Legal Migration Fitness Check

Evidence base for practical implementation of the legal migration directives

Annex 2A

Written by ICF Consulting Services Limited

June 2018

EUROPEAN COMMISSION

Directorate General for Migration and Home Affairs

Unit B.1 – Legal Migration and Integration

European Commission

B-1049 Brussels

Legal Migration Fitness Check

Evidence base for practical implementation of the legal migration directives

Annex 2A

Directorate General for Migration and Home Affairs
Fitness check on legal migration

June, 2018

LEGAL NOTICE

Annex to " Legal Migration Fitness Check Final evaluation report – Supporting study", ICF Consulting Services Limited (2018) , finalised June 2018.

Research carried out 2017.

Luxembourg: Publications Office of the European Union, **2019**

ISBN 978-92-76-01103-3

doi: 10.2837/396264

Catalogue number : DR-02-19-191-EN-N

Table of Contents

1 Introduction

1.1 Purpose and scope of Task II

The purpose of Task II is to examine how the Member States have implemented the legal migration Directives and to assess the extent to which the EU legal migration acquis has been correctly transposed legally and whether the acquis has been correctly applied in practice. The present report provides a comparative overview of 25 Member States[1] which apply the EU legal migration acquis. The main aspects of Task II include:

- Assessment of **legal implementation** of the Directives – undertaken on the basis of the conformity studies provided by the Commission
- Assessment of **practical implementation** and examining the impact of the Directives – carried out on the basis of the set of questions, based on eight stages of the legal migration process, provided in Annex II of the ToR.

Task II covers the following Directives:

- Directive 2003/86/EC on "Family Reunification" hereafter referred to as FRD
- Directive 2003/109/EC on "Long term residents" hereafter referred to as LTR
- Directive 2004/114/EC on "Students", hereafter referred to as SD
- Directive 2005/71/EC on "Researchers", hereafter referred to as RD
- Directive 2009/50/EC "EU Blue Card", hereafter referred to as BCD
- Directive 2011/98/EU 'Single Permit Directive", hereafter referred to as SPD

The Seasonal Workers and ICT will only be applied from respectively September and November 2016 onwards and hence they have not been included in Task II. Similarly, the Recast Directive (EU) 2016/801 on "Students and Researchers" has not been included as it will only be applicable in 2018.

1.2 Methodology of Task II

The study was based on a mixed-method of approach which focussed on answering a set of questions provided in the Terms of Reference (ToR). The evidence to be collected was in part experiential and in part factual:

- Experiential questions required migrants, migration agents (organisations providing support – often against a fee – to third-country nationals who wish to migrate), migrant organisations (e.g. diaspora organisations, NGOs working with migrants, etc.), any other organisations somehow engaged in (parts of) the migrant organisations and researchers from the study team to express an informed qualitative view or judgement on certain aspects of the migration process. The *experiential* questions were answered through three main tools:
  - Experiential test by (national) researchers;
  - Survey to migrants and NGOs;
  - Experiential questions to migration agents / migrant organisations.

  In a majority of cases, experiential questions asked respondents to mark their level of agreement with a certain statement on the migration process by providing a score from 1 to 5, with 1 meaning strong agreement and 5 meaning strong disagreement with the statement. This scoring is also presented in the present report.

[1] Please note that France is not included in this version but will be added in the version following Commission's comments.

- Factual questions are focussing on collecting 'neutral' information and statistics on aspects of the migration process. This information was gathered by the national researchers on the basis of desk research and, where information was missing, incomplete or ambiguous, through interviews with national stakeholders including Member State authorities or agencies or where relevant, other organisations/actors at national level (e.g. NGOs and migrant associations at national level).

The methodological approach to Task II consisted of eight steps, as presented in the table below.

Table 1. Overview of steps to be undertaken during Task II

Task	Description
Step II.1 In-depth review of relevant information gathered and reviewed under Task I.A	A full review of documentation and other sources mapped and organised as part of the literature review in Task I.A, covering both EU and national documents. Some additional desk research at national level was also included. For this EU synthesis report, specific use has been made of European Migration Network (EMN) Studies and other outputs (see Annex 2).
Step II.2 Preparation of structured overview of the legal implementation of the Directives	The structured overview was prepared according to the following steps: Mapping of relevant provisions by migration phase and research question (see Annex 3) Mapping and analysis of conformity issues based on TIPIK studies per migration phase in the national research (See national research (i) questionnaires and (ii) national summaries) Comparative overview of conformity issues in Synthesis Report and detailed annexes per provision.
Step II.3.Preparation of tailored and pre-completed questionnaires	The key *factual* questions, and large proportion of the *experiential* questions, to be answered as part of Task II have been completed as far as possible by national researchers on the basis of desk research, complemented with interviews with relevant stakeholders where deemed necessary (see Step II.4 below).
Step II.4 Stakeholder consultation	Gaps in the questionnaires were addressed through stakeholder consultations, in particular with Member State authorities, migrant associations and agents representing migrants wishing to enter the EU. The latter two were also asked to respond to a (short) set of *experiential questions* (see Step II.5 below). See Annex 1 for a full list.
Step II.5 Legal migration processes survey	This step initially focussed on obtaining *experiential* information from third-country nationals from a sample of 10 third countries. For this purpose, a survey was included in the Open Public Consultation (see Task III) and a specific sampling method was used to select the 10 third countries. However, as it proved to be more useful to examine responses by Member State (of destination) rather than by third country of origin, and taking into account the low number of responses received to the Open Public Consultation from the 10 target third countries, the method was adapted to take on board responses from third-country nationals from all non-EU countries.
Step II.6 Delivery of national summaries	Once the data collection process was completed, the national researchers prepared Member State summaries reviewing the legal and practical implementation of the EU migration acquis.
Step II.7 Organisation of Expert workshop	An expert workshop was originally planned to obtain expert views and suggestions on the key findings from the national summaries to highlight in the EU Synthesis Report. Due to time constraints the workshop did not take place.

Task	Description
Step II.8 Preparation of EU level Synthesis evaluating the legal and practical application and comparative tables	Drafting of the present EU-level synthesis report which assesses the status of legal implementation and practical application of the Directives in the EU.

Task II also provides input to the assessment of the legal migration acquis in the evaluation (Task IV). Finally, Task II should support the Commission's monitoring of the implementation of the legal migration Directives by enabling it to detect cases of incorrect application and to take adequate steps to redress them.

1.3 Structure of the report

The report follows the methodological framework for Task II report which follows the 8 migration phases of the migration process from the perspective of the migrants (as set out in Annex II of the ToR):

1. Pre-application phase during which third-country nationals (and their family members) seek information on the application procedure.
2. Preparation phase during which third-country nationals (and their family members) prepare to lodge their applications.
3. Application phase during which third-country nationals (and their family members) lodge their applications and their processing.
4. Entry and travel phase, including acquisition of the necessary entry and transit visas.
5. Post-application phase during which competent national authorities deliver the residence permit
6. Residency phase, includes residence permits, changes of status, access to employment, equal treatment and integration
7. Intra-EU mobility phase: Travelling in the EU and moving to reside in another Member State and arriving in a second Member State.
8. End of legal stay, leaving the EU phase

Each section reflects the findings of the particular phase and is structured as follows:

- Main findings – overview of main findings and results of the Phase
- Findings per main research topic
- Differences between statuses under EU Directives and national equivalent statuses (where relevant)
- Findings on conformity assessment (where relevant)

2 Phase 1: Pre-application (information) phase

2.1 Main findings

The "Pre-application: Information phase" is the first 'preparatory' phase during which the third-country nationals and their family members seek information on the application procedure before subsequently launching their application. It examines the availability and usefulness of information about migration procedures and conditions.

The bulk of information on the legal migration acquis throughout Member States is provided online, via the websites of relevant institutions (ministries, migration offices, employment agencies, etc.) but also by relevant NGOs and business associations. Hotlines and information desks are also available, but seem to be affected by understaffing and administrative capacity of authorities. In their countries of origin, third-country nationals mainly have access to online information, as well as information provided by embassies and consulates, but the quality and availability of

these services vary substantially, depending on the number of representations, their capacity and their powers by law. National languages and English prevail as languages in which information is given; information upon request is also available, again depending on the capacity of institutions.

Member States generally provide information on all aspects of the application procedure and the assessment as to whether information is available and easily accessible is relatively positive, meaning that information is comprehensive and can be accessed without much trouble, although not always 'within four clicks'.

Despite the different modalities Member States have put in place to provide tailored information upon request, this was nevertheless easily obtained in the majority of Member States and provided in a format with a relative degree of comprehensiveness and user-friendliness. However, several significant delays occurred before a response was received and some Member State authorities only sent very generic answers to specific requests.

2.2 Findings per main research topic

2.2.1 Topic 1.1: Easiness of finding information

Q1a (i). What types of information channels[2] on legal migration of third-country nationals exist in your Member State (e.g. websites, hot line (telephone), leaflets, information desks, others)?

All Member States have websites providing information on legal migration channels to third-country nationals. Some of the websites, like in the Czech Republic and Romania, are considered very easy to navigate and obtain required information from. However the websites of some Member States[3] are more complicated in terms of structure, which requires a certain level of computer knowledge and command of the Member State language and/or English, since most of the sites have also an English version. In others, like Belgium, the multitude of information makes navigation more difficult. In this regard, in Estonia and Luxembourg, difficulties are encountered with keeping the websites, or their English parts, up to date.

The websites usually contain information about most types of legal migration statuses contained in the Directives and their national equivalents. In Spain and Romania significant recent improvements have been noted regarding the provision of online information.

All Member States, with the exception of seven[4], also operate hotlines and half[5] have information desks to provide information regarding the application procedures and requirements. In a number of those Member States[6], however, no dedicated hotlines are available, but rather options to contact authorities by phone via general numbers. This, as proven by the experiential questions below, may suggest that information given is potentially different or even contradictory, depending on which authority one contacts. In Cyprus, only a small number of information points are available within the relevant institutions, which in addition are heavily understaffed, which affects the extent to which third-country nationals can obtain information and often forces them to resort to 'private' legal assistance. As indicated in the experiential questions below, any attempt to obtain information faced various referrals among different officials and long waiting times both on the phone and via personal contact/e-mail correspondence.

[2] *Art. 14 of the Single Permit Directive requires Member States to make available to the general public a regularly updated set of information concerning the conditions of third-country nationals' admission to and residence in its territory in order to work there.*

[3] BG, CY, LU, MT, PT

[4] CY, EL, FR, HU, PL, RO, SE

[5] BG, CY, DE, ES, FI, HU, IT, NL, PT, RO, SI, SK

[6] EE, LV, SI

In significantly fewer countries the required information can be obtained through email communication[7] with the authorities or via leaflets[8].

Information also can be obtained from NGOs active in the field of migration: NGOs are specifically mentioned as important sources of information in at least eleven Member States[9], with a varying balance between the numbers of foreigners served by NGOs and the State. In some Member States[10] they also provide free-of-charge consultations in their offices, via phone or email. NGOs however tend to concentrate their efforts more on asylum seekers and underprivileged migrants, possibly at risk or exposed to human trafficking, etc. The important role of the IOM in providing information on legal migration is expressly emphasised in Member States like Slovakia, Bulgaria and Poland. Business/investor associations are active in providing information, mostly concerning work-related permits, in, among others, Slovakia, Bulgaria, Estonia and Greece.

While the information comes mainly from websites, in every Member State there are at least three different channels (such as websites, hot line (telephone), leaflets, information desks, etc.) through which the third-country nationals can obtain information about legal migration. However, the diversity of information channels also can lead to confusion and inaccuracies, because information is not simultaneously updated among the different channels and in the different language versions, especially when changes to legislation and/or procedures are being introduced.

Q1 (a) (iv). In which languages is the information available (e.g. national language(s) and other languages, such as commonly spoken world languages – e.g. English, Spanish, French, Arabic, Hindi, Mandarin, Tamil, etc.)?

In all Member States online information is available in the Member State national language and in English. Close to half of the Member States provide the information also in French[11], Spanish[12] and Russian[13]. Information in languages like Arabic and Turkish is available in few countries (Austria, Germany, France, the Netherlands, Poland, Sweden). Member States which make information available in most languages include the Netherlands[14] and Germany[15], as well as Portugal, where the hotline (ACM) is available in 60 languages.

Q 1 (a) (iv). Easiness of finding websites and other information channels – finding websites/channels and information on them; easy access

According to the experiential research carried out by national researchers, in most Member States, it is easy to find websites and other information channels and to identify the required pieces of information. Many websites have good search engines and/or are clearly structured, although they are often limited to the Member State language and English. However, However, according to migrant agencies (see box 2/1/ at the end of this section) and TCN respondents to the OPC, there are still a

[7] BE, CY, ES, FI, HR, LU, MT, NL, PT, SI

[8] BG, CY, CZ, DE, EE, ES, LU, LV, SI, SK

[9] LV, PL, AT, BE, CY, DE, ES, FR, LT, HU, MT

[10] LT, LV, PL

[11] AT, CZ, DE, EL, FI, IT, NL, PL, PT, RO, SI

[12] AT, DE, EL, FI, FR, IT, NL, PT, SI, SK

[13] AT, CZ, EE, ES, FI, IT, LT, LV, NL, PL, PT, SI

[14] Arabic, Bahasa Indonesian, Chinese, Dutch, English, French, German, Japanese, Portuguese, Russian, Spanish and Turkish

[15] Spanish, French, Albanian, Arabic, Bosnian, Indonesian, Italian, Portuguese, Russian, Serbian, Turkish and Vietnamese

range of issues with accessing information. 52% (n=191) of non-EU citizens residing or having resided in the EU surveyed as part of the OPC agreed only to a small extent or not at all that it was easy to find information about legal migration to the EU. Similarly, finding information in Greece, Italy, Bulgaria (application forms on the Migration Directorate website, which is a sub-site of the Ministry of the Interior) and Malta (RD status) is considered more complicated. The difficulty of obtaining information in Bulgaria was confirmed by a Bulgarian-based migrant agency. Information is only available upon request (via email or phone), with an average response time of two weeks.

Overall, the NGO websites which provide information about legal migration are relatively easy to find. In Austria, the guides for international students and researchers are cited as constituting a good practice.

The information channels of national equivalent statuses are also considered as easy to find and to browse, although problems were noted in Belgium, Italy, Latvia, Portugal and Spain. In Belgium, for example, the information is limited to the EU LTR status and scarce for the national equivalent, while information on the BCD equivalent can only be found on the websites of regional authorities and precise details are not always easy to find. In Latvia, not all details about national statuses can be found in one place.

With regard to the level of detail of the information, in most Member States receive slightly less positive scores, with information channels (and in particular websites) not being considered user friendly and/or easy to navigate. Specific complications have been identified with finding information in Member States like Greece, Italy, Bulgaria and Malta. Information on rights in Malta is available, but accessible only via further searches on government websites, while in Bulgaria there are problems with obtaining information about admission conditions. In Austria, it is difficult to source information specifically about the FRD, while in Belgium users find it difficult to navigate throughout the multitude of information. In Cyprus there is also general lack of clear and user-friendly information. The information channels in the Czech Republic provide very general information only, not tailored to the specific needs of foreigners considering to lodge an application. National equivalent statuses receive a slightly less positive score than the EU statuses on average and in particular in Belgium, Finland, Italy, Latvia, Portugal and Spain. In Finland, where information is often found only on the application form itself, and Latvia, where information is scattered, the information provided was also deemed as not comprehensive enough.

Access to information (measured by whether a specific piece of information can be accessed in less than four clicks) is considered relatively good, although in Member States such as Bulgaria, Cyprus, Finland and Spain, more than four clicks where needed. In Finland, the websites are not considered as user-friendly as too many sub-categories appear on the pages, making it a confusing and complicated experience to find a specific piece of information. In most of the Member States where equivalent national statuses exist, information on migration is also considered to be easily accessible. However, not all information needed can be obtained in less than four clicks.[16]

Box 1 Evidence from interviews with migrant agencies

A number of migrant agencies (from Belgium, France, Poland) identified the lack of having a standardised system in place which provides information on the application procedure as one of the main problems which should be addressed by Member State authorities. The vast amount of information provided by authorities online is oftentimes too technical, incomplete, outdated or misleading (and/or not available in English). While clients (i.e. employers) of these respective migrant agencies may in some cases conduct

[16] ES, LV on SD equivalent and FI on RD equivalent

initial web searchers themselves, they tend to refer back to professional services for clarifications in order to understand for which route there prospective employee qualifies and avoid applying for the wrong category. Among the countries which provided information in a concise and easily accessible manner were primarily Scandinavian countries.

2.2.2 Topic 1.2: Information channels and actors providing information

Q1a (ii). Where can third-country nationals get information on entry and residence provided by your Member State in their country of origin? What types of information channels[17] on legal migration of third-country nationals exist about your Member State in the country of origin (e.g. web-sites, hot line (telephone), leaflets, information desks, others)?

All Member State websites providing information on legal migration of third-country nationals can naturally be visited by the third-country nationals from their country of origin, provided they have an internet connection, which can in itself be a challenge. The information on the websites is generally available in the Member State language or in English, so even if the third-country nationals accesses the website from his/her country of origin, he/she must have the required basic language skills.

Information on websites of embassies and consulates varies and often covers only the visa/entry regime, since legal migration is usually under the responsibility of internal ministries/immigration departments. Cypriot embassies, for example, only provide information about short-term visas and none on legal migration. Polish representations provide only visa information. In Portugal, information provided online via the website of the embassies/consular posts varies (third) country by country: not all countries/embassies have websites and the websites of those that do are often not working or not regularly updated. In Belgium, visa applications are outsourced to private companies, which also provide relevant information.

If the Member State has an embassy or consulate in the country of origin of third-country nationals, they can usually obtain information by visiting the embassy or the consulate during opening hours. The diplomatic missions also provide information by phone or email.

Leaflets[18] and e-mail[19] are again of lesser significance, as opposed to websites and personal contacts.

The quality and availability of the information services vary substantially, depending on the number of representations, their capacity and their powers by law. In this respect, problems are cited in for example Estonia, which has relatively fewer embassies throughout the world. Finland has embassies covering more than one country and agreements with other EU Member States to provide consular services. The availability of information and related services in Austrian diplomatic missions and consulates varies depending on the competencies of the representation and on the host state and region, while in Italy also different levels and types of information are made available depending on the embassy or consulate.

Q1 (a) (iii). Which actors provide information (e.g. relevant Ministries, diplomatic missions, NGOs, others)?

[17] *Art. 14 of the Single Permit Directive requires Member States to make available to the general public a regularly updated set of information concerning the conditions of third-country nationals' admission to and residence in its territory in order to work there.*

[18] ES

[19] FI, HR, PL, PT, SI, SK

In most Member States, the main actors providing information on legal migration are the Ministries of Interior or their equivalents, as well as government agencies working in the field of migration (migration agencies / offices, educational cooperation agencies, employment agencies, integration centres, etc.). As discussed above, Embassies and consulates in the countries of origin of the third-country nationals play a significant role in providing information as well. Universities constitute a specialised source of information for students and researchers.

There are also a number of NGOs, which provide information on the migration acquis. At least in half of the Member States there are active NGOs, which can be contacted by the third-country nationals, since most of them provide free-of-charge consultation onsite, via phone or email.

2.2.3 Topic 1.3: availability of information upon request

Q1(b) (i). Is information provided upon request[20], including through face-to-face consultation (e.g. information desks) in the national administrations (i) in third countries and (ii) in the country of destination?

For all Member States, except for France, information upon request is provided in the diplomatic or consular offices in the third countries, via telephone or email.

Problems reported regarding the general availability of information upon request/consultations, mainly cover overall administrative hurdles like long queues at information centres (Finland), linguistic barriers and limited opening hours (Belgium), delays in receiving of e-mail answers (Cyprus). Malta is the only Member State which does not operate an information desk at the relevant institutions (Identity Malta or Ministry of Foreign Affairs), although applicants can obtain basic information from the clerks at these institutions.

Quality of information upon request Q1(b)(ii)

As part of Phase 1, national researchers were asked to send a request for information to the responsible authority in their Member State. Following receipt of the information, or after three weeks had passed following the request without this being followed by a response, they were asked to report on the following:

a) whether they received a response/were able to establish contact
b) the time taken to receive the response (number of days)
c) how satisfied they were with the response – i.e. did it answer the questions you posed

As regards (a), in 21 Member States the responsible authority send a response, while in Greece, France, Malta and the Netherlands they failed to do so.

Concerning the time taken (b) to receive the response, this took on average 3.5 days. However, in in Croatia, Italy and Spain the response was received after more than 10 days. Ten Member States provided the fastest responses[21], within one day.

With regard to the extent to which the responses were considered satisfactory, in just over over half of the Member States which provided a response, the researchers considered this to adequately answer the question posed. The responses in nine[22] Member States were considered either partially or entirely unsatisfactory. In Spain and Portugal, institutions redirected the researchers to another authority for information. In Poland the quality of responses varied depending on the authorities contacted, with some being exactly to the point, while another official asked for a call instead of

[20] *Art. 9 Single Permit Directive requires Member States to provide, upon request, adequate information to the third-country national and the future employer on the documents required to make a complete application.*

[21] AT, BE, BG, CY, CZ, FI, HU, LT, RO, SI

[22] BG, CY, CZ, ES, FI, PL, PT, RO, SE

answering the question. In Finland and Romania the information provided lacked comprehensiveness. In Finland, many aspects of the specific question were not covered, while in Romania the answers only referred to relevant legislative provisions.

After having submitted the request for information and reviewed the response, the national researchers were also asked to assess whether:

(a) the personalised contact with the competent authorities was useful to obtain individualised information;

(b) the process for obtaining the information was user-friendly.

The (a) personalised contact was overall considered as useful, although some relatively minor issues were identified in four[23] Member States. In the Czech Republic, for example, the researcher was unable to obtain the information through the Ministry of Foreign Affairs and was redirected to the relevant diplomatic mission. A similar problem was identified in Portugal, where the researcher did not receive the information needed and was directed to another authority.

As to the process for obtaining information (b), this was considered as user friendly. However, in the Czech Republic, the researcher was treated differently depending on what language he spoke. When he spoke English, he was redirected six times, while when he spoke the national language, he was directly connected. In Poland, the researcher encountered difficulties when he attempted to call the competent authority, because the lines were either busy or nobody answered. In Spain, the researcher was asked to personally visit the police station.

2.2.4 Topic 1.4: Content of information provided

Q1d (i). Is information provided on the following admission aspects?

Statuses on the basis of EU Directives

In all Member States the information regarding the **application procedure** is provided online. On some websites the information is presented in an overly legalistic way, or otherwise difficult to follow for third-country nationals. This is the case for example in Cyprus, where foreigners can only infer the procedure and admission conditions from the application forms published, in Luxembourg where the procedure is not explained clearly enough and Portugal, where only entry requirements are listed, without further guidance. In most cases, the procedure is reasonably well explained, but the websites do not contain sufficient additional information on important aspects such as supporting documents and recognition of qualifications (see phase 2). Information on the application procedure can be obtained both in the Member States and from the diplomatic missions or consulate offices in third countries via e-mail, phone or in person.

All Member State institutional websites provide information on the **conditions for admission of the different EU statuses**, although missing on a few specific statuses in some Member States. For example, Malta provides no application form or any specific guidance on the RD, which could be problematic in terms of compliance with the Directive.

Information is given by all Member States about the necessity or not to have an **entry visa**, if the person is a national of a state where a visa is required. Information on visa requirements can be mainly found on websites of foreign ministries, embassies and consulates.

Most of the websites have information about the **cost of the application (fee)**, or whether the application is free of charge. However, Belgium, Cyprus, Greece, Croatia and Malta form the considerable group of Member States not providing any information on the application fees for the BCD. Application costs vary, depending on

[23] BG, CZ, EL, PT

the Member State and the permit (see for more details Phase X). Although very relevant to the application process, none of the Member States 'notify' third-country nationals they will also have to incur costs for translations and certification of the required documents. While this is in part understandable, since these fees are not charged by the migration authorities, but by private entities, third-country nationals could be made aware that these will have to be incurred.

In sixteen Member States, the websites[24] have information about all **applicable deadlines**, except where, like in Germany, there are no legally set timeframes. In France, only information on applicable deadlines related to the Researchers Directive and the Long Term Residents Directive is available.

In twenty Member States[25], the websites have information about the **rights upon admission**. The rights upon admission are described on the webpages listing the conditions for every status. However the rights are explained in a general way, without specifics. The information on rights upon admission is sometimes also handed over with the residence document.

Equivalent national statuses

No significant differences have been found as to information on admission aspects, regarding national equivalent statuses.

2.3 Differences between statuses under EU Directives and national equivalent statuses

No significant differences were reported between the statuses under EU Directives and their national equivalents where such exist.

2.4 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. No provisions were found where conformity issues occurred in more than five Member States.

[24] BG, CZ, DE, EE, ES, HR, HU, IT, LT, LU, LV, NL, PL, RO, SI, SK

[25] AT, BE, BG, CZ, DE, EL, ES, FI, HR, HU, IT, LT, LU, NL, PL, PT, RO, SE, SI, SK

3 Phase 2: Pre-application (documentation) phase

3.1 Main findings

Phase 2 concerns the format, content, supporting documents and user-friendliness of the application forms third-country nationals have to submit in order to obtain statuses under EU directives, as well as national equivalent statuses.

