



# **Legal Migration Fitness Check**

Evidence base for practical  
implementation

Member State summary

**France**

*Annex 2 FR*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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More information on the European Union is available on the Internet (<http://www.europa.eu>).

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **France**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant<sup>1</sup> for the following Directives and their respective national equivalent schemes, presented in the table below.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme	No	Permanent Resident Card ( <i>carte de résident permanent</i> ) <sup>2</sup>	No	No	Talent Passport – qualified employee ( <i>pasport talent – employé qualifié</i> ) <sup>3</sup>	No
Options implemented?			Trainee only <sup>4</sup>			

## Main differences between EU statuses and the respective national parallel schemes

Two national parallel schemes to respectively the LTR and the BCD exist in France:

- Regarding the Talent Passport (*Pasport Talent*)/qualified employer which is the national scheme to the BCD, the requirements in the national scheme are less strict in terms of salary and length of contract compared to what is required by the Blue Card Directive. Indeed, the minimum salary required in the case of the national scheme is €35,526.40 against €53,836.50 in the BCD. The minimum length of contract is also shorter in the national scheme as a contract of only 3 months against one year in the BCD.

<sup>1</sup> See ref document (EU summary) Under each phase, the following aspects are examined : :

**Legal transposition of the EU legal migration acquis:** including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

<sup>2</sup> Article L314-14 of the Code on Entry and Stay of Foreigners and Right to Asylum (CESEDA)

<sup>3</sup> Article L313-20 of CESEDA

<sup>4</sup> Art. L. 313-7-1. of the CESEDA

- As regards the LTR and its French national scheme the permanent residence card (“*carte de résident permanent*”) the differences between the two are gradually being minimised since the adoption of a new law in March 2017<sup>5</sup>. As for the EU LTR, in the national scheme the long-term residence card is also valid for 10 years. Upon renewal (of both EU LTR and national permanent residence card), residence becomes permanent and for an indefinite period. The only difference lies in the number of years that leading to the right to apply for a long-term residence card. Before the adoption of the law in March 2016, the national scheme would generally require 3 years of residence in France; currently conditions of prior residence in France of the national permanent residence card are aligned on the EU LTR directive condition of 5 years; the 3 years of prior residence are still applicable but only in certain cases (e.g. certain cases of family reunification, and for some nationalities e.g. Algerians).

## **1 Pre-application phase**

### **1.1 Legal transposition of the EU legal migration acquis**

No legal transposition issues have been noted at this phase.

With regards to the transposition of the Single Permit Directive in France, the latter did not require transposition into French legislation as the corresponding French provisions were already existing provisions. Therefore, the term ‘single permit’ does not exist in France.

### **1.2 Practical application of the EU legal migration acquis**

As shown in the tables below, a lot of information is available on legal migration into France – mainly available via official websites set up by the government for that purpose. However, information is only available in French.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Language	French					
The information is easy to find*	2					

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

### **Information can be found on the following aspects of the application procedure**

Application	Conditions for	Entry requirements	Cost of application	Applicable	Rights upon	Any differences between the
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<sup>5</sup> Law n° 2016-274 of 7 March 2016 on the law of foreigners in France (*Loi n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France*)

procedure	admission	ents (e.g. visa etc.)	ion	deadlines	admission	Directives
Yes	Yes	Yes	Yes	No	No	No

### Information upon request

There is generally no difference between the various legal migration statuses as the competent departmental authority dealing with administrative procedures for foreigners in France (the *préfet*) usually has one service dealing with administrative formalities for foreigners.

There is no face-to-face information desks at the department authority (prefectures). Information is provided to foreigners remotely and the way the information is provided depends on the prefecture. Some prefectures provide a phone number, an email address or a mail address where foreigners can contact the prefecture staff and ask their questions<sup>6</sup>. Other prefectures do not provide such ways of communication and require foreigners to get informed about the procedures and the necessary documents on the Internet. Overall, the face-to-face appointments at the prefectures are only meant to collect and receive application forms and proceed to document checks and not to provide information.

On the pages providing information on residence permits and other documents for foreigners on the website of the French Government 'service-public.com', the webpage refers to a hotline called "Allô Public Service" set up by the French authorities. The hotline aims to inform citizens about their rights, obligations and procedures. The hotline is a general one and does not specifically deal with requests linked to migration. Workers responding to requests on the phone belong to various ministries such as the Employment Ministry, Justice, Home affairs etc. This hotline can only be accessed from France and is not free (€0,15/min) which is one of its main drawbacks.

