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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the application of Directive 2004/114/EC on the conditions of admission of third-  
country nationals for the purposes of studies, pupil exchange, unremunerated training  
or voluntary service**

## I. INTRODUCTION

Council Directive 2004/114 on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (hereinafter ‘the Directive’)<sup>1</sup> was the third legislative instrument in the field of legal migration to be adopted following the Treaty of Amsterdam and the Tampere Conclusions of the European Council.

The overall objective is to promote Europe as a world centre of excellence for studies. As part of this effort, the Directive aims to set up a common legal framework, making it easier for people from outside the European Union (‘third country nationals’) to enter and stay in the EU for the purpose of studying. Having a coordinated and transparent legislative framework makes the EU more visible, accessible and attractive to third country students as a place of higher education. Moreover, student mobility benefits global economic development by promoting the circulation of knowledge and ideas.

The Directive also lays down a set of basic rules on the conditions under which school pupils, unremunerated trainees and volunteers may enter and stay in the EU. These forms of ‘temporary migration’ do not depend on the labour market situation in the host country. By promoting them, the Directive aims to encourage ‘mutual enrichment’ between different actors and ‘better familiarity among cultures’. The early years of education have a fundamental influence on young people’s values, attitudes, aspirations and knowledge. Work placements and vocational training allow them to acquire important skills which may help them and their employers in future work situations. The 2011 European Year of Volunteering has highlighted how involvement in voluntary activities can be a source of valuable learning experiences and cultural exchanges. It helps volunteers acquire new skills and it promotes solidarity and democratic values.

This report meets the Commission’s obligation under Article 21 of the Directive. It gives an overview of how the Directive has been transposed and implemented by the Member States and it identifies possible problematic issues. This report is based on a study carried out for the Commission<sup>2</sup> and on other sources, including ad-hoc enquiries made through the European Migration Network,<sup>3</sup> complaints, questions and petitions sent by private individuals and discussions with Member States on practical issues arising from the application of the Directive.

The Directive was adopted on 13 December 2004. Denmark, Ireland and the United Kingdom are not bound by it.

The Member States have been given the opportunity to revise and update the factual information.

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<sup>1</sup> OJ L 375 of 23.12.2004, p.12.

<sup>2</sup> Study supported by the Commission and carried out by GHK.

<sup>3</sup> See in particular ad-hoc queries No 54, 73, 101, 273, 289 and 313.

## II. MONITORING AND TRANSPOSITION

Under Article 22 of the Directive, Member States had to transpose the Directive into their law by 12 January 2007, and to communicate this information to the Commission.

From 2006 to 2010, the Commission held meetings with Member States to discuss questions on the implementation and interpretation of the Directive.

In 2007, the Commission launched infringement proceedings under Article 258 (ex-226) of the Treaty on the Functioning of the European Union against 14 Member States<sup>4</sup> for not having transposed the Directive in time or for not having properly informed the Commission. Since then, all Member States have adopted transposition measures, and the infringement proceedings for non-communication have been closed.

## III. COMPLIANCE OF THE TRANSPOSITION MEASURES

### **3.1. Personal scope (Article 3)**

Article 3 of the Directive stipulates which categories of third-country nationals must and may be covered by the provisions transposing the Directive into the laws of Member States. Those who must be included are third-country nationals who apply to be admitted to the territory of a Member State for the purpose of studies. The provisions may also cover third-country nationals who apply to be admitted for the purposes of pupil exchange, unremunerated training or voluntary service.

Altogether 10 Member States<sup>5</sup> decided to apply the Directive to all three of these optional categories (school pupils, unpaid trainees and volunteers), and a further 5 Member States<sup>6</sup> decided to apply it to one or two of these categories. A total of 9 Member States (AT, BE, DE, FI, LT, MT, NL, PL and SE) transposed only the provisions relating to students.

If Member States choose to apply the Directive to any of these three categories (other than students), the choice they make obliges them to transpose the relevant provisions of the Directive — unless the provisions are left to the Member State's discretion. It seems, however, that Member States have sometimes disregarded this general rule.

### **3.2. More favourable provisions (Article 4)**

A small number of Member States have, with non-EU countries, bilateral agreements that include more generous provisions than those laid down in the Directive, as allowed in Article 4 (1) (b).