Throughout the EU, Member States offer single and/or standardised applications, often depending on wider Member State administrative procedures and practice.

The time required to complete applications seems reasonable and the information requested overall relevant. However, application forms are considered difficult to fill in and insufficiently user-friendly. National equivalent statuses receive more negative average scores, probably due to the fact that EU directive statuses are already more standardised due to Member States' transposition of EU law.

Application forms are available on paper, as well as in digital format, but a full online application can only be made in small number of Member States. Guidance on how to fill in the forms is available mainly in person and online.

The documentation requirements under the different Directives and national statuses primarily serve to prove that the key requirements of the status have been met (hosting agreements, work contracts/job offers, proof of family relations, etc.), as well as provide evidence that the applicant and/or his/her family members will not become a burden to Member States' social and health systems (proof of sufficient resources, health insurance, proof of accommodation, etc.). Proof of not being a threat to national security is also a common requirement, attested mostly by criminal records. A number of national BCD and LTR equivalent statuses seem to offer more favourable conditions and thus wider access to potential applicants.

Recognition of diplomas is a widely posed requirement, especially for work-related permits, but its existence and the related guidance are relatively difficult to find. This, together with the complex process of recognition itself and the multitude of requirements especially concerning regulated professions make recognition one of the more burdensome requirements for foreigners. Work-related permits are mainly given on the basis of a work contract with job offers being accepted less as proof. Pre-integration measures are found rarely and mainly concern language knowledge and social integration.

3.2 Findings per main research topic

3.2.1 Topic 2.1: Time required to prepare the application

Q2 (a)(ii). Please review the application form(s) and the requirements with regard to supporting evidence and estimate: (a) the time required to complete the form(s) (in hours) (b) the time required to obtain the supporting documents which have to be provided together with the application (in days or hours – please specify)

The average estimated time required to complete the forms for Member States is between 1 hours and 3 hours, depending on the Member State and the type of application. In Belgium, filling in the application is estimated to take less than 1 hour, while in Member States such as the Czech Republic and Estonia this would take around 1 hour and in Bulgaria, Cyprus, Germany and Greece between 1-3 hours. In Finland, up to four or five hours for LTR and FRD applications are required.

The average time required to obtain the supporting documents which have to be provided together with the application is around 3-5 business days, however for the work-related permits under the BCD and the SPD it is around 10 business days, probably due to the detailed data to be supplied on the employer, the post, and the

preparation of work contracts/binding job offers, etc. The assessment does not include the procedure for recognition of qualifications, translation and authentication of documents, as well as certification of copies, which have to be submitted with the application. When translation, authentication and apostille are required, the required time may be up to one month.

Thus, as confirmed by findings of the other experiential questions, Member States require a reasonable amount of information, most likely influenced by an overall correct transposition of the Directives and their conditions into national legislation, but substantial time is spent on collecting the supporting documents and where requested, their translation and certification in line with national specific requirements.

3.2.2 Topic 2.2 Information requirements

Q 2 (b) (i). Extensiveness of the information required to be filled in in the application form

In most Member States[26], the information that applicants need to complete is not considered as overly extensive (with an average score of 2.05). The average score is worse (>3) in Finland, France, the Czech Republic and Bulgaria, indicating that (parts of) their application processes are considered to be rather complicated. Spain, Croatia and Lithuania follow them closely (score=3). In others, issues occur with regard to specific Directives, for example the BCD, RD and SPD in Bulgaria, requiring extensive information about employers/research institutions, and the FRD, RD and LTR in Finland, including extensive tax and employer information for the LTR and extensive information on previous marriages for the FRD. Among the national equivalent statuses, SD and RD equivalents receive relatively worse scores.

Q 2 (b) (ii). Relevance of the information required to be filled in in the application form

Overall, the information to be provided by the applicants in the application form is considered to be relevant (based on an average score of 2.1). Finland scores more negatively on average, probably due to the extensiveness of information required and its varying relevance, while Poland scores most negatively, meaning that a considerable amount of the information it requires is considered as not relevant. National equivalent statuses score relatively more negatively. There is an issue again in Finland with regard to the RD and the equivalent status, requiring a work contract or invitation, stating central terms of employment, details of duties, etc.

Q 2 (c) (iv). Easiness in filling in the application form

The ease for legal migration applicants to complete application forms throughout the Member States is considered positively to neutrally (with a score of around 2.4). However, issues have been identified in the Czech Republic, Spain, Finland, Lithuania and Luxembourg. In the Czech Republic, the questions in the application are not clear, which can lead to misunderstandings, and the format of the application is not adequate, because most fields are not long enough to fit in the required information. In Lithuania, no guidance is available on how to complete the form and the required additional information, like education, previous places of residence and workplaces for the LTR and FRD, is considered excessive. In Luxembourg, the application form is only available in French. In Finland, the questions are again considered unclear and potentially misleading. National equivalents score overall worse than EU statuses (2.7 against 2.4 for the EU statuses).

3.2.3 Topic 2.3: User-friendliness of the application forms

Q 2 (c) (v) (vi). User-friendliness of the application form

[26] AT, CY, DE, EE, HU, IT, LU, LV, MT, NL, PL, PT, RO, SE, SI, SK

User-friendliness of the application forms are considered neither very user-friendly, nor unfriendly (scored around 2.6), but this topic receives a more negative score than the ones above concerning the extensiveness and relevance of the information requested and the easiness to complete the form.

This can in part be explained by the multiple factors defining user-friendliness. For example, in Belgium, scoring very low (around 4), relevant information is not always easy to find and not displayed in a user-friendly way, with applicants having to navigate different complicated websites and information not being easily accessible. The average score for the Member States for national equivalents is lower (around 3.1), which means that the application forms are overall considered not very user-friendly.

The Member States' guidance, provided to complete the forms, is considered not good/clear enough despite various online and offline channels, with a score of around 3.0. Negative scores are found in Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Spain, Finland, Lithuania, Malta, Poland and Slovakia, where either no guidance appears to be provided or it is provided in an inconsistent / unclear way. Slovakia, for example, has two universal forms for respectively lodging an application for a residence permit and an application for renewal, but there are no specific instructions on what needs to be completed for the different statuses (e.g. BCD, FRD, etc.) which means that third-country nationals have to check themselves what information to provide and what documentation to attach. The Member States' guidance provided to complete the forms for national equivalents is considered of similar quality, with a score of about 3.0.

Q2 (a) (i). Does the Member State require the applicant to submit one application, or are several applications / steps with different authorities required (e.g. for the visa, the permit to work / reside)?

A single application is most often offered under the LTR (19 Member States[27]), followed closely by the RD (16[28]), SPD (14[29]) and SD (14[30]) which can still however cover different elements to be filled in by different actors (e.g. a part for the sponsor, a part for the third-country national wishing to migrate and a visa application). No major difference were noted between EU and national equivalent statuses.

Where multiple applications are required, these usually cover the application for the status itself, the visa and/or permits to reside / work depending on the status, for example:

- A separate visa application;
- Application for a work permit could be problematic in some Member States with regard to the SPD– e.g. Latvia, where a separate registration of the invitation by the employer is required, Romania, where pre-authorisation of the right to work is required, Bulgaria, where first the employer has to apply to the Employment Agency.
- Registration with social security schemes (e.g. Spain);

Evidently, the supporting documents which are to accompany the application are generally to be obtained from many different entities, with Cyprus for example requiring VAT clearance, Labour Office endorsement of labour contracts, proof of revenue of the employer and Romania requiring a preliminary endorsement by the Immigration Inspectorate for work-related permits as well as involving educational authorities for students and researchers.

[27] AT, BE, BG, CY, CZ, DE, EE, FI, FR, HR, HU, IT, LV, MT, NL, PL. PT, SE, SK

[28] AT, BE, CZ, DE, EE, FI, FR, HR, HU, LT, MT, NL, PL, PT, SE, SK

[29] AT, CZ, DE, EE, ES, FI, FR, HR, HU, MT, NL, PL, PT, SK

[30] AT, CZ, DE, EE, FI, FR, HR, HU, LT, MT. NL, PL, PT, SK

Q2 (c)(i). Does a standardised application form exist or are there separate application forms per Directive/equivalent national status?

There are separate application forms in seventeen Member States, while in another eight[31] Member States a standardised application form exists. However, variations stand out among countries with otherwise standardised application forms. For example, in Croatia there is a standardised application form for the first issuance or extension of the approval of temporary stay, approval of permanent stay and business permits, but there is a separate form for the application for the issuance of a work permit to a foreigner. In Italy, there is a standardised form for all residence permits. Lithuania there are two application forms – one for temporary residence permits and one for permanent residence permits.

[31] DE, EE, ES, HR, LT, LV, PT, SK

Q2 (c)(ii). How can the application form and related guidance be obtained? (e.g. in person, by post, online, via letter)

Despite the fact that all but one Member State[32] reportedly allow for online applications, full online availability and submission of forms is actually only available in four countries, namely Finland, Italy, for some statuses in the Netherlands (linked to the possession of a digital identity account) and Romania, although the Member State is still working on an approved application system. There are seven[33] Member States, for which it is explicitly stated that the application forms are available online, with files that can be downloaded for printing, but are to be submitted offline. For nineteen[34] Member States it is mentioned explicitly that the application form can (also) be obtained by the applicant in person. Guidance is mostly available in person at the respective authorities and online on their websites, together with the online/downloadable forms.

The application form can be obtained also via post in Latvia (the option was also available in the Netherlands until June 2017). The fact that only one Member State offers this possibility may pose practical issues in the other Member States as it makes obtaining the application heavily dependent on personal appearance/internet access.

France is the only country in which the application form and the related guidance can be obtained with all the mentioned ways: in person, by post, online or via letter.

Q2 (c) (iii). In which language(s) is the application form(s) available and in which languages can the third-country national fill in the forms?

In all Member States the application form is available in the national language(s) and in all but seven[35] Member States the form is available in English. Germany seems to provide the application form in most languages – German (national), Arabic, Chinese, English, French, Russian, Spanish and Turkish. In six[36] countries the application form is available in Russian and in four[37] countries in French. In Hungary and in Latvia it is also available in German.

3.2.4 Topic 2.4: Admission conditions and documentation requirements

Q2 (d). Which admission conditions apply and what documentary evidence is required to prove that the conditions are met?

Box 2 Evidence from interviews with migrant agencies and the Open Public Consultation

Migrant agencies

According to interviewed migrant agencies (Poland), the main issue relates to the acquisition and authentication of documentary evidence, which can lead to significant delays in the processing of an application. The acquisition of specific requested documents and their authentication can prove difficult in the country of origin, thus impacting the application processing times. The acquisition of birth certificates and the authentication of marriage certificates has proven particularly difficult in South Asia (India) and Africa.

[32] BG

[33] AT, BG, CZ, FI, IT, NL, SE

[34] AT, BG, CY, CZ, EE, ES, FR, HR, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK

[35] AT, BG, ES, FR, IT, LU, MT

[36] CZ, DE, EE, LT, LV, PL

[37] DE, LV, PL, RO

Open Public Consultation

Non-EU citizens residing or having resided in the EU were asked to list the documents requested in the application process. The most common documents that respondents (n=191) had to provide were: a valid travel document (82% of respondents), proof of educational qualifications (77%), proof of sufficient resources (75%), health insurance (73%), documents from the school/higher education institution they were to attend (66%), proof of accommodation (59%), job offer / work contract (55%) and bank guarantee (48%).

Q2 (d) (i). Family Reunification Directive

The bulk of the documentary evidence required under the FRD serves to prove the family ties, including marriage certificates, birth certificates, certificates of paternity, proof of legal custody, adoption papers and where relevant, death certificates.

In Spain, Italy, Belgium and the Netherlands, DNA tests may be required and at least in Belgium requests for such tests are made more and more frequently. This raises application costs and timelines substantially and could be considered an application issue.

Another practical application issues may occur in Poland, where marriages must be recognised by local law, which in most cases excludes, in addition to polygamist and purely religious marriages, also same-sex marriages and in Cyprus, where spouses should be married for at least one year.

Spain requires again proof of family relations, etc. as part of the visa application process for the family member to enter the Member State. This may place a disproportionately high burden on the applicants and is an infringement of the obligation to grant family members every facility to obtain visas.

Originals and/or certified copies, as well as translations into the national language of documentation proving family relationship are universally required, although exceptions exist like in Slovenia, where the extract from the register of the applicant's country of origin can be in certain cases submitted without translation. More than half of the Member States[38] require documentation on family relationship to be submitted before an application can be accepted an application, while in the others[39] it can be added during the processing and review of the application. Six Member States[40] explicitly require interviews with the sponsor and his/her family members, but in Member States such as Belgium, Lithuania and Estonia these can be held if considered necessary and/or if certain evidence cannot be submitted.

Proof of sufficient resources is the second most required type of evidence. Member States have different approaches to establishing this, ranging from employment contracts[41], pay slips[42] to bank statements[43] for a period of 6 to 12 months, tax returns[44], going back for up to the past 3 years, etc. Practical application issues were identified in the Czech Republic, Latvia, Spain, Portugal and Bulgaria, where the minimum income is to be proven in absolute figures (e.g. expressed as minimum wages/pensions) and not reference amounts. The Netherlands recently decided to shorten the period covered by the examination of income from three to one year, but the relevant legislative amendments are still to be made.

[38] BE, BG, CY, DE, EE, EL, FR, HU, LT, LV, MT, PL, PT, RO, SE

[39] AT, CZ, ES, HR,IT, FI, FR, LU, NL, SK, SI

[40] CZ, ES, FI, FR, RO, SE

[41] CY, ES, DE, FI, LT, NL, PL

[42] BE, IT, LU, DE, ES, NL, PT

[43] BE, PT, CY, CZ, EE, ES, FI, HU, LT, LU, NL. PT, RO, SI, SK

[44] CY, ES, FI, IT, LU, NL, PL, PT, RO, SI

Proof of adequate accommodation is required in all but four Member States[45]. Member States have adopted different approaches to verifying this and determining 'adequateness', ranging from rental contracts, utility bills, declarations of hospitality, declarations of consent by the owner of the property, and some more particular types of evidence including, for example, a specific report on suitability of accommodation issued by the competent body of the Autonomous Community or Local Authority in which the sponsor resides in Spain, which seems a rather burdensome process and potentially an application issue. Looking at the type of proof required overall in the EU, Member States seem to put more emphasis on the availability of accommodation and less on its adequateness for the needs of the particular family.

Private sickness insurance of sufficient coverage/sickness as part of public social security coverage for the sponsor and family members, usually for the duration of the permit, is required in all but six Member States[46]. Notably, in almost half of the Member States, the application cannot be lodged without this proof.[47]

Pre-integration measures, usually in the form of language diplomas, are required in only five Member States[48], but are also being planned in Belgium.

Ten countries[49] require proof that the applicant has acquired the required period of residence (residence permit of one year or more), while eight[50] require proof, optional and limited back to two years as per the Directive, that the sponsor has lawfully stayed in their territory for a certain period. The low numbers may be explained by fact that this information in the other Member State can be obtained directly from their administrative databases.

Fifteen countries require proof of not constituting a threat to public policy or public security, while eight[51] do not. In some Member States, like Estonia and Finland, the applicant needs to state that they have a clean criminal record, while a copy of the criminal record (or a certificate stating that this is clean) is required in Cyprus, Finland, Czech Republic, Spain. Member States like Croatia and Italy perform active security checks, while authorities in countries like Poland and Germany are collecting information via official channels, e.g. from law enforcement or judicial authorities. The requirement to have a clean criminal record may disproportionally disadvantage applicants, as they may have committed a 'light' crime in the past, not making the applicant a threat to public security.

Eight Member States[52] require a certificate for medical examination. The exact supporting documents requested usually consist of a medical certificate, often attesting that the applicant is not carrying any diseases which might endanger public health, mainly focussing on tuberculosis. Actual medical examinations, instead of just certificates, may also be part of the procedure[53].

The translation of relevant documents is required by all Member States, mostly in the national language although some[54], may also accept documents in English and, more rarely, in other languages. The frequent requirements of translation by sworn translators and certification by apostille may pose an administrative and financial

[45] FI, HR, NL, SL

[46] FI, FR, NL, PT, SE, SK

[47] AT, CZ, ES, FI, FR, IT, LU, NL, PT, SE, SL, SK

[48] AT, DE, FR, IT, NL

[49] AT, BE, EL, ES, FR, IT, MT, PL, NL, RO

[50] AT, CY, CZ, ES, FR, HR, NL, RO

[51] BG, FI, FR, HU, IT, MT, RO, SE

[52] BE, CY, CZ, ES, IT, LU, NL, RO

[53] CY, IT, LV, NL

[54] DE, EL, EE, FI, LU, NL, SE

burden on the applicant. Notably, in Estonia, the applicant verifies supporting documentation just by signing his/her application.

All required documentation should be submitted together with the application either initially, or after a deadline given by authorities. An exception is Germany, where authorities have some level of flexibility as to what documentation to accept, so unavailable documents may be substituted by other relevant proof.

The FRD quota system in Austria is based on the derogation provided in Article 8 of the Directive. If the threshold is reached in the year where the application is lodged, the decision to extend the granting of the residence permit, up to a period of maximum three years, is communicated to the person and the applicant is informed about his/her actual ranking. After that period family reunification takes place.

Q2 (d) (ii). EU Blue Card Directive

Besides Cyprus, where EU Blue Cards have not been issued, all reviewed Member States but Spain require a work contract or a binding job offer (see also section 2.1.6 below). Spain requires proof of (future) income.

Proof of sickness insurance is also required in the majority Member States, with only seven not explicitly requiring this[55]. As a work-related permit, BCD pre-supposes a work contract/job offer, under which health insurance will be provided, so public statutory/private insurance should only cover the period before starting/out of work.

Around half of the Member States under examination[56] require proof of not being a threat to national security. Certificates of a clean criminal record are mostly required, while other Member States may also undertake investigations themselves, such as Germany obtaining information via official channels and Croatia performing security checks. The requirement to provide proof of address on the country's territory, with just five[57] Member States not having such a requirement.

Proof of fulfilment of conditions for regulated professions not required by four Member States[58]. The type of proof to be provided varies between Member States. Spain, for example, requires accreditation of training and, where appropriate, formal recognition of the professional qualifications required to practice the profession, while in Finland the requirement is present just for the healthcare sector, where permission to practice medicine must be obtained from the national authorities. The majority of countries also require proof of qualifications also for unregulated professions, while just four Member States do not request this documentation[59]. Italy is considered to apply stricter requirements towards foreigners' qualifications, requiring both higher professional qualifications and these qualifications to be relevant in order to be admitted as highly qualified worker - which may pose a practical issue.

Most of the Member States require an application for visa or a visa, if the person is a national of a state where a visa requirement exists, or a document proving that the person resides legally in the country, while eight[60] of them do not require such documents. Thirteen[61] Member States require a valid residence permit or national long-term visa, where needed.

With regard to work contracts/job offers, accreditations of qualifications and statutory sickness insurances originating from national entities/authorities, the translation requirements for the BCD are of markedly lesser significance than the other EU statuses. Still, certified translations are required when documents are not in national languages (English is sometimes accepted), as well as originals and copies of the documents for consultation by authorities. All documents have to be submitted either initially, or after a deadline given by authorities.

[55] FI, FR, IT, LU, NL, RO, SK

[56] AT, CZ, DE, EE, EL, HR, LT, LU, LV, PL, PT, SI, SK

[57] EL, FI, NL, SE, SL

[58] AT, HU, IT, ES

[59] AT, DE, ES, SE

[60] EE, HU, LT, LV, NL, PL, SL, SK

[61] BE, CZ, ES, FI, FR, HU, LT, MT, NL, PL, PT, SE, SK

3.2.5 Attesting highly professional qualifications by professional experience [62]

Austria, Estonia, France, Greece, Lithuania, Luxembourg, Sweden are the countries that offer the possibility for migrants to prove that there are highly qualified only by professional experience.

In **Austria** the procedure take 2 months, third-country nationals have to submit documents that show the content and the level of requirements of the professional activity and the responsible institutions for the assessment and the decision making process are the universities. In **Estonia** the procedure takes also 2 months, third-nationals applicants have to submit the documents evidencing at least five years of work experience or submit an assessment of competent institution or resolution of a competent body regarding the acknowledgement of higher professional qualification. Then, the Police and Border Guard Board are responsible for the assessment and the final decision. The **French** procedure can take up to 3 months. The applicant can submit his/her resume or any other document proving his/her work experience of at least 5 years at a comparable level and the foreign labour service within the Regional Directorate for Business, Competition, Consumer Affairs, Labour and Employment will approve or not the work permit. The procedure takes up to 3 months also in **Greece** and the applicant, must provide all necessary documents attesting, at least five years of professional experience of a level comparable to higher professional qualifications and which is relevant in the occupation or sector specified in the work contract. Then, the Directorate of Migration Policy of the Ministry of Interior and Administrative Reform will make the final decision.

In **Lithuania**, the draft law providing for such a procedure has been adopted by the Parliament. However, the practical procedures are to be developed by the relevant ministries so no further information exist at this moment. In **Luxembourg** the procedure takes up to 3 months as well. The applicant must provide all the relevant documents that can prove this professional experience and the Minister in charge of Immigration is responsible for the assessment and the decision making process. The duration of the **Swedish** procedure is not fixed since the number of EU Blue Cards issued has been very small. Applicants have to hand in relevant work certificates and the Swedish Migration Agency assesses and decides for the Blue Card.

Q2 (d) (iii) Equivalent national status to EU Blue Card Directive

Out of the twelve[63] Member States, considered to have a national equivalent BCD status, nine[64] require a valid work contract or binding job offer. Belgium, Sweden, and Portugal, while requiring this under the BCD, do not require this documentary evidence for their national status. Obtaining national equivalent status is reported to be expedited in Malta, while in other Member States having such status the deadlines similar to those for the BCD.

In addition, in Austria, Belgium, Italy, the Netherlands, Portugal and Sweden the income threshold for the national status is lower than the one for the BCD or non-existent, which means that often the national status is more attractive to both third-country nationals and their sponsors. Estonia, however, has a higher income threshold for its 'top specialist status', but requires no proof of professional qualifications or labour market test. Italy does not require evidence of professional qualifications either.

However, BCD equivalent statuses throughout the Member States have more unfavourable stipulations in a number of aspects. By way of example, in Estonia, 'top specialists' are not allowed any periods of unemployment. Malta only allows contracts under the KEI scheme for three consecutive years.

[62] The information is based on the EMN Ad-Hoc Query 'Attesting highly professional qualifications by professional experience, Requested by LT EMN NCP on 1st July 2016

[63] AT, BE, DE, EE, ES, FI, FR, IT, LT, MT, NL, SE

[64] DE, EE, ES, FR, IT, LT, MT, NL, SE

Six Member States require attestation of fulfilling conditions for regulated professions.[65] A little under half of the countries[66] require proof of higher qualifications for unregulated professions. Notably, in contrast to the BCD status, six countries[67] require proof of sickness insurance.

Q2 (d) (iv) Students Directive (2004/114/EC)

While all Member States require a valid travel document, four Member States[68] have stipulated a minimum length of validity of these documents.

Parental authorisation for minors is also generally required, with in just five[69] Member States this is not a requirement. Although parental authorisation is not a requirement, in Hungary, the application must be signed by the legal representative of the minor applicant, while in Poland an application is to be submitted by the parent(s) or guardian(s) appointed by the court who stay legally in the territory of Poland.

Proof of sickness insurance is required by all but four Member States[70], but the time limits for providing such proof vary. In the Netherlands, for example, third-country nationals are required to take out health insurance within four months after a positive decision on their application for a residence permit, while in Slovakia sickness insurance shall be provided upon 30 days after collecting residence permit and in the Czech Republic, in the event of positive decision upon an application, a health insurance is presented as from the date of entry. In contrast, countries like Austria, Bulgaria and Germany require health insurance to be submitted with the application.

Translation is again of lesser significance since student documents are usually issued by a national entity. Nevertheless, all documents in a foreign language must be officially translated. Documents must be submitted either initially, or afterwards, after a deadline posed by authorities (see exceptions for health insurance above).

Regarding students, acceptance in a higher education institution is required in all Member States, as well as evidence of means of subsistence via declarations by sponsors/parents/higher education institutions, bank statements, etc. Notably, only four Member States require sufficient knowledge of the language of the course and six require evidence of paid fees[71].

Out of the 18 Member States which also apply the SD to pupils, eight[72] require proof of age. All 16 countries require evidence of acceptance by a secondary education establishment, which can consist of a statement from the school or relevant state authority, a certificate of acceptance from the education institution, etc. Three Member States do not require evidence of participation in a recognised pupil exchange scheme programme[73], while five[74] do not require evidence that the organisation accepts responsibility for the pupil. Proof of accommodation throughout the pupil's stay proves to be another key requirement, with just four Member States not explicitly requiring this[75].

[65] BE, DE, ES, FR, MT, PT
[66] BE, ES, FI, FR, MT, PT
[67] AT, DE, EE, ES, LT, MT
[68] BE, CY, ES, SI
[69] HU, IT, NL, PL, SI
[70] BE, EL, NL, SK
[71] BG, CY, ES, PL, PT, SE
[72] AT, CY, HR, IT, LU, PT, RO, SE
[73] PT, SE, SL
[74] DE, LT, PT, SE, SL
[75] LT, PT, SE, SL

Seventeen Member States[76] require some form of proof of not constituting a threat to public policy or public security.