While information can occasionally be obtained at embassies, this is not automatic and no information desk usually exists in third countries.

**In practice**, information is not always easy to obtain, either due to linguistic barriers, busy hot lines, limited opening hours of Prefectures or the length of response time (although this may vary from one prefecture to another).

Appointments are hard to get as there is a limited number of them and they are already booked months in advance. On several websites of the prefectures, the online platform did not show any available appointments for the open period (i.e. upcoming four months). This leaves TCNs unable to take an appointment and therefore submit an application. Some prefecture websites also show error messages when trying to book an appointment online. This constitutes important obstacles for TCNs as online booking is the only way to get an appointment in some prefectures. The lack of available appointments and the long waiting period to get an appointment can also have negative consequences for TCNs who cannot have an appointment before the expiry of their visa. It is also worth noting that the only available timeslots are during working hours and that TCN would therefore need to take some time off to go to the prefecture in person.

### 1.3 Differences between national statuses and the EU legal migration acquis

None noted.

<sup>6</sup> For instance, see préfecture de l'Asine : <http://www.aisne.gouv.fr/Demarches-administratives/Titres-de-sejour#N20306>

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

Conformity issues have been identified regarding the Students Directive. Article 6(1)(e) does not appear to have been transposed into French law. In addition, Article 6(2) has been transposed but the national law does not refer to the need to “facilitate” the admission procedure, but rather states that these should also be considered.

### **2.2 Practical application of the EU legal migration acquis**

The applicant is required to submit **one application only**. The procedure is the same for any kind of permits submitted for the first time. However, forms and information to fill-in differ according to the prefecture. There is no national standard form (with the exception of application forms for long-term national visas).

Applicants need to take an appointment at the prefecture to fill in their application form and submit the application documents. However, an important feature of the French system is that procedures to take appointments differ from one prefecture to another. For instance, some have online booking system in place while others require the applicant to send a request via email.

The application form is usually given by the prefecture at the face-to-face appointment with the applicant and the related guidance is usually available online. Usually, prefectures ask the applicant to fill in a form gathering the basic information on civil status. The official application form is then asked to be filled-in at the appointment at the prefecture.

Some prefectures also ask applicants to bring a form with basic information on civil status (available online) to their appointment but this varies from one prefecture to another as well as what is asked in the form.

The guidance only seems available online. Some prefecture may provide information on the phone or via email but this is not a general rule.

For family reunification, the information is available online on the website of the OFII which is the competent authority to deal with these applications (and not the prefecture).

For certain third-countries, there is a defined procedure (online) where its nationals would like to apply for a student permit.

Regarding the **application documents**, while national legislation provides for a list of requirements necessary for submitting an application, in practice, the type of documents to submit in an application differ from one prefecture to another. For instance, national legislation is silent on the need for an original/certified copy of documents for some of the requirements. Only the documents proving the identity of the third-country national concerned and his/her family needs to be in original version and translated. When required, the certificate for medical examination, the work contract/training agreement and the proof of residence are required to be the original versions. Regarding the translation, nothing is specified. In practice, some prefectures require translations by sworn translators to be provided for all documents when others do not. This creates inequalities between applicants as the procedure can take more time and be more expensive depending on the prefecture/department where the application is lodged.

<b>Step</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
The information that applicants need to complete is not	3 This depends on the informatio					

extensive information provided by Prefectures of the place of residence of the third-country national (or the consulates).

The application form is user-friendly

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes: R	No	No	No	No
Continuous legal residence	Yes: R	Yes: R, C	No	No	No
Sufficient resources	Yes: R	Yes: R	Yes: R	Yes: R	No
Accommodation/Address in territory	Yes: R	Yes: R C	No	Yes: R	Yes: R
Sickness insurance	No	Yes: R	Yes: R	Yes: R	No
Work contract (for RD host agreement)	No	No	No	Yes: R	Yes: R, C
Minimum salary threshold	No	No	No	No	Yes: R
Professional qualifications	No	No	No	No	Yes: R
(Pre-) Integration measures	Yes: R	Yes: R	No	No	No
Pre-departure conditions	No	No	No	No	No
Proof no threat to public	No	No	No	No	No
	But if it is found out that the applicant or the family members constitute a threat to the public policy/security, the procedure				



	can be cancelled.				
Medical examination certificate	No		Yes: R	No	Yes: R
Valid travel document	Yes: R, C	Yes: R, C	Yes: R, C	Yes: R, C	Yes: R, C
Entry visa	Yes: R, C	No	Yes: R, C	Yes: R, C	Yes: R, C
Other	A TCN who is a national of a country of origin authorising polygamy will have to sign a declaration of non-polygamy.	A TCN who is a national of a country of origin authorising polygamy will have to sign a declaration of non-polygamy.			

*Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.*

### **2.3 Differences between national statuses and the EU legal migration acquis**

None noted.

## **3 Application phase**

### **3.1 Legal transposition of the EU legal migration acquis**

Transposition issues have been identified regarding the **Students Directive**. Article 18.1, 18(3), 18(4) of the Directive was assessed as partially transposed as the administration can remain silent and is only obliged to notify the applicant of the decision if the latter requests it. Therefore, the possible redress procedures are not mentioned either if the administration decides to be silent on the decision. The applicant will be informed of those redress procedures only if s/he asks the administration for a notification of the motives of the refusal.

On the transposition of the EU **Blue Card Directive** into French law, Article 7(1) has been partially transposed as it is not clear in national legislation which facility is granted to Blue Card holders in obtaining the requisite visas. Furthermore, Article 18(3) was assessed as not being transposed (access to the labour market to be indicated on the residence permit).

Regarding the **Long Term Residence Directive**, Article 7(2) was not transposed by France (notification of the decision on the application).

With regards to the transposition of the **Single Permit Directive** in France, the latter did not require transposition into French legislation as the corresponding French provisions were already existing provisions. Therefore, the term 'single permit' does not exist in France. Regarding the transposition of Article 4(1) of the SPD, the application for a work authorisation – which is an integral part of the application process for a residence permit (or long-term visa) for work purposes is always filed by the employer if the third-country national resides abroad. The residence permit, once issued, constitutes both an authorisation to stay and to work in France. It results therefore in the issuance of a single document. The same reasoning applies for the transposition of Article 5 of the SPD.

### **3.2 Practical application of the EU legal migration acquis**

To obtain the long-term visa equivalent to a residence permit before entering France, a third-country national must introduce his/her application at the relevant diplomatic missions or consulate in person (by appointment). It may happen that visa applications are outsourced to private service providers. It should be noted that foreigners' nationals of certain third countries wishing to apply for a visa for student purposes<sup>7</sup> will have to fill in the long-term visa application online at the same time as the online pre-registration with a French university.

To obtain the relevant residence permit, a third-country national will need to lodge an application in person to the local authority (prefecture) usually through an appointment that can be taken on the prefecture's website or by phone.

In both procedures, whilst there can be several authorities involved in the processing of applications (e.g. OFII, municipalities, etc.), there is one single authority which receives the application and ultimately delivers the permit/visa: embassy/consulate if abroad, or the local administration in France (Prefectures). Therefore, there is only one administrative act of decision on the application.

The applicant is informed in writing via post with a letter stating the grounds for the decision. Depending on the third country, consulates may also inform of the application status in person. In some cases, a third-country national may not be notified of the decision and the rule that silence of the authorities on an application for more than 4 months is considered as a rejection of the application.

Where an applicant is the employer (or his/her representative), as a rule, the employer is the main stakeholder involved. A third-country national concerned involvement in the procedure is limited to providing certain documents necessary to complete the application (identity, birth certificates, etc). As a result, the third-country national is not notified of the decision by the authorities. However, if the application for a work authorisation introduced by the future employer, then the third-country national can introduce an application for a residence permit from abroad (if residence is abroad) or in France (if legal residence in France).

Appeal procedures against a negative decisions are of two types. The first one is an internal appeal (*recours gracieux*) addressed either to the authority who made the decision or to the higher administrative authority (*recours hiérarchique*). A specific Commission receiving appeals against negative decisions on applications for an entry visa in France also exists specifically regarding entry visas and for third-country nationals residing abroad. In case the third-country national concerned still receives a negative decision, they can lodge a complaint before the administrative court.