In addition, outside the context of bilateral or multilateral agreements, Article 4 (2) allows Member States to adopt or maintain more favourable provisions than the ones laid down in the Directive. However, Member States sometimes appear to have misunderstood this and to have disregarded the Directive's compulsory provisions, such as the requirement to have a training agreement for unremunerated trainees. More favourable provisions are allowed as long as they do not water down the level of rights already granted to third-country nationals

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4 CY, DE, EE, EL, ES, FI, FR, IT, LU, MT, PL, PT, RO, SK.

5 CY, CZ, EE, ES, IT, LU, PT, RO, SI and SK.

6 BG: unremunerated trainees and school pupils (draft legislation); EL: volunteers; FR: unremunerated trainees; HU: school pupils and volunteers, LV: school pupils.

by the Directive. These provisions cannot undermine the purpose of the Directive, which is to provide for a certain level of harmonisation of the admission and residence conditions for third-country students, with a view to setting up a transparent common scheme at EU level.

### **3.3. Conditions of admission (Articles 5, 6, 7, 9, 10 and 11)**

- **General conditions for admission (Article 6)**

The requirement to present a valid travel document laid down in Article 6 (1) (a) has been incorporated in the legislation of all Member States, often (CY, EL, FR, HU, MT, NL, SE and SI) with the additional requirement — as allowed by the Directive — that this document be valid at least for the duration of the holder's planned stay in the host Member State.

Article 6(1)(b) requires a parental authorisation for the planned stay of a minor. It is not clear whether this requirement has been transposed in BG, IT and NL. In addition, IT and LV require evidence that the minor is under adequate guardianship. In AT, BE and SE the requirement has not been specifically transposed.<sup>7</sup>

Article 6 (1) (c) requires a third country national to have sickness insurance in respect of all risks normally covered for nationals in the Member States. In this respect there are several different patterns of practice in the Member States concerned. Instead of insurance, BE requires proof that third-country nationals have sufficient means of their own to cover the costs of medical treatment. It is not entirely clear whether the insurance is required in IT. Moreover, BG, CZ<sup>8</sup>, LU, PL, RO, SI and SK do not specifically refer to the risks normally covered for the nationals of a Member State.

Almost all Member States have introduced the requirement laid down in Article 6 (1) (d) that a third country national must not be regarded as **threat to public policy, public security or public health**. It is not clear whether and how this requirement has been transposed in IT.

BG, CY, CZ, EE, DE, HU, LU, NL, PL, SI and SK require proof of payment of the fee for processing the application for admission, as allowed by Article 6(1)(e).

Not all Member States have transposed the provisions of Article 6(2), which requires them to facilitate the admission of third-country nationals participating in EU Programmes that enhance mobility towards and within the Union. BE, BG, EE, DE, IT and RO do not appear to have transposed this provision, and the other Member States appear simply to be calling for such facilitation rather than translating it into specific rules on (for example) lower fees or faster procedures. Thus the transposition of this important provision is not yet satisfactory.

- **Specific conditions for students (Article 7)**

Under Article 7(1)(b), Member States are obliged to publicise the minimum monthly resources a third country student must demonstrate he or she will have to cover their subsistence, study and return travel costs. This fits with their broader duty to inform third-country nationals about the rules applicable to the admission of students, so as to ensure transparency and legal certainty for prospective students and thus encourage them to study in the EU. Transposition issues arise in this regard in a number of Member States. In HU, the necessary resources are assessed on a case-by-case basis. For many other Member States (BE,

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<sup>7</sup> These Member States implemented only the parts of the Directive relating to students, who are often not minors.

<sup>8</sup> In CZ this concerns only the initial period of stay before the renewal of the permit

BG, CY, EL, LT, MT, NL, PL, PT, RO and SK) it is questionable whether the methods of publication are sufficient - for instance when the information is given only in official texts which third country nationals cannot easily access or read.

The minimum amount referred to in Article 7 (1) (b) varies widely between Member States — from around €120 per month in BG to €795 in NL in 2009. It is typically calculated on the basis of the minimum subsistence or minimum wage levels in the country concerned, or the level of scholarships provided to national students. Types of evidence of sufficient resources also vary greatly from one country to another and may include, for example, fellowships (see Recital 13) or proof of parents' income. When setting a threshold for resources or regulating types of evidence, Member States must do so with due regard to the principle of proportionality and the effectiveness of the Directive.

Article 7(1)(c) authorises Member States to require evidence that the applicant has sufficient knowledge of the language of the course. EE, DE, IT and MT have made use of this possibility. In many Member States, language skills are considered proven by the fact that the applicant has been accepted by an establishment of higher education.

