspects that Member States cannot achieve

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

[22] See Fitness check, page 3.

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 to administrative procedures by Member States are considered proportionate in view of the expected improvements in the situation of third-country nationals, increased opportunities for employers, and simplifications for national administrations.

In the light of the above, the proposal does not go beyond what is necessary in order to achieve the stated objectives.

- **Choice of the instrument**

This proposal is intended to provide for targeted changes to the Directive, which are intended to address the gaps, inconsistencies and shortcomings identified from the implementation and evaluation of the Directive. Since this proposal is to recast the Long-term residents Directive, the same legal instrument is the most appropriate.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The first implementation report in 2011 assessed the conformity of national legislations with the provisions of the Directive and revealed a general lack of information among third-country nationals about the EU long-term resident status and the rights attached to it, as well as many shortcomings in the transposition of the Directive. The second implementation report in 2019 pointed out that the situation had improved, but that some outstanding issues continue to undermine the full achievement of the Directive's main objectives.

The 2019 Fitness Check on Legal Migration presents an in-depth evaluation of the overall EU legal migration framework, to assess whether it is still fit for purpose. With particular regard to the long-term residents Directive, the Fitness Check showed that there are a number of inconsistencies with other EU Directives on legal migration adopted later, in particular with regard to the rights granted to long-term residents and their family members, including on intra-EU mobility. It also found a lack of coordination and coherence between the EU long-term resident status and the parallel national permanent residence schemes, and the more frequent use of the national schemes compared to the EU scheme.

Building on the implementation reports and the Fitness Check, the problems identified in the proposal have been clustered into six main areas: i) the EU LTR status is under-used; ii) the conditions to acquire the EU LTR status are too difficult to meet; iii) long-term residents face numerous barriers to exercise intra-mobility rights; iv) there is a lack of clarity and consistency in the rights of the long-term residents and their family members; v) circular migration opportunities for long-term residents are limited; vi) there is a risk of abusive acquisition of the EU LTR status on the basis of investor residence schemes pursuant to which the issuing of residence permits is not subject to the requirement of continuous physical presence in the Member State or is merely subject to the requirement of the investor's presence in the Member State for a limited time.

- **Stakeholder consultations**

A wide consultation, including a public consultation, was conducted in the context of the Fitness Check on legal migration[23]. Between 23 September and 30 December 2020, another

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

online public consultation on the future of legal migration was conducted via the Commission's 'Have your say' portal[24]. 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. Ad hoc queries were also launched in the framework of this impact assessment to the members of the European Migration Network.

Replies to the two above-mentioned public consultations came from EU citizens, organisations and third-country nationals (residing inside or outside the EU), business associations and organisations, non-governmental organisations, academic/research institutions, trade unions, ministries, and public service entities. Targeted consultations included competent authorities in the Member States, business associations and organisations, non-governmental organisations, academia, legal practitioners, think tanks and public service entities.

The consultation process showed, in general, that migrants already residing in, or considering moving to, the EU are negatively affected by the shortcomings of the current Directive, which results in administrative burden, lengthy waiting times, uncertainty and confusion as to applicable rules and outcomes. This may discourage migrants from applying for EU LTR status. Limits on the set of rights linked to EU LTR status, especially as regards family reunification and intra-EU mobility, may hamper the EU's attractiveness in the eyes of third-country nationals and limit their integration in the host societies. It also impacts countries of origin indirectly, as insufficient integration of their nationals in the host countries may lead to lower levels of remittance transfers.

All the main problems identified in the consultations have been taken into account and addressed in the proposal.

- **Collection and use of expertise**

The impact assessment on the revision of the Directive was supported by a study of an external contractor[25]. Furthermore, a number of expert groups were consulted on the revision of the Directive: the Expert Group on the Views of Migrants in the field of Migration, Asylum and Integration on 2 March 2021, the European Network of Public Employment Services on 10 March 2021, the Commission Informal Expert Group on Economic Migration on 14 April 2021, and the EU Legal Migration Practitioners' Network on 29 April 2021. The European Migration Network was also consulted with an ad-hoc query[26].

- **Impact assessments**

The impact assessment carried out for the preparation of the proposal evaluated four policy options, presenting a range of increasingly ambitious policy measures:

Option 1: actions to improve the effectiveness of the Directive. This policy option involved non-legislative actions aimed at enhancing the implementation of the Directive and the promotion of the EU LTR status, without any legislative change.

Option 2: targeted revision of the Directive. This policy option included a number of targeted amendments to the Directive, aimed at creating a more efficient, coherent and fair

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

[25] ICF, Study in support of the Impact assessments on the revision of Directive 2003/109/EC and Directive 2011/98/EU.

[26] EMN (2021) Ad Hoc Query 2021.36 to support an impact assessment study on the revision of the Single Permit Directive.

system to acquire the EU LTR status, in particular by ensuring a level playing field with the parallel national statuses; and improving the rights of long-term residents and their family members, including an improved right to intra-EU mobility.

Option 3: wider legislative revision of the Directive. This policy option included the targeted amendments of option 2, while also providing facilitations with regard to the conditions to acquire the EU LTR status. In particular, with this option Member States would be allowed to reduce the required residence period to apply for the EU LTR status from five to three years (without placing Union citizens - and their family members - who are beneficiaries of free movement rights in accordance with EU law in a less favourable situation than third-country nationals), and to cumulate residence periods in different Member States. Also, the conditions related to the economic resources and integration would be clarified.

Option 4: major legislative revision of the Directive, creating a single EU permanent residence status. This option sets out a fully harmonised EU permanent residence status, with the abolition of parallel national schemes, a lowered residence period required to acquire the status (to be applied by all Member States), and an automatic right to move and reside in a second Member State, with conditions similar to the ones applicable to EU citizens exercising their free movement rights.

On the basis of the assessment of the social and economic impacts, effectiveness and efficiency, the **preferred policy option is option 3 – wider legislative revision of the Directive**. The preferred option contains a large set of policy measures which would address most of the shortcomings identified within the Directive.

The preferred option is expected to have very positive social and economic impacts. The economic impacts are based on the expectation that more third-country nationals would have access to the EU LTR status with its attached rights, and an increased share of third-country nationals would be moving to a second Member State. This in turn would lead to overall higher tax revenue, increased productivity and consumption, and enhanced economic growth. In addition, as a result of higher wages, remittances are also expected to increase as a proportion of long-term residents' income.

Furthermore, the preferred policy option would be fully in line with the policy objectives set out in the Commission's New Pact on Migration and Asylum. It would also bring additional coherence with the case law of the Court of Justice of the European Union.

The preferred option is also considered to strike the best balance between the varied expectations of stakeholders, and is thus the most feasible politically. In this regard, the impact assessment highlighted a specific divergence of views on the added value of lowering the required residence period to acquire EU LTR status from five to three years. As it is not possible at this stage to determine conclusively the extent to which such a reduction would effectively contribute to boost the integration process of third-country nationals who intend to settle on a long-term basis in the EU, this proposal does not change the required residence period, which remains five years.

In particular, it is clear that third-country nationals still face different challenges across Member States in their integration process, depending on how they arrived, their skills level, language knowledge and their background, but also depending on the level of supporting measures put in place by Member States[27]. For this reason, there is currently no level-playing field across EU Member States with regard to the integration of third-country nationals that would require a harmonised approach to reducing the required residence period to acquire EU

[27] See the European Commission Action Plan on Integration and Inclusion 2021-2027.

LTR status. Whilst allowing Member States to reduce the residence period to three years based on an optional approach was considered in the Impact Assessment, the Commission discarded this option to avoid fragmentation in the implementation of the Directive that it could introduce.

With the support of the framework set up at EU level by the Action Plan on Integration and Inclusion for 2021-27, the EU and its Member States are implementing numerous measures to facilitate and speed up the integration and inclusion of third-country nationals, and the Commission is monitoring progress made in this regard[28]. Based on this monitoring and a thorough assessment of how the rights tied to residence permits impact on the integration of third-country nationals across Member States, the Commission will review the issue of the required residence period for the acquisition of EU LTR status, to further inform reflection on a possible shortening of the five year threshold. This assessment will be presented in the first report on the application of the recast Directive, to be adopted within two years following the end of the transposition period.

While keeping the required residence period of five years as a general rule, the proposal however introduces two important changes that would provide European added value by greatly facilitating the acquisition of the EU LTR status in situations of mobility between Member States. First, the Commission proposes to allow cumulating residence periods in different Member States to reach the five year threshold. Second, that persons who already acquired EU LTR status in one Member State should only need three years to acquire the status in a second Member State.

Opinion of the Regulatory Scrutiny Board

On 22 September 2021 the impact assessment was submitted to the Regulatory Scrutiny Board and a meeting was held 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. Specifically, the Board requested further clarification concerning the scope of this initiative and how it articulates with the one revising the Single Permit Directive. Furthermore, the Board requested to bring out better the core differences in policy choices between the options, and better analyse whether alternative approaches to the proposed measures are possible. The Board also requested clarifications on how the optional measures for Member States will impact the effectiveness of the Directive. Finally, the Board sought additional analysis and evidence with regard to the potential impacts of abolishing the labour market test when moving to a second Member State.

These and other more detailed comments provided by the Board have been addressed in the final version of the impact assessment, which, in particular, describes in a clearer manner the problem definition and objectives of the initiative, and how the different policy options would address those problems and objectives. The Board's comments have also been accounted for in the proposed directive.

- **Regulatory fitness and simplification**

This initiative was included in Annex II of the 2021 Commission work programme[29], therefore it is part of the Regulatory Fitness Programme (REFIT).

[28] A mid-term review of the Commission Action Plan will be conducted at the end of 2024.
[29] https://ec.europa.eu/info/sites/default/files/2021_commission_work_programme_annexes_en.pdf

REFIT Cost Savings – Preferred Option		
Description	***Amount (average yearly saving)***	***Comments***
Cost savings from simplification of the LTR Directive procedures currently in place	24 500 euro	Member State national authorities
Cost savings from lower EU LTR fees, shorter procedures, the provision of better quality information on the EU LTR status resulting in a reduction in fees paid for legal support	1 145 000 euro	Third-country nationals
Cost savings from a reduction in administrative fees and shorter procedures	113 000 euro	Employers

Amounts presented are the average value of all average annual cost savings across measures included within the preferred option

- **Fundamental rights**

This initiative is consistent with the Charter of Fundamental Rights and enhances some of the rights enshrined therein. It contributes to strengthening specific fundamental rights, in particular: non-discrimination (Article 21), family and professional life (Article 33) and social security and social assistance (Article 34).

4. BUDGETARY IMPLICATIONS

There is no implication for the European Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will check the correct and effective transposition of the recast Directive into the national laws of all participating Member States. Throughout the implementation phase the Commission will organise regular contact committee meetings with all Member States. The Commission will present periodically to the European Parliament and the Council a report evaluating the implementation, functioning and impact of the long-term residents Directive.

The application of the Directive will be monitored against the main operational objectives using a series of relevant and measurable indicators based on easily available, accepted and credible data sources. The communication of more types of information is made mandatory in the revised Directive to improve its timely provision and reliability. Official European and national statistics published by Eurostat and competent national statistical authorities should be used as much as possible to monitor the number of EU long-term residence permits issued

(also vis-a-vis national long-term residence permits) and, where possible, to monitor the number of third-country nationals exercising intra-EU mobility and circular migration. In addition, the Commission will continue seeking the support of existing EU agencies and networks, such as the Fundamental Rights Agency and the European Migration Network. The Commission will also continue making use of the existing expert groups that contributed to the impact assessment.

- **Explanatory documents (for directives)**

Given the fact that the proposal contains a larger number of legal obligations compared to the existing Directive, explanatory documents, including a correlation table between national provisions and the Directive, accompanying the notification of transposition measures will be needed so that the transposition measures that the Member States have added to existing legislation are clearly identifiable.