The concept of administrative silence exists in France. It means that if the authority does not give a decision within four months, its silence is to be understood as a tacit rejection of the application after four months. Shorter periods are foreseen for trainees (30 days) and Blue Card holders (90 days). In general, where a third country national applying for a visa or a residence permit does not, after 4 months, receive any news from the Prefecture or consulate on his/her application he/she can request in writing the relevant national authority (Préfecture or consulate) of the communication of the grounds for rejection. The administration has one-month delay to communicate the reasons of the rejection. If the administration does not respond within one month and does not communicate the reasons of the rejection, the rejection can be annulled before an administrative court (first instance).

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<sup>7</sup> Benin, Argentina, Algeria, China, Russia, Burkina Faso, Brazil, Egypt, South Korea, Turkey, Cameroon, Chile, Iran, India, Comoros, Colombia, Lebanon, Indonesia, Congo Brazzaville, United States, Morocco, Japan, Ivory Coast, Mexico, Tunisia, Taiwan, Gabon, Peru, Vietnam, Guinea, Madagascar, Mali, Mauritius, Mauritania, Senegal.

<b>Directive</b>	<b>General</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Application from third country (Q3a)	Yes but only for long-term national visas (for a first entry)						
Permit received in third country (Q3gi.)	No						
Number of authorities involved in the application (Q3c.)	One	Two or three (prefecture, OFII and local authority)			Two (prefecture, departmental labour inspectorate)	Two (prefecture, departmental labour inspectorate) (DIRECCTE)	
Number of authorities involved in the issuance of the residence permit (Q5(b)(i))	One (prefecture)						
Application modalities (Q3a)	In person						
Existence of a standard application form for all statuses (Q2 (c)(i))	No						
Language of the application form (Q2 (c)(iii))	National language (i.e. French)						
Fees charged (Q3d.(i))	EUR 250 + EUR 19 stamp duty (in all cases)	Partner: EUR 250 Child: EUR 120	EUR 180	EUR 60			
Other fees charged?	No						
Fees charged	No						

for permit issuance (Q5(a)(ii))							
Fees charged for renewal / replacement of the permit (Q6b.(ii))	Min. EUR 55 – max. EUR 250	EUR 250	EUR 250	EUR 30	EUR 205	EUR 250	EUR 250
	+ EUR 19 stamp duty (in all cases);	EUR 120 for TCNs who entered France before 18 years following a family reunification procedure & renewals longer than one year.		EUR 120 EUR for trainees			
	Minors: EUR 45						
		No fees in case of domestic violence					

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law) (SQ3e(i))	4 months	4 months	4 months Shorter period for trainees (30 days)	4 months	90 days	4 months
Processing time (in practice) (SQ3e(i))	14-17 months	-	-	-	-	5-14 months depending on sector

### **3.3 Differences between national statuses and the EU legal migration acquis**

None noted.

## **4 Entry and travel phase**

### **4.1 Legal transposition of the EU legal migration acquis**

The research did not find any legal transposition issues.

The Single Permit Directive did not require transposition into French legislation as the corresponding French provisions already existed in national legislation. Therefore, the term 'single permit' does not exist in France. Regarding the transposition of Article 4(1) of the SPD, the application for a work authorisation – which is an integral part of the application process for a residence permit (or long-term visa) for work purposes is always filed by the employer if the third-country national resides abroad. France chose not to implement the 'may clause' of Article 4(1). The residence permit, once issued, constitutes both an authorisation to stay and to work in France. It results therefore in the issuance of a single document.

### **4.2 Practical application of the EU legal migration acquis**

In France, as a rule, a third-country national needs to obtain a visa to enter and stay in France for a duration longer than 3 months. This is also applicable to third-country nationals exempt from short-term visas as per the EU Visa Code. If a renewal application is submitted, this first long-term visa will be transformed into a (temporary or multiannual) residence permit depending on the migration ground/immigration status.

Therefore, as the third-country national is not yet in the possession of a residence permit before entering France, it first issues a long-term visa and has put a specific timeframe for issuing the latter within four months. In practice however, the respect of this timeframe depends very much on the consulate – there are as many procedures and timeframes as there are consulates offices abroad.

Where a visa or residence permit for work purposes is concerned, when the third country national is abroad, the employer or his representative is the main applicant and he/she needs to request the visa and submit the accompanying application for a work authorisation. In such cases, the third-country national is involved to the extent that he/she provides the employer with the relevant documents (identity documents, birth certificate, etc.). Where the third-country national is legally residing in France, in practice, this amounts to a change of status and s/he can request the issuance of a temporary residence permit enabling the exercise of professional activity. In this case, s/he will need to attach a work contract in the application.