AT, BG, CY, EL, LT, MT, PL, PT and RO have transposed Article 7(1)(d), under which the applicant must provide evidence that (s)he has paid the fees charged by the establishment. However, this requirement may also be implicitly applied in other Member States, through confirmation that the applicant has registered with an educational institution.

Only 11 Member States (CY, FR, EL, HU, IT, LV, PL, PT, RO, SE and SK) opted, under Article 7(2), not to require third-country students to have a separate sickness insurance if they automatically qualify for such insurance as a result of being enrolled at an educational establishment.

- **Specific conditions for school pupils (Article 9)**

12 Member States<sup>9</sup> have reportedly included school pupils in their legislation. All 12 countries except BG appear to have transposed the obligation to provide **evidence of acceptance by a secondary education establishment** (Article 9 (1) (b)). However, only CY, ES, IT, LU, PT, SI and RO have explicitly transposed the requirement to provide **evidence of participation in the recognised pupil exchange scheme** (Article 9 (1) (c)).

Article 9(1)(d) requires **evidence that the pupil exchange organisation accepts responsibility** for the pupil, and Article 9(1)(e) requires that the pupil be **accommodated by a family** meeting certain conditions. Neither BG nor SI proved that they had transposed either of these requirements. ES and PT accept that a pupil may also be accommodated in an institutional environment.

BG, CZ, ES and SI have not explicitly transposed the provisions of Article 9 (1) (a) on the **minimum and maximum age** of pupils, but this is permissible on the basis of more favourable provisions.

As allowed by Article 9 (2), CY applies **reciprocity** and admits third country nationals to its pupil exchange schemes only if they are from countries which offer the same possibility for CY pupils.

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<sup>9</sup> BG, CY, CZ, EE, ES, IT, LU, LV, PT, RO, SI and SK.

- **Specific conditions for unremunerated trainees (Article 10)**

A total of 12 Member States<sup>10</sup> have included unremunerated trainees within the scope of their legislation implementing the Directive.

IT has not transposed the requirement concerning a training agreement (Article 10 (a)) nor the requirement to prove sufficient resources (Article 10 (b)). Similar transposition issues arise regarding the obligation to publicise the minimum monthly resources as arose with Article 7 (b).

FR and LV seem to be the only Member States to have set a specific amount of ‘minimum monthly resources’ required for unremunerated trainees: the other Member States set the same amount as for students.

Only EE and RO require the third-country student to follow basic language training, as allowed by Article 10(c).

LU law requires that the internship be a compulsory part of an academic course. CY has stipulated that the sectors of work for the unremunerated trainee must be determined and published by the Ministry of Labour and Social Security.

- **Specific conditions for volunteers (Article 11)**

Of the 12 Member States<sup>11</sup> which have included volunteers in the scope of their legislation, CY, CZ, EL, HU, IT, LU, PT, RO, and SK chose to set age conditions, as provided for in Article 11(a)..

All 12 Member States have transposed the requirement for an **agreement** between the volunteer and the responsible organisation, as laid down in Article 11(b). However, laws do not always include all the elements of this agreement as set out in the Directive (description of the task, working time, resources, etc.). In particular, law in PT includes no details at all, and in EL and LU it lists only a few such details.

Article 11(c) obliges the applicant to provide **evidence that the organisation responsible for the voluntary service scheme has taken out third-party insurance and accepts responsibility** for the volunteers throughout their stay, in particular as regards their subsistence, healthcare and return travel costs. However, PT has not transposed this requirement. In some Member States, it is not clear to what extent the organisation takes responsibility for all three elements mentioned in the Directive.

CY, RO and SK have taken the opportunity afforded by Article 11(d) to give the third-country volunteer a **basic introduction** to their national language, history and political and social structures.

### **3.4. Mobility of students (Article 8)**

Article 8 regulates the crucial issue of the mobility of third country nationals who have already been admitted as students in a first Member State and who apply to continue their studies in a second Member State.

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10 BG (draft legislation), CY, CZ, EE, ES, FR, IT, LU, PT, RO, SI and SK.

11 CY, CZ, EE, EL, ES, HU, IT, LU, PT, RO, SI and SK.

Most Member States indicated that they take the start of the course into consideration when processing the application — for example via fast-track procedures (NL) or issuing a temporary authorisation to stay on their territory pending a final decision on the application (BG, DE). However, from the queries submitted to the Commission it appears that additional rules on visas often make it difficult for third country students to effectively exercise their right to mobility.