Of the 17 Member States having transposed the SD for trainees (Greece has only done so partially) only two[77] are not requiring a signed training agreement. The required documents can consist of a declaration/confirmation by the organisation, a liability declaration, or a contract of traineeship for the position of a trainee. In Poland, a training contract with an officially acknowledged professional training company or institution is required. In some cases, the German Federal Employment Agency must approve that there are no German candidates or candidates from a privileged country (such as an EU country). Again, almost all Member States, with the exception of Sweden, require evidence of sufficient resources to cover subsistence, training and return travel costs. The required documents can include bank statements of the applicant or statements by the bank that sufficient funds are available, income declarations of the parents or legal guardian, etc. In Cyprus a personal bank guarantee to cover the applicant's repatriation expenses or a bank guarantee by the public/private business organisation is also required, which may be rather burdensome and potentially an application issue. Depending on the Member State, the minimum amount which is considered "sufficient" ranges between 400 and 850 EUR per month. No country was found to require evidence of basic language training.

SD volunteer provisions have been transposed by 15 Member States, and all require a voluntary service agreement, while two thirds require evidence that the volunteer organisation accepts full responsibility for the volunteer. No Member State was found to require a basic introduction to the language, history and structure of the Member State.

Q2 (d) (v). Equivalent national status to Students Directive

Austria, the Czech Republic and Spain have equivalent SD national statuses.

In Austria an application for visa D is required instead of proof that have been accepted by an establishment of higher education to follow a course of study.

In Czech Republic and Spain a certificate of Study or similar document is required.

All three Member States require evidence of sufficient resources, valid travel documents, sickness insurance and medical examination, as well as proof of not posing a threat to public security while requirements like evidence of paid fees and parental authorization are posed by just some of them. For example, Austria does not require proof of acceptance to an educational institution and evidence of paid fees, which should in theory make obtaining the national equivalent status a lot less burdensome than the SD status.

None requires sufficient knowledge of the language of the course, which is a significant difference with the EU status, although for the latter only four Member States require this in practice.

Q2 (d) (vi). Researchers Directive

In the case of the RD, all Member States require a hosting agreement with a research organisation, while only eight Member States require a certified copy of the researchers' qualifications[78], as they are presumed to be verified by the hosting agreement. Proof of sufficient monthly resources is required by almost all Member States, with the exception of four[79], to be proven by bank statements going back 6 months, confirmation of a sufficient amount of money being available on the bank

[76] AT, CY, CZ, DE, EE, EL, ES, HR, LT, LU, LV, PL, PT, RO, SI, SK

[77] BG, LV

[78] BG, ES, FR, IT, LU, LV, MT, NL

[79] CY, CZ, ES, LU

account of the third-country national and/or confirmation from the research organisation. Half of the Member States require a statement of financial responsibility by the research organisation. The written statement usually includes that the research organisation shall cover all possible costs related to the stay of the researcher, while Member States like Cyprus, Belgium, Hungary, Lithuania have also included the Directive's option that the research organisation is liable for the applicant's living and repatriation expenses in the event that he remains in country unlawfully. About a third of Member States do not have a sickness insurance requirement for researchers[80], as they are often covered by statutory healthcare, and even less require proof of not constituting a threat to public security[81], usually criminal records, while one third of Member States require certificate of medical examination for not carrying diseases of danger to public health[82].

Notably, as mentioned above, Malta does not provide neither an application form nor specific guidance on the RD, which is may be considered a *de facto* **infringement** of the Directive.

Again, in comparison with the FRD, translation requirements are of lesser significance as many of the documents – hosting agreement (covering) subsistence costs and health insurance – originate from a national entity and are in the national language. All documents are required upon the submission of the application or within a deadline stipulated by authorities.

Q2 (d) (vii). Equivalent national statuses to Researchers Directive

Only four Member States have an equivalent national status – Austria, Spain, Finland and Italy. All of them require a valid travel document, but only Spain requires a hosting agreement with a research organisation, which, in the other Member States mentioned, means a significant facilitation of obtaining the status compared to the EU Directive. Austria and Spain require a certified copy of the third-country national's qualifications – a university diploma or higher educational degree, which makes the process in Finland and Italy even less burdensome. Austria, Spain and Finland require evidence of sufficient monthly resources, usually proven by bank statements covering the last 6 months, confirmation of sufficient amount of money being available on the bank account of the third-country national and/or confirmation from the research organisation. Austria and Spain require sickness insurance, while Finland and Italy do not. Thus, in the small group of Member States offering RD national equivalents, this status seems to be easier to obtain.

Q2 (d) (viii). Long-term Residence Directive

Seventeen Member States[83] require proof of legal and continuous residence in the Member State for five years immediately prior to the submission of the application, while only eight[84] Member States do not explicitly require continuous residence. Lithuania is considered to be overly strict when assessing possible interruptions of the stay, considering even a gap of several days between temporary permits due to late application for renewal an interruption. This may pose a practical issue in applying the LTR.

All Member States require evidence of stable and regular resources which are sufficient for the third-country national to maintain himself/herself and the members of his/her family, which are proven through bank statements, employment contracts, tax certificates, etc. Cyprus, which used to exclude domestic workers from the LTR

[80] BE, CY, EL, FI, LU, LV, NL, SK

[81] BG, FI, HU, IT, RO, SE

[82] BE, CY, CZ, EL, ES, LU, NL, RO

[83] AT, BE, CY, DE, EE, EL, ES, FR, HR, IT, LT, MT, NL, PL, PT, RO, SK

[84] BG, CZ, FI, HU, LU, LV, SE, SL

due to the limited duration of their successive contracts/visas, changed its legislation as a result of CJEU case-law[85], but now in practice excludes them by deciding that they are not fulfilling the resources requirement. This shows the significance of the resources requirement as an instrument to apply the Directive provisions in a less or more restrictive way.

All Member States require sickness insurance, with exception for six Member States[86].

Half of the MS[87] require compliance with integration conditions. As evidence for this are accepted, for example, proof of basic knowledge of the countries' languages – level A2 in Greece and Latvia, 'basic knowledge' of the German language in Germany, Estonian language proficiency, national language and basic principles of Constitution of Lithuania, any document proving integration into Luxembourg society, completion of Maltese language and integration courses and completion of a civic integration course in the Netherlands.

Two thirds of Member States require proof of not constituting a threat to public policy or public security, usually attested by criminal records while nine Member States[88] do not. Several practical issues were raised in Luxembourg where an additional requirement exists that the person should not threaten the country's international relations, which is considered to be vague and excessive. Some of the Member States collecting the required information ex officio, while others require statements/declarations of a clean record by the third-country national, a police clearance certificate, etc.

Luxembourg, as well as Malta, may also refuse applications which are not accompanied by proof of adequate accommodation.

A number of Member States require other documentary evidence such as valid passport, photos in passport format, certificates of good conduct, payment of the application fees, letters of incitation, employment contract, social security registration, rental agreement, etc., while only five[89] Member States do not require additional documents.

Translations of documents not originating from a national entity is required as well as some form of authentication. All documents should be submitted either initially with the application or later upon a deadline, given by authorities.

Q2 (d) (ix). Equivalent national statuses to Long-term Residence Directive

Despite the significance given to national LTR equivalent statuses for categories like persons of the country's origin, investors, persons of particular importance, only twelve[90] Member States have an equivalent national status and most of them, with exception of six[91], do not require proof of legal and continuous residence in the Member State for five years immediately prior to the submission of the application, which makes proving continuous residence at least for the eligible categories of applicants significantly less stringent than under the EU LTR status and access to the

[85] *State Secretary van Justitie V Mangat Singh,* Court of Justice of the European Union case C-502/10, 18 October 2012

[86] FI, IT, LT, LV, NL, SE

[87] CY, DE, EE, FR, HR, IT, LT, LU, LV, MT, NL, PT

[88] BG, FI, FR, HU, LT, LV, MT, SE, SK

[89] AT, LV, NL, SE, SK

[90] BE, BG, DE, ES, FI, HR, HU, LT, LV, NL, PT, SL

[91] BE, DE, ES, FR, NL, PT

status – potentially wider. Hungary, for example, requires three years of continuous residence. [92]

All Member States, with the exception of Belgium and Spain, require evidence for stable and regular resources which are sufficient for the third-country national to maintain himself/herself and the members of his/her family, which are proven through bank statements, employment contract, etc.

Only seven[93] Member States require sickness insurance, as long term residents are usually already benefiting of the same rights as nationals, thus making the requirement less strict that under the LTR status.

Six of the Member States[94] in this group require compliance with integration conditions, while the others do not, which is a similar proportion in comparison with the LTR status conditions.

All Member States require proof of not constituting a threat to public policy or public security, usually by criminal records, while only four[95] Member States do not.

3.2.6 Topic 2.5: Recognition of diplomas and qualifications

Q2 (e) (i). Is the recognition of diplomas and qualifications a condition for obtaining a permit?

Box 3 Evidence from interviews with migrant agencies

Difficulties regarding the recognition of diplomas and qualifications were encountered in some Member States, including **Germany** and **Italy**, were certain types of diplomas and qualifications are not recognised by the national curricula.

The recognition of diplomas as a condition for admission, which is referred to in the BCD, RD and SD, is explicitly applied in most Member States[96] for the BCD in six Member States[97] for the RD and in five Member States [98] for the SD.

For equivalent national statuses to the BCD, the recognition of diplomas is a condition in Germany and Poland. For other national statuses this requirement is not applicable, which may make the application process significantly less burdensome.

Recognition generally involves a number of agencies (e.g. academic information centres) and, in the case of regulated professions, professional chambers and a verification / validation process to check that the foreigners' qualifications match national requirements (e.g. equivalence of professional qualifications in Portugal and Germany). This is usually a lengthy and burdensome process. By way of example, the decision on recognising qualifications for regulated professions is issued by the Ministry of Education in Slovakia.

For the BCD and the equivalent national statuses of BCD, the required documents are generally a university diploma or proof of higher educational status, which must be translated and verified. Special attention is given to the requirements of the Member States and respective professional communities in the case of the intention to perform work in a regulated profession like law and medicine.

[92] Additional information about this topic can be found in EMN Ad-Hoc Query 'National residence permits of permanent or unlimited validity' requested by COM on 8th September 2016

[93] AT, DE, ES, FR, HU, SI, HR for some statuses

[94] DE, FR, HR for some statuses, LV, NL, PT

[95] BG, FI, FR, LV

[96] AT, BG, CZ, DE, EE, EL, IT, LT, LV, MT, NL, PT, RO, SE, SI, SK

[97] BG, ES, IT, LT, MT, NL

[98] BG, EE, EL, LT, RO

In a number of Member States, researchers' qualifications must also be translated and verified[99] under the RD, while for the others they are 'proven' by the hosting agreement. These can include university diplomas or proof of higher educational status, or work-related documents.

For SD, the required documents can include a diploma from high school or equivalent, which also must be translated and verified in the few cases recognition is explicitly required[100].

In terms of difficulties encountered, for example, third-country national doctors and nurses in Poland have reported difficulties with the recognition of their diplomas. The recognition procedure is considered by third-country nationals a costly and long process, requiring significant savings. Recognition is managed by medical universities, which each determine different rules and conditions.

Most of the application forms and related guidance in the Member States do not contain information on the requirement to have recognition of qualification and the related process, with the exception of six[101] Member States for the BCD, Estonia for the SD, Czech Republic and Slovenia for the SPD. When information is available it can be found on the web pages of authorities, processing the application. By way of example, in Malta the application form for the BCD and the SD contains information relating to requirement to have the recognition of qualification but it does not contain guidance on the procedures.

Q2 (e) (iii) (iv). Information on recognition of diplomas and qualifications

The availability and accessibility of information on the condition of recognition of diplomas in application forms and related information channels is assessed rather negatively (a score of 2.8). Issues have been identified in the Czech Republic, Italy, Lithuania, Portugal and Slovakia, Belgium and Estonia, where indications are either missing, or not clear enough (e.g. the authorities responsible for recognition are not mentioned), or information is insufficient. National statuses are assessed even more negatively, with a score of around 3.3, although recognition is less often an explicit requirement for these statuses. The above Member States are indicated as problematic for national equivalents as well.

Most Member States provide inadequate guidance on the procedures for obtaining recognition of diplomas (a score of about 4.0, which is among the most negative scores obtained for the performance of Member States regarding their legal migration acquis obligations). This applies specifically for the Czech Republic (information only provided upon request), Italy, Lithuania, Portugal, Romania and Slovakia. There are some issues due to unclear guidance in Belgium (explanations not always clear), Bulgaria (indications only in relevant laws), Estonia, Malta, Slovenia and Spain as well. Guidance for national equivalent statuses' is still considered unsatisfactory, although slightly better than for the EU statuses (a score of around 3.7).

3.2.7 Topic 2.6: Proof of employment

Q2 (f) (i). For the employment-related permits (based on Directives and equivalent national statuses), does the Member State accept an application on the basis of a job offer, or only on the basis of a contract?

[99] BG, EL, ES, IT, LT, MT, NL

[100] BG, EE, EL, LT, RO

[101] CZ, DE, EE, MT, RO, SL

In a significant number of Member States[102] a signed contract of a duration at least one year is required for employment-related permits, however in seven[103] Member States both a binding job offer and a signed contract are accepted under the BCD and in five Member States both are accepted under the SPD[104], while only five[105] Member States require only a job offer both for BCD and SPD. The work contract and/or job offer are required to include the salary, the duration of the contract and the main obligations of the third-country national. The job offer, accepted in four Member States,[106] also needs to include the salary for the BCD and those national statuses for which also a minimum salary is required.

3.2.8 Topic 2.7: Pre-integration measures

Q2 (h) (i). Does the Member State apply any pre-integration measures, specific integration conditions / requirements, or an integration test?

Only Austria and Cyprus appear to apply pre-integration measures. In Austria, a certain level of language knowledge is required, albeit with exceptions (if the third-country national has not yet completed 14 years at the time of application). In order to prove this, applicants have to present a language diploma or course certificate which states that they have achieved level A1 (basic knowledge) of the Common European Framework of Reference for Languages. The third-country national can take the test in one of the following institutions: Austrian Language Diploma German, Goethe-Institut e.V., Telc GmbH, Austrian Integration Fund (ÖIF). The price depends on the institution and has to be paid by the third-country national.

In Cyprus for the purposes of the long term residence permit, applicants must submit proof of adequate knowledge of the English language at level A2. For those not possessing certificates, exams are held twice a year. Cyprus is considered to provide very little information on the required language skills. The Ministry of Education makes announcement in the press about the two dates, when the exam is held. The price is 25 EUR and has to be paid by applicants.

Germany and the Netherlands have introduced pre-integration measures under the FRD. In Germany, applicants are required to follow a language course (if basic language requirements are not met), with certain exemptions, followed by a test. Relevant information on the requirements is provided by the Member State. The tests are (usually) conducted by the Goethe-Institut or other official partners in the country of origin. A1 level of the Common European Framework for Languages has to be reached, meaning that the person must have passed one of the following language examinations: "Start Deutsch 1" run by the Goethe Institut or telc GmbH, "Grundstufe Deutsch 1" forming part of the Austrian Language Diploma (Österreichisches Sprachdiplom (ÖSD) or "TestDaF" run by the TestDaF-Institut e.V. Costs differ between different institutions and countries, but they are usually below 100 EUR.

In the Netherlands, information on the civic integration examination abroad as a pre-integration measure is provided on the IND website and in information leaflets. The Civic Integration Abroad Test takes place at a Dutch embassy or consulate in the country of origin or country of legal residence. It examines speaking skills, reading skills and knowledge of the Dutch society. Since 2011, the language level has been increased from A1 minus to A1 of the Common European Framework of Reference. When the family member does not pass the exam, s/he will not be granted an entry visa (MVV). The Civic Integration Abroad Test costs 150 EUR per full exam, but it is

[102] BG, CY, CZ, EL, FR, HR, LU, NL, PL, PT, RO, SI and IT only for the SPD

[103] BE, DE, EE, ES, HU, IT, LT

[104] AT, DE, ES, HU, LT

[105] AT, FI, LV, SE, SK

[106] AT, Fi, LV, SK

also possible to pay for the modules separately. In order to prepare for the examination, a self-study package is available in 16 languages which can be ordered from this website for 25 EUR. The digital package can also be downloaded for free. The total costs depend on the number of times an applicant needs to pass the test and include the costs of travel to embassies and costs for accommodation for the purpose of taking the exam. Pre-integration requirements in the Netherlands are generally considered too demanding, especially as they constitute a specific ground for refusing the statute.

Croatia and Portugal have pre-integration measures for the LTR statuses. In Croatia, a third-country national is required to prove his/her knowledge of Croatian language and Latin writing. The information regarding the content of the exam is available online, in Croatian. The exam is taken at the police station/police department where the third-country national submitted his/her application for long-term residence. There is no fee for taking the exam. The applicant passes the exam if he/she has scored more than 65% of the maximum number of points.

In Portugal, an attestation of elementary knowledge of the Portuguese language is required.

Box 4 Evidence from the Open Public Consultation

The Open Public Consultation confirmed that only a handful of Member States apply pre-integration measures: 2% (n=188) of non-EU citizens looking to migrate to the EU had to take part in a –pre-departure integration activity as a prerequisite for a successful application..

Q2 (h) (iv) (v) (vi). Information on pre-integration measures

The information provided on pre-integration measures is overall considered as clearly indicated and accessible, as the average score for the Member States having such measures in place is 2.3 both the EU and national equivalent statuses (including the BCD equivalent status in Austria, the BCD and RD equivalent statuses in Italy and the LTR equivalents in Latvia, the Netherlands and Portugal). In the Netherlands, the information is specifically indicated on the application form and also on the Immigration and Naturalisation Service website, while Portugal provides the information on other relevant information channels like websites.

The ease of finding information about pre-integration measures is rated less positively, with an average score for the Member States of around 2.5, although national statuses receive a more positive rating (2 on average).

Where Member States apply pre-integration tests, information on these is considered to be easy to find for both the EU statuses and their national equivalents (with an average score of respectively 2.1 and 2).

Box 5 Evidence from the Open Public Consultation

2% (n=188) of non-EU citizens looking to migrate to the EU mentioned that it was difficult to obtain information on the pre-integration activities and conditions and that they had to pay for the integration courses themselves. The most common pre-integration measures respondents participated in include integration programmes, language courses, civic education courses and integration tests

Q2n(i) (ii). Does the Member State apply any other pre-departure conditions and/or measures? If the Member State applies pre-departure conditions and/or measures (see Q3n(i) above), what

documentation is required to prove compliance and are any costs involved?

Most of the Member States do not apply any other pre-departure conditions or measures. Belgium requires proof that persons are not subject to expulsion or an alert on the Schengen Information system. Austria applies a credit/point system where the applicants receive points for fulfilling certain criteria for the BCD.

Austria applies its credit system (see above) also for its BCD national equivalent. In Belgium, the national security requirement (see above) applies also for its BCD equivalent.

The above are additional assessments by authorities, with no costs for applicants.

3.3 Key differences between EU Directives and their national equivalents

An important difference between the requirements of the BCD and the equivalent national statuses concerns the lack or reduced minimum income requirements are applied in the latter in in Italy, the Netherlands, Portugal and Sweden, which seems to result in a higher use of the national equivalent status. In Sweden for example, income requirements under the national status are much lower and make no difference between low- and high-skilled workers. The rights enjoyed under the national status are the same than those offered under the BCD, which means that few labour migrants choose to use the Blue Card given that the national legislation is more favourable. There are, however, a few cases where national equivalent statuses have introduced higher salary requirements (e.g. top specialists in Estonia).

Another important difference seems to be that application forms for the national equivalent statuses are considered to be more difficult and less user friendly to fill in. This may be a result of the relative harmonisation of documentation introduced by the EU legal migration acquis.

Finally, and in notable difference to the EU status, LTR national equivalents seem to require continuous residence in a relatively small number of Member States.

3.4 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 2 below presents the provisions which most Member States (> 5)[107] failed to transpose correctly. The extent to which these have led to practical application issues has been described above.

[107] In this and the following tables presenting the conformity issues, it was decided to only show those provisions for which a minimum of five Member States encountered issues, to illustrate where a provision may have been more 'problematic' to implement in general.

Table 2. Overview of most common conformity issues

Directives and relevant provision	No of MS	MS
FRD		
Article 7 1. When the application for family reunification is submitted, the Member State concerned may require the person who has submitted the application to provide evidence that the sponsor has: (a) accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards in force in the Member State concerned; (b) sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned for himself/herself and the members of his/her family; (c) stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.	5	BE, BG, ES, MT, NL
Art.15 (3) In the event of widowhood, divorce, separation, or death of first-degree relatives in the direct ascending or descending line, an autonomous residence permit may be issued, upon application, if required, to persons who have entered by virtue of family reunification. Member States shall lay down provisions ensuring the granting of an autonomous residence permit in the event of particularly difficult circumstances.	5	CZ, ES, HR HU, IT
LTR		
Article 7 Acquisition of long-term resident status 1. To acquire long-term resident status, the third-country national concerned shall lodge an application with the competent authorities of the Member State in which he/she resides. The application shall be accompanied by documentary evidence to be determined by national law that he/she meets the conditions set out in Articles 4 and 5 as well as, if required, by a valid travel document or its certified copy. The evidence referred to in the first subparagraph may also include documentation with regard to appropriate accommodation. *Art.4 – Duration of residence and Art.5 – Conditions	5	CY, ES, HR, RO, SE

Table 3 below presents an overview of the may clauses relevant to Migration Phase 2 and the Member States which did not transpose these.

Table 3. Overview of Member States not transposing may clauses

Directives and relevant provision	No MS not transposed	MS
FRD		
Article 7 1. When the application for family reunification is submitted, the Member State concerned may require the person who has submitted the application to provide evidence that the sponsor has: (a) accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards in force in the Member State concerned;	10	CY, CZ, EL, FI, HR, HU, LV, NL, RO, SI
(b) sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned for himself/herself and the members of his/her family;	11	BG, CY, CZ, EL,FR, HR, HU, LV, PT, SE, SK
(c) stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.	5	CY, EL, HU, LV, RO
Art. 7(2) Member States may require third country nationals to comply with integration measures, in accordance with national law.	16	CZ, EE, ES, FI, FR, HR, HU, LU, LV, MT, PL, PT, RO, SE, SI, SK
Art 15(1) Not later than after five years of residence, and provided that the family member has not been granted a residence permit for reasons other than family reunification, the spouse or unmarried partner and a child who has reached majority shall be entitled, upon application, if required, to an autonomous residence permit, independent of that of the sponsor. Member States may limit the granting of the residence permit referred to in the first subparagraph to the spouse or unmarried partner in cases of breakdown of the family relationship.	10	AT, BE, HR, IT, LT, LU, LV, NL, SI, SK
BCD		
Art. 5 2. Member States may require the applicant to provide his address in the territory of the Member State concerned.	8	ES, FI, HR, IT, LT, PT, SE, SI

4 Phase 3 – Application phase: lodging the application

4.1 Main findings

In all Member States reviewed, applications can be lodged in person in country or, in a lower number of Member States, in their diplomatic representations. Some application issues have been identified with regard to the accessibility to the application procedure, for example when the applicant has to appear more than once in person as part of the application process in third countries where this can only be done centrally, or where consulates are far away. Problems arise also when short deadlines for personal appearance are involved.

Member States in which multiple authorities[108] are involved in processing the applications slightly outnumber those where just one authority[109] is involved. In eight Member States, an application issue has been identified due to the partial or non-transposition of the SPD and the need for applicants to apply for their work and residential permits separately. Especially when multiple authorities and/or multiple steps are involved in the application process, around half of the national researchers consider that the necessary steps and authorities which need to be contacted are not very well explained and not easy to follow by third-country nationals in terms of what concrete steps to take.

In terms of fees charged, these vary greatly between the Member States, also proportionally, when considering the fees as a share of the mean monthly gross earnings each Member State. In some Member States[110], the excessive fees could constitute an application issue. Eight Member States[111] charge other obligatory fees, but these are overall minor.

Most Member States[112] have put in place legally applicable deadlines within which to process applications. In several countries, these deadlines may exceed those set in the Directives, constituting a possible application issue. The actual number of days required to process applications usually complies with the Directives' deadlines, with some exceptions. None of the Member States except one impose financial sanctions if an applicant does not meet a given deadline, and most inform the applicants that their application is incomplete, giving them a new deadline. Failure to meet the latter usually does lead to a rejection or cancellation of the application.

Only in three Member States[113] it is possible to lodge any application and receive a permit in the third country, while in eight others[114] this is only allowed for some statuses. When permits are received on the territory of the Member State, varying entry visa regimes apply.

Applicants are usually notified of the authorities' decision in writing via post, in the Member States' national languages, mostly via a single administrative act with reasoning. Even when the employer is the main applicant, the third-country national is usually also informed. Various judicial review mechanisms are in place, either in the Member State or in the third country, mostly through a legal representative or by sending the appeal to the respective embassy/consulate which forwards it to relevant authorities.