The Member State does not allow third country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit: a third-country national will have to travel with both the residence permit and a valid travel document (usually a passport). Additionally, a third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

Regarding entry requirements to third-country nationals of a visa free country, France generally imposes those third-country nationals to hold a biometric passport. However, this is subject to specific provisions of certain bilateral agreements which may exempt certain third-country nationals from this condition.

Within the first three months of their arrival in France, third-country nationals holders of a long-term visa need to first register at the local office of the OFII (French Office for Immigration and Integration) for a medical examination (if not done prior to their

entry in France as part of the long-term visa application<sup>8</sup>) and confirming their visa which is a necessary step to obtain a residence permit later (e.g. upon renewal), and with social security institutions.

#### **4.3 Differences between national statuses and the EU legal migration acquis**

None noted.

### **5 Post-application phase**

#### **5.1 Legal transposition of the EU legal migration acquis**

Partial conformity issues were observed on several points.

The first one concerns the transposition of Article 7(2) of the Blue Card Directive. The standard period of validity of the Blue Card in France is of three years. Where the duration of the work contract is between 1 year and less than 3 years, the duration of the residence permit is equal to the duration of the work contract. However, the BCD specifies that where the duration of the work contract is inferior to the standard period of validity of the EU Blue Card, the duration should be the same as the work contract plus three months. France did not transpose the additional three months requirement, which is required by Article 7(2) of the Blue Card Directive.

The second one concerns the transposition of Article 13 of the LTR Directive as there are no intra-EU mobility rights to holders of the national long-term residence permit in French legislation. It should be noted however that since the change in legislation adopted in November 2016, differences between the national long-term residence scheme and the EU LTR status are flattened (same duration of the residence permit, same condition of residence in France for 5 years) resulting in making the EU long-term residence permits as the main LTR status in French legislation.

#### **5.2 Practical application of the EU legal migration acquis**

<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Validity of the first permit (Q5d(1))	-	-	6 months (or shorter depending on traineeship duration)	3 months	-	6 months
Maximum validity of first permit (Q5d(1))	1 year	5 years	1 year	1 year	1 year	1 year
Minimum validity of permit renewal (Q6b(ii))	1 year	5 years	1 year	1 year	1 year	Depending on length of the employment contract
Maximum validity of permit renewal	4 years	10 years	4 years	4 years	4 years	4 years

<sup>8</sup> This depends, for example, on whether OFII representations are present in the country of origin or not.

(Q6b(ii))

France has not a set timeframe to deliver the permit following the notification of the decision. A notification of the decision is only sent to a third-country national to collect his/her long-term visa or residence permit where a positive decision on his/her application was reached by the authorities. In practice, when a third-country national submits an application for a first time (long-term visa) or a renewal of a residence permit, national authorities deliver a receipt acknowledging the submission of the application (a "récépissé"). The latter is valid between 1 month and a maximum of 4 months – a timeframe during which national authorities take their decision. In practice, it takes between 30 to 90 days on average to be delivered a notification of the decision on the application – but this can vary greatly from one Préfecture to another.

Where the employer is the main applicant, he/she is not involved in the delivery of the permit as the third-country national is the one receiving the residence permit (at the Préfecture) or a long-term visa (at the consulate).

### **5.3 Differences between national statuses and the EU legal migration acquis**

Validity of national statuses to the Blue Card Directive can be shorter than 1 year where the employment contract is shorter than one year. Thus, the validity of the issued residence permit is adapted to the duration of the employment contract.

## **6 Residency phase**

### **6.1 Legal transposition of the EU legal migration acquis**

A number of conformity issues were noted with regards to the transposition of equal treatment provisions in the Single Permit Directive (Article 12). France did not transpose Article 12(1)(d) of the Directive on recognition of diplomas, certificates and other professional qualifications in national legislation, nor did France transpose Article 12(1)(e) on branches of social security (notably as regards provisions on pre-retirement branch). As regards the exportability of social benefits (Article 12(4) SPD), the only fully exportable social benefit in French legislation is old age pension, whilst invalidity, death pensions and other benefits such as unemployment benefits are not, and are subject to the provisions of bilateral agreements signed between France with third countries.

### **6.2 Practical application of the EU legal migration acquis**

#### **a. Use of the permit:**

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Member State's territory.