Moreover, on the basis of more favourable provisions, Member States apply the same general conditions and procedures as laid down in Article 6 and 7 of the Directive without the other supplementary provisions set out in Article 8 (1) (b) and (c).<sup>12</sup>

Although the derogation laid down in Article 8 (2) is compulsory for those Member States which transposed Article 8 (1) (c), it is not provided for by PT and SK.

The first Member State must provide the second Member State with **information relating to the student's stay** on its territory (Article 8(3)), but this obligation has been transposed only by AT, CY, DE, EL, ES, FI, IT, LV, MT, PL, PT, SE and SK. From the information gathered, it appears that Member States rarely take the opportunity to request such information.

### **3.5. Residence permits (Articles 12, 13, 14 and 15)**

- **Residence permits issued to students (Article 12)**

Under Article 12 (1), third-country students who meet the conditions of Articles 6 and 7 have the right to be issued a residence permit and to have this permit renewed if the conditions continue to be met. Most Member States' laws do not explicitly state the obligation to grant the permit and to renew it under these conditions. From the complaints and queries submitted to the Commission it is clear that, even if the third country nationals meet all the relevant requirements of the Directive, the effective exercise of their right to be issued a residence permit is often hindered or even invalidated by the additional requirements concerning a visa. There are few Member States that do not require a visa and rely solely on the residence permit.

Article 12 (1) also defines the period of validity of residence permit issued to students. Most Member States provide for a maximum period of one year (and renewable); in some, however, the permit can be valid for as long as 3 or even 5 years (e.g. DE, HU, SK).

Article 12(2) sets out specific optional grounds for refusing and withdrawing the permit — the general grounds being laid down in Article 16. Article 12(2)(a) allows Member States to refuse to renew, or to withdraw, a student residence permit if the student abuses the conditions relating to access to economic activities, as defined in Article 17. This provision has been transposed by thirteen Member States.<sup>13</sup> In order to control this type of abuse, others make use of the general conditions for refusal laid down in Article 16.

Article 12(2)(b) authorises Member States to refuse to renew, or to withdraw, a student residence permit if the student does not make sufficient progress in his/her studies. This provision has been explicitly transposed by twelve Member States.<sup>14</sup> In some other Member States, the same result is achieved in practice through the de-registration of under-performing

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12 AT, BE, BG, CZ, FR, HU, LV, LT, NL, PT, RO, SI and SE do not apply Article 8 (1) (b) and AT, BE, CZ, EE, ES, FR, HU, LT, NL, PL, RO, SI and SE do not apply Article 8 (1) (c)).

13 BE, CY, CZ, DE, EE, EL, FR, LT, LU, NL, PT, SI and SK.

14 AT, BE, CY, DE, EL, ES, FR, LT, PL, PT, SE and SK.

students by their educational establishments. Consequently, these Member States will refuse the renewal of the student's permit on the basis of Article 16, as they will no longer fulfil the conditions for admission.

- **Residence permit issued to school pupils (Article 13)**

A total of 12 Member States have included school pupils in the scope of their legislation implementing the Directive, and 8 of these countries (CY, CZ, EE, LV, LU, PT, SI and SK) have limited the duration of the residence permit to one year, as explicitly provided for by Article 13.

The Directive does not specifically deal with the overall duration of a pupil's stay, but some Member States (ES, HU, SI, PT and RO) have indicated that they allow pupils to stay for longer than one year.

- **Residence permit issued to unremunerated trainees (Article 14)**

There are 12 Member States which have included unremunerated trainees in the scope of their legislation, and 6 of these countries (CY, CZ, LU, PT, RO and SI) have limited the duration of the residence permit to one year, renewable in exceptional cases, as provided for by the Directive. Limits on the duration of the residence permits exist in FR where vocational trainees can stay for a maximum period of six months and in RO where the extension of the residence permit cannot exceed six months. Provisions on this point are not clear in BG and IT.

By contrast, EE, ES and SK take a more flexible approach than provided for in the Directive: they allow a longer stay (up to three years in SK), depending on the duration of the programme, without referring to exceptional cases.

- **Residence permit issued to volunteers (Article 15)**

A total of 12 Member States have included volunteers in the scope of their legislation. The legislation in 8 of these countries (CY, EL, IT, LU, PT, RO, SI, and SK) states that a residence permit will be issued to volunteers for a period of up to one year unless, in exceptional cases, the volunteering programme lasts longer — in which case the permit will be issued for the duration of the programme. This is in line with Article 15 of the Directive.

HU does not provide for any derogation from the one-year rule.

On the contrary, EE, ES and CZ apply more flexible rules, according to which the duration of the residence permit must correspond to the duration of the volunteering programme.