[108] AT, BE, CZ, DE, ES, FI, FR, HR, HU, IT, LT, LU, MT, SE, SI

[109] BG, CY, EE, EL, LV, NL, PL, PT, RO, SK

[110] Please see Annex 2 Task II for the exact amounts of fees charged per MS

[111] AT, BE, CY, FI, IT, LT, MT, PL

[112] At, BG, CZ, EE, EL, Fi, FR, HR, IT, LT, LU, LV, NL, PL, PT, RO, SI, SK

[113] CY, HR, SI

[114] EE, LT, PL, RO, MT, FI, SE, SK

Administrative silence exists as concept in a little over half of the reviewed Member States and, in half of those cases, it is construed as tacit rejection, which can be appealed.

Various degrees of difference are observed between EU directive statuses and national equivalents, mainly in terms of conditions for their award. With regard to the application procedure, in nine of the reviewed Member States (Austria, Bulgaria, the Czech Republic, Finland, Greece, Italy, Latvia, Lithuania, Malta, Romania, Slovenia and Slovakia) with parallel national schemes[115], no major discrepancies were found between the EU Directives and their national equivalent statuses. In the remaining 13 Member States some differences have been noted. While in Hungary, the national statuses appear to offer less favourable conditions and rights with regard to the admission procedure (clean criminal record for national LTR status as opposed to the LTR), another group of Member States seems to be offering more favourable conditions, as noted in Croatia, Estonia, Germany, the Netherlands, Portugal, Spain and Sweden. The national equivalents to the LTR status in Croatia, Germany and Spain, for example, are generally wider in terms of personal scope, since they include an additional list of categories of third-country nationals, not covered by the LTR, who can lodge an application and acquire status. In Croatia, the uninterrupted legal residence for five years is not a requirement to obtain the national long-term residence status. Portugal also has a more favourable national equivalent of the LTR, including a much shorter deadline to decide on a permit request.

4.2 Findings per main research topic

4.2.1 Research topic 3.1: Easiness of lodging an application

Q3a. How can TCNs lodge an application (e.g. the diplomatic mission in the capital / in the consulate of the Member State in the third country, via post, online, in person)?

In all Member States reviewed, the application can be lodged in person, either in the Member States (if the application can also or only be made by a sponsor or family member), or in the embassy or consulate of the third country. A full online submission (i.e. the necessary information is entered and submitted online) can be made in six Member States [116] – as opposed to making available downloadable application forms (see also Phase 2 above) - while in seven Member States it is possible to lodge an application via post.[117] Lithuania also allows a legal representative to lodge an application. Slovenia requires third, -country nationals to always present themselves in person for fingerprints, without which the application cannot be submitted. Latvia and Sweden are the Member States which offer most application options. There are no significant differences between the EU and national equivalent statuses.

Some potential **application issues** have been identified with regard to the accessibility to the application procedure, for example when the applicant has to appear more than once in person as part of the application process in third countries where this can only be done centrally, or where consulates are far away (e.g. Austria). In the Czech Republic, third-country nationals face difficulties when trying to make appointments with the diplomatic missions, as well as inconsistencies in the interpretation of the type of documents to be sent along with the application by visa processing offices, which could lead to unjust rejections. Spain reported on problems encountered because of forms only being available online, making it impossible for applicants without internet access to obtain these. Whilst hampering the effectiveness of the application procedure, these do not constitute a de facto infringement.

[115] Luxembourg and Poland do not have parallel national schemes

[116] FI, FR, LV, NL, RO, SE.

[117] BG, CY, LU, LV, MT, SE, SI

Box 6 Evidence from interviews with migration agencies and the OPC

The majority of migration agencies interviewed in EU Member States stated that their clients did not experience significant difficulties when lodging an application. The easiness of online applications/submission via email was emphasised in case of the Netherlands, Germany and was mentioned in case of Croatia as a forthcoming tool. More difficulties were observed by migrant agencies in third countries. These difficulties often arose from the physical proximity of embassies. In some countries applicants had to travel significant distances to submit the application e.g. Brazil and Nigeria.

According to the OPC, with regard to the application procedure, the non-EU citizens residing or having resided in the EU were asked about the means they were able to apply for a permit and whether it was easy or difficult to apply. Over 60% of respondents (n=189) indicated that they were not able to apply online[118]. However, the majority of respondents (71%) (n=188) said that they were able to apply from their country of residence, outside the EU[119] and over 50% (n=161) indicated that their permit was issued when they were still outside the EU[120].

4.2.2 Research topic 3.2: authorities involved in the application

Q3c. Are different Member State authorities involved in the processing of lodged applications and for issuing the permit(s)?

In 10 Members States one authority is responsible,[121] whilst in 15 Member States, different Member State authorities are involved in the processing of applications[122] going up to five different authorities in Malta and four in France, Lithuania and Germany. However, in many cases the number of authorities is dependent on the type of status applied for. In Austria, for example, if a person does not intend to work, only one authority is involved.

The authority receiving the application is either the migration authority / agency or the diplomatic mission in the country of the third-country national, depending on who can lodge the application. In many cases the second authority involved is either the one responsible for the issuing of the visa, where this is necessary, and/or the one subsequently delivering the permit to stay. Other types of authorities often quoted include the employment office (for work permits), education agencies (e.g. for students), as well as border guards / law enforcement units. Some Member States also make use of external service providers to accept applications (e.g. Hungary and Czech Republic).

In the majority of cases, third-country nationals lodge the application with a single authority (i.e. only one step), although in a few Member States, once having received a favourable decision, they need to pick up (and sometimes request) the residence permit with another authority than the one where they lodged the application (see also Phase 3 below). When the permit is only provided upon arrival in the Member State, the third-country national also, where applicable, has to apply for a visa.

Box 7 Evidence from interviews with migrant agencies and the OPC

A migrant agency in Germany explained that three different authorities are involved in the process: diplomatic missions in the country of origin, immigration offices and

[118] Question 41: Were you able to apply online?

[119] Question 42: Were you able to apply from your country of residence, outside the EU?, Question 43: If you applied from outside the EU, was your permit issued when you were still outside the EU?

[120] Country of residence of respondents: BE, CZ, DE, FR, NL, SE

[121] BG, CY, EE, EL, LV, NL, PL, PT, RO, SK

[122] AT, BE, CZ, DE, ES, FI, FR, HR, HU, IT, LT, LU, MT, SI, SI

employment services. This makes the process more time consuming. Based on their experience communication among the authorities is difficult. This finding is also in line with the experience of stakeholders from other Member States. Similar problems were mentioned in Poland and the Netherlands.

According to the OPC, during the application process, open-ended contributions[123] (n=32) point to a lack of clear and practical information coming from official sources on *inter alia* the different types of visa, the expected processing times, mandatory insurance, and the types of documents that need to be provided and notarised.

***Q3 (b). Only if the application process involves multiple steps and/or authorities, please review all the steps that the applicant has to follow and rate your agreement with the following statements as* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree and if needed, please provide briefly some details to explain your scoring. If applicable, please distinguish between statuses per Directive and equivalent national status.**

Especially when multiple authorities and/or multiple steps are involved in the application process, around half of the national researchers consider that the necessary steps and authorities which need to be contacted are not very well explained and not easy to follow by third-country nationals in terms of what concrete steps to take (e.g. Bulgaria, Italy and Spain). Others mention that the user-friendliness of the information, e.g. in terms of amount of detail and / or the language used is not adequate, in particular for people with lower education levels (e.g. Cyprus and Estonia). Others judge the information to be insufficient and/or incomplete (e.g. Cyprus, Czech Republic, Estonia and Finland), or difficult to find (Slovakia for parts of the BCD). Where a difference was made between Directives, the SD and LTR are the Directives receiving a lower than 2.5 score by most national researchers. Although much less often examined, national statuses receive a slightly lower score than EU statuses. Member States given the 'best' scores (i.e. 1 or < 2) are Finland, Romania and Sweden.

Related to the above, the overall application process is considered to be too complex in Italy, involving multiple applications, steps and authorities, although guidance is currently being developed. In Latvia, it is not clear who can lodge the application, i.e. the sponsor or the family member, leading to legal uncertainty. In Slovakia, there are issues in relation to the BCD and the availability of information to the applicant. The necessary steps and authorities which have to be contacted by the applicant are not well explained since the outset and the applicant needs to find all information by themselves – on recognition of diploma/educated, application process, etc.

4.2.3 Research topic 3.3: application fees

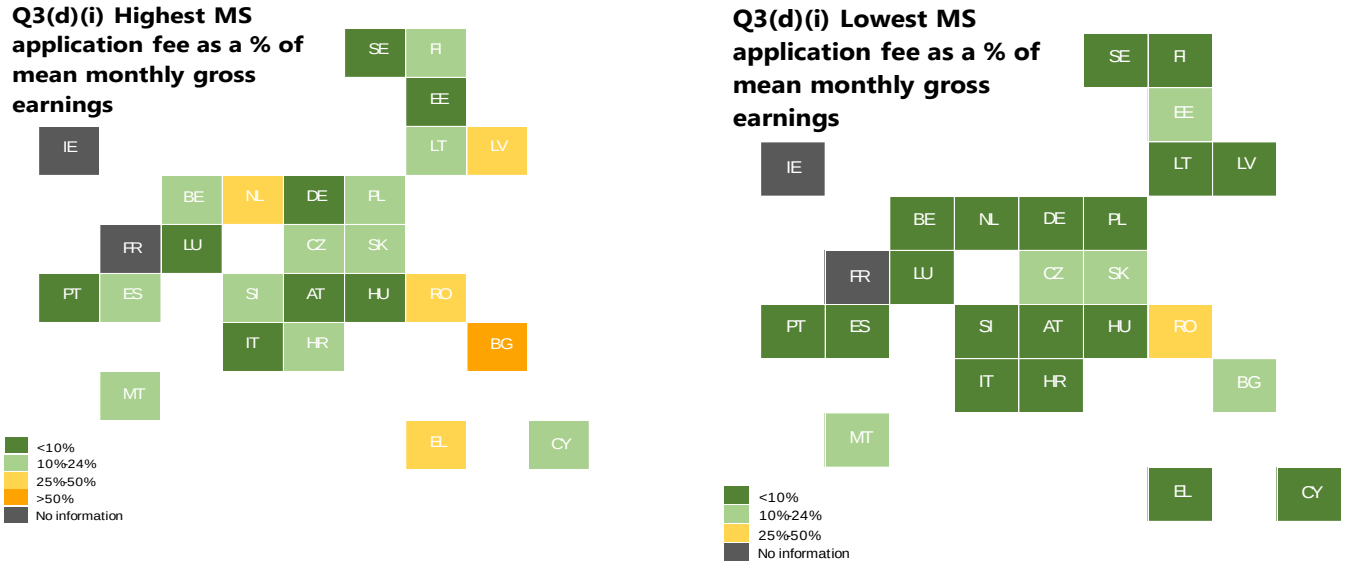
Q3d.(i). How much are the application fees, by Directive and equivalent national statuses?

Figure 1. below presents respectively the highest and the lowest application fees charged by the Member States as a share of the monthly gross earnings in that Member State. As can be seen from the graph, in one Member State (Bulgaria), the highest application fee charged corresponds to more than 50% of the monthly gross earnings, while in four more Member States these represent between 25-50% of the monthly earnings. The lowest fees charged still, in one Member State (Romania) represent between 25-50% of the monthly earnings and in another five between 10-24%.

[123] Question 75. Do you have any views that you would like to share in the consultation?

A **practical issue** arises from the fact that the high application fees charged may create an impediment to the enjoyment of the Directives, in the sense that they potentially could act as a deterrent. This goes against the provisions in the SPD, SWD, ICT and S&RD stipulating that the fees "shall not be disproportionate or excessive" [124]. In Belgium, for example, it was noted that the fees had recently been increased to 200 euro for the FRD. Cyprus is reported to require €200 from family members under the FRD, which is considered relatively excessive.

Figure 1. Highest and lowest application fees as a share of mean monthly average earnings in Member States



Q3d (ii). Are there other obligatory fees?

Other obligatory fees charged by the authorities processing the applications were specifically identified in five of the reviewed Member States[125]. In Austria, for instance, there are additional obligatory costs of "personalisation" (photography and signature) amounting to € 20. Italy also applies small additional fees for the electronic residence permit and for the procedure at the post offices as well as a standard administrative fee of € 16.Lithuania charges fees for processing the temporary residence permits, while in Malta a fee is collected when the applicant submits his/her biometric data.

In the remaining Member States[126], some consular taxes or communal taxes may nevertheless apply, like in the case of Belgium where applicants must pay an obligatory fee of about 20€ to the consular service.

Although not a fee charged by authorities, in Cyprus the most significant costs relate to the fees charged by the agents who applicants often need to hire to help prepare the paperwork, as this is a very time-consuming, bureaucratic and complex process.

4.2.4 Evidence from interviews with migrant agencies and the OPC

Overall the migrant agencies did not raise significant concerns in relation to the application fees. In most cases the costs range between EUR 100-500. Additional costs

[124] Disproportionate administrative fees have been subject of earlier CJEU rulings, such as case C-508/10, where the court ruled that the Netherlands had failed to fulfil its obligations under the LTR by charging third-country national applicants "excessive and disproportionate administrative charges which are liable to create an obstacle to the exercise of the rights under the LTR".

[125] AT, IT, LT, MT, PL

[126] BE, BG, CZ, CY, FI, FR, DE, EE, EL, HR, HU, LU, LV, NL, PT, RO, SI, SK

for TCNs come from translating diplomas, medical certificates and travel to and from the diplomatic missions to submit the application. This was mentioned as an issues for instance in case of Russia and Brazil. Only in case of the United Kingdom and the Netherlands were relatively high application fees mentioned by the agencies.

In the OPC, almost 60% of Profile 2 respondents (n=191) agree to a small extent or do not agree at all that the costs of current immigration and residence procedures in the EU are reasonable, while around 40% of the respondents from this category said that they agreed to a (very) large extent.

With regard to cost of submitting an application, the average cost is around 700 Euro (n=160)[127] the cost to obtain recognition of qualifications is on average 350 Euro (n=88)[128].

4.2.5 Research topic 3.4: Time to process applications

Q3e (i). Does the Member State have a legally applicable deadline to process applications (from receipt until notification of a decision)?

Seventeen of the Member States[129] reviewed have put in place a legally applicable deadline to process applications under all relevant Directives. The table below provides an overview of the number of days set for the processing of applications. Germany has no such deadlines in place, only a stipulation that a remedial legal action can be taken after three months have passed. This could pose an application issue especially in view of the deadlines as stipulated in the Directives. Six others only have these for certain Directives.[130] In 14[131] of the Member States with a legally applicable deadline for all or some Directives, the timeframe for processing applications from receipt of the application until notification of the decision is published and considered easily available for reference to the applicants. The average number of days set for processing applications in the Member States which apply deadlines is 86 days. Member States allow themselves most time for processing applications under FRD (152 days on average), still lower than the nine months prescribed as maximum in the Directive, while applications under the SD and the BCD have much shorter deadlines. Among the countries with the shortest deadlines for processing of applications are Bulgaria, Hungary and Slovenia whereas the countries which allow themselves the longest processing periods include Member States like Luxembourg, where all Directive deadlines seem to be exceeded, and Italy, which could be contrary to the SPD and FRD deadlines and could be in breach of the SD and RD relevant provisions. The LTR deadlines seem to be exceeded in countries like Austria, Belgium, Cyprus, Spain, the Netherlands and Portugal. National equivalent statuses, where available, do not present significant discrepancies with EU Directive deadlines.

While for a number of countries actual data on the 'real' number of days to process an application is not available in the public domain, according to estimates by national researchers from 11 Member States[132] with set deadlines, the "real" average number of days required for completing the processing of applications does not vary

[127] Question 29. How much did it cost you to prepare and submit your application (including application fees, costs to obtain/translate documents, certification, etc.)?
[128] Question 30. If applicable, how much did it cost you to obtain recognition of your qualifications?
[129] AT, BG, CZ, EE, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SI, SK

[130] BE has set time deadline for BCD, FRD and LTR

CY has set time deadline for BCD, FRD, LTR and SPD

EL for all Directives except SPD.

FI has set time deadline for BCD, FRD, LTR and SPD.

MT has set time deadline for BCD,FRD, LTR and SPD.

SE for BCD and SPD.

[131] AT, CZ, EE, EL, ES, FI, HU, IT, LU, LV, NL, PT, RO, SK

[132] CZ, EE, EL, FI, HR, LV, MT, PL, RO, SE, SK

significantly from the number of days stipulated. However, somewhat justified criticisms of the lengthy periods taken to process applications are reported in for example Italy, the Netherlands, Sweden (FRD), Greece (FRD).

A **practical issue** has been identified in Finland as no provisions are made for situations in which the Immigration Services do not process applications within the legal timeframes. Austria has not set any deadline to decide on SD and RD applications, which may in practice mean that the Member State do not meet the criterion in the Directives that the processing time required should not hamper the applicants' studies/research.

Box 8 Evidence from interviews with migrant agencies and the OPC

A migration law firm from the Netherlands highlighted that the time to process application in case of the Blue Card directive depends on the company sponsoring the future employee. In case of well-known sponsors the process takes up to two weeks or even less while in case of lesser known sponsors the waiting time can be prolonged. The longest waiting time to process an application was cited in Poland, where it takes around 6 months for a request to be processed.

With regard to time it took for applying, for 38% of Profile 2 respondents (n=190) to the OPC, it took from one to four weeks to prepare their application and for further 33% it took from one to three months. Around 20% needed more than three months and only 6% prepared their application in less than a week. The waiting time for answer after submitting an application is usually between one and three months for over 40% of respondents. Only 23% received an answer within four weeks.

4.2.6 Research topic 3.5: Administrative and financial sanctions

Q3f (i). Does the Member State impose any administrative or financial sanctions if the applicant fails to comply within a given deadline (e.g. if the applicant fails to provide information / documentation on time, after having lodged an application?)

When the information or documents supplied in support of the application are inadequate, 18 of the reviewed Member States[133] do not impose any administrative or financial sanctions if an applicant fails to provide additional information or documents within a given deadline for, while six apply some form of sanction[134], although most refer to rejection or rejection of the application. Only Luxembourg applies a financial sanction (25 EUR – 250 EUR) for those who fail to apply for a residence permit within three months following their arrival in Luxembourg, which is generally equivalent to between 1.35 and 13.5 gross hourly earnings.

In the majority of countries (18 Member States[135]) a failure to comply within a given deadline can lead to cancellation or rejection of the application (e.g. if an applicant does not send additional supporting documents on time). In five Member States[136] non-compliance with a deadline on the part of the applicant does not lead to cancellation or rejection of the whole application. In some countries, like Slovenia, the decision whether to cancel/reject the application depends on the specific circumstances of each case.

A possible **application issue** has been identified in Poland with regard to the very short deadline (seven days) set for a person to appear in person before the competent authority, when s/he has sent an application by mail or when a "formal defect" in the

[133] AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, LT, LV, NL, RO, SE, SI, SK

[134] HU, IT, LU, MT, PL, PT

[135] AT, BG, CY, CZ, DE, EE, ES, FI, HR, HU, LT, LU, LV, MT, NL, PL, RO, SK

[136] BE, EL, IT, PT, SE

application has been noted (e.g. a wrong form, lack of photos, invalid travel documents). Failing to appear can lead to the application not being considered, which means a practical end to the application process and a need to submit an application again. Seven days is a very short period especially if the applicant has to travel and/or needs to make other arrangements, such as taking time off work, childcare, etc.

Q3o. Does the Member State inform third-country nationals when their application is incomplete, and what is the subsequent process?

Twenty-three of the reviewed Member States[137] notify third-country nationals when their application is incomplete. The process in all these countries includes contacting the third-country nationals, specifying the missing documentation that they need to provide and usually setting a new deadline. The latter ranges from seven days in Poland, to up to a maximum of 90 days in Slovak Republic.

Some Member States, like the Czech Republic, are more flexible as to the deadline for submitting further documents: the general deadline is 30 days but if the missing document requires a period longer than this to be collected, the deadline for submitting the missing documentation can be extended based on request by the applicant. In others however, the deadline seems short, for example seven days in Poland and 10 days in Portugal and Lithuania, which might be difficult to meet especially if, for example, the missing or incomplete documents need to be specifically requested and/or certified.

Q3f (ii). Does a failure to reply within a deadline lead to cancellation or rejection of the application[138] (e.g. in circumstances where the competent authority asks for additional information and/or documentation and provides a deadline for the response)?

In most of the Member States[139] that inform third-country nationals when their application is incomplete, with the exception of Austria, Belgium and Germany, the competent authority reviewing the applications sets a new deadline which is also communicated to the applicant. Member States usually also temporarily suspend the application process until all required new documentation has been received. In some countries, the decision to suspend the procedure depends on how incomplete the application is (e.g. Sweden). The failure to reply within a given deadline leads to cancellation/rejection of the application in the majority of Member States (20) under review[140].

A possible **application issue** has been identified with regard to incomplete applications in Malta. Maltese authorities often refuse to accept incomplete applications or reject them without any notification in writing, which means that applicants are rarely aware of the status of their application. Given that the "real time" required for processing of applications in Malta can take up to 183 days for the LTR, this is problematic, as it means that applicants may wait for a long time before finding out that their application was rejected already at the start of the process for being incomplete.

[137] AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK

[138] *This question relates to first applications only. The Single Permit Directive allows the competent authority to reject the application, if the additional information or documents are not provided within the deadline set.*

[139] BG, CY, CZ, EE, EL, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK

[140] AT, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, LT, LU, LV, MT, NL, PL, RO, SI (but depending on the case), SK

4.2.7 Research topic 3.6: Applications and delivery of permits in third countries

Q3g (i). Is it possible for the applicant to make the applications in the third country and receive the residence permit whilst still in the third country?

In three of the reviewed Member States[141] it is possible for applicants under all statuses to both lodge their applications in the respective third country and subsequently receive their residence permit whilst still on the territory of the third-country. This is done through the respective diplomatic and consular representations, which usually send the application to the respective authorities in-country and receive from them the decision, which is handed to the applicant.

In eight other Member States[142], this is an option for certain statuses only. In Estonia, for instance, except for the LTR permit, when completing the residence permit application form, the applicant is requested to indicate in which of Estonia's foreign missions they want to receive the residence permit card. After the final decision is made, the applicant is notified of it and the residence permit card is printed within 30 days from this notification. The card is subsequently sent by diplomatic post to the chosen foreign mission. In the case of Romania applications under the BCD and SPD can be lodged in a third-country and the residence permit can be delivered there too, while it is not possible to make applications under any of the other Directives outside Romania's territory.

[141] CY, HR, SI

[142] EE, LT, PL, RO, MT, FI, SE, SK

4.2.8 Research topic 3.7: Applications and delivery of permits in Member States

Q3h. If the application for the residence permit can only be done or delivered on the territory of the Member State, is an entry visa required? Is there a facilitated process for this?

Broadly three different approaches have been identified:

- In Estonia and Sweden, an entry visa is not required for any of the statuses.
- A second, small group, of Member States[143] allow visa-free entry on their territory depending on the status granted. Greece has a general requirement for an entry visa and only applies an exception to applications under FRD, whereas Spain applies this exception to the BCD.
- A larger group of Member States require an entry visa for all statuses and do not apply any exceptions[144]. Of these, only three Member States[145] have set up a facilitated process for obtaining an entry-visa for all types of statuses, while Portugal has a facilitated process for students and, since recently, for researchers, and Italy has one for researchers.

The FRD, RD and BCD all require Member States to "grant such persons every facility for obtaining the requisite visas". The lack of a facilitated process raises questions as to whether Member States have correctly applied the relevant provisions of the Directive in practice.

4.2.9 Research topic 3.8: Notification of the decision

Q3i (i). How is the applicant informed of a decision (e.g. in writing via post, in writing via email, in person, other please specify)?

In 22 Member States[146] the most commonly used way to inform a third-country national that a decision on their application has been made is in writing, via post. In Cyprus, Croatia, Luxembourg, the Netherlands, Slovenia and Slovakia, the decision is only communicated this way. Other Member States [147] also have the option to inform third-country nationals of the outcome of their application by email or in person[148].

Italy does not seem to use the above more 'conventional methods' of informing applicants and instead notifies them by SMS and/or through publication of the relevant information on the dedicated section of the website of Italian National Police.

Austria may have an **application issue** with respect to the SPD, as it only informs its diplomatic and consular representations, which are under no explicit obligation to issue a written communication to the applicant and the legal quality of the notification is considered unclear.

Q3i (ii). For notifying the applicant of a decision, does the Member State issue one or more administrative acts/decisions?

In the majority of the reviewed countries (21)[149], the competent Member State authorities issue only one administrative act for notifying the applicant of a decision. In three Member States[150], this will depend on the status applied for. In the case of

[143] BE, EL, ES, PT, SK

[144] AT, BG, CY, CZ, DE, FR, HU, IT, LT, LU, LV, MT, NL, PL, RO

[145] BG, MT, NL

[146] BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, SK

[147] AT, BE, BG, CZ, EE, FI, LT, LV, MT, PT, RO, SE

[148] AT, BG, DE, EL, ES, FR, LT, LV, PL, PT, SE, SI

[149] AT, BE, CZ, DE, EE, EL, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, SK

[150] BG, CY, FI

Bulgaria, for example, there are two decisions under the FRD, a family reunification decision and a residence permit), while in relation to the Students Directive and the Researchers Directive, one administrative act is issued. Only in Spain, in reference to all Directives, for an applicant to be notified, the relevant Spanish state authority will issue multiple administrative acts regardless of the nature of the application.