The Member State allows third-country nationals holding residence permits from other Member States applying the Schengen acquis to enter and move freely within its territory – as long as they hold a valid residence permit and a valid travel document.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
Yes (except minors)	Yes	Yes	No	No	No	Yes

(in practice however, some banks may require it)

**b. Renewals of the permit:**

National or EU law imposes an indirect requirement to renew a valid residence document. A third-country national will have to renew his/her residence permit if he/she wishes to stay in France (e.g. to continue studies in France). The conditions for renewal are the same as the conditions for admission with the exception of the request for a long-term visa.

The renewal process follows a single procedure, involving more than one authority. Different authorities are involved as in the first application procedure: Préfecture (instead of the consular authorities), DIRECCTE (for work authorisations where necessary or change of status) and OFII; municipalities can also be involved in some procedures (family reunification and long-term residence procedures).

**c. Change of status and naturalisation**

Status changes are possible for all statuses; French legislation does not include any exceptions. The procedure for requesting a status change is the same as the first application procedure – with the exception of the request of a long-term visa to enter France. In practice, a change of status is generally requested by those third-country nationals whose residence permit does not give them (full) access to the labour market. This is mostly the case of students.

In order to obtain citizenship, third-country nationals need to comply with conditions such as being of 18 years of age, have his/her residence in France for 5 years (which can be shorter if a third-country national has completed university studies in France), legally residing in France at the moment of application, integration to French society, absence of criminal record, and prove professional integration and stable and sufficient resources.

**d. Employment rights on the basis of the permit**

French legislation does not link a work-related permit to an individual employer but to a type of professional activity. Therefore, certain work-related permits are linked to a professional activity or to a certain employer. This the case for example for third-country nationals' holders of a Blue Card, a researcher's or of a temporary work-related permit are linked to the professional activity for which they have access to enter France. A Blue Card holder and a researcher is not bound by this condition after two years. As a result, there is no legal requirement to change residence permit when changing employer.

**e. Equal treatment**

As outlined in the legal transposition section above, some potential restrictions to **equal treatment** were identified with the transposition of Article 12(1)(d) and (e) (recognition of diplomas and branches of social security) as well as Article 12(4) of the SPD (exportability of benefits).

With regard to identifying **labour exploitation**, the Member State has a mechanism in place to monitor the exploitation of third-country nationals. However, the prevention and fight against labour exploitation is not a 'specialisation' of a particular authority in France, but it is a competence shared among several authorities. Multiannual action plans are adopted by the government to tackle certain forms of



labour exploitation, such as trafficking, and illegal employment with a focus on fighting fraud in the posting of works and other forms of fraud (fake trainees, volunteers, managers, etc.). There is no specific action concerning severe forms of labour exploitation (slavery or trafficking for the purpose of labour exploitation). The system of prevention and fight against labour exploitation thus involves several institutions such as the monitoring agents of the labour inspection (which have a wide competence to monitor and intervene on any category of workers), several units within law enforcement authorities (dealing with illegal employment, fight against trafficking in human beings, protection of minors), and the judiciary. Criminal sanctions are included in national legislation regarding slavery, servitude, forced labour, trafficking and illegal employment of third-country nationals in an irregular situation.

**f. Integration:**

The latest immigration law adopted on 7 March 2016 modified the reception and integration programme for third-country nationals who first arrive in France (first-time arrivals) and intend to set up permanently. However, a number of categories are exempted (e.g. if the third-country national completed studies in France, accompanying family members, students and trainees).

Third-country nationals have to sign the 'republican integration contract' in order to access the different trainings proposed by the French Office for Immigration and Integration (OFII). It is signed after a personalised interview between the newly arrived migrant and an OFII officer. This contract is concluded for one year and renewable under certain conditions.

At the OFII, the third-country national undertakes a test of oral and written knowledge of the French language aiming to assess his/her level. Based on the needs revealed by the test, a language training is proposed to the third-country national. The targeted level is A1 level. Language training is compulsory for third-country nationals that obtained results below the A1 level. Continuing courses to reach level A2 is encouraged as this level will be required as of March 2018 to obtain a long-term residence permit.