- **Detailed explanation of the specific provisions of the proposal**

CHAPTER I – GENERAL PROVISIONS

Articles 1 – 3

This Chapter sets out the subject matter, definitions, and scope of the proposal. The main change in the proposal for a recast concerns the scope of the Directive, as the exclusion concerning 'cases where the residence permit has been formally limited' has been removed, since its interpretation led to legal uncertainty in the transposition and implementation by Member States.

CHAPTER II – LONG-TERM RESIDENT STATUS IN A MEMBER STATE

Article 4

This Article lays down the rules on the calculation of the period of residence required to apply for EU long-term resident status. The proposal for a recast introduces an important change aimed at allowing third-country nationals to cumulate periods of residence in different Member States, provided that they have accumulated two years of legal and continuous residence within the territory of the Member State of application. This new provision will promote the intra-EU mobility of third-country nationals, who will be able to rely on their residence in different Member States and acquire EU long-term resident status in a shorter period of time.

The proposal makes it clear that any period of residence spent as holder of a long-stay visa or residence permit issued under Union or national law should be fully counted for acquiring the EU long-term resident status, including periods of residence in a capacity or under a status that is currently excluded from the scope of the Directive, such as residence for study purposes or vocational training, residence as beneficiary of national or temporary protection, or residence initially based solely on temporary grounds. This provision is meant to cover those cases where a third-country national who previously resided in a capacity or under a status excluded from the scope of the Directive (e.g. as a student), subsequently resides in a capacity or under a status falling within the scope (e.g. as a worker). In those cases, it will be possible to fully count the periods of residence e.g. as a student, towards the completion of the five years period, provided that the overall residence has been legal and continuous.

Residence must have been legal and continuous. To prevent the risk of abusive acquisition of EU long-term resident status, Member States should ensure that the requirement of legal and continuous residence is duly monitored for all categories of third-country nationals. This risk is particularly relevant for those third-country nationals who hold a residence permit granted on the basis of any kind of investment in a Member State, as the granting of these residence

permits is not always subject to the requirement of continuous physical presence in the Member State or is merely subject to the requirement of the investors' presence in the Member State for a limited time.

To prevent this risk, Member States should strengthen checks on the residence requirement, with particular regard to applications for EU long-term resident status submitted by third-country nationals holding and/or having held a residence permit granted on the basis of an investment, in cases where the issuing of such permits has not been subject to the requirement of continuous physical presence in the Member State concerned or has been subject to the requirement of the investor's presence in the Member State concerned for a limited time. The proposal includes also a provision not allowing Member States to take into account periods of residence as a holder of a residence permit granted on the basis of any kind of investment in another Member State for the purpose of cumulating periods of residence in different Member States. This provision is introduced with the aim to limit the attractiveness of such schemes and addresses the fact that not all Member States have regulated this category of residence permits.[30]

Article 5

This Article lays down the conditions to acquire the EU long-term resident status. Applicants must prove that they have adequate resources and sickness insurance, to avoid becoming a burden for the Member State, and they may be required to comply with integration conditions. The proposal introduces additional provisions aimed at clarifying them and at limiting the discretion of Member States, by codifying the case law of the Court of Justice of the European Union.

With regard to the resources condition, in line with the case law of the EU Court of Justice (*Chakroun*, C-578/08, and *X v Belgische Staat*, C-302/18), Member States may indicate a certain sum as a reference amount, but may not impose a minimum income level below which all applications for EU long-term resident status will be refused, irrespective of an actual examination of the situation of each applicant. When making an assessment of the possession of stable and regular resources, Member States may take into account factors such as contributions to the pension system and fulfilment of tax obligations. The concept of 'resources' does not concern solely the 'own resources' of the applicant for EU long-term resident status, but may also cover the resources made available to that applicant by a third party provided that, in the light of the individual circumstances of the applicant concerned, they are considered to be stable, regular and sufficient.

Member States should be able to require applicants for EU long-term resident status to comply with integration conditions, for example by requiring them to pass a civic integration or language examination. However, in line with the case law of the EU Court of Justice (*P & S*, C-579/13), the means of implementing this requirement should not be liable to jeopardise the objective of promoting the integration of third-country nationals, having regard, in particular, to the level of knowledge required to pass a civic integration examination, to the accessibility of the courses and material necessary to prepare for that examination, to the amount of fees applicable to third-country nationals as registration fees to sit that examination, or to the consideration of specific individual circumstances, such as age, illiteracy or level of education.

Article 6

[30] Commission Report on Investor Citizenship and Residence Schemes in the European Union, COM(2019) 12 final.

This Article provides that Member States may refuse granting EU long-term resident status on grounds of public policy and public security, as already provided for in Directive 2003/109/EC.

Article 7

This Article lays down the administrative procedures for the acquisition of the status, similar to those already provided for in Directive 2003/109/EC. The proposal for a recast introduces a provision regulating in more detail the situations where the documents presented or information provided in support of the application are inadequate or incomplete, similar to what is already provided for in other more recent EU Directives on legal migration.

Article 8

This Article lays down the rules on the issue of the residence permit certifying the EU long-term resident status. The proposal for a recast renames the permit 'EU long-term residence permit'.

Article 9

This Article lays down the mandatory and optional grounds for withdrawal and loss of the status, as already provided for in Directive 2003/109/EC. The proposal for a recast extends the possibility for EU long-term residents to be absent from the territory of the Union without losing their EU long-term resident status from the current 12 months to 24 months. This amendment aims at promoting circular migration for EU long-term residents, in particular to allow them to invest in their countries of origin and share the knowledge and skills acquired in the Union, as well as to return temporarily to their countries for personal and family circumstances.

In case of longer absences, Member States should establish a facilitated procedure for the re-acquisition of the EU long-term resident status. To improve legal certainty and promote circular migration, the proposal for a recast regulates the main conditions of such procedure, which according to Directive 2003/109/EC are regulated by national law. According to the proposal, Member States may decide not to require the fulfilment of the conditions related to the duration of residence, resources and sickness insurance. In any case, Member States should not require third-country nationals who apply for the re-acquisition of the EU long-term resident status to comply with integration conditions.

Finally, the proposal amends the wording of this Article in order to ensure consistency with the Return Directive 2008/115/EC.

Article 10

This Article lays down the procedural guarantees relating to the refusal, withdrawal or loss of the status, as already provided for in Directive 2003/109/EC.

Article 11

This Article introduces a new provision in line with the most recent EU Directives on legal migration and the case-law of the Court of Justice of the European Union (*Commission v Netherlands*, C-508/10), pursuant to which Member States may levy fees for the processing of applications and that the amount of such fees should not have the object or the effect of creating an obstacle to the obtaining of the long-term resident status conferred by the Directive, thus undermining the objective and the spirit of the latter.

Article 12

This Article lays down the equal treatment rights for EU long-term residents, which are similar to those already provided for in Directive 2003/109/EC. The proposal for a recast introduces three main changes aiming at reinforcing the rights and improving the integration process for EU long-term residents.

First, it is clarified that EU long-term residents should have the same right as nationals with regard to the acquisition of private housing. The right to acquire private housing is particularly relevant taking account of the main objective of this Directive, which is the integration of EU long-term residents into the host society. Having the possibility of owning their own housing is an element that can contribute to the integration of third-country nationals who have chosen to put down roots in an EU Member State.

Second, this Article aligns the definition of social security and the right to the export of pensions and family benefits to the provisions of the most recent legal migration Directives. In particular, reference is made to Regulation (EC) No 883/2004 with regard to the definition of social security (point d of paragraph 1); EU long-term residents or their survivors moving to a third country should receive statutory pensions under the same conditions and at the same rates as the nationals of the Member States concerned, where such nationals move to a third country, in line with other legal migration Directives (paragraph 6).

Finally, the proposal extends the EU long-term residents' equal access to social protection and social assistance, by removing the possibility for Member States to limit such access to 'core benefits'.

Article 13

This Article lays down rules guaranteeing a reinforced protection against decisions ending the legal stay of EU long-term residents. The wording of the Article has to be amended taking account of the fact that, since the adoption of Directive 2008/115, there are common rules on standards and procedures in Member States for returning illegally staying third-country nationals. The reinforced protection consists of limiting the possibility to end the legal stay of EU long-term residents solely where they constitute an actual and sufficiently serious threat to public policy or public security Furthermore, it is provided that decisions ending the legal stay of EU long-term residents should not be based on economic considerations.

Article 14

This Article establishes that Member States are entitled to issue national residence permits of permanent or unlimited validity in parallel with the EU long-term residence permit. However, the proposal for a recast introduces new provisions aiming at ensuring a level playing field between the EU long-term residence permit and the national permanent residence permits, so that third-country nationals have a real choice between the two permits. In particular, Member States should ensure that: integration and resources requirements for acquiring the EU status are not stricter than the requirements to acquire the national status (paragraph 3 of Article 5); applicants for EU permits pay the same level of fees for the processing of their application as applicants for national permits (Article 11); holders of the EU long-term residence status do not enjoy a lower level of procedural safeguards and rights than holders of national residence permits of permanent or unlimited validity (paragraph 3 of Article 10, paragraph 8 of Article 12, paragraph 6 of Article 15); Member States should ensure the same level of information, promotion and advertising activities on the EU long-term residence permit as the one provided in respect of the national residence permits of permanent or unlimited validity (Article 27); holders of national permits of permanent or unlimited validity who apply for an EU long-term residence permit benefit from a facilitated procedure (paragraph 4 of Article 7).

Article 15

This Article introduces new provisions to facilitate family reunification for EU long-term residents, derogating from the general rules of Directive 2003/86/EC. In particular, Member States should not apply conditions relating to integration for the purpose of family reunification, as EU long-term residents and their families are deemed to be integrated in the host society, and should not apply any time limit in respect of access to the labour market for family members.

Furthermore, this Article lays down specific rules on the acquisition of EU long-term resident status by children of EU long-term residents born or adopted in the territory of the Member State that issued the EU long-term residence permit, which at the moment is not regulated by any EU legal instrument. As family life should be respected and its protection is an essential element of the integration of EU long-term residents, their children who are born or adopted in the territory of the EU Member State having issued the EU long-term residence permit should acquire the EU long-term resident status in that Member State automatically, without being subject to the requirement of prior residence.

CHAPTER III – RESIDENCE IN THE OTHER MEMBER STATES

Articles 16 – 18

These Articles lay down the main rules and conditions for EU long-term residents and their family members to exercise intra-EU mobility. This proposal for a recast aims at facilitating the intra-EU mobility, by removing a number of barriers that have so far hampered it. In particular, the second Member State should no longer be entitled to carry out a check of the labour market situation when examining applications submitted by EU long-term residents for the exercise of an economic activity in an employed or self-employed capacity, and any pre-existing quotas for EU long-term residents residing to other Member States should be abolished. Furthermore, EU long-term residents should be entitled to apply while still residing in the first Member State, and to begin employment or study at the latest 30 days after having submitted their application. Finally, where EU long-term residents apply for residence in a second Member State in order to exercise a regulated profession, their professional qualifications should be recognised in the same way as those of Union citizens exercising the right to free movement, in accordance with Directive 2005/36/EC and other applicable Union and national law.

Articles 19 – 20

These Articles provide for that the second Member State may refuse applications for residence on grounds of public policy, public security, or public health, as already provided for in Directive 2003/109/EC. Article 20 aligns the definition of threat to public health to the provisions of the most recent legal migration Directives, via a cross-reference to the Schengen Borders Code.

Article 21

This Article lays down the administrative procedures for the acquisition of the residence right in the second Member State, similar to those already provided for in Directive 2003/109/EC. The proposal for a recast introduces a shorter deadline (90 days + 30 days in exceptional circumstances), in line with the most recent legal migration Directives, and allows family members to cumulate residence periods in different Member States for the acquisition of an autonomous residence permit, by way of derogation from Directive 2003/86/EC.