### **3.6. Withdrawal or non-renewal of residence permits (Article 16)**

In contrast to Article 12, which provides for grounds for refusal and withdrawal exclusively as regards students, Article 16 applies to all categories of third-country nationals covered by the Directive. It lays down the three possible grounds for refusing or withdrawing a residence permit issued on the basis of the Directive: in case of fraud; when the holder does not meet or no longer meets the conditions for entry and residence; for reasons of public policy, public security or public health. No issues of transposition arise in this area.

### **3.7. Economic activities by students (Article 17)**



All Member States have granted students the right to employment, in line with Article 17 stating that ‘outside their study time (...) students shall be entitled to be employed’. However, only 12 Member States decided to grant the right to self-employment (AT, BE, CZ, DE, EE, ES, HU, IT, LT, LV, PL and SE).

Under Article 17 (1), Member States may take into account the situation of their labour markets, and CY, MT and RO make use of this possibility. In addition, NL, DE and AT apply a labour market test when the working hours exceed a certain threshold.<sup>15</sup> However, the conformity of Member States’ laws with Directive 2004/114 on this point needs to be closely examined. Third-country national students should not be treated as normal workers. Their access to employment is already limited in terms of working hours, and if the labour market situation is invoked in a systematic way this may in practice exclude students from the labour market altogether. This would undermine the purpose of the Directive (see Recital 18)<sup>16</sup>.

A prior authorisation, typically a work permit, must be applied for separately in AT, BE, BG, CY, CZ, EE, EL, ES, LT, MT, NL, RO and SI, as allowed by Article 17 (1).

Under Article 17(2), many Member States have set a maximum **number of working hours** per week or days per month/year that students can work, ranging from 10 hours (which is the minimum time required by the Directive) to 30 hours per week. CZ, EE, PL, PT, SK do not limit the number of working hours but have more generic restrictions in place, usually referring to the principle that employment should not interfere with the primary purpose of residence of the third-country national, namely to study.

Four Member States limit access to employment during the first year of residence. Restrictions range from six months (CY) to one year (DE,<sup>17</sup> LT, LU<sup>18</sup> and MT), as allowed by Article 17(3).

In accordance with Article 17(4), BG, CZ, DE, EE, EL, FI, FR, HU, LT, LU, NL, PT and RO have put in place reporting obligations. As a result of general legislation in Member States on immigration or employment, these obligations usually apply to the employers.

### **3.8. Procedure (Article 18 and 19)**

- **Procedural guarantees and transparency (Article 18)**

Article 18 refers to the procedural guarantees and transparency principles applicable to decisions on an application. These include the timeframe for processing the application, the applicant’s right to be informed and the right to challenge the decision legally. The Directive covers the whole process of admitting third-country national students. Its provisions on procedural guarantees and transparency therefore also apply to long-term national visas (if these are required), since a visa allows a person to enter the Member State concerned and the prospective student must therefore apply for one when seeking to obtain a residence permit.

In most Member States, general legislation on immigration/administrative procedures already provide the procedural guarantees required. In addition, some Member States have put in

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15 10 hours per week in NL; between 10 and 20 in AT, depending on the level of studies; 90 full days per year in DE.

16 The Commission referred the case of AT legislation on this point to the Court of Justice; cf. Commission press release IP/10/1230 of 30 September 2010. In the meantime, AT has brought its legislation in line with the Directive.

17 The restriction only applies to students who attend a preparatory course.

18 The restriction applies only to undergraduates.

place measures to ensure that the applicant can start the course, training or programme on time and to publish the processing times for applications. However, from the many complaints received by the Commission, it seems that in practice procedures are often long and the timeframe is unclear. The time taken to process applications ranges from 7 working days to 6 months.<sup>19</sup> No specific deadlines are set in BE, CY, DE, FI or SE.

In addition, from the numerous complaints and queries brought to the attention of the Commission it appears that Member States' visas rules often nullify the transparency guarantees required by the Directive.

Laws in BG and IT appear to make no reference to Article 18(3) on **notification procedures** or Article 18(4) giving the applicant the **right to legally challenge a rejection**.

- **Fast-track procedure for issuing residence permits or visas to students and school pupils (Article 19)**

Article 19 of the Directive provides for the establishment of a fast-track admission procedure agreed between the Member States' authorities and their higher education establishments. This provision has been transposed by FR, EL, NL and PL.