The length of the prescribed language training to reach level A1 is established based on the needs identified by the test results (varying between 50 to 200h). Upon completion of the A1 level training, a certificate of attendance is issued to every participant (provided that s/he has followed at least 80 % of the prescribed language training). These language trainings are paid by the ministry of Interior and implemented by the OFII. Upon completion of the A2 and B1 level training, the participant is informed of the existing certificates/diplomas and the registration process to the A2 and B1 levels tests. Such tests are paid by the applicant.

Alongside language courses, there is also civic training. It is based on two topics: the first one is related to "the principles, values and institutions of the Republic" and the second one is "living and getting a job in France".

The respect of the republican integration contract is required to issue the multiannual residence permit after one year of regular residence. If it is found that the third-country national who signed such a contract is not participating in the training included in it or does not respect the commitments made under the contract, it can have consequences on the renewal of the multiannual residence card (i.e. non-renewal).

**6.3 Differences between national statuses and the EU legal migration acquis**

N/A

## **7 Intra-EU mobility phase**

### **7.1 Legal transposition of the EU legal migration acquis**

**Mobility of students** – as set out in Article 8 of the Students Directive – is partially transposed by France. National legislation does not expressly provide for mobility of third-country nationals holders of a student residence permit in another Member State, however their mobility can be inferred from other provisions. As a rule, national legislation provides that a residence permit is necessary to complete studies in France. The mobility in France of third-country nationals' holders of a student residence permit from another Member State depends on the length of stay in France. They can come in France without a visa if their stay is of less than three months. Above three months, they have to request a long-stay visa. This request can be done in the Member State in which the third-country national concerned resides. This concerns to both foreign students wishing to come and study in France in the framework of a European exchange programmes (Erasmus+) and to those wishing to continue their studies in France outside those exchange programmes. In practice, applications for visas made within the context of EU exchange programmes are processed more quickly and visa charges are waived.

As provided in **Article 15(1) of the LTR Directive**, where France is the second Member State of residence, holders of a long-term residence status in another Member State need to apply for a residence permit relevant for their purpose of stay within 3 months of their entry in France. The only condition they don't need to fulfil is the long-term visa for their entry in France; thus, they need to comply with other conditions such as sufficient resources, housing etc, including the taxes and duties to obtain the residence permit in France. The amount for the issuance of a residence permit is established at 269 EUR. In practice, such fees may endanger the *effet utile* of the directive and may be considered as creating an obstacle to the acquisition of the long-term residence status in France due to its costs, thus partial conformity in the transposition of this Article in French legislation was noted.

The integration requirement as set out in French legislation and the categories exempt from it mean that holders of a long-term residence permit in France are also subject to it, thus leading to a non-conformity with the provisions of **Article 15(3) of the LTR Directive**. In practice however, this should have a very limited impact as the category of third country nationals targeted by the integration contract are those entering France for the first time – whilst third-country nationals applying for a long-term residence status in France are not part of this category. However, as of March 2018, applicants for an LTR status (applicable to EU and national status) will have to prove at least an A2 level in French.

### **7.2 Practical application of the EU legal migration acquis**

For short-term mobility, France:

- Does not require the third-country national to notify authorities, and
- Does not require the third-country national to ask for authorisation.

### **7.3 Differences between national statuses and the EU legal migration acquis**

The EU intra-mobility is not foreseen in national legislation for holders of residence permits based on national schemes of the Blue Card Directive and of the long-term status.

## **8 End of legal stay / leaving the EU phase**

### **8.1 Legal transposition of the EU legal migration acquis**

Partial conformity was observed with regards to the transposition in French law of Article 9(2) of the LTR Directive on withdrawal or loss of status. National legislation

(Article 314-7 CESEDA) provides that a holder of a long-term residence permit that is absent for more than 3 consecutive years out of the EU. Hence national law provides for the possibility for longer periods of absences than the 12 consecutive months provided in the LTR Directive however national legislation did not transpose the possibility to withdraw the residence permit or loss of status for specific or exceptional reasons.

## **8.2 Practical application of the EU legal migration acquis**

There are no specific procedures in place for third-country nationals who choose to leave the Member State. The Member State allows third-country nationals to export certain benefits, depending on the content of the bilateral agreement concluded between France and the third country concerned. Generally, old age pension is always exportable, whilst work-related accidents and occupational diseases, invalidity and death pensions are not and are subject to the provisions of bilateral agreements signed between France with third countries. Family benefits are never exportable as beneficiaries of such benefits are subject to the condition of residence on French territory, unless explicitly provided in bilateral agreements, in which case only conventional family benefits will be covered (e.g. benefits for children who do not live in the country of employment of the third-country national concerned). Maternity benefits can also be transferrable if provided in bilateral agreements. Unemployment benefits have never been included in bilateral agreements.