Articles 22 – 23

These Articles lay down the rules on amendments to the EU long-term residence permit for beneficiaries of international protection, and on procedural guarantees related to mobility, as already provided for in Directive 2003/109/EC, as amended by Directive 2011/51/EU.

Article 24

This Article provides that, once EU long-term residents and their family members acquire the right to reside in the second Member State, they should enjoy equal treatment with the nationals of the second Member States in the same areas and under the same conditions referred to in article 12 of the proposal. The latter improves the access to the labour market of the second Member State for the EU long-term residents and their family members residing in a second Member State, by removing the possibility for Member States to restrict such access in the first 12 months. However, in order to ensure that the criteria for residence in the second Member State continue to be fulfilled, the second Member State should be allowed to require that EU long-term residents and their family members communicate to the competent authorities any change of employer or economic activity.

Article 25

This Article lays down the rules on withdrawal of the residence status in the second Member States and take back obligation in the first Member State, as already provided for in Directive 2003/109/EC, with a number of amendments aimed at ensuring consistency with the Return Directive 2008/115/EC, which sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals.

Article 26

This Article establishes that EU long-term residents residing in a second Member State should be granted the possibility of acquiring EU long-term resident status in the second Member State under the same conditions as those required for its acquisition in the first Member State. In order to speed up the integration in the second Member State for persons who have already integrated in another EU Member State, the proposal for a recast provides that the required period of residence in the second Member State should be three years. For the purpose of acquisition of EU long-term resident status in a second Member State, it should not be possible to cumulate periods of residence in different Member States.

However, the second Member State should be free to decide whether to grant social assistance, or maintenance assistance for studies, including vocational training, consisting of student grants or students loans, to EU long-term residents other than those who are workers or self-employed persons or their family members, prior to the completion of five years of legal and continuous residence in its territory, bearing in mind that Union citizens who have exercised free movement rights in a capacity other than that of workers or self-employed persons in accordance with Directive 2004/38/EC or Article 21 TFEU, or their family members, may also be refused such benefits prior to the acquisition of the right of permanent residence following five years of legal and continuous residence.

The second Member State may decide to grant such assistance to EU long-term residents prior to the completion of five years of legal and continuous residence, provided that it ensures the same treatment to Union citizens exercising free movement rights in accordance with Directive 2004/38/EC or Article 21 TFEU (other than workers, self-employed persons or persons who retain such status), their family members, as well as third-country nationals enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and third countries on the other, and their family members.

Finally, prior to the completion of five years of legal and continuous residence in that Member State, where an EU long-term resident has ceased an employed or self-employed activity and he/she does not have sufficient resources for himself/herself and his/her family members and comprehensive sickness insurance cover so as not to become an unreasonable burden on the social assistance system of the second Member State, his/her legal stay may be ended on that ground, bearing in mind that Union citizens who have exercised free movement rights and their family members may be expelled in such a situation prior to the acquisition of the right of permanent residence following five years of legal and continuous residence.

CHAPTER IV – FINAL PROVISIONS

Article 27

This new Article introduces an obligation for Member States to facilitate access to information to applicants concerning the acquisition of the EU long-term residence status and the rights attached to it, in line with the most recent legal migration Directives.

Articles 28 – 33

These Articles lay down the rules on reporting, contact points, transposition, entry into force and addressees, as already provided for in Directive 2003/109/EC. Article 31 provides that, once the transposition deadline for the recast Directive is passed, Directive 2003/109/EC is repealed.

↓ 2003/109/EC (adapted)

2022/0134 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the status of third-country nationals who are long-term residents (recast)

THE ⌦ EUROPEAN PARLIAMENT AND THE ⌫ COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ⌦ on the Functioning of the European Union ⌫ ~~establishing the European Community~~, and in particular Article ⌦ 79(2) ⌫, ⌦ points (a) and (b), ⌫ ~~63(3)and (4)~~ thereof,

Having regard to the proposal from the Commission,

After transmission of the draft legislative act to the national Parliaments,

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

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

⇩ new

(1) Council Directive 2003/109/EC[31] has been substantially amended[32]. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

↓ 2003/109/EC recital 1 (adapted)

~~With a view to the progressive establishment of an area of freedom, security and justice, the Treaty establishing the European Community provides both for the adoption of measures aimed at ensuring the free movement of persons, in conjunction with flanking measures relating to external border controls, asylum and immigration, and for the adoption of measures relating to asylum, immigration and safeguarding the rights of third-country nationals.~~

↓ 2003/109/EC recital 2 (adapted)

~~The European Council, at its special meeting in Tampere on 15 and 16 October 1999, stated that the legal status of third-country nationals should be approximated to that of Member~~

[31] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L16, 23.1.2004, p.44).

[32] See Annex I, Part A.

~~States' nationals and that a person who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by citizens of the European Union.~~

↓ 2003/109/EC recital 3

(2) This Directive respects the fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union.

↓ 2003/109/EC recital 4 (adapted)

(3) The integration of third-country nationals who are ⌦ EU ⌫ long-term residents in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the ~~Community~~ ⌦ Union ⌫ stated in the Treaty.

↓ 2003/109/EC recital 5

(4) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

↓ 2011/51/EU recitals 2 and 4 (adapted)

(5) The prospect of obtaining ⌦ EU ⌫ long-term resident status in a Member State after a certain time is an important element for the full integration of beneficiaries of international protection in the Member State of residence. Beneficiaries of international protection should therefore be able to obtain ⌦ EU ⌫ long-term resident status in the Member State which granted them international protection, subject to the same conditions as other third-country nationals.

⇩ new

(6) Third-country nationals who are beneficiaries of free movement rights in accordance with EU law should be given access to EU long-term residence status in accordance with the same rules as any other third-country nationals falling within the scope of this Directive. The rights that such third-country nationals acquire as holders of the EU long-term residence status should be without prejudice to rights they may enjoy under Directive 2004/38/EC[33]. All provisions in this Directive regarding the beneficiaries of

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[33] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/*EEC (*OJ L 158, 30.4.2004, p. 77).

the right to free movement should also apply to third-country nationals who enjoy rights of free movement equivalent to those of Union citizens under agreements either between the Union and the Member States on the one hand, and third countries on the other, or between the Union and third countries.

↓ 2003/109/EC recital 6 (adapted)

(7) The main criterion for acquiring the status of ⊠ EU ⊠ long-term resident should be the duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country. Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis.

⇩ new

(8) To prevent the risk of abusive acquisition of EU long-term resident status, Member States should ensure that the requirement of legal and continuous residence is duly monitored for all categories of third-country nationals. This risk is particularly relevant for those third-country nationals who hold a residence permit granted on the basis of any kind of investment in a Member State, as the issue of these residence permits is not always subject to the requirement of continuous physical presence in the Member State or is merely subject to the requirement of the investors' presence in the Member State for a limited time. To prevent this risk, Member States should strengthen checks on the requirement of legal and continuous residence with particular regard to applications for EU long-term resident status submitted by third-country nationals who reside in a Member State in exchange of any kind of investment, such as capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget.

(9) The required period of residence for the acquisition of EU long-term resident status should be completed in the same Member State of application. However, in order to promote the intra-EU mobility of third-country nationals, Member States should allow third-country nationals to cumulate periods of residence in different Member States. With the aim to limit the attractiveness of investor residence schemes and in account of the fact that not all Member States have regulated this category of residence permits, Member States should not take into account periods of residence as a holder of a residence permit granted on the basis of any kind of investment in another Member State for the purpose of cumulating periods.

(10) Any period of residence spent by a holder of a long-stay visa or residence permit issued under Union or national law should be counted for acquiring the EU long-term resident status, including periods of residence under a status or in a capacity that is excluded from the scope of the Directive, such as residence for study purposes or vocational training, residence as beneficiary of national or temporary protection, or residence initially based solely on temporary grounds. Where the third-country national concerned has acquired a title of residence which will enable him/her to be granted EU long-term resident status, these periods should be taken into account fully in the calculation of the period required to acquire EU long-term resident status, provided that the overall residence has been legal and continuous.

↓ 2003/109/EC recital 7 (adapted)
⇨ new

(11) To acquire ⌦ EU ⌫ long-term resident status, third-country nationals should prove that they have adequate resources and sickness insurance, to avoid becoming a burden for the Member State. ⇨ Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level below which all applications for EU long-term resident status will be refused, irrespective of an actual examination of the situation of each applicant. ⇦ ~~Member States,~~ ~~w~~When making an assessment of the possession of stable and regular resources, ⌦ Member States ⌫ may take into account factors such as contributions to the pension system and fulfilment of tax obligations. ⇨ The concept of 'resources' should not concern solely the 'own resources' of the applicant for EU long-term resident status, but may also cover the resources made available to that applicant by a third party provided that, in the light of the individual circumstances of the applicant concerned, they are considered to be stable, regular and sufficient. ⇦

⇩ new

(12) Member States should be able to require applicants for EU long-term resident status to comply with integration conditions, for example by requiring them to pass a civic integration or language examination. However, the means for implementing this requirement should not be liable to jeopardise the objective of promoting the integration of third-country nationals, having regard, in particular, to the level of knowledge required to pass a civic integration examination, to the accessibility of the courses and material necessary to prepare for that examination, to the amount of fees applicable to third-country nationals as registration fees to sit that examination, or to the consideration of specific individual circumstances, such as age, illiteracy or level of education.

↓ 2003/109/EC recital 8 (adapted)

(13) Moreover, third-country nationals who wish to acquire and maintain ⌦ EU ⌫ long-term resident status should not constitute a threat to public policy or public security. The notion of public policy may cover a conviction for committing a serious crime.

↓ 2003/109/EC recital 9 (adapted)

(14) Economic considerations should not be a ground for refusing to grant ⌦ EU ⌫ long-term resident status and ~~shall~~ ⌦ should ⌫ not be considered as interfering with the relevant conditions.

↓ 2003/109/EC recital 10 (adapted)

(15) A set of rules governing the procedures for the examination of application ⌦ s ⌫ for ⌦ the acquisition of EU ⌫ long-term resident status should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as ~~being~~ transparent and fair,

in order to offer appropriate legal certainty to those concerned. They should not constitute a means of hindering the exercise of the right of residence.

↓ 2003/109/EC recital 11 (adapted)

(16) The acquisition of ⌦ EU ⌫ long-term resident status should be certified by ⌦ EU long term ⌫ residence permits enabling those concerned to prove their legal status easily and immediately. Such residence permits should also satisfy high-level technical standards, notably as regards protection against falsification and counterfeiting, in order to avoid abuses in the Member State in which the status is acquired and in Member States in which the right of residence is exercised.

⇩ new

(17) In order to promote circular migration of EU long-term residents, in particular to allow them to invest in their countries of origin and share the knowledge and skills acquired in the Union, as well as to return temporarily to their countries of origin for personal and family circumstances, EU long-term residents should be allowed to be absent from the territory of the Union for up to 24 consecutive months without losing their EU long-term resident status. In case of longer absences, Member States should establish a facilitated procedure for the re-acquisition of the EU long-term resident status.

↓ 2003/109/EC recital 12 (adapted)

(18) In order to constitute a genuine instrument for the integration of ⌦ EU ⌫ long-term residents into ⌦ the ⌫ society in which they live, ⌦ EU ⌫ long-term residents should enjoy equality of treatment with citizens of the Member State in a wide range of economic and social matters, under the relevant conditions defined by this Directive.

↓ 2011/51/EU recital 7 (adapted)

(19) The equality of treatment of beneficiaries of international protection in the Member State which granted them international protection should be without prejudice to the rights and benefits guaranteed under Directive 2011/95/EU ⌦ of the European Parliament and of the Council ⌫ [34] and under the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967 ('the Geneva Convention').