4.2.10 Research topic 3.9: Notification of a rejection

Q3k (i). In case of a rejection of the application, are the reasons for the rejection provided in writing and in which language?

All 25 reviewed Member States[151] provide reasons for it in writing in case of a rejection of the application, most often with reference to the relevant provisions in the national law. Criticisms are expressed with regard to the 'substance' of the rejection decisions, for example in the cases of Malta and Greece, as they are considered to insufficiently set out the reasons and grounds for rejection.

In 23 Member States[152] applicants are informed in the Member State's national language, although five of these[153] also have the option to provide information in English, and one in Russian. Cyprus only informs applicants of a rejection in English. In Greece, however, even if the reasons for rejection are briefly provided only in Greek, these could be translated in another language verbally upon request by the applicant.

Box 9 Evidence from interviews with migrant agencies and the OPC

A majority of interviewed stakeholders agreed that reasons for rejection are clearly explained. Exceptions were mentioned by a Brazilian law firm, a Nigerian consulting company and a Russian migrant agency who argued that reasons for rejection are not always clear for their clients.

Out of the total number of OPC Profile 1 respondents (n=32), only two indicated that their application was rejected and both of them mentioned that they were notified in writing. One of the respondents had the application rejected because the documents presented did not provide the required evidence. They suggested that reasons for the rejection were not at all clearly explained, but they had the opportunity to appeal the rejection. The other respondents had the application rejected because they did not fulfil conditions for admission related to a specific category (student/researcher/worker/family member etc.) and the documents presented did not provide the required evidence. They specified that the reasons for the rejection were clearly explained, but they did not have the opportunity to appeal the rejection

4.2.11 Research topic 3.10: Involvement of third-country nationals if the employer is the applicant

Q3k (ii) (previously Q3m). If the applicant is the employer rather than the third-country national (e.g. this is possible in case of the Blue Card and the Single Permit Directive), is the third-country national at all involved in the application process? And is s/he notified of the decision?

In 18 Member States[154], even when the application is lodged by the employers, the third-country nationals are still involved in the process, in particular with regard to

[151] AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, SK

[152] AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK

[153] EE, ES, FI, RO, SE

[154] AT, BG, CY, DE, EE, EL, HR, HU, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK

providing the information and documents required for admission. With the exception of the Netherlands, they are also informed of the decision, just as the employer is.

4.2.12 Research topic 3.11: Appeal procedures

Q3k (iii). Which appeal procedures are available to applicants against a negative decision? If the third-country national and/or his/her family are (still) based in the third country, how can these be accessed?

All Member States have appeal procedures in place. Appeal procedures against the initial rejection of the application vary in the different Member States – they can involve a judicial review of the administrative act which rejected the application before the competent administrative court (e.g. Austria), or appeal before the relevant executive bodies, including Ministries (e.g. Belgium), Immigration offices (e.g. Germany), specialised immigration appeal committees (e.g. Croatia), Migration agencies (e.g. Sweden), police and border guard boards (e.g. Estonia) or consular authorities (e.g. Hungary).

In at least ten Member States[155] arrangements have been reported that would permit the lodging of an appeal in case the third-country national and/or their family are still based in the third country. In some countries, like Cyprus and Lithuania, it is explicitly indicated that applicants do not need to be physically present in the country, but a lawyer representing them can file the appeal in the administrative court on their behalf. In other Member States such as Finland, for example, the third-country national can appeal in writing to the relevant embassy/consulate in the third country or, like in Slovenia, by post to the Member State's appeal body. In Portugal, even if the person was in the Member State at the time they filed the application, but abroad when the rejection decision is received, they can appeal in writing before an embassy or a consular service abroad.

An **application issue** raised by researchers in Austria, Finland and Belgium concerns the overall effectiveness of the appeal procedure. In Austria, applicants often seek to lodge a new application rather than submitting an appeal, as the procedure is considered as too lengthy and costly. This undermines the effectiveness of both the application and the appeal processes. In Finland, the initial appeal of a rejection involves a fee of €250 which is only reimbursed if the negative decision is reversed in court. Moreover, the majority of rejected applicants do not consider an appeal as a viable option, as the waiting times for a court decision in Finland are long - from several months to years. Lengthy and ineffective appeals are reported also in Belgium.

Q3 (k). Please review information on appeals in case of an (initial) rejection of the application and rate your agreement with statement below.

When it comes to the extent to which sufficient information is available to applicants on the appeal process against a negative decision, only Poland, Romania and Sweden were considered to provide all the information that third-country nationals need to know on how to appeal. While the average estimate of the sufficiency of information among all reviewed Member States is generally neutral, meaning neither good nor bad, seven Member States[156] received very low scores (between 4 and 5) characterising information as being incomplete, inadequate and/r difficult to access.

[155] For example, BE, CY, DE, EL, FI, LT, LU, MT, NL, SI

[156] EE, EL, IT, LT, LU, MT, SI

Related to the above, Slovakia identified a general difficulty that TCNs experience when writing an appeal, which is probably found in other Member States too: as decisions are issued in Slovak language only and the appeal has to be based on the provisions of Act no. 71/1967 Coll. on Administrative Procedure, applicants often have to hire support to write a successful appeal in Slovak.

Box 10 Evidence from interviews with migrant agencies

Interviewees provided mixed views regarding the appeal procedures. In case of the Czech Republic the consulate will immediately reject an application if a document is missing. Applicants can then return and complete the application based on the guidance provided. On the other hand both of the interviewed Nigerian consultancies stated that only a small minority of rejected applicants appeal (around 15%) due to the high costs associated with the procedure.

4.2.13 Research topic 3.12: administrative silence

Q3l (i). Does the concept of administrative silence exist in the Member State and if yes, what are the consequences (e.g. if no reaction has been received from the relevant authority, is its silence to be understood as a tacit rejection of the application)?

Administrative silence exists in 14 of the reviewed Member States[157] and in all of them the concept is regulated in the law. In Germany, however, it is only applied in some special administrative proceedings and not in immigration proceedings. In eight[158] of the 14 countries, administrative silence is construed as a tacit rejection of the application.

In Belgium, however, when processing deadlines are set by law, the legal effects of not respecting these time limits include the obligation for the decision to be positive (this applies to the LTR, the BCD and FRD).

Q3l (ii). Where the concept exists (i.e. if the answer to question Q3l(i) above is Yes), what are the redress procedures against administrative silence? Are applicants informed of this redress procedures and how?

Redress procedures against administrative silence vary between Member States and can include administrative or judicial reviews of the tacit rejection, the invalidation of applications, injunctions or a financial penalty.

Out of the Member States where such procedure is available, administrative and judicial review is in place in Bulgaria; appeal or administrative court procedure is available in Croatia, and in Luxembourg there is also recourse to the administrative tribunal. In Slovenia, depending on whether administrative appeal of a decision is allowed, the applicant can either turn to the higher administrative body, which may extend the deadline for decision or resolve the matter itself, or initiate an administrative dispute with the Administrative Court, which may decide on the matter, instruct the administrative body on how to resolve it or order the service of the decision, if it has not been served.

In Greece, there is an invalidation application which can be only launched after the expiry of a time limit of 4 months and which not only contests the tacit rejection of the single permit application but opens the possibility for any future negative act of the competent authorities to be contested autonomously.

[157] AT, BE, BG, DE, ES, FR, HR, IT, LU, MT, NL, PT, SI, SK

[158] BG, EL, ES, FR,HR, IT, LU, SI

In Italy, after 60 days from the deadline for the authority to answer, the applicant can send a formal injunction to the competent *Questura* (law-enforcement agency), which includes a request to issue a decision and to explain the reasons for the delay within 30 days. In case of silence, the applicant can appeal the tacit rejection before the competent Administrative Court.

LTR, SPD and BCD cases of administrative silence in Malta automatically pass to the Immigration Appeals Board, while FRD cases are reviewed by civil courts and SD and RD have no practical remedy.

In the Netherlands, applicants can send a notice of default to which the authorities have two weeks to respond, otherwise a penalty payment automatically starts. If the authority has still not decided within the two weeks, the applicant may then directly appeal to court, which can specify a deadline for decision and can also impose a penalty payment, if the deadline is not respected.

In Slovakia, the higher administrative body may issue the required decision if the matter of the case allows for that.

In Greece, Luxembourg and the Netherlands, the applicants are informed that redress procedures are available. In Luxembourg and the Netherlands, although more extensive information on the redress procedures is not proactively offered to third-country nationals, they can find the available procedures on the relevant website or can ask for more information over the phone. In France, up to a certain extent, the applicants can ask for grounds of rejection.

4.3 Key differences between the EU Directives and their national equivalents

With regard to the application procedure, in nine of the reviewed Member States (Austria, Bulgaria, the Czech Republic, Finland, Greece, Italy, Latvia, Lithuania, Malta, Romania, Slovenia and Slovakia) with parallel national schemes[159], no major discrepancies were found between the EU Directives and their national equivalent statuses. In these Member States, the application phase is similar for all Directive permits and their national equivalent statuses, which offer similar rights and conditions. In the remaining 13 Member States some differences have been noted:

In Hungary, the national statuses appear to offer less favourable conditions and rights with regard to the admission procedure. For example, in order to be granted the national settlement permit, which is the national equivalent of the LTR, the applicant needs to provide proof of a clear criminal record from the country of origin. This can pose a significant challenge depending on the third country. No such requirement is in place for applications under the LTR.

Another group of Member States seems to be offering more favourable conditions, as noted in Croatia, Estonia, Germany, the Netherlands, Portugal, Spain and Sweden. The national equivalents to the LTR status in Croatia, Germany and Spain, for example, are generally wider in terms of personal scope, since they include an additional list of categories of third-country nationals, not covered by the LTR, who can lodge an application and acquire status. For instance, in Spain these categories include foreigners who are of Spanish origin and have lost their Spanish nationality; foreigners who have contributed markedly to the economic, scientific and cultural progress of Spain, or the projection of Spain abroad; a stateless person, a refugee or a beneficiary of subsidiary protection, found in Spanish territory who has been granted the respective status in Spain; a resident who upon reaching the age of majority has been under the tutelage of a Spanish public entity during the immediately preceding five years in a row; and a resident of absolute permanent disability or major disability pension beneficiary. In Croatia, the uninterrupted legal residence for five years is not

[159] Luxembourg and Poland do not have parallel national schemes

a requirement to obtain the national long-term residence status. In addition, in order to obtain the status, certain categories of third-country nationals in the Alien Act do not need to satisfy the conditions related to sufficient resources to maintain themselves, health insurance and the knowledge of Croatian language and the Latin alphabet.

Portugal also has a more favourable national equivalent of the LTR, including a much shorter deadline to decide on a permit request (90 working days compared to six months for the EU status) and application fees which are about 25% lower than those specified for the LTR. When it comes to the national Scheme for Scientific research and highly qualified individuals, the BCD's equivalent in Portugal, the law also sets a shorter deadline (66% shorter) for a decision on a residence permit application, the fees are again 25% lower than those charged for the BCD and there is no requirement for a wage threshold.

Although there are no substantial difference in the Netherlands between the EU Directives and their equivalents, applications for the national "highly skilled migrant" status can be submitted online via the recognised sponsor portal, something which is not offered as part of the BCD. The portal facilitates the application process.

4.4 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 4 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described in Section 4.2 above.

Table 4. Overview of most common conformity issues

Directives and relevant provision	No of MS	MS
FRD		
Article 13 (1) As soon as the application for family reunification has been accepted, the Member State concerned shall authorise the entry of the family member or members. In that regard, the Member State concerned shall grant such persons every facility for obtaining the requisite visas.	5	EL, ES, RO, SI, SK
SPD		
Art. 1. This Directive lays down: (a) a single application procedure for issuing a single permit for third-country nationals to reside for the purpose of work in the territory of a Member State, in order to simplify the procedures for their admission and to facilitate the control of their status	5	BG, DE, EL, LU, LV
Article 4 Single application procedure 1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall determine whether applications for a single permit are to be made by the third-country national or by the third-country national's employer. Member States may also decide to allow an application from either of the two. If the application is to be submitted by the third-country national, Member States shall allow the application to be introduced from a third country or, if provided for by national law, in the territory of the Member State in which the third-country national is legally present.	8	BG, EL, ES, IT, LT, LV, PL, PT
BCD		

Directives and relevant provision	No of MS	MS
Art. 7 (1) [...] The Member State concerned shall grant the third-country national every facility to obtain the requisite visas.	6	DE, EE, ES, FR, LU, PL

Table 5 presents an overview of the may clauses relevant to Migration Phase 4 and the member States which did not transpose these.

Table 5. Overview of most common conformity issues

Directives and relevant provision	No MS not transposed	MS
SD		
Article 20 Fees Member States may require applicants to pay fees for the processing of applications in accordance with this Directive.	6	DE, IT, LT, LU, MT, NL
RD		
Art. 14 -3. Member States may accept, in accordance with their national legislation, an application submitted when the third-country national concerned is already in their territory.	8	DE, ES, LT, LU, LV, MT, PL, RO
SPD		
Article 4 Single application procedure 1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall determine whether applications for a single permit are to be made by the third-country national or by the third-country national's employer. Member States may also decide to allow an application from either of the two.	5	BE, DE, IT, LU, MT
BCD		
Art. 10 (3) By way of derogation from paragraph 2, a Member State may accept, in accordance with its national law, an application submitted when the third-country national concerned is not in possession of a valid residence permit but is legally present in its territory.	9	BG, CY, ES, FR, IT, LU, RO, SE, SI
Art. 10 (4) By way of derogation from paragraph 2, a Member State may provide that an application can only be submitted from outside its territory, provided that such limitations, either for all the third-country nationals or for specific categories of third-country nationals, are already set out in the existing national law at the time of the adoption of this Directive.	19	AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, MT, NL, PL, PT, RO, SK

5 Phase 4: Entry and travel phase: including acquisition of the necessary entry and transit visas

5.1 Main findings

The entry and travel phase addresses the requirements that third-country nationals need to fulfil in order to enter and re-enter the country of destination, as well as to travel to other Member States, including when a permit is issued in a Schengen state. It examines the steps and procedures to obtain entry visas (where necessary), the

procedures and conditions to enter and travel across the EU Member States, as well as the procedures that apply upon arrival in the country of destination.

Most Member States have some timeframes for granting entry visas to applicants who do not yet hold a valid permit to enter the Member State. Application problems may arise where there are no such timeframes, or where they are regulated by general administrative law. If timeframes are too long or missing, Member States may be held in violation of their obligation to facilitate the issuing of visas to legal migration applicants[160]. In Member States with different timeframes for the different statuses, SD/RD applicants benefit from shorter deadlines. Visas are usually to be requested by third-country nationals themselves and, where other persons can request them, these are mainly the employers also applying for the work-related permit. All reviewed Member States allow TCNs in possession of a valid permit and valid travel document to enter and re-enter the country on the basis of the permit. Each Schengen state also does that in relation to the others. Few Member States impose entry requirements on TCNs from visa free countries, and those that do mainly refer to general requirements such as valid travel documents, a justifications for the reasons of entry and stay and proof of sufficient resources. In particular the latter may overlap with the requirements of the Directives and thus mean an unnecessary burden for the applicant.

After entering the Member States, third-country nationals are often required to register with other authorities, including for example with local authorities, police, social security bodies, etc.

5.2 Findings per research topic

5.2.1 Research topic 4.1: Entry visas

Q4 (a) (i) If applicants do not yet hold a valid permit before entering the Member State (i.e. if your response to question 3h is Yes), has the Member State put in place a set timeframe for granting an entry visa, from the moment of application?

Eight Member States[161] do not foresee any particular timeframe for the granting of an entry visa if the applicant does not yet hold a valid permit before entering the Member State. In Germany, for instance, there is no set timeframe although the Code of Administrative Court Procedure stipulates that a decision on the application for carrying out an(y) administrative act should be taken within a suitable period. As the law does not specify what a suitable period is, an entry visa is usually granted within three months. Similarly in Austria the general Act on Administrative Procedures requires that the authorities decide within six months, which is usually respected, which leaves doubt as to whether the State has complied with its obligation to *facilitate* the granting of visas. Exceptionally, for the BCD and its national equivalent status, the decision has to be made within eight weeks.

Eleven Member States[162] have put in place set timeframes for issuing an entry visa from the moment of the application. In Bulgaria, Hungary, Latvia, Luxembourg and Romania, there is a general time limit for the issuing of visas which applies to all statuses, with the timeframe in those Member States ranging from 15 days in Bulgaria and Latvia to 90 days in Luxembourg, which can be considered fairly long for those statuses for which some form of visa facilitation is required. Other Member States (e.g. Greece, the Netherlands, Portugal) have put in place different timeframes for visas depending on the status. For example, Greece issues visas to SD applicants within 20 days, while BCD applicants may have to wait for 90 days. RD applicants in

[160] Specified in the preambles of the SD and SPD preambles and stipulated in the BCD and RD

[161] BE, CY, CZ, DE, EE, LT, MT, SK

[162] AT, BG, ES, HU, IT, LU, LV, NL, PL, PT, RO

Portugal can obtain a visa within 30 working days, while the deadline for BCD and SD applicants is 60 working days. SD and RD applicants in the Netherlands are granted visas within 60 days, while deadlines for BCD, FRD and SPD applicants are 90 days. Member States within this group thus seem to be offering a higher degree of visa facilitation to SD/RD applicants.

5.2.2 Research topic 4.2: entry and re-entry on the basis of the permit

Q4 (b)(i) Does the Member State 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?

All reviewed Member States, except from France, allow third-country nationals who hold a valid permit and a valid travel document to enter and re-enter their national territory only on the basis of the permit[163], although some conditions apply, which are more related to how long third-country nationals are allowed to stay outside the Member State. In Cyprus, for example, re-entry is no longer allowed if the third-country national has stayed more than three months outside the Member State. In Lithuania, third-country nationals must declare their departure when leaving the Member State for a period exceeding six months. In the Netherlands, third-country nationals can freely enter and re-enter the national territory, but they are not allowed to move their main residence in the country.

[163] An explicit requirement of the BCD and required under the SPD for Schengen countries.

Q4 (b) (ii). For Schengen Member States only: If the permit is issued in a Schengen Member State (and notified to the Commission in line with Article 39(1)(a) of the Schengen Border Code), is the person allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document?

All twenty-one Member States which are also Schengen Member States[164] allow third-country nationals to travel to other Schengen countries only on the basis of a permit issued on their territory and a valid travel document. The remaining four Member States (BG, CY, HR and RO) are not Schengen members.

The long-term visa has the same effect as a residence card with regard to free movement on the Schengen territory. Accordingly, third-country nationals are authorised to travel to another Schengen State for a total period not exceeding three months in a six-month period, starting from the date of their first entry on to the Schengen territory. They must also have their valid travel documents as the residence card is proving the person's legal basis for staying in a Schengen Member State but is not a travel document.

5.2.3 Research topic 4.3: Entry from visa free countries

Q4 (c) (i). Does the Member State impose any specific entry requirements to third-country nationals of a visa-free country?

The majority of the reviewed countries[165] do not impose any specific entry requirements to third-country nationals of a visa-free country. Nevertheless, in Bulgaria, long-term visa requirements apply, as the visa-free regime is relevant for short-term stays only. Italy applies some general requirements for all third-country nationals wishing to enter its territory, including a valid travel document, justification of the reasons for entering Italy and the conditions of one's stay, sufficient resources to cover the whole duration of the stay and for return to the country of origin or for the transit and, lastly, not being a threat to public order, national security or public health. Malta is similar to Italy in this regard, with three specific requirements to all statuses – possessing a valid passport, submitting documents on the purpose and the conditions of the planned visit in Malta and a proof of sufficient means of support both for the period of the planned visit and for return. In both Member States, these requirements duplicate the admission conditions of the EU migration statuses.

A further general requirement imposed by Portugal is that the third-country national must submit a Declaration of Entry to the relevant authority within three days of entering Portuguese territory, unless he/she stays in a tourist accommodation establishment.

5.2.4 Research topic 4.5: requesting the entry visa

Q4 (a) (iii). If the main applicant is the employer (as is the case in e.g. the Single Permit and the EU Blue Card Directives), who requests the initial entry visa?

If the main applicant is the employer, as is the case in the SPD and the BCD, Latvia and Cyprus require the employer to request the entry visa. In ten of the reviewed Member States[166] the third-country national is expected to apply for the entry visa. In Spain, either the third-country national or their legal representative can request the visa.

[164] AT, BE, CZ, DE, EE, EL, ES, FI, FR, HU, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK

[165] AT, BE, CY, CZ, DE, EE, EL, ES, FI, HR, HU, LT, LU, LV, NL, PL, SE, SI, SK

[166] AT, BE, BG, DE, HU, IT, LU, PT, RO, SE

In Greece, Croatia and the Netherlands, the person allowed to submit a visa application depends on the migration status: in both Member States, only the third-country national can apply for a visa under the SPD, whereas both the employer and the third-country national are allowed to request a visa under the BCD.

Q4 (a) (iv). Are there any other situations in which the main applicant (who is not the person who wishes to migrate) is involved in requesting the entry visa?

In the Netherlands, under the RD, SD and FRD, the sponsor is responsible for requesting the long-term visa, which serves to enter the Member State too, as well as the residence permit on behalf of the third-country national wishing to migrate.

5.2.5 Research topic 4.5: leaving, transiting and entering without a visa

Q4 (d) (i). If your Member State delivers residence permits to applicants in the third country and does not require a visa to enter the national territory, do third-country nationals encounter any obstacles in practice to leave the third country, transit and/or enter the Member State.

In most Member States[167] which deliver residence permits to applicants in the third country and which do not require them to have a visa to enter the national territory, third-country nationals do not encounter any obstacles in practice to leave their countries of origin and to enter the Member State. However, in Estonia, cases have been reported in which it took more than 30 days for the residence card to arrive at the Estonian foreign mission, which could be considered as a barrier to leaving the third-country.

When it comes to transiting, again, only in a few Member States[168] practical difficulties are encountered by third-country nationals. In Spain, the long and complicated process for acquiring an airport transit visa is seen as an impediment. Nationals needing airport transit visa must apply for it in person or through a duly accredited representative at the Spanish Diplomatic Mission or Consular Post of the district where they legally reside. The deadline for processing airport transit visa applications is 15 calendar days, to be extended to up to 30, or even 60, calendar days in specific cases, especially when a more detailed examination is necessary. Airport transit visas must be collected personally or via an authorised representative at the respective authority where the application was made within a month after notification of issuance. There are no obstacles posed by Estonia, but border guards of transit countries are reported to sometimes create obstacles.

5.2.6 Research topic 4.6: Procedures upon arrival

Q4 (e) (i). Which procedures does your Member State apply upon arrival on the national territory?

Twenty of the reviewed Member States[169] require the third-country national to register with the competent local authority upon arrival on their national territory, 16[170] require registration with local security institutions and 12[171] require registration with healthcare providers. Austria, Greece, Spain, France, Italy, Latvia, the Netherlands and Romania, for example, may ask for registration with all three institutions listed above, depending on the migration status. In addition to registering with the local authority, the social security institutions and the healthcare providers, Latvia also

[167] AT, EL, FI, FR, HR, LT, LU, LV, NL, RO, SE, SI

[168] EE, ES

[169] AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI

[170] AT, CY, EL, ES, FI, FR, HR, IT, LU, LV, NL, PL, PT, RO, SI, SK

[171] AT, BE, EL, ES, FR, HR, IT, LV, NL, PT, RO, SK

requires third-country nationals to be duly registered by their employer with the State Revenue Authority. Cyprus, the Netherlands and Poland also apply additional procedures, such as registration with immigration authorities (e.g. Cyprus), registration with the Tax and Customs Administration (e.g. the Netherlands) and an obligation for persons who arrive as family members to submit their fingerprints and pick up their residence card (e.g. Poland).

In Bulgaria, the foreigner or national accommodating the migrant is required to declare the address at which s/he will reside upon entering the country. Moreover, the physical or legal persons providing accommodation to foreigners should also register them with the Ministry of the Interior. In Hungary, foreigners should only register with the regional office of the immigration authority at the time of delivering the residence permit.

5.3 Differences between the EU Directives and their national equivalents

Regarding the entry and travel phase, in most of the countries which have national equivalent statuses in place, there are no substantial differences at the level of legislation and practice between them and the Directives. The entry and travel phase is usually the same for all kinds of permits and national statuses offer the same rights and conditions as the EU Directives. There are only slight differences observed in the Netherlands and Portugal. In the Netherlands, for instance, the maximum decision period for long stay visa applications required for the EU Blue Cards is 90 days whereas for the national permits this period can be extended with another 90 days. The EU Blue Card Directive thus offers more favorable conditions and rights. In Portugal, the Blue Card Directive is slightly less advantageous than its national equivalent status as it sets about a 50% longer deadline for a decision on a BCD visa request compared to Portugal's equivalent status.

5.4 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 6 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described above.

Table 6. Overview of most common conformity issues

Directives and relevant provision	No of MS	MS
Researchers Directive		
Article 14 (4) The Member State concerned shall grant the third-country national who has submitted an application and who meets the conditions of Articles 6 and 7 every facility to obtain the requisite visas.	5	BE, DE, EE, PL, RO

Table 7 presents an overview of the may clauses relevant to Migration Phase 4 and the member States which did not transpose these.