Information on the portability of social is easy to find and are clearly exposed on the CLEISS website and/or in the text of the bilateral agreement (in French). The CLEISS website has information for example on the contacts of liaison authorities in third countries with which France has concluded bilateral agreements. No other information on procedures for requesting a transfer of benefits for example are published however. These have to be requested on a case-by-case basis to the relevant authority in third countries. No information is available on portability of social security benefits in the absence of bilateral agreements.

A third-country national holder of a long-term residence status residing in France is allowed to be absent from the territory of EU Member States for a maximum of 3 consecutive years before s/he loses the residence permit and/or right to stay. The absence of third-country nationals is monitored by the Member State by means of a declaration made by the third-country national to national authorities at the moment of the renewal of the permit.

The Member State has a few measures in place to allow circular migration aiming at facilitating labour migration and encouraging return in the country of origin. These measures are specified in bilateral agreements on managed migration and development signed with a number of third countries (e.g. Georgia, Mauritius, Macedonia, Montenegro and Lebanon). These generally include the possibility to third-country nationals who completed a master's degree in France to seek employment for up to 6 months in France after the completion of their studies.

The consequences of deliberate overstay of the duration of the residence permit are the issuance of a return decision with a number of exceptions such as minors and third-country nationals who have legally resided in France for more than 20 years, as well as third-country nationals whose return will be in breach of article 3 of the ECHR (*non-refoulement* principle). There is no specific procedure nor rights (except access to basic healthcare) to third-country nationals who are subject to a return decision that cannot be enforced.

## **8.3 Differences between national statuses and the EU legal migration acquis**

A third-country national holder of a **national permanent residence status** (*carte de résident*) is allowed to be absent from the territory for a maximum of 6 consecutive years outside of France before s/he loses the residence permit and/or right to stay.

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in France**

Practical implementation of EU legal migration legislation in France is hampered by a number of factors.

The first one relates to the application documents required (and this applies to all legal migration statuses). Whilst an effort is made by public authorities to publish online and thus have more transparent and comprehensive information of the different statuses, procedures and application documents, in practice, procedures and application documents may vary from one departmental authority – Prefecture (or consulate) to another. Indeed, while the requirements are set in legislation, in practice, the evidentiary documents to support for example sufficient resources may vary from one prefecture to another. Additionally, most of the information available online is in French and there is no general obligation nor practice for Prefectures to answer questions from third-country nationals on application matters. For instance, a harmonised procedure on communicating information about incomplete applications is lacking – in practice, this may be communicated through a letter to the applicant, in person upon submission of the application or upon request by the applicant.

Linked to this point, French legislation does not clearly set notification deadlines regarding the decision on an application. Indeed, there are no legal binding notification timeframes with the exception of the general rule that no answer on application for more than 4 months is considered as a rejection of the application. Although in practice, Prefectures may provide an answer in shorter timeframes (yet there are no harmonised procedures on this issue either), this has consequences on the information about redress or appeal procedures available to third-country nationals. This point is confirmed by the lack of transposition measures to provisions in the LTR Directives (Article 7(2)) and the Students Directive (Article 18(1)-(2)) on notification of the decision of the application.

With regards to the transposition of the Single Permit Directive in France, the latter did not require transposition into French legislation as the corresponding French provisions were already existing provisions. Therefore, the term 'single permit' does not exist in France.

Another point to be noted is the challenges associated to the change of status from a student status to that of a worker. In theory, such a change of status is possible and is inscribed in national legislation. In practice, however, the procedure to request a work authorisation and have it validated by the relevant authority is a challenge due to the labour market test.

Intra-EU mobility appears to be effective only for LTR and BCD holders; for third-country nationals' holders of a student permit in another Member State, stays longer than 3 months in France for study purposes require an application for a residence permit in France.

In a case a third-country national 'overstays' in France (i.e. does not renew a residence permit in time or does not have a legal stay in France), the stay on the French territory is illegal and s/he is subject to a return decision. In case the return decision cannot be enforced, no temporary stay or tolerated status is granted to third-country nationals with the notable exception of unaccompanied minors, who get a tolerated status on French territory until their majority.

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