[34] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

↓ 2003/109/EC recital 13 (adapted)

~~With regard to social assistance, the possibility of limiting the benefits for long-term residents to core benefits is to be understood in the sense that this notion covers at least minimum income support, assistance in case of illness, pregnancy, parental assistance and long-term care. The modalities for granting such benefits should be determined by national law.~~

↓ 2003/109/EC recital 14 (adapted)

~~The Member States should remain subject to the obligation to afford access for minors to the educational system under conditions similar to those laid down for their nationals.~~

↓ 2003/109/EC recital 15 (adapted)

~~The notion of study grants in the field of vocational training does not cover measures which are financed under social assistance schemes. Moreover, access to study grants may be dependent on the fact that the person who applies for such grants fulfils on his/her own the conditions for acquiring long-term resident status. As regards the issuing of study grants, Member States may take into account the fact that Union citizens may benefit from this same advantage in the country of origin.~~

⇩ new

(20) Professional qualifications acquired by a third-country national in another Member State should be recognised in the same way as those of Union citizens. Qualifications acquired in a third country should be taken into account in accordance with Directive 2005/36/EC of the European Parliament and of the Council[35]. This Directive should be without prejudice to the conditions set out under national law for the exercise of regulated professions.

(21) This Directive should take into account the common standards and procedures in Member States for returning illegally staying third-country nationals introduced by Directive 2008/115/EC of the European Parliament and of the Council[36].

↓ 2003/109/EC recital 16 (adapted)

(22) ⌦ EU ⌫ ~~L~~long-term residents should enjoy reinforced protection against ~~expulsion~~ ⌦ decisions ending their legal stay ⌫. ~~This protection is based on the criteria determined by the decisions of the European Court of Human Rights.~~ ~~In order to~~

[35] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

[36] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

~~ensure protection against expulsion~~ Member States should provide for effective legal redress ⌦ against such decisions ⌫ .

⇩ new

(23) Decisions ending the legal stay of EU long-term residents should not be founded on economic considerations.

🡻 2011/51/EU recital 10 (adapted)

(24) Where a Member State intends to ~~expel~~ ⌦ end the legal stay ⌫ , on a ground provided for in this Directive, ⌦ of ⌫ a beneficiary of international protection who has acquired ⌦EU ⌫ long-term resident status in that Member State, ⌦ and *refoule* him/her, ⌫ that person should enjoy the protection against *refoulement* guaranteed under Directive 2011/95/EU and under Article 33 of the Geneva Convention. For that purpose, where the person enjoys international protection in a Member State other than the one in which that person is currently residing as a long-term resident, it is necessary to provide, unless *refoulement* is permitted under Directive 2011/95/EU, that that person may be ~~expelled~~ ⌦ required to go ⌫ only to the Member State which granted international protection and that that Member State is obliged to ~~readmit~~ ⌦ take back ⌫ that person. The same safeguards should apply to a beneficiary of international protection who has taken up residence but has not yet obtained ⌦EU ⌫long-term resident status in a second Member State.

🡻 2011/51/EU recital 11 (adapted)

(25) Where the ~~expulsion~~ ⌦ *refoulement* ⌫ of a beneficiary of international protection outside the territory of the Union is permitted under Directive 2011/95/EU Member States should be obliged to ensure that all information is obtained from relevant sources, including, where appropriate, from the Member State that granted international protection, and that it is thoroughly assessed with a view to guaranteeing that the decision to ~~expel~~ ⌦ *refoule* ⌫ that beneficiary is in accordance with Article 4 and Article 19(2) of the Charter of Fundamental Rights of the European Union.

⇩ new

(26) In order to promote better integration of EU long-term residents, rules on favourable conditions for family reunification and access to work for spouses should be introduced. Thus specific derogations from Council Directive 2003/86/EC should be provided for. Family reunification should not be subject to conditions relating to integration, as EU long-term residents and their families are deemed to be integrated in the host society.

(27) As family life should be respected and its protection is an essential element of the integration of EU long-term residents, children of EU long-term residents who are born or adopted in the territory of the EU Member State having issued to the latter the EU long-term residence permit should acquire the EU long-term resident status in that Member State automatically, in particular without being subject to the requirement of prior residence.

↓ 2003/109/EC recital 17
(adapted)
⇨ new

(28) Harmonisation of the terms ~~for~~ ⌦ of ⌫ acquisition of ⌦ the EU ⌫ long-term resident status promotes mutual confidence between Member States. ⇨ However, this Directive should be without prejudice to the right of Member States to issue residence permits of permanent or unlimited validity other than the EU long-term residence permit. ⇦ ~~Certain Member States issue permits with a permanent or unlimited validity on conditions that are more favourable than those provided for by this Directive. The possibility of applying more favourable national provisions is not excluded by the Treaty. However, for the purposes of this Directive, it should be provided that permits issued on more favourable terms do~~ ⇨ Such national residence permits should ⇦ not confer the right to reside in other Member States.

⇩ new

(29) Member States should ensure a level playing field between EU long-term residence permits and national residence permits of permanent or unlimited validity, in terms of procedural and equal treatment rights, procedures and access to information. In particular, Member States should ensure that the level of procedural safeguards and rights granted to EU long-term residents and their family members is not lower than the level of procedural safeguards and rights enjoyed by holders of national residence permits of permanent or unlimited validity. Member States should also ensure that applicants for an EU long-term residence permit are not required to pay higher fees for the processing of their application than applicants for national residence permits. Finally, Member States should engage in the same level of information, promotion and advertisement activities with respect to the EU long-term residence permit as they do for national residence permits of permanent or unlimited validity, for example with regard to information on national websites on legal migration and information campaigns, and training programmes provided to the competent migration authorities.

↓ 2003/109/EC recital 18
⇨ new

(30) ⇨ Residence of EU long-term residents in other Member States should be facilitated. ⇦ Establishing the conditions subject to which the right to reside in another Member State may be acquired by third-country nationals who are EU long-term residents should contribute to the effective attainment of an internal market as an area in which the free movement of persons is ensured. ~~It could also constitute a major factor of mobility, notably on the Union's employment market.~~ ⇨ The occupational and geographical mobility of third-country nationals who are already EU long-term residents in one Member State should be recognised as an important contributor to improving labour market efficiency across the Union, to addressing skills shortages and to offsetting regional imbalances.⇦

↓ 2011/51/EU recital 5

(31) In view of the right of beneficiaries of international protection to reside in Member States other than the one which granted them international protection, it is necessary to ensure that those other Member States are informed of the protection background of the persons concerned to enable them to comply with their obligations regarding the principle of *non-refoulement*.

↓ 2011/51/EU recital 9

(32) Transfer of responsibility for protection of beneficiaries of international protection is outside the scope of this Directive.

↓ 2003/109/EC recital 19

(33) Provision should be made that the right of residence in another Member State may be exercised in order to work in an employed or self-employed capacity, to study or even to settle without exercising any form of economic activity.

⇩ new

(34) In order to facilitate the intra-EU mobility of EU long-term residents for the exercise of an economic activity in an employed or self-employed capacity, no check of the labour market situation should be carried out when examining applications for residence in a second Member State.

(35) As soon as an EU long-term resident submits a complete application for residence in a second Member State within the deadline provided for in this Directive, it should be possible for that Member State to allow the EU long-term resident to begin employment or study. EU long-term residents should be entitled to begin employment or study at the latest 30 days after submitting the application for residence in the second Member State.

(36) Where EU long-term residents intend to apply for residence in a second Member State in order to exercise a regulated profession, their professional qualifications should be recognised in the same way as those of Union citizens exercising the right to free movement, in accordance with Directive 2005/36/EC and other applicable Union and national law.

↓ 2003/109/EC recital 20
(adapted)
⇨ new

(37) Family members should also be able to settle in ⇨ a second ⇦ ~~another~~ Member State with an ⌦ EU ⌫ long-term resident in order to preserve family unity and to avoid hindering the exercise of the ⌦ EU ⌫ long-term resident's right of residence. With regard to the family members who may be authorised to accompany or to join the ⌦ EU ⌫ long-term residents, Member States should pay special attention to the situation of disabled adult children and of first-degree relatives in the direct ascending line who are dependent on them.

↓ 2003/109/EC recital 21
(adapted)

(38) The Member State in which an ⊠ EU ⊠ long-term resident intends to exercise his/her right of residence should be able to check that the person concerned meets the conditions for residing in its territory. It should also be able to check that the person concerned does not constitute a threat to public policy, public security or public health.

↓ 2003/109/EC recital 22
(adapted)

(39) To avoid rendering the right of residence nugatory, ⊠ EU ⊠ long-term residents should enjoy in the second Member State the same treatment, under the conditions defined by this Directive, they enjoy in the Member State in which they acquired the status. The granting of benefits under social assistance is without prejudice to the possibility for the Member States to withdraw the residence permit if the person concerned no longer fulfils the requirements set by this Directive.

⇩ new

(40) In order to ensure that the criteria for residence in the second Member State continue to be fulfilled, the second Member State should be allowed to require that EU long-term residents and their family members communicate to the competent authorities any change of employer or economic activity. The communication procedure should not suspend the right of the persons concerned to pursue the economic activity in an employed or self-employed capacity, and no check of the labour market situation should be carried out.

↓ 2003/109/EC recital 23
(adapted)
⇨ new

(41) Third-country nationals should be granted the possibility of acquiring ⊠ EU ⊠ long-term resident status in the Member State where they have moved and have decided to settle under ~~comparable~~ ⇨ the same ⇦ conditions ~~to~~ ⊠ as ⊠ those required for its acquisition in the first Member State. ⇨ However, the required period of residence in the second Member State should be three years and it should not be possible to cumulate periods of residence in different Member States. In that case, it should be left to the second Member State to decide whether it will grant social assistance, or maintenance assistance for studies, including vocational training, to EU long-term residents other than those who are workers or self-employed persons or their family members, prior to the completion of five years of legal and continuous residence in its territory, bearing in mind that Union citizens who have exercised free movement rights in a capacity other than that of workers or self-employed persons in accordance with Directive 2004/38/EC or Article 21 TFEU, or their family members, may also be refused such benefits prior to the completion of five years of legal and continuous residence. The second Member State may decide to grant such assistance to EU long-term residents prior to the completion of five years of legal and continuous residence, provided that it ensures the same treatment to Union citizens exercising free

movement rights in accordance with Directive 2004/38/EC or Article 21 TFEU, other than workers, self-employed persons or persons who retain such status, their family members, as well as third-country nationals enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and third countries on the other, and their family members. Furthermore, prior to the completion of five years of legal and continuous residence in that Member State, where an EU long-term resident has ceased an employed or self-employed activity and he/she does not have sufficient resources for himself/herself and his/her family members and comprehensive sickness insurance cover so as not to become an unreasonable burden on the social assistance system of the second Member State, his/her legal stay may be ended on that ground, bearing in mind that Union citizens who have exercised free movement rights and their family members may be expelled in such a situation. ⇦

↓ 2003/109/EC recital 24 (adapted)

(42) Since the objectives of ~~the proposed action~~ ⌦ this Directive ⌫ , namely the determination of terms for ~~granting~~ ⌦ conferring ⌫ and withdrawing ⌦ EU ⌫ long-term resident status and the rights pertaining thereto and terms for the exercise of rights of residence by ⌦ EU ⌫ long-term residents in other Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the ~~Community~~ ⌦ Union ⌫ , the ~~Community~~ ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ⌦ on European Union ⌫ . In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

↓ 2003/109/EC recital 25 (adapted)
⇨ new

(43) In accordance with Articles 1 and 2 of ~~the~~ Protocol ⌦ No 21 ⌫ on the position of the United Kingdom and Ireland ⌦ in respect of the area of freedom, security and justice ⌫ , annexed to the Treaty on European Union ⌦ (TEU) ⌫ and to the Treaty on the Functioning of the European Union ⌦ (TFEU) ⌫ , and without prejudice to Article ⇨ s 3 and ⇦ 4 of ~~the said~~ ⌦ that ⌫ Protocol, ⇨ Ireland ⇦ ~~these Member States are~~ ⇨ is ⇦ not taking part in the adoption of this Directive and are not bound by it or subject to its application.