Table 7. Overview of Member States not transposing may clauses

Directives and relevant provision	No MS not transposed	MS
Single Permit Directive		
Article 4 Single application procedure 1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall determine whether applications for a	4	BE, DE, IT, MT

Directives and relevant provision	No MS not transposed	MS
single permit are to be made by the third-country national or by the third-country national's employer. Member States may also decide to allow an application from either of the two.		

6 Phase 5 – Post-Application phase during which competent national authorities deliver the permit

6.1 Main findings

The majority of Member States do not have a set timeframe to deliver the permit following the notification of the positive decision on the application. Where there is a set timeframe, the deadlines are generally respected, and, in some cases, the real average number of days to deliver the permit is even lower that the timeframe allowed.

Around half of the Member States apply additional charges in addition to the application fee for the issuing of the permit, but these are minor, most often concerning charges for administrative acts and/or specific features of the permit.

Usually, different authorities are involved in the application and permit issuing procedure, however, in many cases the number of authorities depends on the type of status applied for. In several cases, the number and type of authorities involved in the issuing of permit are different from those involved in the application procedures. The main authorities involved in the permit issuing procedure are often either the migration authority or the diplomatic mission in the country of the third-country national, or the local police office. Serious application issues have been identified as a result of the non-or partial transposition of the Single Permit Directive, requiring those falling under the Directive to introduce different requests and/or follow multiple steps.

In the majority of the Member States, there is a difference between non-EU family members of EU citizens and non-EU family members of third-country nationals, the former group receiving more favourable treatment.

Regarding the duration of the first permit, some application issues have been identified as a result of conformity issues or partial transposition of the BCD, the FRD, the SD and LTR as indicated in more details in the sections below.

When the main applicant is the employer, only one Member State requires in the case of the Single Permit Directive his/her involvement in the delivery of the permit, as the decision will be submitted to the employer directly.

6.2 Findings per main research topic

6.2.1 Research topic 5.1: The timeframe for delivering the permit and charges

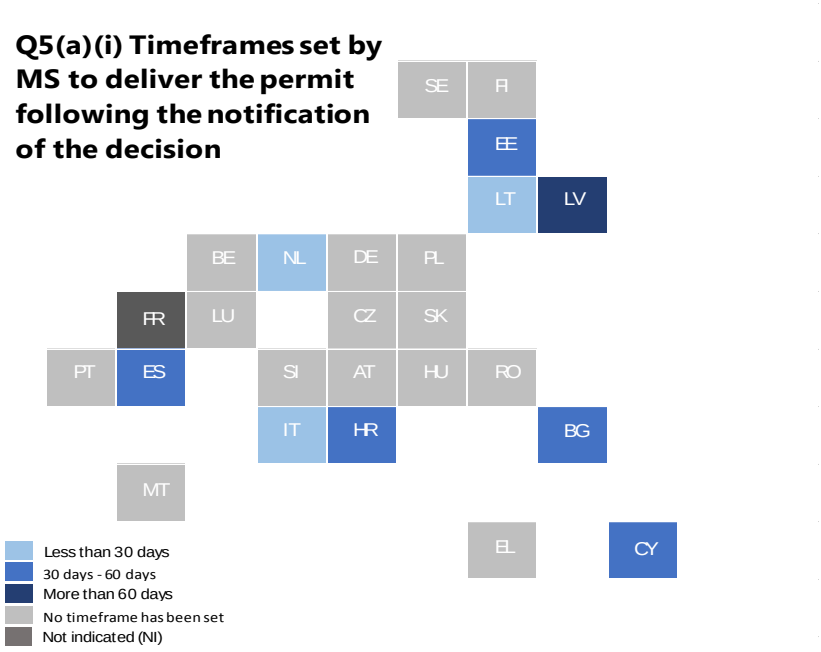
Q5 (a) (i). Does the Member State have a set timeframe to deliver the permit following the notification of the decision?

As shown in in the figure below, 15 Member States[172] do not have a set timeframe to deliver the permit following the notification of the positive decision on the application. The Member States which require the lowest number of days for the delivery of the permit are Lithuania (10 days) and the Netherlands (14 days), followed by Italy (20 days). Five Member States[173] have indicated a timeframe of 30 days, while Latvia has

[172] AT, BE, CZ, DE, EL, FI, HU, LU, MT, PL, PT, RO, SE, SI, SK

[173] BG, CY, EE, ES, HR

the longest with 65 days. Where Member States have a set timeframe, this is generally made public to applicants.



Overall, the deadlines set are respected, and, in some cases, the real average number of days to deliver the permit is even lower that the timeframe allowed. The only exception is Italy, for which the time needed to deliver the permit after the notification can range between 90 and 290 days. This is potentially a practical issue as the residence permit is often needed for accessing other public services – in Italy it is required for administrative procedures to access healthcare, public employment services and social security registration, as well as to make use of private services such as banks and utilities (see also section 7, Research topic 6.1).

Similar **practical issues** have been identified in a few Member States[174] with regard to the lack of timeframe. For example, in Belgium, third-country nationals are provided with a temporary document while waiting to receive the residence permit; however, this document does not allow them to apply for a work permit, for which they need the residence permit. This can be an issue, if the permit is delivered after a long period of time.

Q5 a (ii). Does the Member State apply any additional charges (in addition to the application fee) for the issuing of the permit?

While 12 Member States[175] do not apply any additional charges in addition to the application fee, 13 Member States[176] charge for the act of issuing and / or delivering the permit and for the biometric features on the permit, for the loss of the permit, or other general administrative charges are added. These charges vary across the Member States from a minimum of around 10 euro in Croatia and Poland to a maximum of around 200 euro in Portugal (for the issuance of a new permit).

Exemptions are admitted in certain Member States, for instance in Bulgaria for foreigners under conditions of reciprocity or in case of loss of the permit, or in Croatia for foreign nationals who are volunteers or apply for the purpose of education and

[174] BE, EL, DE

[175] CY, CZ, EE, EL, FI, HU, IT, LU, MT, NL, SE, FR

[176] AT, BE, BG, DE, ES, HR, LT, LV, PL, PT, RO, SI, SK

training. While minors are exempted from the payment of fees in Lithuania and Latvia, in Austria the charges for minors are even higher (50 EUR instead of 20 EUR).

6.2.2 Research topic 5.2: Authorities involved in the permit issuing procedure

Q5 b (i). How many and which national authorities are generally involved in the application and permit issuing procedure? Does this, in terms of the number of and type of authorities involved, differ from the procedure laid down in legislation?

In eight Members States one authority is responsible for both processing the application and issuing the permit,[177] whilst in 14 Member States[178], different authorities are involved in the application and permit issuing procedure, going up to four different authorities in Germany, Spain and Luxemburg. However, in many cases the number of authorities depends on the type of status applied for. In Austria, for instance, if a person does not intend to work, only one authority is involved.

In nine Member States[179] the number and type of authorities involved in the issuing of permit are different from those involved in the application procedures. The authorities involved in the application procedure are often either the migration authority/agency or the embassy/consulate in the country of the third-country national. In many cases the second authority involved is either the one responsible for the issuing of the visa (where this is necessary), and/or the one subsequently delivering the permit to stay. Other authorities involved include employment/labour ministries and law enforcement units.

The authorities involved in the permit issuing procedure are often either the migration authority/agency or the embassy/consulate in the country of the third-country national, or the local police office. Other types of authority often quoted include education institutions (e.g. for students and researchers), the employment office (for work-related permits), as well as border guards / law enforcement units, social insurance and health authorities, which often are consulted as part of the application process.

In three Member States,[180] practical arrangements differ from the procedure laid down in national legislation. For instance, in the Netherlands, the national legislation provides that the Minister of Security and Justice issues the residence permits, but in practice it is the Immigration and Naturalisation Office (IND) that issues residence permits under the responsibility of the Minister.

Related to the above, the overall application and post-application process is considered to be too slow and complex in Italy, involving multiple applications, steps and authorities, although in the post-application phase only one authority is involved. In Spain, the involvement of different authorities is often problematic as the same documentation may be subject to a different assessment. Similarly, in Luxemburg, the three-step procedure could raise concerns as regards the single procedure, single application and single decision principles underlying the SPD.

Moreover, in Poland, the entire post-application phase, including the issuance of the decision, is conducted in the national language, and this is considered to be an issue for applicants with limited understanding of Polish, as the decision often contains further instructions on the next steps in the procedure and/or the deadline for appeal. A similar issue has been identified in Czech Republic, where applicants might have to bring official interpreter at own cost.

[177] BE, BG, EE, HR, PL, PT, RO, SK

[178] AT, CY, CZ, DE, ES, FI, HU, IT, LT, LU, MT, NL, SE, SI

[179] CZ, DE, FI, HU, IT, LT, LV, MT, SI

[180] FI, LT, NL

Box 11 Evidence from the OPC

About one third of third-country nationals residing or having resided in the EU (34%, n=178)[181] mentioned that they had to contact one authority to apply and 31%[182] had to contact two authorities.

6.2.3 Research topic 5.3: Difference between non-EU family members of EU citizens and non-EU family members of third-country nationals

Q5 (c) (i). Does your Member State make a difference between non-EU family members of EU citizens, and non-EU family members of third-country nationals with regard to obtaining the permit?

The FRD includes the conditions for the exercise of the right to family reunification of non-EU family members with third-country nationals who are legally residing in the EU. In case of non-EU family members who want to reunite with EU citizens, national rules apply.

Eight Member States[183] make no distinction between non-EU family members of EU citizens and non-EU family members of third-country nationals, while in 17 Member States[184] there is a difference between the two situations.

The differences mainly concern conditions, procedures, duration of the permit, application fees and documents in support of the application and, based on the responses of the national researchers, it seems that rules and requirements are overall less rigid for non-EU family members of EU citizens.

For instance, in Croatia, the non-EU family members of third-country nationals have to prove the purpose of the temporary residence, that they have sufficient resources to support themselves and that they have a health insurance, whereas non-EU family members of EU citizens do not have to prove this. In Poland, family members of third country nationals are obliged to apply for a residence permit, while non–EU family members of EU citizens receive resident cards (which is given almost "automatically" upon request) for a period of five years, or less if the intended stay is shorter. In the Czech Republic, non-EU family members of third country nationals have to obtain biometrical residency permits, whereas non-EU family members of EU citizens only need "a national type of permit in a form of a passport book".

In other countries, such as in Hungary and Cyprus, procedures and fees are different, whilst in Finland, non-EU family members of third country nationals do not need to apply for a residence permit; instead they need to register their residence and apply for an EU residence card, while they keep their rights to employment.

In Austria the main difference is related to the exemption from the quota requirement for non-EU family members of EU citizens.

6.2.4 Research topic 5.4: Duration of the first permits

Q5 (d) (i). Which are the different durations of the first permits delivered to third-country nationals, per Directive?

The duration of the first permit delivered to third-country nationals varies significantly across Member States. The figures below show the differences with regards to the maximum duration of the permit, for each Directive.

[181] Third-country nationals residing in AT, BE, CZ, DE, ES, IT, FI, FR, PL, PT, RO, LV, MT, NL, NO, SE

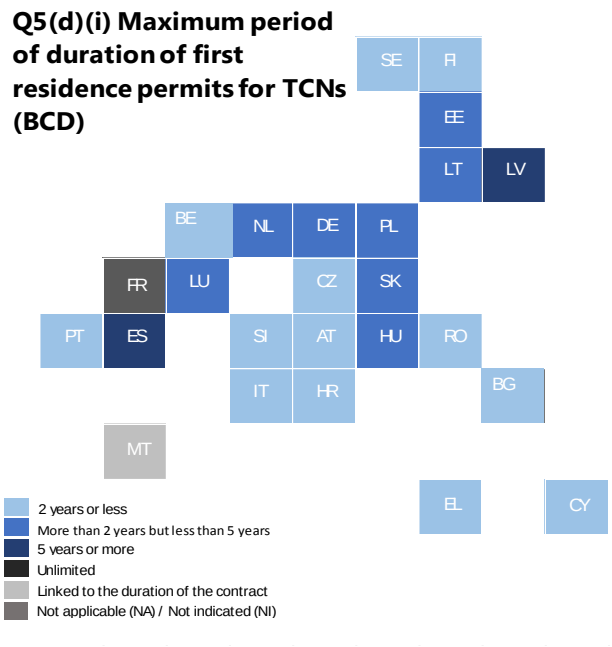
[182] Third-country nationals residing in BE, BG, CZ, DE, EE, FI, FR, HR, HU, IT, LU, NL, PL, PT, LV, SE

[183] DE, HU, EE, EL, LT, LV, NL, SE

[184] Except DE, EE, EL, LT, LV, NL, SE

Duration of residence permits under the BCD

Figure 2. Maximum duration of first residence permits for EU Blue Card



According to the Blue Card Directive, the standard period of validity of the Blue Card should be between 1 and 4 years. If the work contract covers a period of less than one year, the Blue Card is to be issued (or renewed) for the duration of the work contract plus three months[185].

As shown in Figure 2, all Member States apply a maximum duration of the first permit. In Bulgaria and Portugal, the maximum duration is 1 year, whilst in nine Member States[186] the maximum period is 2 years. In Lithuania and Poland, the maximum duration is 3 years, while in five Member States[187] 4 years, going up to 5 years in Spain and Latvia.

An application issue has been identified in Cyprus, where the shortest maximum duration of the permit is only three months.

Duration of residence permits under the FRD

The duration of the first permit based on family reunification often depends on the permit of the sponsor – i.e. it is of the same validity and cannot exceed the validity of the permit of the sponsor[188]. This is the case in six Member States as indicated in the Figure below. In the majority of Member States, there is a limit for the maximum duration which is 1 year in five Member States[189]; 2 years in Czech Republic and Portugal; 3 years in Poland; 4 years in Finland and 5 years in six Member States[190]. In Estonia and Sweden, the validity for spouses depends on how long their marriage lasted. In Estonia, if the marriage has lasted less than three years, the residence permit can be granted for up to one year. However, if the marriage has lasted at least three years, then the resident permit can be granted for up to three years.

In eight cases[191], **application issues** have been identified as a result of problems with the transposition of the FRD, requiring a validity of residence permits of *at least one year*. These issues could point to an infringement of the related Directive, both form a viewpoint of legal conformity and practical application.

[185] Article 7(2) of the BCD

[186] AT, CZ, EL, FI, HR, IT, RO, SE, SI

[187] DE, HU, LU, NL, SK

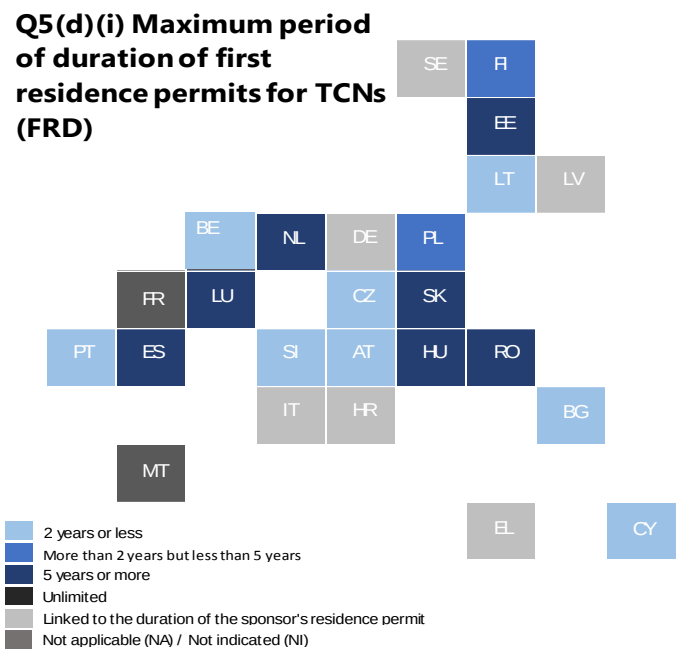
[188] Art 13 (3) FRD

[189] AT, BE, BG, LT, SI

[190] ES, HU, LU, NL, RO, SK

[191] BG, EL, ES, HU, PL, RO, SE, SI

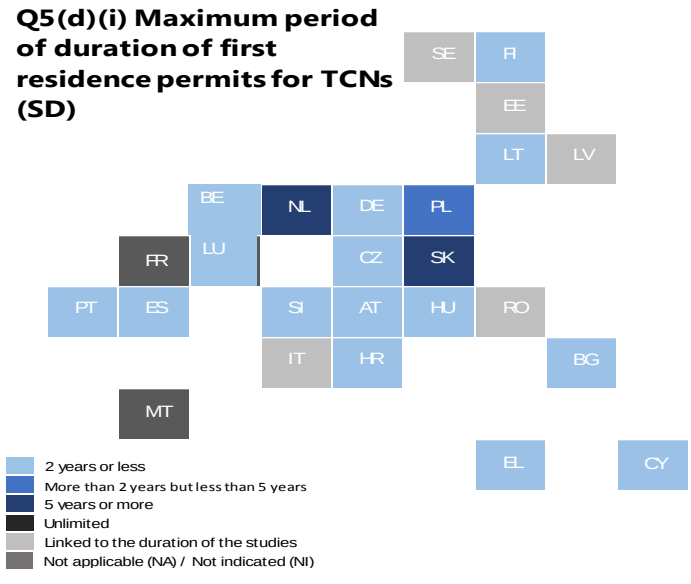
Figure 3. Maximum duration of first residence permits for Family Reunification



In Bulgaria, according to national law, family members are granted a continuous residence permit of *up to one year*. This could be considered non-compliance issue which also affects the practical application of the Directive, as family members of third-country nationals who have been granted a continuous or permanent residence permit are in practice obliged to apply for residence permits each year, which poses a significant administrative and financial burden on them. In several Member States,[192] the fact that the duration of the residence permit of the family member depends on the duration of the permit of the sponsor is also problematic, as in practice the length could be less than a year.

Duration of residence permits under the SD

Figure 4. Maximum duration of first residence permitfor Student Directive



First residence permits based on the SD are issued for the duration of the study period in five Member States, as indicated in Figure 4. In Italy the duration of the permit is one year, as there is a verification of the progress of studies every year (at least one exam has to be passed in the first year and at least two exams in the following ones), until 3 years after the legal duration of the course of study and 1 more year after the end of studies. In Sweden, even if a student has been accepted to several years of studying, he/she can usually only get a residence permit for one year at a time. In the majority of Member States[193] the maximum duration of the first permit cannot be more than two years, while in Poland

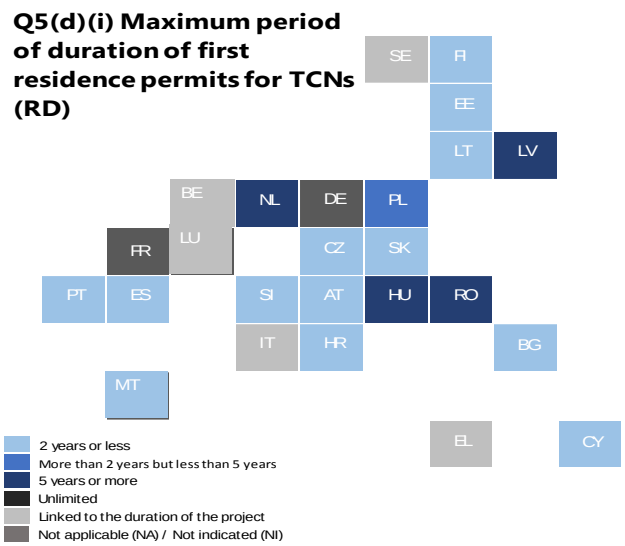
[192] EL, ES, HU, PL, RO, SE, SI

[193] AT, EL, CY, BG, HR, PT, ES, LU, CZ, SI, HU, BE, DE, FI, LT

it can be up to 3 years and in the Netherlands and Slovakia 5 and 6 years respectively. Several Member States[194] offer more favourable provisions, offering permits with a duration of more than one year.

Duration of residence permits under the RD

Figure 5. Maximum duration of first residence permits for Researchers Directive



According to the Researcher Directive[195], the duration of the permit should be at least one year or if the duration of the project is less of one year, the first permit should correspond to the duration of the project.

First permits delivered to third-country nationals based on the RD are issued for the duration of the research/project in five Member States, as shown in Figure 5. The maximum period is 3 months in Cyprus, 1 year in six Member States[196], 2 years in another six Member States[197], 3 years in Poland, and 5 years in three Member States[198].

[194] CZ, DE, ES

[195] Art 8 RD

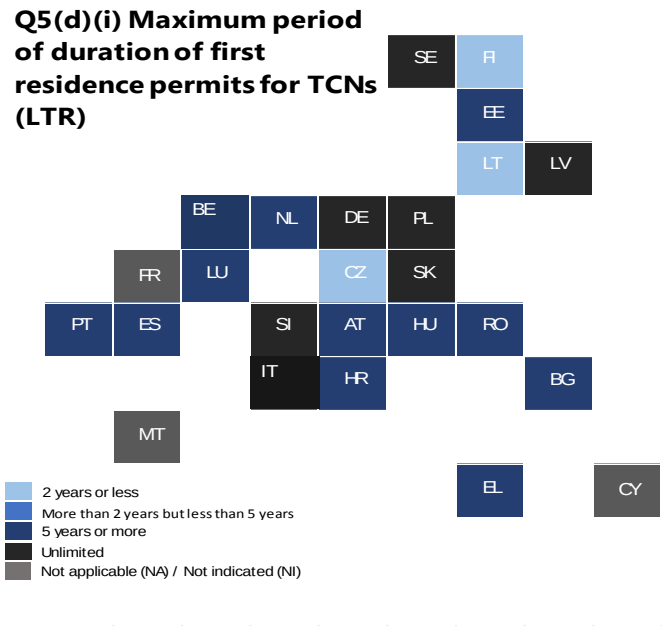
[196] BG, FI, HR, MT, PT, SI

[197] AT, CZ, EE, ES, LT, SK

[198] HU, NL, RO

Duration of residence permits under the LTR

Figure 6. Maximum duration of first residence permits for Long-term residents Directive



According to the LTR Directive, the status as long-term resident should be permanent. Member States have to issue a long-term resident's permit to long-term residents which should be valid at least for five years[199].

As shown in Figure 6, with regard to LTR, the residence permit is issued for an indefinite period in seven Member States. While in 12 Member States the duration is 5 years, in Romania, the maximum period is 10 years for a family member of a citizen and 5 years for stay in Romania for other purposes provided by law.

Some **application issues** have been identified in Finland and Lithuania, where the maximum duration is 1 year, and in Czech Republic, where it is 2 years (although the status is permanent).

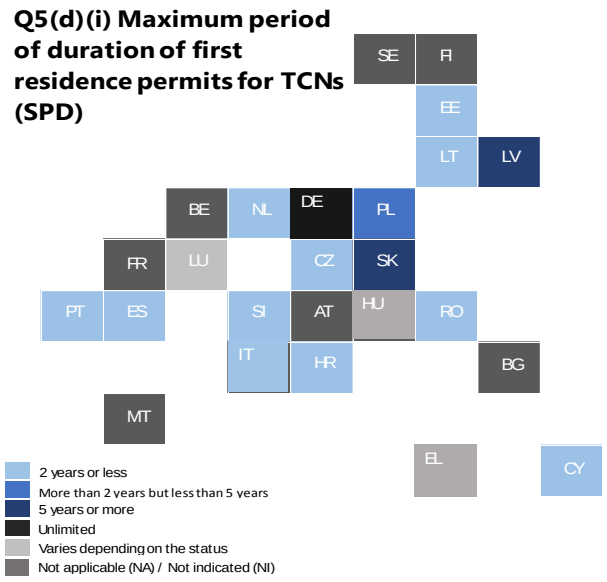
Duration of residence permits under the SPD

With regard to the SPD, in the majority of Member States[200] the duration is less or equal to 2 years. In three Member States, the duration depends on the duration of the work contract and also varies depending on the particular permit.

[199] Art 8 LTD

[200] CZ, LT, EE, HR, PT, RO, NL, SI, CY, IT, ES

Figure 7. Maximum duration of first residence permits for Single Permit Directive



6.2.5 Research topic 5.5: Involvement of the employer / other parties in the delivery of the permit

Q5 (e) (i). If the main applicant is the employer (see your response to Q3k (ii) in Phase 3), does the Member State in any way require his/her involvement in the delivery of the permit?

When the main applicant is the employer, only one Member State, Croatia, somewhat requires in the case of the SPD his/her involvement in the delivery of the permit, as the decision will be submitted only to the employer, who then is expected to notify the applicant.

In the remainder of the Member States, the third-country national (or his/her statutory representative) has to collect the residence permit in person.

Q5 (e) (ii). Are there any other situations in which the main applicant (who is not the person who wishes to migrate) is involved in the delivery of the permit?

In five Member States[201], the main applicant who is not the person who wishes to migrate is involved in the delivery of the permit. This can be a person authorised to collect the permit on behalf of the migrant, such as a caretaker or a legal representative, or a sponsor in case of family reunification.

6.3 Key differences between the EU Directives and their national equivalents

Overall, there are no significant differences between the EU Directives and their national equivalents in the Residency phase (Phase 5).

The main differences that have emerged at the level of legislation as well as in terms of practical application concern the duration of residence permits and the fees:

- In Austria and Italy, the duration of the residence permit for the BCD is shorter in national equivalent statuses.