### **3.9 Fees (Article 20)**

The legislation of 19 Member States<sup>20</sup> includes the payment of fees, which range from €23 in MT to €433 in NL. Although the Directive explicitly allows Member States to set fees, this does not amount to a blank cheque. Fees cannot be set for purposes other than funding the processing of the application, as stated in Article 19, and they must not be set at a level which could make the Directive ineffective. In this regard, high fees such as those applied in NL raise transposition issues.

### **3.10. Further rights (Article 24)**

Article 24 states that Member States are free to grant further rights to third-country national students, beyond those provided for in the Directive, whatever their duration of stay in the host Member State. Accordingly, law in LT states that the acquisition of other rights is not subject to the student's time of residence in the country; PT states that it grants the same economic, social and civil rights to third-country national students as to nationals; ES reports that it gives them social security rights under the same conditions as Spanish nationals.

## **IV. CONCLUSIONS**

Attracting third country national students to the EU is a fundamental objective of EU immigration policy, stressed again under the Stockholm Programme. In 2009, more than 200 000 third country nationals entered the EU<sup>21</sup> for the purpose of this Directive. The

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19 The periods are 7 days in ES, 15 working days in HU, 30 days in LV, 2.5 months in PL, RO, SI and SK; 2 months in CZ, EL, PT, EE; 3 months in LU; 4 months in FR.

20 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HU, IT, LV, PL, PT, SE, SI and SK.

21 The data covers only 24 Member States which are bound by the Directive. In nominal value, the countries receiving the highest number of third country nationals for the purpose of education and studies in 2009 are France (53 563), Italy (32 634), Germany (31 345), Spain (22 068) and Sweden (13 968). On average, the vast majority of residence permits issued in the Member States for the purpose of the Directive concerns students. Source: Eurostat.

Directive is key to contributing to mutual enrichment for the migrants concerned, their country of origin and the host Member State.

Member States are placing increased emphasis on the internationalisation of their national education and training systems, as reflected in their strategies and investment in new instruments, such as new mobility programmes, policy dialogues with third countries and new forms of academic cooperation. Secondly, Member States have strengthened their focus on promotion and marketing activities, thus reflecting the growing awareness of the competitive international education market.

There are also parallel external actions carried out by the EU, which focus on promotion, financial support or policy dialogues on the mobility of third country nationals, and in particular students. Besides creating opportunities for migrants themselves, the inclusion of an international dimension in different facets and stages of education and/or training brings substantial benefits to the EU, its citizens and labour markets. Migration plays a role in the context of globalisation and the EU needs to be an attractive destination for third country nationals who are considering learning, studying, following a training course or doing voluntary service abroad.

However, the report suggests that the potential of this EU instrument is not being fully exploited. In particular, the level of harmonisation achieved by the Directive, adopted under the unanimity rule, is rather weak, since only a few provisions of the Directive are legally binding and many provisions do not contain specific obligations for Member States.

## **V. STEPS TO BE TAKEN**

In order to ensure that the Directive is correctly transposed and implemented across the EU, the Commission will use fully its powers under the Treaty and launch infringement proceedings when necessary.

The Commission will also continue working at technical level with the Member States. The relevant Contact Committee will continue to identify difficulties and facilitate an exchange of views on the interpretation of the Directive. Some legal and technical issues could be further discussed and clarified, such as more favourable provisions; sickness insurance; publication of information relating to students; mobility of students.

The Commission intends to offer information and assistance to both Member States and third-country nationals, making the best use of the internet, mainly through the future Immigration Portal.

Even though the priority is to ensure that the Directive is effectively implemented by Member States, the report also reveals a crucial need for amendments to the Directive, especially as regards the following: reinforcement of procedural guarantees (specific deadlines for handling applications, obligation on Member States to give reasons for refusals); strengthening of mobility clauses; stimulation of synergies with EU programmes that facilitate third country nationals' mobility into the EU; improvement of the level of harmonisation as regards volunteers, unremunerated trainees and school pupils, with a view to advancing the development of an overall EU legal framework in the area of education, training and cultural exchanges with third countries.

Finally, allowing third-country nationals to acquire skills and knowledge through a period of training in Europe encourages “brain circulation” and supports cooperation with third countries in the field of human capital and employment, which benefits both the sending and the receiving countries. Therefore, without impinging on the power of Member States to determine the volumes of migrants, the issue of access to work for third-country national students at the end of the studies could be specifically addressed, as this seems to be a decisive factor in students' choice of a destination country and an issue of common interest in the context of a declining working-age population and a global need for highly-qualified workers.