[OR]

[In accordance with Article~~s~~ ⇨ 4a ⇦ ~~1 and 2~~ of ~~the~~ Protocol ⌦ No 21 ⌫ on the position of the United Kingdom and Ireland ⌦ in respect of the area of freedom, security and justice ⌫, annexed to the Treaty on European Union ⌦ (TEU) ⌫ and to the Treaty on the Functioning of the European Union ⌦ (TFEU) ⌫, and without prejudice to Article 4 of ~~the said~~ ⌦ that ⌫ Protocol, ~~these Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application~~ ⇨ Ireland has notified [, by letter of …,] its wish to take part in the adoption and application of Directive. ⇦]

↓ 2003/109/EC recital 26 (adapted)

(44) In accordance with Articles 1 and 2 of ~~the~~ Protocol ⌦ No 22 ⌫ on the position of Denmark, annexed to the Treaty on European Union and the Treaty ⌦ on the Functioning of the European Union ⌫ ~~establishing the European Community~~, Denmark does not take part in the adoption of this Directive, and is not bound by it or subject to its application~~.~~.

⇩ new

(45) The obligation to transpose this Directive into national law should be limited to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under that earlier Directive.

(46) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex I, Part B,

↓ 2003/109/EC (adapted)
⇨ new

~~HAS~~ ⌦ HAVE ⌫ ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Directive determines:

(a) the terms for conferring and withdrawing ⌦ EU ⌫ long-term resident status granted by a Member State in relation to third-country nationals legally ⇨ and continuously ⇦ residing in its territory, and the rights pertaining thereto; and

(b) the ~~terms of~~ ⇨ conditions of entry and ⇦ residence ⇨ , and the rights, of third-country nationals referred to in point (a) and of their family members, ⇦ in Member States other than the ~~one which conferred long-term status on them for third-country nationals enjoying that~~ ⇨ Member State which first granted EU long-term resident ⇦ status.

Article 2

Definitions

For the purposes of this Directive:

(a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article ~~17~~ ⌦ 20 ⌫ (1) of the Treaty;

(b) '⌦ EU ⌫ long-term resident' means any third-country national who has ⌦ EU ⌫ long-term resident status as provided for under Articles 4 to 7;

(c) 'first Member State' means the Member State which for the first time granted ⌦ EU ⌫ long-term resident status to a third-country national;

(d) 'second Member State' means any Member State other than the one which for the first time granted ⌦ EU ⌫ long-term resident status to a third-country national and in which that long-term resident exercises the right of residence;

(e) 'family members' means the third-country nationals who reside in the Member State concerned in accordance with Council Directive 2003/86/EC ~~of 22 September 2003 on the right to family reunification~~[37];

↓ 2011/51/EU Art. 1.1

(f) 'international protection' means international protection as defined in Article 2(a) of Directive 2011/95/EU of the European Parliament and the Council ~~Council Directive 2004/83/EC of 29 April 200413 December 2011 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted~~[38];

↓ 2003/109/EC (adapted)

(g) ' ⌦ EU ⌫ long-term ~~resident's EC~~ residence permit' means a residence permit issued by the Member State concerned upon the acquisition of ⌦ EU ⌫ long-term resident status.

Article 3

Scope

1. This Directive applies to third-country nationals residing legally in the territory of a Member State.

2. This Directive does not apply to third-country nationals who:

(a) reside in order to pursue studies or vocational training;

(b) are authorised to reside in a Member State on the basis of temporary protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;

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37 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

38 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9).

↓ 2011/51/EU Art. 1, point 2(a)

(c) are authorised to reside in a Member State on the basis of a form of protection other than international protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;

(d) have applied for international protection and whose application has not yet given rise to a final decision;

↓ 2003/109/EC (adapted)

(e) reside solely on temporary grounds such as au pair or seasonal worker, or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services ~~or in cases where their residence permit has been formally limited~~;

(f) enjoy a legal status governed by the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, the Convention of 1969 on Special Missions or the Vienna Convention on the Representation of States in their Relations with International Organisations of a Universal Character of 1975.

3. This Directive shall apply without prejudice to more favourable provisions of:

(a) bilateral and multilateral agreements between the ~~Community~~ ⌦ Union ⌫ or the ~~Community~~ ⌦ Union ⌫ and its Member States, on the one hand, and third countries, on the other;

(b) bilateral agreements already concluded between a Member State and a third country before the date of entry into force of this Directive;

↓ 2011/51/EU Art. 1, point 2(b)

(c) the European Convention on Establishment of 13 December 1955, the European Social Charter of 18 October 1961, the amended European Social Charter of 3 May 1987, the European Convention on the Legal Status of Migrant Workers of 24 November 1977, paragraph 11 of the Schedule to the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967, and the European Agreement on Transfer of Responsibility for Refugees of 16 October 1980.

↓ 2003/109/EC (adapted)
⇨ new

CHAPTER II

LONG-TERM RESIDENT STATUS IN A MEMBER STATE

Article 4

Duration of residence

1. ⇨ Notwithstanding paragraph 3 of this article, ⇦ Member States shall grant ⌦ EU ⌫ long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application.

⇩ new

2. Member States shall establish appropriate control mechanisms to ensure that the requirement of legal and continuous residence is duly monitored, with particular regard to applications submitted by third-country nationals holding and/or having held a residence permit granted on the basis of any kind of investment in a Member State.

3. Member States shall allow third-country nationals to cumulate periods of residence in different Member States in order to fulfil the requirement concerning the duration of residence, provided that they have accumulated two years of legal and continuous residence within the territory of the Member State where the application for EU long-term resident status is submitted immediately prior to the submission of the application. For the purpose of cumulating periods of residence in different Member States, Member States shall not take into account periods of residence as a holder of a residence permit granted on the basis of any kind of investment in another Member State.

🡻 2011/51/EU Art. 1, point 3(a) (adapted)

~~1a~~4. Member States shall not grant ⌦ EU ⌫ long-term resident status on the basis of international protection in the event of the revocation of, ending of or refusal to renew international protection as laid down in Article~~s~~ 14(3) and ⌦ Article ⌫ 19(3) of Directive 2011/95/EU~~2004/83/EC~~.

⇩ new

5. Any period of residence spent as a holder of a long-stay visa or residence permit issued under Union or national law, including the cases covered in Article 3(2), points (a), (b), (c) and (e), shall be taken into account for the purposes of calculating the period referred to in paragraph 1, where the third-country national concerned has acquired a title of residence which will enable him/her to be granted EU long-term resident status.

🡻 2003/109/EC

~~2. Periods of residence for the reasons referred to in Article 3(2)(e) and (f) shall not be taken into account for the purposes of calculating the period referred to in paragraph 1.~~

~~Regarding the cases covered in Article 3(2)(a), where the third-country national concerned has acquired a title of residence which will enable him/her to be granted long-term resident status, only half of the periods of residence for study purposes or vocational training may be taken into account in the calculation of the period referred to in paragraph 1.~~

↓ 2011/51/EU Art. 1, point 3(b)

Regarding persons to whom international protection has been granted, at least half of the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted and the date of the grant of the residence permit referred to in Article 24 of Directive ~~2004/83/EC~~2011/95/EU, or the whole of that period if it exceeds 18 months, shall be taken into account in the calculation of the period referred to in paragraph 1.

↓ 2003/109/EC

~~3~~6. Periods of absence from the territory of the Member State concerned shall not interrupt the period referred to in paragraph 1 and shall be taken into account for its calculation where they are shorter than six consecutive months and do not exceed in total 10 months within the period referred to in paragraph 1.

In cases of specific or exceptional reasons of a temporary nature and in accordance with their national law, Member States may accept that a longer period of absence than that which is referred to in the first subparagraph shall not interrupt the period referred to in paragraph 1. In such cases Member States shall not take into account the relevant period of absence in the calculation of the period referred to in paragraph 1.

By way of derogation from the second subparagraph, Member States may take into account in the calculation of the total period referred to in paragraph 1 periods of absence relating to secondment for employment purposes, including the provision of cross-border services.

↓ 2003/109/EC (adapted)
⇨ new

Article 5

Conditions for acquiring ⌦ EU ⌫ long-term resident status

1. Member States shall require third-country nationals to provide evidence that they have, for themselves and for dependent family members:

(a) stable and regular resources ⇨ , also made available by a third party, ⇦ which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status;

(b) sickness insurance in respect of all risks normally covered for his/her own nationals in the Member State concerned.

⇩ new

2. For the purpose of paragraph 1, point (a), Member States shall evaluate the stable and regular resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status. Member States may indicate a certain sum as a reference

amount, but they may not impose a minimum income level, below which all applications for EU long-term resident status would be refused, irrespective of an actual examination of the situation of each applicant.

↓ 2003/109/EC

~~3.~~2. Member States may require third-country nationals to comply with integration conditions, in accordance with national law.

⇩ new

4. Where Member States issue national residence permits in accordance with Article 14, they shall not require EU long-term resident permit applicants to comply with stricter resources and integration conditions than those imposed on applicants for such national residence permits.

↓ 2003/109/EC (adapted)

Article 6

Public policy and public security

1. Member States may refuse to grant ⌦ EU ⌫ long-term resident status on grounds of public policy or public security.

When taking the relevant decision, the Member State shall consider the severity or type of offence against public policy or public security, or the danger that emanates from the person concerned, while also having proper regard to the duration of residence and to the existence of links with the country of residence.

2. The refusal referred to in paragraph 1 shall not be founded on economic considerations.

Article 7

Acquisition of ⌦ EU ⌫ long-term resident status

1. To acquire ⌦ EU ⌫ long-term resident status, the third-country national concerned shall lodge an application with the competent authorities of the Member State in which he/she resides. The application shall be accompanied by documentary evidence to be determined by national law that he/she meets the conditions set out in Articles 4 and 5 as well as, if required, by a valid travel document or its certified copy.

~~The evidence referred to in the first subparagraph may also include documentation with regard to appropriate accommodation.~~

2. The competent national authorities shall give the applicant written notification of the decision as soon as possible and in any event no later than six months from the date on which the ⌦ complete ⌫ application was lodged. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation.

~~In exceptional circumstances linked to the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended.~~

⇩ new

Where the documents presented or information provided in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional documents or information that are required and shall set a reasonable deadline for presenting or providing them. The period referred to in the first subparagraph shall be suspended until the authorities have received the additional documents or information required. If the additional documents or information required have not been provided within that deadline, the application may be rejected.

🡻 2003/109/EC (adapted)

~~In addition,~~ t~~T~~he person concerned shall be informed about his/her rights and obligations under this Directive.

Any consequences of no decision being taken by the end of the period provided for in this provision shall be determined by national legislation of the relevant Member State.

3. If the conditions provided for by Articles 4 and 5 are met, and the person does not represent a threat within the meaning of Article 6, the Member State concerned shall grant the third-country national concerned ⌦ EU ⌫ long-term resident status.

⇩ new

4. Where an application for an EU long-term resident permit concerns a third-country national who holds a national residence permit issued by the same Member State in accordance with Article 14, that Member State shall not require the applicant to give evidence of the conditions provided for in Article 5(1) and (2), if the compliance with those conditions was already verified in the context of the application for the national residence permit.