[201] CY, LT, PL, RO, SI

- In Portugal, the fees for issuing LTR and BCD permit documents are higher (about 20%) than in the case of their national equivalents.

6.4 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 8 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described in section 6.2 above.

Table 8. Overview of most common conformity issues

Directives and relevant provision	No of MS	MS
FRD		
Article 13 Entry and residence of family members (2) The Member State concerned shall grant the family members a first residence permit of at least one year's duration. This residence permit shall be renewable.	10	BG, EL, ES, HU, LU, PL, RO, SE, SI, SK

Table 9 presents an overview of the may clauses relevant to Migration Phase 5 and the Member States which did not transpose these.

Table 9. Overview of most common conformity issues

Directives and relevant provision	No MS not transposed	MS
LTD		
Article 13 More favourable national provisions Member States may issue residence permits of permanent or unlimited validity on terms that are more favourable than those laid down by this Directive. Such residence permits shall not confer the right of residence in the other Member States as provided by Chapter III of this Directive.	8	AT, CZ, IT, LU, PL, PT, SI, SK

7 Phase 6 – Residency phase

The residence phase begins after the third-country national is already on the territory of the Member State and has obtained the residence permit. The residency phase includes a number of aspects, as follows:

- Residence permits: format, use and renewals;
- Changes of status and naturalisation;
- Access to employment and self-employment;
- Equal treatment;
- Integration requirements.

7.1 Main findings

7.1.1 Residence permits

Residence permits can be used by permit holders in all Member States as a proof of identity and legal residence in a number of situations, including to access public and private services as well as for short-term stay in other EU Member States. The periods

of renewal and the renewal fees differ significantly across Member States and across statuses.

Third-country nationals are required to renew their residence documents within a specified timeframe prior to expiry of the permit, ranging from 3-6 months prior to expiry to 60 days after the expiration of permit. In some Member States, failure to renew and/or provide information and documents on time or after a request by the authorities will result in refusal for the permit to be renewed and the applicant will be obliged to leave the Member State. A possible application issue has been identified in Malta in particular with SPD holders who are not allowed to apply for a new permit in case they change employer. Other Member States, such as Estonia, the Netherlands and Spain, allow for a 'tolerance' period also after the period has expired.

Most Member States require the renewal to be submitted in person only, while in a few Member States, there are options to submit via post, e-mail and online. In 14 Member States[202], there are no administrative or financial sanctions if the applicant fails to comply with a renewal deadline. However, most commonly, failure to comply with this deadline results in illegal stay. In six Member States[203], there is an administrative sanction and in five others States[204], failure to renew the permit leads, in addition to the situation of irregularity which may lead to a return decision, also to financial sanctions.

With regard to *availability and access to information for renewals*, in the **Czech Republic** information provided to third-country nationals lacks clarity and is insufficient and they often also receive misleading/incorrect information from the Immigration Authority officers.

Finally, several application issues were identified with regard to renewal which were not specifically covered by the questions listed in the Terms of Reference. These are therefore summarised below, per Directive.

The renewal of status of a **FRD permit**, could be affected by the way Member States are practically applying the provisions of the FRD, in particular regarding grounds for refusal. There have been a number of complaints and extensive case law of the ECJ on this matter which has framed very strictly the grounds for rejection. Art. 6(2) and Art. 17 of the FRD stipulate that Member States may withdraw or refuse to renew a residence permit on grounds of public policy or public security or public health and when taking a decision based on this article, Member States shall consider the severity of the offence and shall take due account of the person's family relationship. In Lithuania, Slovenia and Sweden some problems have been identified in the interpretation of these provisions.

- **Refusals based on grounds on public policy, security and health:** In **Lithuania**, **Slovenia** and **Sweden**, there are can be practical problems with regard to Art. 6(2) and Art. 17 of the FRD which stipulates that Member States may withdraw or refuse to renew a residence permit on **grounds of public policy or public security or public health** and when taking a decision based on this article, Member States shall consider the severity of the offence and shall take due account of the person's family relationship. In these Member States, these provisions serving as a procedural safeguard to limit the discretion of the responsible authorities, have not been (completely) transposed. In **Slovenia**, additional grounds for refusal on the basis of public security have been introduced, significantly broadening the scope for refusals, including "*there are reasons to assume that the alien will not voluntarily depart after the expiry of the permit; there are reasons to assume that the alien will*

[202] BE, BG, CY, CZ, EE, EL, ES, HR, IT, LV, LU, RO, SK, SE

[203] AT, DE, HU, FR, NL, MT

[204] FI, LT, PL, PT, SI

not abide by the legal order of the Republic of Slovenia; if in the process of issuing a first residence permit it is found out that there are serious reasons for considering that an alien may be during his/her residence in Slovenia a victim of trafficking in human beings; if there are reasons to believe that the alien will not be residing in the territory of the Republic of Slovenia." This broad scope does not comply seem to be in line with the restrictive interpretation of the Directive. In **Lithuania**, the statement of a threat to national security issued by the State Security Department is not disclosed to the third-country national, therefore even during the judicial procedure s/he is not able to provide any arguments against that statement and defend himself/herself. In **Sweden**, the renewal of the residence permit under Art. 6(2) may be refused if the family member has been engaged in any type of criminal activity. This goes beyond the possibility of refusing a residence permit on the basis of public order and security and gives rise to conformity concerns

- **Refusals based on sickness and disability:** In **Germany** and **Spain**, with regard to Art 6(3) refusals on the **ground of sickness and disability**, there is no provision prohibiting non-renewal cases on grounds of illness or disability.
- **Refusals based on financial resources:** In **Malta**, holders of FRD permits have been refused renewal on the basis of the fact that they do not satisfy the **financial resources** threshold following the birth of a child. The financial threshold being applied is that of the average wage in Malta. Subsequently, both permit holder and child are requested to leave the country without regard to the respect for family unity. In **Spain**, renewals can be refused on the ground of 'violations of obligations on taxation and social security as grounds to withdraw the permit'.

With regard to LTR, the following application issues have been identified:

- In **Cyprus**, a prerequisite for renewal is the submission of a criminal record certificate which, although no longer mentioned in the legislation, appears as a precondition in the checklist of required documents on the website of the immigration department.
- In **Lithuania**, the safeguard provisions in Art. 6(1) have not been transposed which concern an obligation to consider the severity or type of offence against public policy or public security, or the danger that emanates from the person concerned.
- In **Luxembourg**, although the renewal is considered 'automatic'[205], in order to renew the permit, the third country national is required to produce a certified copy of his/her valid passport, the evidence that he/she has resided continuously in the territory and a recent extract from his/her judicial record.[206]

With regard to residence permits issued to **students**, in **Belgium**, national law provides for the possibility to refuse the renewal of the residence permit in case the length of studies is deemed excessive. In practice, many foreign students have no choice but continue studying and renew their residence permit in order to stay in Belgium while looking for a job at the same time. It is unclear whether the current provision complies with the SD but the situation should change with the transposition of the S&RD which allow students to remain on the territory for nine months at the end of their studies in order to look for a job. With regard to residence permits issued to **students**, in **Poland**, national law permits a refusal of extension or withdrawal of the approval of the research institute accepting foreigners in the case where the

[205] The Immigration Law[205] states that the residence card of a long term resident is valid for 5 years after which it is '*renouvelable de plein droit sur demande'*. This formulation would imply that the card is renewed automatically.

[206] Règlement Ducal du 5 septembre 2008 sur les formalités administratives, Article 14

research organisation fails to notify the Voivode of any events which could hinder the performance of the agreement on accepting the foreigner in order to implement a research project. This sanction has not been provided for in the Directive.

Box 12 Evidence from the OPC

Issues encountered by third-country nationals residing or having resided in the EU when renewing or replacing their residence permit include long procedure (69%, n=178)[207]; insecurity due to delay in receiving new permit, after the first one had expired (64%, n=179)[208]; many documents required (63%, n=179)[209]; high costs of permit (40%, n=176)[210]; (v) loss of job (24%, n=159)[211]; getting their qualifications recognised (23%, n=164)[212]; new labour market tests (15%, n=158)[213]; and health reasons (10%, n=157)[214].

7.1.2 Changes of status

In the vast majority of Member States, third-country nationals are allowed to change status, provided that the conditions for the new status are satisfied. In most Member States[215], in order to change status, third-country nationals must meet the same eligibility conditions and submit the same application along with required documents as in the case of those applying for the first time and there is no facilitated procedure. The main difference in terms of procedure is that the applicant does not need a visa and the application can be submitted on the territory of the Member States, whereas for some statuses, the first time applicants are subject to submission at the diplomatic mission/representation in the country of origin.

A practical obstacle reported by the majority of Member States is that it is difficult to find publically available information and understand the conditions and requirements for status change. **Belgium** reported that while status change is possible in most cases as long as the admission conditions are met, in practice status change does not occur very often as third-country nationals face practical and administrative obstacles. **Cyprus** reported that a change of status from one permit to another is discretionary and in most cases not permitted, except where permit holders meet the criteria for the LTR permit. In **Germany**, changes to certain statuses are not allowed. This includes changes from family to national statuses covered by the SPD and status from a residence permit on study purposes to the LTR or equivalent national status to the LTR.

7.1.3 Access to employment and employment related rights

The right to access to employment is indicated on the residence card in 19 Member States[216], in line with the SPD, which requires residence permits issued in accordance with Regulation (EC) No 1030/2002 to indicate the information relating to the permission to work irrespective of the type of the permit. In those Member States where this is not in place, they have not complied in practice with the SPD provision.

[207] Country of residence: AT, BE, DE, FR, ES, IE, PL, SE

[208] Country of residence: AT, DE, CH, CZ, EE, EL, ES, FI, HU, IE, IT, PL, LT, LV, MT, NL, LU, SE

[209] Country of residence: AT, BE, BG, CZ, DE, ES, FI, FR, HR, HU, IE, IT, PL, MT, NL, SE, SK, LT, UK

[210] Country of residence: AT, BE, BG, CH, CZ, DE, EE, ES,FI, HU, HR, IE, IT, LU, LV, NL, PT, SE, SK,UK

[211] Country of residence: BE, DE, ES, FI, FR, HR, IT, LT, MT, NL, RO, SE

[212] Country of residence: At, BE, CZ, ES, FR, HR, HU, IT, LU, PL. RO, SE

[213] Country of residence: AT, BE, DE, HU, IE, IT, LV, LT, PL, SE

[214] Country of residence: BE, DE, IT, LT, LV, PL, SE

[215] AT, BE, BG, CY, DE, EE, EL, ES, FI, HR, LV, LT, MT, NL, PL, PT, RO, SI, SE

[216] AT, BG, CY, CZ, DE, EE, ES, FI, HU, LU, LV, NL, PL, PT, SE, SI, SK.

7.1.4 Equal treatment

Four of the examined Directives (LTR, RD, BCD, SPD) include provisions on equal treatment of TCNs with respect to nationals of the Member States, covering a number of aspects, including, *inter alia,* working conditions, freedom of association, social security benefits, education, recognition of academic and professional qualifications, tax benefits, access to goods and services and advice services. The FRD and SD do not include provisions on equal treatment. However, equality is ensured by the SPD in certain circumstances, for example if third-country nationals, falling within the scope of the FRD and SD, are authorised to work.

The main problem identified with equal treatment rights is that some are not (explicitly) guaranteed which may lead not only to uncertainty for TCNs but also to exclusion of TCNs from certain equal treatment rights that are guaranteed by the EU acquis. This is most often the case with regard to social security benefits and access to public goods and services. In some Member States[217], the issues concern access to social security benefits whereby third-country nationals do not have access to certain social security benefits for example family benefits.

In several Member States[218], the issues concern **access to social protection**, whereby third-country nationals do not have access to certain social benefits (see details in section below).

In some Member States, access to public services is not explicitly granted (see details in section below). For example, in **Slovenia**, only those with LTR status can apply for non-profit rental housing, rental subsidies and housing loans under public scheme.

7.1.5 Integration requirements

Two Directives (FRD and LTR) stipulate that Member States may require compliance with integration 'measures' (FRD) and 'conditions' (LTR). The Directives do not define integration 'measures' and 'conditions'. According to the Commission's guidelines on the FRD[219], Member States may impose a requirement on family members to comply with integration measures under Article 7(2), but this may not amount to an absolute condition upon which the right to family reunification is dependent. The Directives do not define integration 'measures' and 'conditions'. Integration 'measures' (or pre-integration measures) could refer to measures conducted in the immigrant's country of origin, including language courses, 'adaptation' and civic orientation courses, including courses on history and culture of the country of origin[220]. In contrast, integration 'conditions' as laid down in the LTR refer to evidence of integration in the host society.

Integration requirements and measures differ significantly across Member States. In 12 Member States[221], there are mandatory integration requirements, while in the remaining Member States, integration measures (such as language and integration courses) are voluntary. In five of these[222], the mandatory integration requirements only concern applicants for **long-term residence**, who need to demonstrate integration through knowledge of national language(s) and knowledge about society and culture of the country. For example, in **Greece**, in order to obtain a long-term residence permit, the applicant need to demonstrate sufficient knowledge of the Greek language, history and civilization. This can be demonstrated through the following means: document of graduation from Greek school or university; certificate of

[217] LV, SI, EE

[218] BE, CY, HU, LV, PL, SI

[219] COM(2014) 210 final

[220] IOM (2009), Stocktaking of international pre-integration measures and recommendations for action aimed at their implementation in Germany

[221] AT, BE, BG, CY, DE, EL, FI, HR, IT, LU, MT, NL

[222] CY, EL, HR, LU, MT

attainment in Greek of at least B1 level and special certificate of sufficient knowledge of the Greek language and elements of Greek history and civilization. In **Belgium, Germany** and **the Netherlands**, not attending the integration and language courses may also result in a financial fine. Refusing to participate in the planning (30 days) or not attending the scheduled planning session (15 days) or refusal or failure to participate in the planned activities (60 days) will result in the withdrawal of social benefits for a number of days

Box 13 Evidence from the OPC

25% of non-EU citizens residing or having resided in the EU (n=190) indicated that while living in the EU, they had to comply with certain integration conditions / measures which could affect their residence status, or the renewal/extension of their permit. 52%[223] of them (n=46) stated that it was easy to find information on the pre-integration measures / conditions. Seventy three per cent (n=41) had to attend language courses[224], 27% had to take an integration test[225], 17% had to participate in an integration programme[226], 12% had to attend civic education courses[227] and 20% indicated that they had to comply with other types of conditions/measures[228]. Other OPC respondents, including NGOs, believe that non-EU workers are treated the same as EU nationals when it comes to access to publicly-available goods and services, access to education and vocational training, advice services provided by employment offices and freedom to join organisations representing workers or employers, including benefits conferred by these organisations. Overall, over 40% of respondents also think that non-EU workers are treated the same when it comes to contribution and access to social security benefits, tax benefits and working conditions. Less respondents (31%) believe that non-EU workers are treated the same as EU nationals regarding recognition of qualifications.

7.2 Findings per main research topic

7.2.1 Topic 6.1: Residence permits

Q6a (i). Does the Member State use the format as set out in Regulation (EC) No 1030/2002 for residence permits?

All Member States use the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permits issued by Member States include biometric data as per the Regulation.

Q6a (ii). What is the legal value of the residence permit?

In 23 Member States[229], the residence permit has a constitutive nature (i.e. the possession of a valid residence document creates legal assumption that the residence is legal). In **Belgium** and **Malta**, the residence permit has a mere declaratory value (i.e. it only attests to the fact that the conditions attached to the right of residence by EU/national law were satisfied at the date of issue). In **Austria**, while the long-term residence permit is declarative, other residence permits have a constitutive nature

Q6a (iii). Does the residence permit give the right to the third-country national to move freely on the whole territory of the Member State?

[223] Country of residence: AT, BE, CZ, DE, ES, FR, IT, LV, NL, SE

[224] Country of residence: AT, BE, DE, EL, ES, HR, HU, IT, LV, NL, PL, SK, SE

[225] Country of residence: AT, BE, BG, DE, FR, LV, NL, SE

[226] Country of residence: BE, BG, DE, FR, PL, LT

[227] Country of residence: ES, IT, FR, NL, LT

[228] Country of residence: CZ, FR, SE

[229] AT, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI and SK

In all Member States, the residence permit gives the right to the third-country national to move freely on the whole territory of the Member State[230].

Q6a (v) Are residence permits required as a legal document for other administrative procedures?

In some cases, residence permits are required as legal documents for other administrative procedures (e.g. to provide proof of identity) as provided in Table 10 below. Regarding **access to education**, the residence permit may be specifically required in 15 Member States. In some Member States (e.g. Germany, Poland, Portugal and Romania), Third-country nationals are required to provide a proof of identity which is generally the passport. If the passport is not available, in some circumstances, the residence card can be provided as a proof of identity. In **Belgium**, the residence permit is not required for primary education but only for higher education. In **Spain**, it is not mandatory in the case of minors.

Regarding **access to healthcare**, the residence permit may be required in 15 Member States. The residence permit is required for the issuance of the healthcare card as reported by four Member States[231]. In some Member States (e.g. Austria, Cyprus, Italy and Spain), it is not required for emergency healthcare.

In 21 Member States, the residence permit is required in order to register with the **public employment services**, such as for example as a job seeker. In 19 Member States, the residence permit is required in order to open a bank account. In some Member States, the required documents will depend on the banks[232]. In **Finland**, the banks should not be allowed to discriminate against persons with foreign IDs, but in practice banks may require also the passport, the residence permit and proof of address in Finland.

In order to complete the social security registration, in 16 Member States, third-country nationals may be required to provide their residence permit as a proof of identity and residence. In **Germany**, the residence permit is not required as a person who has a job automatically registers in the social security if he/she that job is of a certain scale. In **Finland**, this information is available in the population registration system.

In 14 Member States, the residence permit is required in order to obtain **a utility subscription**. In Austria, Germany and Poland, this will depend on the provider. In the Czech Republic, it may happen that some providers refuse to provide utility subscription to third-country nationals even if they have a residence permit. The residence permit is also required for a **fixed telephone subscription** in 19 Member States. In **Cyprus**, Czech Republic and Poland (for landlines), the requirement to present the residence permit depends on the provider. In **Poland**, for a mobile phone subscription, the third-county national must present passport and residence card valid for at least two years as the shortest subscription period is two years. In **Finland**, if the person has a bank account and a Finnish identification code (obtained at the time of registering with the Finnish Population Registration), there should be no problem obtaining a telephone subscription without the residence permit. Problems may arise if attempting to obtain a mobile phone before having obtained a bank account.

Table 10. Residence permits required for administrative procedures

Administrative procedures	No. of MS	Member States

[230] In Germany, territorial limitations may only be applicable for TCN in possession of a residence permit on humanitarian grounds or in possession of a tolerance permit (Duldung) for reasons of public interest. However, residence permits on humanitarian grounds are outside scope of the present study.

[231] AT, CY, FI and PT

[232] (e.g. CZ, HU, PL, PT, RO)

Administrative procedures	No. of MS	Member States
Access to education	15	AT, BE,[233] BG, CZ, EE, EL, ES, FI, FR, HU, LT, LV, MT, NL, RO
Access to healthcare	15	AT, BE, BG, EE, EL, ES, FR, HU, IT, LT,LV, MT, NL, PT, RO
Registration with public employment services (PES)	21	AT, BE, BG, CY, CZ, EE, EL, ES, FR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI, SK
Social security registration	16	AT, BE, BG, CZ, EE, EL, ES, FR, IT, LT, LV, MT, NL, PT, RO, SI
Open a bank account	19	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HU, IT, LT, LU, LV, MT, NL, RO
Utility subscription	14	AT, BG, CY, CZ, DE, EE, EL, IT, LT, LV, MT, NL, RO, SK
Fixed telephone subscription	19	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, IT, LT, LV, MT, NL, PL, RO, SI, SK

Q6a (iv). If the Member State applies the Schengen acquis in full) Does the Member State allow third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory?

All Member States members of the Schengen area allow third-country nationals holders of a Schengen visa to enter and move freely for a short term stay – i.e. for 90 days within the period of 180 days. In **Portugal**, the holder of a residence permit issued by another Member State that enters Portuguese territory coming from another Member State must submit a declaration of entry[234] to the Immigration and Border Service (SEF) within three days. This requirement is waived if the third-country national stays in a tourist accommodation establishment.

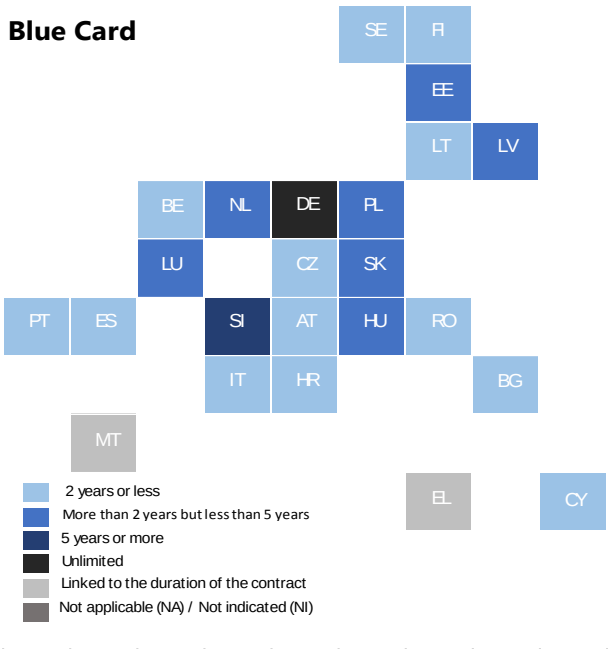
As a 'nearly' Schengen member, **Bulgaria** accepts residence permits issued in Schengen states as valid entry documents, while Schengen countries might not accept Bulgarian ones.

Q6b (i). What are the different periods of duration of residence permit renewals per status (first permit durations are covered under Phase 5)?

Renewal periods of the residence permits vary significantly across Member States and also across different statuses. In some Member States (e.g. AT, BE, IT), the duration of the renewal is the same as the duration of the first permit, while in others there is a fixed maximum duration.

[233] For higher education only

[234] Declaração de Entrada

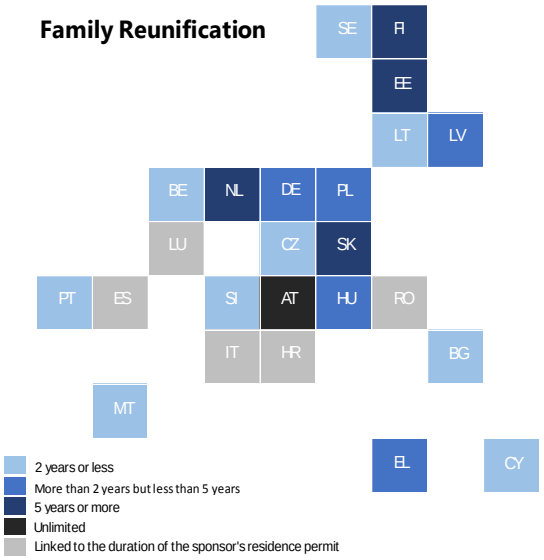


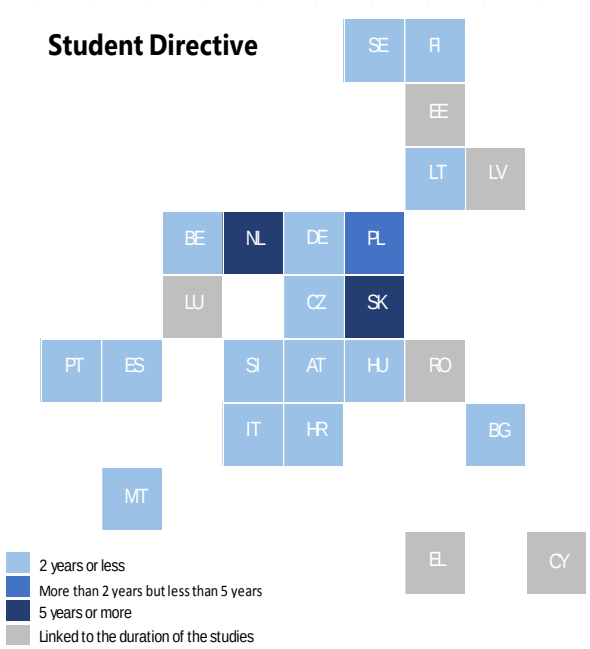
According to Art. 7(2) of the EU Blue Card Directive Member States shall set the validity of the EU Blue Card between one and four years. If the work contract covers a period less than this period, the EU Blue Card shall be issued ***or renewed*** for the duration of the work contract plus three months. Renewal of the **EU Blue Card** is usually the duration of the duration of the work contract plus 3 months. In addition to this, in most Member States, there is a maximum duration of renewal[235]. In Cyprus and Lithuania, the maximum renewal duration is 1 year. In seven Member States[236], the maximum period of renewal is 2 years. In Bulgaria and Slovenia, this period is 3 years, while in six Member States this maximum period is 4 years[237]. In Austria[238] and Germany, the renewal most often leads to a permanent settlement permit of unlimited validity.

