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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 April 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	REGULATORY SCRUTINY BOARD OPINION Revision of the Long-Term Residents Directive

Delegations will find attached document SEC (2022) 200.

Encl.: SEC (2022) 200

EUROPEAN COMMISSION

25.10.2021

SEC(2022) 200

REGULATORY SCRUTINY BOARD OPINION

Revision of the Long-Term Residents Directive

{COM(2022) 650}

{SWD(2022) 650, 651}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Long-Term Residents Directive

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Long-Term Residents (LTR) Directive 2003/109/EC aims to assist the integration of third country long-term migrants by approximating their legal status as near as possible to the status of EU citizens (in each Member State). The Directive also aims to contribute to the internal market by facilitating the free movement of third country long-term migrants: intra-EU mobility.

This initiative aims to revise the Directive to tackle current shortcomings. It builds on two implementation reports (2011 and 2019) and a fitness check of the EU legal migration acquis (2019). It forms part of the new Pact on Migration and Asylum and the skills and talent package. The revision will be undertaken alongside the revision of the Single Permit Directive 2011/98/EU.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and the commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report is not sufficiently clear on the limited scope of this initiative and how it articulates with the one revising the Single Permit Directive.

(2) The report does not sufficiently bring out the core differences in policy choices between the options. It does not sufficiently analyse whether alternative approaches to the proposed measures are possible.

(3) The report is not sufficiently clear how the optional nature of measures for Member States will impact the effectiveness of the Directive.

(4) The report does not sufficiently analyse and substantiate with evidence the potential impacts of abolishing the labour market test when moving to a second Member State.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The problem definition should set out a clearer narrative from the outset and should be more closely linked to the logic of intervention described in the 2019 fitness check of the EU legal migration acquis. The report should better situate the LTR Directive within the wider EU legal migration acquis and within the context of the new Migration and Asylum Package. It should clarify the concept of integration used.

(2) The report should be more modest and realistic about its limited scope and ambition. It should better explain what aspects of the problem definition will be tackled with this revision and which ones are outside its scope . The report should clarify the problem of investor residence schemes in some Member States. The report should better explain how the proposed objectives address the problems identified. It should be clearer about how this revision articulates with the simultaneous revision of the Single Permit Directive and be coherent in its narrative.

(3) The report should present the options in such a way that it enables policy-makers to understand the key policy choices that need to be made. Structuring options around the thematic areas of the Directive should help to bring out the available alternative measures more clearly and whether all measures are needed to meet the objectives. The revised structure of the options should include alternatives to the proposed measures or the report should explain why it discarded them. It should better indicate what is *not* part of the business-as-usual option given the overlap with the Single Permit Directive. It should explain better what types of measures (obligatory versus optional for Member States) are part of which option.

(4) The report should better assess what the impact is on the effectiveness of the Directive when measures are optional rather than mandatory. In those cases where Member States have a choice, the report should factor this difference into the analysis. The report should better explain how it factors in the risks of competition between EU and national LTR statuses in this shared competence policy area.

(5) The report should analyse better, and substantiate with evidence, the domestic labour market impact of facilitating intra-EU mobility by abolishing the labour market test in a second Member State (for example, in lower and medium-skilled jobs). It should better assess the impact when the cumulation of residence years differs in Member States.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Revision of the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals

	who are long-term residents
Reference number	PLAN/2020/8683
Submitted to RSB on	22 September 2021
Date of RSB meeting	20 October 2021

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Simplification of current procedures	€ 24.457	MS national authorities The average value of cost savings across all measures included within PO3 are presented. Note that only 6 measures were associated with a quantifiable cost savings to MS national authorities
Simplification of current procedures for TCNs (e.g. lowering fees, shorter procedures)	€ 1.144.530	TCNs The average value of cost savings across all measures included within PO3 are presented. Note that only 2 measures were associated with a quantifiable cost savings to TCNs
Simplification of current procedures for employers (e.g. lowering fees, shorter procedures)	€ 112.727	Employers The average value of cost savings across all measures included within PO3 are presented. Note only 1 measure was associated with a quantifiable cost saving to Employers
Indirect benefits		
Increase in tax revenue	€ 8.469.964	Mostly resulting from increased intra-EU mobility of EU LTR permit holders, as well as an increase in third-country students coming to the EU and an increase of in temporary permit holders remaining in the EU to obtain the EU LTR status.
Increase in consumption	€ 74.216.198	As above

Increase in remittances	-€ 13.234.319	As above – the amount is negative as it is benefiting third countries, not the EU economy

(1) Estimates are relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section;(3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in compliance costs, administrative costs, regulatory charges, enforcement costs, etc.; see section 6 of the attached guidance).

II. Overview of costs – Preferred option								
		Citizens/Consumers		Businesses		Administrations		EC
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent	One-off
PO 3 (may clauses)	Direct costs	n/a	-1.144.530	n/a	-112.727	1.200.705	1.017.019	59.727
	Indirect costs	n/a						

(1) 1) Estimates reported the totals of all the average annual costs included in each measure included within the Policy Option, totalled for all cost items associated with each stakeholder group (including costs related to transposition, familiarisation, adaptation, IT systems acquisition/update, information provision, communication).

Electronically signed on 25/10/2021 11:45 (UTC+02) in accordance with article 11 of Commission Decision C(2020) 4482