🡻 2003/109/EC (adapted)

Article 8

⌦ EU ⌫ Long-term ~~resident's EC~~ residence permit

1. The status as ⌦ EU ⌫ long-term resident shall be permanent, subject to Article 9.

2. Member States shall issue a~~n~~ ⌦ EU ⌫ long-term ~~resident's EC~~ residence permit to ⌦ EU ⌫ long-term residents. The permit shall be valid at least for five years; it shall, upon application if required, be automatically renewable on expiry.

3. A~~n~~ ⌦ EU ⌫ long-term ~~resident's EC~~ residence permit ~~may be issued in the form of a sticker or of a separate document. It~~ shall be issued in accordance with the rules and standard model as set out in Council Regulation (EC) No 1030/2002 ~~of 13 June 2002 laying down a uniform format for residence permits for third-country nationals~~[39]. Under the heading 'type of permit', the Member States shall enter '⌦ EU ⌫ long-term resident ~~– EC~~'.

[39] Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

↓ 2011/51/EU Art. 1, point4 (adapted)

4. Where a Member State issues an ~~long-term resident's~~ EU ⌦ long-term ⌫ residence permit to a third-country national to whom it granted international protection, it shall enter the following remark in that ~~long-term resident's EU residence~~ permit, under the heading 'Remarks': 'International protection granted by [name of the Member State] on [date]'.

5. Where an ~~long-term resident's~~ EU ⌦ long-term ⌫ residence permit is issued by a second Member State to a third-country national who already has an ~~long-term resident's~~ EU ⌦ long-term ⌫ residence permit issued by another Member State which contains the remark referred to in paragraph 4, the second Member State shall enter the same remark in the ~~long-term resident's~~ EU ⌦ long-term ⌫ residence permit ⌦ it issues ⌫ .

Before the second Member State enters the remark referred to in paragraph 4, it shall request the Member State mentioned in that remark to provide information as to whether the ⌦ EU ⌫ long-term resident is still a beneficiary of international protection. The Member State mentioned in the remark shall reply no later than 1 month after receiving the request for information. Where international protection has been withdrawn by a final decision, the second Member State shall not enter that remark.

6. Where, in accordance with the relevant international instruments or national law, responsibility for the international protection of the ⌦ EU ⌫ long-term resident was transferred to the second Member State after the ~~long-term resident's~~ EU ⌦ long-term ⌫ residence permit referred to in paragraph 5 was issued, the second Member State shall amend accordingly the remark referred to in paragraph 4 no later than 3 months after the transfer.

↓ 2003/109/EC (adapted)
⇨ new

Article 9

Withdrawal or loss of status

1. ⌦ EU ⌫ ~~L~~long-term residents shall no longer be entitled to maintain ⌦ EU ⌫ long-term resident status in the following cases:

(a) detection of fraudulent acquisition of ⌦ EU ⌫ long-term resident status;

(b) adoption of ~~an expulsion measure~~ ⌦ a decision ending the legal stay ⌫ under the conditions provided for in Article 13~~12~~;

(c) in the event of absence from the territory of the ~~Community~~ ⌦ Union ⌫ for a period of ~~12~~ ⇨ 24 ⇦ consecutive months.

2. By way of derogation from paragraph 1, ⌦ point ⌫ (c), Member States may provide that absences ⌦ for specific or exceptional reasons ⌫ exceeding ~~12~~ ⇨ 24 ⇦ consecutive months ~~or for specific or exceptional reasons~~ shall not entail withdrawal or loss of status.

3. Member States may provide that the ⌦ EU ⌫ long-term resident shall no longer be entitled to maintain his/her ⌦ EU ⌫ long-term resident status in cases where he/she constitutes a threat to public policy, in consideration of the seriousness of the offences he/she committed, but such threat is not a reason for ~~expulsion~~ ⌦ ending his/her legal stay ⌫ within the meaning of Article 13~~12~~.

↓ 2011/51/EU Art. 1, point 5 (adapted)

43a. Member States may withdraw the ⊠ EU ⊠ long-term resident status in the event of the revocation of, ending of or refusal to renew international protection as laid down in Articles 14(3) and 19(3) of Directive 2004/83/EC2011/95/EU if the long-term resident status was obtained on the basis of international protection.

↓ 2003/109/EC (adapted)

54. The long-term resident who has resided in another Member State in accordance with Chapter III shall no longer be entitled to maintain his/her ⊠ EU ⊠ long-term resident status acquired in the first Member State when such a status is granted in another Member State pursuant to Article 2623.

In any case after six years of absence from the territory of the Member State that granted ⊠ EU ⊠ long-term resident status the person concerned shall no longer be entitled to maintain his/her ⊠ EU ⊠ long term resident status in the said Member State.

By way of derogation from the second subparagraph, the Member State concerned may provide that for specific reasons the ⊠ EU ⊠ long-term resident shall maintain his/her status in the said Member State in case of absences for a period exceeding six years.

⇩ new

The Member States concerned may exchange information for the purpose of verifying the loss or withdrawal of the status in accordance with the cases referred to in this paragraph.

↓ 2003/109/EC (adapted)

65. With regard to the cases referred to in paragraph 1, ⊠ point ⊠ (c) and in paragraph 4, Member States who have granted the status shall provide for a facilitated procedure for the re-acquisition of ⊠ EU ⊠ long-term resident status.

~~The said procedure shall apply in particular to the cases of persons that have resided in a second Member State on grounds of pursuit of studies.~~

~~The conditions and the procedure for the re-acquisition of long-term resident status shall be determined by national law.~~

⇩ new

In those cases, Member States may decide not to require the fulfilment of the conditions set out in Article 4(1) and Article 5(1).

Member States shall not require third-country nationals who apply for the re-acquisition of the EU long-term resident status to comply with integration conditions.

↓ 2003/109/EC (adapted)

76. The expiry of an ⊠ EU ⊠ long-term ~~resident's EC~~ residence permit shall in no case entail withdrawal or loss of ⊠ EU ⊠ long-term resident status.

8~~7~~. Where the withdrawal or loss of ⌦ EU ⌫ long-term resident status does not lead to ~~removal~~ ⌦ the ending of the legal stay ⌫ , the Member State shall authorise the person concerned to remain in its territory if he/she fulfils the conditions provided for in its national legislation and/or if he/she does not constitute a threat to public policy or public security.

Article 10

Procedural guarantees

1. Reasons shall be given for any decision rejecting an application for ⌦ EU ⌫ long-term resident status or withdrawing that status. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the redress procedures available and the time within which he/she may act.

2. Where an application for ⌦ EU ⌫ long-term resident status is rejected or that status is withdrawn or lost or the residence permit is not renewed, the person concerned shall have the right to mount a legal challenge in the Member State concerned.

⇩ new

3. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders and applicants the same procedural safeguards as those provided for under their national schemes where the procedural safeguards under such national schemes are more favourable than those provided for in this Article, paragraphs 1 and 2, and in Article 7(2).

Article 11

Fees

Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of fees imposed by a Member State for the processing of applications shall not be disproportionate or excessive.

Where Member States issue national residence permits in accordance with Article 14, they shall not require EU long-term resident applicants to pay higher fees than those imposed on applicants for national residence permits.

🡻 2003/109/EC (adapted)
⇨ new

Article 12~~11~~

Equal treatment

1. ⌦ EU ⌫ l~~L~~ong-term residents shall enjoy equal treatment with nationals as regards:

(a) access to employment and self-employed activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration;

(b) education and vocational training, including study grants in accordance with national law;

(c) recognition of professional diplomas, certificates and other qualifications, in accordance with the relevant national procedures;

(d) ⇨ branches of ⇦ social security~~,~~ ⇨ referred to in Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council[40], and ⇦ social assistance and social protection as defined by national law;

(e) tax benefits;

(f) access to goods and services and the supply of goods and services made available to the public ⇨ , including access to private housing, ⇦ and to procedures for obtaining ⇨ public ⇦ housing;

(g) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

(h) free access to the entire territory of the Member State concerned, within the limits provided for by the national legislation for reasons of security.

2. With respect to the provisions of paragraph 1, points (b), (d), (e), (f) and (g), the Member State concerned may restrict equal treatment to cases where the registered or usual place of residence of the ⌦ EU ⌫ long-term resident~~, or that of family members for whom he/she claims benefits,~~ lies within the territory of the Member State concerned.

3. Member States may restrict equal treatment with nationals in the following cases:

(a) Member States may retain restrictions to access to employment or self-employed activities in cases where, in accordance with existing national or ~~Community~~ ⌦ Union ⌫ legislation, these activities are reserved to nationals, EU or EEA citizens;

(b) Member States may require proof of appropriate language proficiency for access to education and training. Access to university may be subject to the fulfilment of specific educational prerequisites.

~~4. Member States may limit equal treatment in respect of social assistance and social protection to core benefits.~~

⇩ 2011/51/EU Art. 1, point 6

4~~4a~~. As far as the Member State which granted international protection is concerned, paragraphs 3 and 4 shall be without prejudice to Directive ~~2004/83/EC~~2011/95/EU.

⇩ new

5. EU long-term residents moving to a third country, or their survivors who reside in a third country and who derive rights from an EU long-term resident, shall receive, in relation

[40] Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

to old age, invalidity and death, statutory pensions based on the EU long-term resident's previous employment that were acquired in accordance with the legislation referred to in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as nationals of the Member States concerned where such nationals move to a third country.

↓ 2003/109/EC (adapted)

~~5~~6. Member States may decide to grant access to additional benefits in the areas referred to in paragraph 1.

Member States may also decide to grant equal treatment with regard to areas not covered ⌦ by ⌫ ~~in~~ paragraph 1.

⇩ new

7. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders the same equal treatment rights as those granted to holders of national residence permits, where such equal treatment rights are more favourable than those provided for in this Article.

↓ 2003/109/EC (adapted)

Article 13~~12~~

Protection against ~~expulsion~~ ⌦ decisions ending the legal stay ⌫

1. Member States may take a decision ~~to expel~~ ⌦ ending the legal stay of ⌫ an ⌦ EU ⌫ long-term resident solely where he/she constitutes an actual and sufficiently serious threat to public policy or public security.

2. The decision referred to in paragraph 1 shall not be founded on economic considerations.

3. Before taking a decision to ~~expel~~ ⌦ end the legal stay of ⌫ an ⌦ EU ⌫ long-term resident, Member States shall have regard to the following factors:

(a) the duration of residence in their territory;

(b) the age of the person concerned;

(c) the consequences for the person concerned and family members;

(d) links with the country of residence or the absence of links with the country of origin.

↓ 2011/51/EU Art. 1, point 7(a) (adapted)

~~3a~~4. Where a Member State decides to ~~expel~~ ⌦ end the legal stay of ⌫ an ⌦ EU ⌫ long-term resident whose ⌦ EU ⌫ long-term ~~resident's EU~~ residence permit contains the remark referred to in Article 8(4), it shall request the Member State mentioned in that remark to confirm whether the person concerned is still a beneficiary of international protection in that Member State. The Member State mentioned in the remark shall reply no later than 1 month after receiving the request for information.

~~3b~~5. If the ⌦ EU ⌫ long-term resident is still a beneficiary of international protection in the Member State mentioned in the remark, that person shall be ~~expelled~~ ⌦ required to go, in accordance with Article 6(2) of Directive 2008/115/EC, ⌫ to that Member State, which shall, without prejudice to the applicable Union or national law and to the principle of family unity, immediately ~~readmit~~ ⌦ take back ⌫ , without formalities, that beneficiary and his/her family members.

~~3c~~6. By way of derogation from paragraph ~~3b~~5, the Member State which adopted the ~~expulsion~~ decision ⌦ ending the legal stay ⌫ shall retain the right to ~~remove~~ ⌦ *refoule* ⌫ , in accordance with its international obligations, the ⌦ EU ⌫ long-term resident to a country other than the Member State which granted international protection where that person fulfils the conditions specified in Article 21(2) of Directive ~~2004/83/EC~~2011/95/EU.

⇩ 2003/109/EC (adapted)

~~4~~7. Where a~~n expulsion~~ decision ⌦ ending the legal stay of an EU long-term resident ⌫ has been adopted, a judicial redress procedure shall be available to the ⌦ EU ⌫ long-term resident in the Member State concerned.

~~5~~8. Legal aid shall be given to ⌦ EU ⌫ long-term residents lacking adequate resources, on the same terms ⌦ that ⌫ ~~as~~ apply to nationals of the State where they reside.

⇩ 2011/51/EU Art. 1, point 7(b)

~~6~~9. This Article shall be without prejudice to Article 21(1) of Directive ~~2004/83/EC~~2011/95/EU.

⇩ 2003/109/EC (adapted)
⇨ new

Article ~~14~~13

~~More favourable national provisions~~ ⌦ National residence permits of permanent or unlimited validity ⌫

⇨ This Directive is without prejudice to the right of ⇦ Member States ~~may~~ ⇨ to ⇦ issue residence permits of permanent or unlimited validity ⇨ other than the EU long-term residence permit issued in accordance with this Directive ⇦ ~~on terms that are more favourable than those laid down by this Directive~~. Such residence permits shall not confer the right of residence in the other Member States as provided by Chapter III of this Directive.

⇩ new

Article 15
Family members

1. The children of an EU long-term resident who are born or adopted in the territory of the Member State that issued him/her the EU long-term residence permit shall acquire EU long-term resident status automatically, without being subject to the conditions set out in Articles 4 and 5. The EU long-term resident shall lodge an application with the competent authorities of the Member State in which he/she resides to obtain the EU long-term resident permit for his/her child.

2. By way of derogation from Article 4(1), third subparagraph, and from Article 7(2), first subparagraph, of Directive 2003/86/EC, the integration conditions and measures referred to therein may be applied, but only after the persons concerned have been granted family reunification.

3. By way of derogation from Article 5(4), first subparagraph, of Directive 2003/86/EC, where the conditions for family reunification are fulfilled, the decision shall be adopted and notified as soon as possible but not later than 90 days after the date of submission of the application for family reunification. Article 7(2) and Article 10 of this Directive shall apply accordingly.

4. By way of derogation from Article 14(2) of Directive 2003/86/EC, Member States shall not examine the situation of their labour market.

5. Where Member States issue national residence permits in accordance with Article 14, they shall grant family members of EU long-term residents the same rights as those granted to family members of holders of such national residence permits where such rights are more favourable than those provided for in paragraphs 1 to 4 of this Article.

↓ 2003/109/EC (adapted)
⇨ new

CHAPTER III

RESIDENCE IN THE OTHER MEMBER STATES

Article 16~~14~~

Principle

1. An ⌦ EU ⌫ long-term resident shall acquire the right to reside in the territory of ⇨ a second ⇦ Member State~~s other than the one which granted him/her the long-term residence status, for a period exceeding three months~~, provided that the conditions set out in this C~~c~~hapter are met.

2. An ⌦ EU ⌫ long-term resident may reside in a second Member State on the following grounds:

(a) exercise of an economic activity in an employed or self-employed capacity;

(b) pursuit of studies or vocational training;

(c) other purposes.

~~3. In cases of an economic activity in an employed or self-employed capacity referred to in paragraph 2(a), Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for, respectively, filling a vacancy, or for exercising such activities.~~

~~For reasons of labour market policy, Member States may give preference to Union citizens, to third-country nationals, when provided for by Community legislation, as well as to third-country nationals who reside legally and receive unemployment benefits in the Member State concerned.~~

~~4. By way of derogation from the provisions of paragraph 1, Member States may limit the total number of persons entitled to be granted right of residence, provided that such limitations are already set out for the admission of third-country nationals in the existing legislation at the time of the adoption of this Directive.~~

~~5~~3. This C~~c~~hapter does not concern the residence of long-term residents in the territory of the Member States:

(a) as employed workers posted by a service provider for the purposes of cross-border provision of services;

(b) as providers of cross-border services.

Member States may decide, in accordance with national law, the conditions under which long-term residents who wish to move to a second Member State with a view to exercising an economic activity as seasonal workers may reside in that Member State. Cross-border workers may also be subject to specific provisions of national law.

~~6~~4. This Chapter is without prejudice to the relevant ~~Community~~ ⌦ Union ⌫ legislation on social security with regard to third-country nationals.

Article 17~~15~~

~~Conditions for~~ r~~R~~esidence in a second Member State

1. As soon as possible and no later than three months after entering the territory of the second Member State, the ⌦ EU ⌫ long-term resident shall apply to the competent authorities of that Member State for a residence permit.

↓ 2003/109/EC (adapted)
⇨ new

Member States ~~may~~ ⇨ shall ⇦ accept that the ⌦ EU ⌫ long-term resident submits the application for a residence permit to the competent authorities of the second Member State while still residing in the territory of the first Member State.

2. Member States may require the persons concerned to provide evidence that they have:

(a) stable and regular resources ⇨ , also made available by a third party, ⇦ which are sufficient to maintain themselves and the members of their families, without recourse to the social assistance of the Member State concerned. For each of the categories referred to in Article ~~14~~16(2), Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions;

(b) sickness insurance covering all risks in the second Member State normally covered for its own nationals in the Member State concerned.

3. Member States may require third-country nationals to comply with integration measures, in accordance with national law.

This condition shall not apply where the third-country nationals concerned have been required to comply with integration conditions in order to be granted long-term resident status, in accordance with the provisions of Article 5(2).

Without prejudice to the second subparagraph, the persons concerned may be required to attend language courses.

4. The application shall be accompanied by documentary evidence, to be determined by national law, that the persons concerned meet~~s~~ the relevant conditions, as well as by their long-term resident permit and a valid travel document or their certified copies.

~~The evidence referred to in the first subparagraph may also include documentation with regard to appropriate accommodation.~~

In particular:

(a) in case of exercise of an economic activity, the second Member State may require the persons concerned to provide evidence:

(i) if they are in an employed capacity, that they have an employment contract, a statement by the employer that they are hired or a proposal for an employment contract, under the conditions provided for by national legislation. Member States shall determine which of the said forms of evidence is required;

(ii) if they are in a self-employed capacity, that they have the appropriate funds which are needed, in accordance with national law, to exercise an economic activity in such capacity, presenting the necessary documents and permits;

(b) in case of study or vocational training the second Member State may require the persons concerned to provide evidence of enrolment in an accredited establishment in order to pursue studies or vocational training.

⇩ new

With regard to the exercise of an economic activity in a regulated profession as defined in Article 3(1), point (a), of Directive 2005/36/EC, for the purpose of applying for a residence permit in a second Member State, EU long-term residents shall enjoy equal treatment with Union citizens as regards recognition of professional qualifications, in accordance with applicable Union and national law.

5. The EU long-term resident shall be allowed to commence work or study in the second Member State not later than 30 days after the date of submission of the complete application.

🡻 2003/109/EC (adapted)
⇨ new

Article 18~~16~~

⌦ Residence in the second Member State for ⌫ ~~F~~family members

1. When the ⌦ EU ⌫ long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family~~, who fulfil the conditions~~ referred to in Article 4(1) of Directive 2003/86/EC shall be authorised to accompany or to join the ⌦ EU ⌫ long-term resident.

2. When the ⌦ EU ⌫ long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family, other than those referred to in Article 4(1) of Directive 2003/86/EC, may be authorised to accompany or to join the ⌦ EU ⌫ long-term resident.

3. With respect to the submission of the application for a residence permit, the provisions of Article ~~15~~17(1) apply.

4. The second Member State may require the family members concerned to present with their application for a residence permit:

(a) their ⌦ EU ⌫ long-term resident~~'s EC residence~~ permit or residence permit and a valid travel document or their certified copies;

(b) evidence that they have resided as members of the family of the ⌦ EU ⌫ long-term resident in the first Member State;

(c) evidence that they have stable and regular resources ⇨ , also made available by a third party, ⇦ which are sufficient to maintain themselves without recourse to the social assistance of the Member State concerned or that the ⌦ EU ⌫ long-term resident has such resources and insurance for them, as well as sickness insurance covering all risks in the second Member State. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions.

5. Where the family was not already constituted in the first Member State, Directive 2003/86/EC shall apply.

Article 19~~17~~

Public policy and public security

1. Member States may refuse applications for residence from ⌦ EU ⌫ long-term residents or their family members where the person concerned constitutes a threat to public policy or public security.

When taking the relevant decision, the Member State shall consider the severity or type of offence against public policy or public security committed by the long-term resident or his/her family member(s), or the danger that emanates from the person concerned.

2. The decision referred to in paragraph 1 shall not be based on economic considerations.

Article 20~~18~~

Public health

~~1.~~ Member States may refuse applications for residence from ⌦ EU ⌫ long-term residents or their family members where the person concerned constitutes a threat to public health ⇨ , as defined in Article 2, point 21, of Regulation (EU) 2016/399 of the European Parliament and of the Council[41] ⇦.

~~2. The only diseases that may justify a refusal to allow entry or the right of residence in the territory of the second Member State shall be the diseases as defined by the relevant applicable instruments of the World Health Organisation's and such other infectious or contagious parasite-based diseases as are the subject of protective provisions in relation to nationals in the host country. Member States shall not introduce new more restrictive provisions or practices.~~

[41] Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

~~3. Diseases contracted after the first residence permit was issued in the second Member State shall not justify a refusal to renew the permit or expulsion from the territory.~~

~~4. A Member State may require a medical examination, for persons to whom this Directive applies, in order to certify that they do not suffer from any of the diseases referred to in paragraph 2. Such medical examinations, which may be free of charge, shall not be performed on a systematic basis.~~

Article 21~~19~~

Examination of applications and issue of a residence permit

1. The competent national authorities shall ⇨ take a decision on the application and notify the applicant in writing as soon as possible but not later than 90 days ⇦ ~~process applications within four months~~ from the date that ~~these have~~ ⌦ the application has ⌫ been lodged.

If an application is not accompanied by the documentary evidence listed in Articles ~~15~~ 17 and ~~16~~18, or in exceptional circumstances linked with the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended for a period not exceeding ~~three months~~ ⇨ 30 days ⇦. In such cases the competent national authorities shall inform the applicant thereof.

2. If the conditions provided for in Articles ~~14~~16, ~~15~~ 17 and ~~16~~ 18 are met, then, subject to the provisions relating to public policy, public security and public health in Articles ~~17~~ 19 and ~~18~~20, the second Member State shall issue the ⌦ EU ⌫ long-term resident with a renewable residence permit. This residence permit shall, upon application, if required, be renewable on expiry. The second Member State shall inform the first Member State of its decision.

3. The second Member State shall issue members of the ⌦ EU ⌫ long-term resident's family with renewable residence permits valid for the same period as the permit issued to the ⌦ EU ⌫ long-term resident.

⇩ new

4. By way of derogation from Article 15(1) of Directive 2003/86/EC, for the purposes of calculation of the duration of residence required for the acquisition of an autonomous residence permit, residence in different Member States shall be cumulated. Member States may require two years of legal and continuous residence in the territory of the Member State where the application for the autonomous residence permit is submitted immediately prior to the submission of the application for the autonomous residence permit.

🡻 2011/51/EU Art. 1, point 8 (adapted)

Article 22~~19a~~

Amendments of ⌦ EU ⌫ long-term resident~~'s EU residence~~ permits

1. Where an ⌦ EU ⌫ long-term resident~~'s EU residence~~ permit contains the remark referred to in Article 8(4), and where, in accordance with the relevant international instruments or national law, responsibility for the international protection of the ⌦ EU ⌫

long-term resident is transferred to a second Member State before that Member State issues the ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit referred to in Article 8(5), the second Member State shall ask the Member State which has issued the ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit to amend that remark accordingly.

2. Where an ⊠ EU ⊠ long-term resident is granted international protection in the second Member State before that Member State issued the ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit referred to in Article 8(5), that Member State shall ask the Member State which has issued the ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit to amend it in order to enter the remark referred to in Article 8(4).

3. Following the request referred to in paragraphs 1 and 2, the Member State which has issued the ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit shall issue the amended ⊠ EU ⊠ long-term resident~~'s EU residence~~ permit no later than 3 months after receiving the request from the second Member State.

🡻 2003/109/EC (adapted)
⇨ new

Article ~~23~~ ~~20~~

Procedural guarantees

1. Reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the possible redress procedures available and the time limit for taking action.

Any consequences of no decision being taken by the end of the period referred to in Article ~~19~~21(1) shall be determined by the national legislation of the relevant Member State.

2. Where an application for a residence permit is rejected, or the permit is not renewed or is withdrawn, the person concerned shall have the right to mount a legal challenge in the Member State concerned.

Article ~~24~~ ~~21~~

Treatment granted in the second Member State

1. As soon as they have received the residence permit provided for by Article ~~19~~ 21 in the second Member State, ⊠ EU ⊠ long-term residents ⇨ and their family members ⇦ shall in that Member State enjoy equal treatment in the areas and under the conditions referred to in Article ~~11~~12.

2. ⊠ EU ⊠ ~~L~~long-term residents ⇨ and their family members ⇦ shall have access to the labour market in accordance with ~~the provisions of~~ paragraph 1.

~~Member States may provide that the persons referred to in Article 14(2)(a) shall have restricted access to employed activities different than those for which they have been granted their residence permit under the conditions set by national legislation for a period not exceeding 12 months.~~

⇩ new

Member States may provide that the EU long-term residents and their family members who exercise an economic activity in an employed or self-employed capacity communicate to the competent authorities any change of employer or economic activity. Such requirement shall not affect the right of the persons concerned to take up and carry out the new activity.

🡻 2003/109/EC (adapted)
⇨ new

Member States may decide in accordance with national law the conditions under which the persons referred to in Article ~~14~~16(2), ⌦ points ⌫ (b) or (c), ⇨ and their family members ⇦ may have access to an employed or self-employed activity.

~~3. As soon as they have received the residence permit provided for by Article 19 in the second Member State, members of the family of the long-term resident shall in that Member State enjoy the rights listed in Article 14 of Directive 2003/86/EC.~~

Article 25~~22~~

Withdrawal of ⌦ the ⌫ residence permit and obligation to ~~readmit~~ ⌦ take back ⌫

1. Until the third-country national has obtained ⌦ EU ⌫ long-term resident status, the second Member State may decide to refuse to renew or to withdraw the resident permit ~~and to oblige the person concerned and his/her family members, in accordance with the procedures provided for by national law, including removal procedures, to leave its territory~~ in the following cases:

(a) on grounds of public policy or public security ~~as defined~~ ⌦ referred to ⌫ in Article ~~17~~19;

(b) where the conditions provided for in Articles ~~14~~16, ~~15~~17 and ~~16~~18 are no longer met;

~~(c) where the third-country national is not lawfully residing in the Member State concerned.~~

2. If the second Member State adopts one of the measures referred to in paragraph 1, ⇨ it shall require the person concerned and his/her family members to go to the territory of the first Member State in accordance with Article 6(2) of Directive 2008/115/EC. ⇦ ~~t~~The first Member State shall immediately ~~readmit~~ ⌦ take back ⌫ without formalities the ⌦ EU ⌫ long-term resident and his/her family members. The second Member State shall ~~notify~~ ⌦ inform ⌫ the first Member State of ⇨ the application of the procedure provided for in article 6(2) of Directive 2008/115/EC ⇦ ~~its decision~~.

~~3. Until the third-country national has obtained long-term resident status and without prejudice to the obligation to readmit referred to in paragraph 2, the second Member State may adopt a decision to remove the third-country national from the territory of the Union, in accordance with and under the guarantees of Article 12, on serious grounds of public policy or public security.~~

~~In such cases, when adopting the said decision the second Member State shall consult the first Member State.~~

~~When the second Member State adopts a decision to remove the third-country national concerned, it shall take all the appropriate measures to effectively implement it In such cases the second Member State shall provide to the first Member State appropriate information with respect to the implementation of the removal decision.~~

↓ 2011/51/EU Art. 1, point 9
⇨ new

3~~3a~~. Unless, in the meantime, the international protection has been withdrawn or the person falls within one of the categories specified in Article 21(2) of Directive ~~2004/83/EC~~2011/95/EU, ~~paragraph 3 of this Article shall not apply to~~ ⇨ the second Member State shall not *refoule* ⇦ third-country nationals whose long-term resident's EU residence permit issued by the first Member State contains the remark referred to in Article 8(4) of this Directive.

This paragraph shall be without prejudice to Article 21(1) of Directive ~~2004/83/EC~~2011/95/EU.

↓ 2003/109/EC (adapted)

~~4. Removal decisions may not be accompanied by a permanent ban on residence in the cases referred to in paragraph 1(b) and (c).~~

4~~5~~. The obligation to ~~readmit~~ ⌦ take back ⌫ referred to in paragraph 2 shall be without prejudice to the possibility of the ⌦ EU ⌫ long-term resident and his/her family members moving to a third Member State.

Article 26~~23~~

Acquisition of ⌦ EU ⌫ long-term resident status in the second Member State

1. Upon application, the second Member State shall grant ⌦ EU ⌫ long-term residents the status provided for by Article 7, subject to the provisions of Articles 3, 4, 5 and 6. The second Member State shall notify its decision to the first Member State.

⇩ new

2. By way of derogation from Article 4(1) and (3), the second Member State shall grant EU long-term resident status to third-country nationals who, after acquiring the right to reside in accordance with this Chapter, have legally and continuously resided within its territory for three years immediately prior to the submission of the relevant application.

3. The second Member State shall not be obliged to confer entitlement to social assistance, or maintenance aid for studies, including vocational training, consisting in student grants or student loans to EU long-term residents other than workers, self-employed persons, and their family members, prior to the completion of five years of legal and continuous residence in its territory.

The second Member State may decide to confer entitlement to such assistance to EU long-term residents prior to the completion of five years of legal and continuous residence, provided that it ensures the same treatment to Union citizens exercising free movement rights in accordance with Directive 2004/38/EC or Article 21 TFEU, other than workers, self-employed persons or persons who retain such status, their family members, as well as third-

country nationals enjoying the right of free movement equivalent to that of Union citizens other than workers, self-employed persons or persons who retain such status under an agreement between the Union and its Member States, on the one hand, and third countries on the other, and their family members.

4. By way of derogation from Article 13(2), and solely prior to the completion of five years of legal and continuous residence in its territory, the second Member State may take a decision to end the legal stay of an EU long-term resident who has ceased an employed or self-employed activity, where he/she does not have sufficient resources for himself/herself and his/her family members and comprehensive sickness insurance cover so as not to become an unreasonable burden on its social assistance system.

↓ 2003/109/EC (adapted)

~~2~~5. The procedure laid down in Article 7 shall apply to the presentation and examination of applications for ⌦ EU ⌫ long-term resident status in the second Member State. Article 8 shall apply for the issuance of the residence permit. Where the application is rejected, the procedural guarantees provided for by Article 10 shall apply.

CHAPTER IV

FINAL PROVISIONS

⇩ new

Article 27

Access to information

1. Member States shall make easily accessible to applicants for an EU long-term resident permit information

(a) on the documentary evidence needed for an application;

(b) on the status acquisition and residence conditions applicable to third-country nationals and to their family members, including their rights and obligations and the procedural safeguards.

2. Where Member States issue national residence permits in accordance with Article 14, they shall ensure the same access to information on the EU long-term resident permit as the one provided with respect to such national residence permits.

↓ 2003/109/EC (adapted)

Article 28~~24~~

Report and rendez-vous clause

Periodically, and for the first time no later than ~~23 January 2011~~ ⌦ [*two years following the end of the transposition period*] ⌫ , the Commission shall report to the European Parliament and to the Council on the application of this Directive in the Member States and shall propose ~~such~~ ⌦ any ⌫ amendments ~~as may~~ ⌦ that it considers to ⌫ be necessary. These

proposals for amendments ⌦ , where necessary, ⌫ shall be made by way of priority in relation to Articles 4, 5, 9, ~~11~~ 12 and to Chapter III.

⇩ new

In the aforementioned report, the Commission shall specifically assess the impacts of the required residence period set out in Article 4(1) on the integration of third-country nationals, including the possible benefits of reducing this period, taking into account, inter alia, the different factors relevant for the integration of third-country nationals across Member States.

🡻 2011/51/EU Art. 1, point 10
⇨ new

Article ~~29~~25

Contact points

Member States shall appoint contact points who will be responsible for receiving and transmitting the information and documentation referred to in Articles 8, ⇨ 9, ⇦~~12~~13, ~~19~~21, ~~19a~~22, ~~22~~ 25 and ~~23~~26.

🡻 2003/109/EC (adapted)
⇨ new

Member States shall provide appropriate cooperation in the exchange of the information and documentation referred to in the first paragraph.

Article ~~30~~26

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ⌦ Article 1, point (b), Article 4(1) to (3) and (5), Article 5(2) and (4), Article 7(1), (2), and (4), Article 8(3), Article 9(1), point (c), (2), (5), and (6), Article 10(3), Article 11, Article 12(1), points (d) and (f), (2), (5), and (7), Article 13, Article 14, Article 15, Article 16(1), Article 17(1), (2), (4), and (5), Article 18(1), Article 20, Article 21(1) and (4), Article 24, Article 25(1), (2) and (3), Article 26(2) to (4), Article 27, Article 28, and Article 29 ⌫ ~~this Directive~~ by ~~23 January 2006~~ ⇨ […] ⇦ ~~at the latest~~. They shall ⌦ immediately communicate the text of those measures to ⌫ ~~forthwith inform~~ the Commission ~~thereof~~.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. ⌦ They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. ⌫ ~~The methods of making such reference shall be laid down by Member States.~~ ⌦ Member States shall determine how such reference is to be made and how that statement is to be formulated. ⌫

⌦ 2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive. ⌫

⌦ *Article 31* ⌫

⌦ **Repeal** ⌫

⌦ Directive 2003/109/EC, as amended by the Directive listed in Part A of Annex I, is repealed with effect from *[day after the date set out in the first subparagraph of Article 30(1) of this Directive]*, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Part B of Annex I. ⌫

⌦ References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II. ⌫

Article 32~~27~~

Entry into force ⌦ and application ⌫

This Directive shall enter into force on the ⌦ twentieth ⌫ day ⌦ following that ⌫ of its publication in the *Official Journal of the European Union*.

⌦ Articles 1, point (a), Article 3, Article 4(4) and (6), Article 5(1) and (2), Article 6, Article 7(3), Article 8(2) and (4) to (6), Article 9(1), points (a) and (b), (2) to (4), (7) and (8), Article 10(1) and (2), Article 12(1), points (a) to (c), and (e) to (h), (3), (5), and (7), Article 13(1) and (3) to (9), Article 16(2) to (4), Article 17(2) and (3), Article 18(2) to (5), Article 19, Article 20, Article 21(2) and (3), Article 22, Article 23, Article 25(3) and (4), Article 26(1) and (3) shall apply from [*day after the date in the first subparagraph of Article 30(1)*….]. ⌫

Article 33~~28~~

Addressees

This Directive is addressed to the Member States in accordance with the ⌦ Treaties ⌫ ~~Treaty establishing the European Community~~.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*