Art. 13(2) of the Family Reunification Directive stipulates the family members a first residence permit of at least one year's duration and shall be renewable, while Art. 13 (3) provides that the duration of the permit shall in principle not go beyond the date of expiry of the residence permit held by the sponsor. The renewal duration of a permit based on **family reunification** usually depends on the permit of the sponsor – i.e. it is of the same validity and cannot exceed the validity of the permit of the sponsor. This is the case in eight Member States[239]. In the majority of Member States, there is a limit for the maximum validity of the renewal which is 1 year in four Member States[240]; 2 years in five Member States[241]; 3 years in five Member States[242]; 4 years in two Member States[243] and 5 years in two Member States[244]. In Austria, family members usually obtain an unlimited Red-white-red plus card. In Estonia and Sweden, the validity for spouses depends on how long their marriage lasted. In Estonia, if the marriage at the time of requesting renewal has lasted less than three

[235] BE, BG, CY, CZ, EE, ES, FI, HR, HU, IT, LY, LU, LV, NL, PL, PT, RO, SE, SI, SK
[236] CZ, ES, FI, HR, IT, PT, RO and SE
[237] BE, EE, HU, Lu, LV, NL, SK; Belgium - renewable for another 13 months (unless the work contract is shorter) and then 3 years
[238] In Austria, initial renewal of two years, after two years Blue Card holders may obtain an unlimited Red-white-red plus after two years of residence and a working period of 21 months
[239] EE, ES, HR, IT, LU, MT, RI and SI
[240] BE, BG, CY, MT
[241] CY, LT, PT, SE (*however, validity is permanent for those who lived together for more than two years in their home country), SI
[242] CZ, DE, EL, HU, PL
[243] FI, LV
[244] NL, SK

years, the residence permit can be extended by maximum one year at a time. However, if the marriage has lasted at least 3 years, then the resident permit can be extended for up to 3 years at a time.





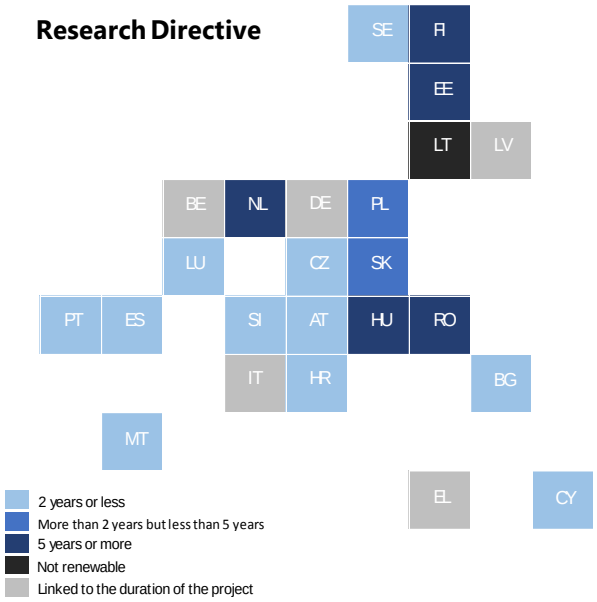
According to Art. 12(1) of the Student Directive, a residence permit shall be issued to the student for a period of at least one year and renewable if the holder continues to meet the conditions. If the study is less than one year, the residence permit shall be issued for the duration of the studies. Renewals of permits based on the **Students Directive** are issued for the duration of the course in eight Member States[245]. In Lithuania and Sweden, the permit can be extended to 6 months (and up to 13 months in Sweden). In seven Member States[246], the permit can be extended annually or the duration of the study if this is less than 1 year, while this period is 2 years in five

[245] BE, CY, EE, EL, IT, LV, PL, RO

[246] AT, BE, ES, FI, HR, PT, SI

Member States[247]. In Poland, the maximum renewal period is 3 years and in Slovenia it is 5 years.

According to Art. 8 of the Research Directive stipulates that Member States shall issue a residence permit for a period of at least one year and shall renew it if the conditions are still met. If the research project is scheduled to last less than one year, the residence permit shall be issued for the duration of the project. Renewals of permits based on the **Research Directive** are issued for the duration of the research/project in 6 Member States[248]. The maximum period is 1 year in 7 Member States[249]; 2 years in 3 Member States[250]; 3 years in Poland and the Slovak Republic; 4 years in Finland and 5 years in four Member States[251]. The residence permit based on the RD is not renewed in Lithuania.



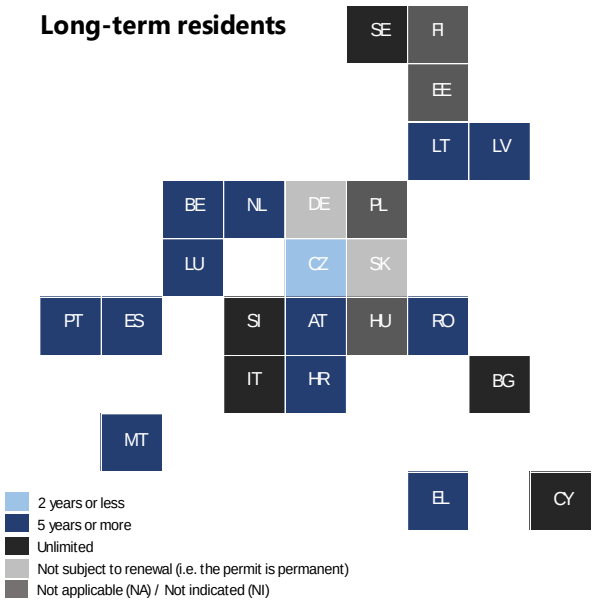
[247] CZ, DE, HU, LU and MT

[248] BE, DE, EL, IT, LV, SE

[249] AT, BE, CY, ES, HR, LU, SI

[250] CZ, PT, MT

[251] EE, HU, NL, RO



According to Art. 8(2) of the **Long-term residence Directive**, "The permit shall be valid at least for five years; it shall, upon application if required, be automatically renewable on expiry." With regard to LTR, the residence permit is issued for an indefinite period and does not need to be renewed in 8 Member States[252]. In 13 Member States[253], it needs to be renewed every 5 years and in the Czech Republic every 2 years. The short duration in the latter is **not conform** with the Directive. In Romania, renewal of residence permit is up to total period of 10 years for a family member of a Romanian citizen and up to 5 years for stay in Romania for other purposes provided by law.

With regard to the **SPD**, in most Member States, the renewal duration depends on the duration of the work contract and also varies depending on the particular permit.

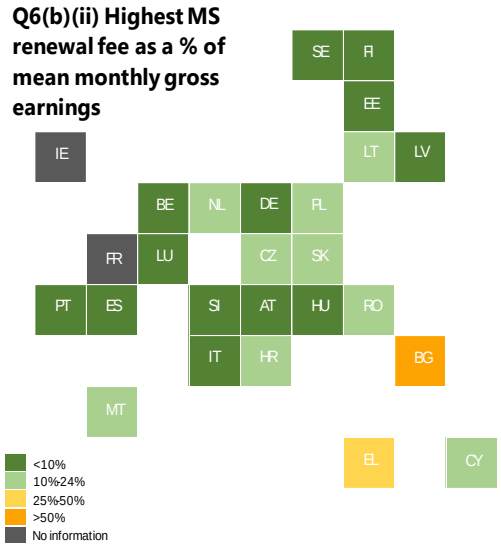
[252] BE, CY, DE, EE, FI, SE, SI, SK

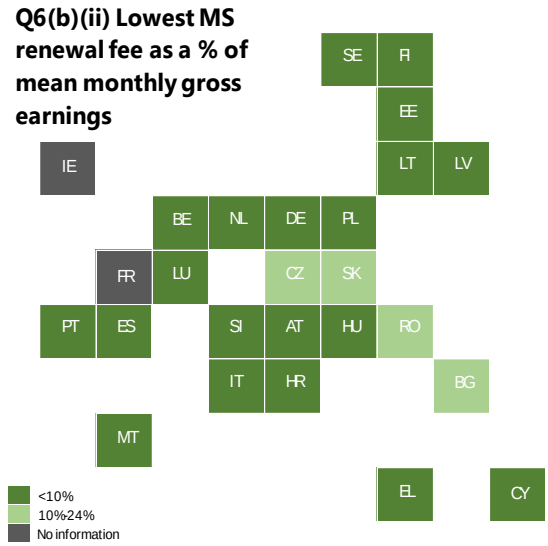
[253] AT, BE, EL, ES, HR, HU, IT, LT, LU, MT, NL, PL, PT

Q6b (ii). How much are the fees for renewal of the residence permit?

The figures below present respectively the highest and the lowest fees for renewals of residence permits charged by the Member States as a share of the mean monthly gross earnings in that Member State. As can be seen from the graph, similarly to the application fees for initial permits, in one Member State (Bulgaria), the highest fees for renewals charged corresponds to more than 50% of the mean monthly gross earnings, while in Greece these represent between 25-50% of the monthly earnings. The vast majority of Member States apply the lowest fees corresponding to less than 10%as a share of mean monthly gross earnings.

Figure 8. Fees for renewal as a share of mean monthly gross earnings in the Member State





Q6b (iii). Does national or EU law impose a direct or indirect requirement to renew a valid residence document?

In all Member States, with the exception of Hungary, third-country nationals are required to renew their residence documents within a specified timeframe prior to expiry of the permit. For example, in **Austria** this timeframe is 3 months prior to expiry until expiry, while in the Netherlands, renewal needs to be requested 3-6 months before the permit expires.

In some Member States, there is a tolerance period after the residence permit has expired – for example, in Estonia, this period is 90 days or 183 days, depending on the status and 90 days in Spain. In Italy, this period is 60 days after the expiration of the permit. Following this 'tolerance period', the third-country national is usually issued a return decision as their stay becomes illegal due to failure to renew their permit. In Italy, if the third-country national does not receive an expulsion order, s/he may still submit a renewal application after this latter deadline, without any sanctions or other negative consequences on his/her application.

In **Austria**, following the request for renewal, the person receives a certificate about the new application which allows further residence, even if the old permit expired. In exceptional cases renewal applications may be filed after expiry. With regard to the LTR, in some Member States (e.g. BE, DE, FI) where the permit is indefinite, there is no need to renew the permit.

Q6b (v). How can TCNs lodge an application for renewal (e.g. via post, online, in person)?

In 14 Member States[254], the application for renewal can only be submitted **in person**. In most of these Member States[255], applications are available online as downloadable and printable documents. In Belgium the application can also be made online in some places, although it is not a common practice. In Finland, the application can be lodged both electronically[256] and on paper (via post or in person with copies of the documents needed). However, regardless of the mode of submission, the applicant must visit either the embassy abroad or the Immigration Services service point *in person* in order to show original documents and to submit biometrical data for the residence permit card. Similarly, in Slovenia, application forms are available online, may be downloaded, printed out, filled in and sent to the competent authorities by post. The applicants, however, shall be summoned by the competent authorities to provide their fingerprints, since without fingerprints an application for renewal shall be deemed incomplete.

In addition to those Member States, that allow submission only in person or those which allow submission via post but require physical presence for the biometric data (FI and SI), in only a few countries the application can also be submitted via **post** (CZ, EE[257], IT, LU, SE); **e-mail** (EE[258]) and **online** (NL, RO and SE).

Table 11. Possibilities for launching an application for renewal of residence permit

Ways of lodging application	No. of MS	Member States
In person	22	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, LT, LV, LU, MT, PL, PT, RO, SE, SI, SK
Online	7	BE, EE, ES, FI, NL, PL, RO, SE

[254] AT, BG, CY, EE, EL, FR, HR, HU, LT, LV, MT, PT, PL, SK

[255] e.g. AT, BG, CY, CZ, FI, MT

[256] In Finland, the EnterFinland electronic platform allows the submission of an electronic application to which copies of the needed documents in electronic form are attached to.

[257] if less than 5 years have passed from capturing of fingerprints, otherwise it has to be submitted in person

[258] ibid

Ways of lodging application	No. of MS	Member States
Post	6	CZ, EE, FI, IT, LU, SI, SE
E-mail	1	EE

Q6b (vi). Which Member State authority/ies is/are involved in the renewal process?

All Member States, with the exception of Bulgaria, apply a single procedure for renewals. Depending on the type of permit, there could be more than one national authority involved. The third-country nationals usually approaches one authority responsible for the renewal and this authority usually may consult other relevant national authorities. For example, in **Poland**, the main institution considering applications is the Voivode (regional authorities) competent for the third-country national's place of residence. The Voivode receives the application and issues a decision. However, the prior to taking the decision, the Voivode is obliged to ask the commander of the Border Guard, the commander of Regional Police, the Chief of the Internal Security Agency, and if necessary also other bodies, to share information on whether the entry and stay of the foreigner in the territory of Poland may pose a threat to national defence or national security or public safety and order. In other cases, such as for example in **Slovakia**, in relation to Single Permit Directive, when application for renewal is lodged, the migration authority consults with the labour office for confirmation on the possibility to fill the vacant job position. In the vast majority of cases, the authorities which process and issue the renewals are the same as those issuing the first permit, but in general the number of other authorities involved in this process is lower than for first applications.

Q6b (vii). Does the Member State impose any administrative or financial sanctions if the applicant fails to comply within a given deadline in case of renewal of the permit?

In 14 Member States[259], there are **no administrative or financial sanctions** if the applicant fails to comply with a renewal deadline. However, most commonly, failure to comply with this deadline results in illegal stay, with the related consequences.

In five Member States[260], there is an **administrative sanction** for failure to renew application. In **Austria, Germany, Hungary** and **Malta**, if an applicant fails to renew their permit and/or provide information and documents on time or after a request by the authorities then the renewal will be refused and they will be obliged to leave the Member State.

In five Member States[261], failure to renew the permit leads, in addition to the situation of irregularity which may lead to a return decision, also to **financial sanctions**. In **Finland**, if the application is not submitted or submitted very later, it can be considered to constitute an offence against the Aliens Act and can be subject to a fine. The fine is not a fixed sum, but depends, firstly, on the judged severity of the offence and, secondly, on the income and family size of the third-country national[262]. In

[259] BE, BG, CY, CZ, EE, EL, ES, HR, IT, LV, LU, RO, SK, SE

[260] AT, DE, HU, NL, MT

[261] FI, LT, PL, PT, SI

[262] However, it must be noted that the implementation instructions of the Immigration Services (5.6.2014; p. 29) advice that late applications are to be treated and decided on normally, except for the requirement to stop working and except in case the applicant has clearly resided outside Finland for so long that the application must be considered as a new residence permit application (in which case the higher first-time permit fees apply

Portugal, if the applicant fails to apply for the renewal of the permit within the legal deadline (up to 30 days before the expiry date of the permit), that constitutes a violation of the law punishable with a fine of € 75 to € 300[263]. Furthermore, if the third-country national fails to inform the competent authority of changes in their situation (marital status, address) there are financial sanctions of 45 to 90 EUR (which is reduced to half in case of voluntary payment). In **Slovenia**, irregular residence is punishable with a fine in the amount of 800–1200 EUR.

7.2.2 Topic 6.2: Status changes and naturalisation

Q6c (i). What kind of status changes are allowed in the Member State?

In the vast majority of Member States, third-country nationals are allowed to change status, provided that the conditions for the new status are satisfied. Procedures are generally the same as for first time applicants. Only a few Member States have adopted a more restrictive position, allowing changes only for specific categories (LU, SE) or imposing additional restrictions (CZ, LV), such as the need to have spent a certain period of time in the country with another permit (CZ) or having graduated from university (LV)[264]. Moreover, some Member States have ad-hoc procedures in place that can be applied on a case-by-case basis (BE, CY), e.g. in the context of (rejected) asylum seekers[265]. A practical obstacle reported by the majority of Member States is that it is difficult to find publically available information and understand the conditions and requirements for status change. Only a number of Member States provide migrants with specific information on the requirements they have to meet and the procedures they have to follow (CZ, DE, EL, ES, FI, IE, NL, PL, SE, SK, UK)[266] . **Belgium** reported that while status change are possible in most cases as long as the admission conditions are met, in practice these changes do not occur very often as third-country nationals face practical and administrative obstacles. **Cyprus** reported that a change of status from one permit to another is discretionary and in most cases not permitted, except where permit holders meet the criteria for the LTR permit. In Germany, changes to certain statuses are not allowed. This includes changes from family to national statuses covered by the SPD and status from a residence permit on study purposes to the LTR or equivalent national status to the LTR.

Q6c (ii). Are the procedures and conditions applied for status changes different from those applied to first time applicants?

In the majority of Member States[267], in order to change status, third-country nationals must meet the same eligibility conditions and submit the same application along with required documents as in the case of those applying for the first time and there is no facilitated procedure. The main difference in terms of procedure is that the applicant does not need a visa and the application can be submitted on the territory of the Member States, whereas for some statuses, first time applicants are obliged to submit or appear before the diplomatic mission/representation in the country of origin. In six Member States[268], there are certain differences in the procedures and/or conditions when applying for a status change. For example, in **Slovenia**, third-country nationals who apply for a status change do not need to prove the medical record that s/he does not suffer infectious disease and do not need to attach criminal record if such document was provided in the previous application procedure. In **Hungary**, some

[263] Currently, SEF is not applying the financial sanction if the TCN has requested an appointment to apply for renewal of the permit before the expiry date of the residence permit.

[264] Synthesis Report for the EMN Focussed Study 2015, p.12. Changes in immigration status and purpose of stay: an overview of EU Member States' approaches.

[265] Ibid.

[266] Synthesis Report for the EMN Focussed Study 2015, p.25. Changes in immigration status and purpose of stay: an overview of EU Member States' approaches.

[267] AT, BE, BG, CY, DE, EE, EL, ES, FI, HR, LV, LT, MT, NL, PL, PT, RO, SI, SE

[268] CZ, FR, HU, IT, LU, SK

status changes are interpreted as renewals and thus, the application fee is lower – i.e. 10.000 HUF (instead of 18.000 HUF)[269].

With regard to status changes from family reunification permits to any other autonomous permit, conditions vary across Member States. According to Art.15(1) of the Family Reunification Directive, "*Not later than after five years of residence, and provided that the family member has not been granted a residence permit for reasons other than family reunification, the spouse or unmarried partner and a child who has reached majority shall be entitled, upon application, if required, to an autonomous residence permit, independent of that of the sponsor. Member States may limit the granting of the residence permit to the spouse or unmarried partner in cases of breakdown of the family relationship.*"

They usually require a certain minimum period of residence of uninterrupted stay after which the family member can apply for long-term/permanent settlement which is considered as 'autonomous' – after three years (e.g. CZ, EE) or five years (LU, LV). For spouses in Estonia, family members can apply for another status even after the marriage has been terminated. However in the Czech Republic, in case the sponsor has deceased, a change of residency permit to another type is only permitted if on the date of death of the sponsor, the residency permit holder has been residing in the Czech Republic at least 2 consecutive years, which could be considered as a rather strict approach. In some Member States (e.g. LU, SK), proof of stable and sufficient resources independent from the sponsor is needed in order to obtain an autonomous permit, while in other Member States (e.g. NL), there are integration conditions which need to be met.

With regard to status change from student to salaried work/independent activity, this is only permitted after the student successfully completes their higher education. In the majority of Member States, the student can obtain a residence permit to look for a job for six months[270]. In **Italy**, third-country nationals with student permits are required to change status and apply for a residence permit for employment reasons before their permit expires, if they start working or if they work more than 20 hours per week or 1040 hours per year. In **Estonia** and **Luxembourg**, there is a simplified procedure for students in order to obtain an authorisation to stay for salaried persons, such as an exemption from a labour market test and from having to meet certain salary thresholds. **Belgium** and **Cyprus** reported that in practice changing status from a student status is very difficult.

With regard to status change from Blue Card or other temporary work permits to long-term residence permits, this is possible in all Member States, provided that the conditions are met. In **Cyprus**, however, the quota for Blue Cards has been set to 0 and effectively, no Blue Cards are issued at present.

Q6c (iii). In which circumstances are third-country nationals required to apply for a change of status (e.g. change of employer or occupation)?

In general, all Member States require a change of status if the circumstances and reasons for stay for the applicant change and this is not covered by the permit already issued. The changes can be permitted on specific legal grounds. All Member States allow changes for family reasons (i.e. other immigration statuses), education, and/or remunerated activities[271]. Remunerated activities are proportionally speaking the

[269] Status changes *from the following statuses* (i) Blue Card, (ii) Residence Permit for the Purpose of Family Reunification, (iii) Residence Permit for the Purpose of Studies, (iv) Residence Permit for the Purpose of Scientific Research or (v) Residence Permit issued in a Single Procedure *to* Long-Term Residence Permit (both directive based one and national equivalent one) are considered as new status applications.

[270] E.g. AT, LT, LV, SE

[271] Synthesis Report for the EMN Focussed Study 2015, p.17. Changes in immigration status and purpose of stay: an overview of EU Member States' approaches.

most frequently occurring status change, followed by educational reasons[272]. The **education and research statuses** are by default temporary, i.e. they end when the education / research activity ends. Therefore, if someone wants to stay in the Member State after the end of their studies, a change of status is always required. As noted above, in the majority of Member States, students are allowed to stay for 6 months following the end of their studies to seek employment.

As regards **statuses for the purpose of work**, the requirements in the event of changing the employer or occupation differ across Member States. In some Member States (e.g. Cyprus, Malta and Italy), if the third-country holds a permit that allows them to work, s/he only needs to notify/request a permission to change employer, but does not require a change of status. In contrast, in other Member States, third-country nationals are required to change the permit. For example, in **Belgium**, in most cases if a third-country worker changes employer, s/he must apply to a new work permit since work permit B which is issued most commonly is limited to a specific employer. Yet in other Member States, such as **Finland** and **Estonia**, change of status is only necessary in case of change of employment if in another sector than that authorised by the permit.

Q6c (iv). For applications for long-term residence, how shall proof of continuous and regular residence be presented?

For the issuance of a long-term residence permit, the following evidence can be presented as a proof of continuous and regular residence:

- Previous residence permits issued in the Member State (AT, BE, BG, EE, PL, PT, RO, SK)
- The applicant's passport (e.g. entry/exit stamps) (CY, CZ, EE, ES, HU, LT, NL, PL, PT)
- Tickets (e.g. plane tickets) (PL)
- Health insurance coverage (CZ, LT)
- Proof of financial resources (EL, LU, MT)
- A lease agreement (CZ, HR)
- A copy of the house purchase contract or verified lease contract (EL, HR)
- Proof of sufficient knowledge of the official language(s) (EL)
- Ex-officio/registered in a national register (HU, LT, SE, SK)
- Ex-officio/registered in a municipal office (BG, IT, SI)
- Work contract or certificate from an employer (LT, PT)
- Social security registration (LU)
- Other documents proving the applicant's integration (e.g. certificate of language courses, club member card, testimonial evidence) (LU)

Most of these are easy to provide or are obtained ex officio by the competent authorities, but some types of evidence, such as travel tickets may not necessarily be kept by the applicant over the five year period. Also, documents to prove 'integration' leave a certain level of discretion to the authorities.

Q6c (iv). Does the Member State impose any administrative or financial sanctions if the applicant fails to comply within a given deadline for requesting a status change e.g. if the applicant fails to submit an application for a status change on time, see Q6b (iii) and Q6b (vi) above, or fails to provide information / documentation on time, after having lodged an application?

Similarly to the renewal of permits (see question Q6b (vii)), in the vast majority of Member States[273], there are no administrative or financial sanctions if the applicant

[272] Ibid.

[273] BE, BG, CZ, DE, EE, EL, FI, IT, HR, LT, LV, NL, RO, PT, SE, SK

fails to comply with any requirements around status change. However, failure to respect deadlines may lead to the rejection of the application. For example, in the Netherlands, when documentation/information is missing the IND will send a query to the third-country national third-country nationals stating what must still be sent within a 14-day deadline. When third-country national do not respond to this letter in time the application will be considered inadmissible which can lead to residence consequences. A residence gap has consequences for subsequent procedures such as applications for long-term residence and Dutch citizenship for which a consecutive number of years is required.

Administrative sanctions are in place in eight Member States whereby failure to notify of the changed conditions for residence will result in rejection of the application. For example, in **Luxembourg, w**hen authorities find out that the third-country national does not comply with the required conditions of that permit, they issue a letter and the third-country national has 30 days to apply for another permit. If a migrant's stay is found to be illegal because s/he no longer fulfils the conditions of the permit, his/her residence permit will be withdrawn and s/he will be asked to leave within 30 days after the notification of the return decision.

In addition to administrative sanctions as described above, four Member States[274] have financial sanctions in place for failure to notify the authorities that the conditions of the permit have changed. The sanctions vary from € 50 – 250 in **Austria**; minimum sanction of PLN 1,000 in **Poland** and €800 – 1,200 in **Slovenia**. In **Hungary**, in cases of employment, the new employer might be fined up to €1,600[275] .

Q6c (vi). Please review information (publicly) available on status changes and rate your agreement with statement provided in the table below: The procedures to apply for a change from the migration status into another status are clear

As highlighted above, a practical obstacle reported by the majority of Member States is that it is difficult to find publically available information and understand the conditions and requirements for status change. In approximately half of the Member States[276], national researchers responded to this statement as 'Disagree' and 'Strongly disagree', while further four responded with 'Neither agree/nor disagree'[277]. It was reported that information on changes of status is either scarce or difficult to find in comparison to information on application for first permits and renewals, which is generally more readily available.

Q6c (v). How can third-country nationals obtain citizenship in the host Member States?

All Host Member States require third-country nationals to have been legally and continuously residing in the Host Member State for a set number of years and/or hold permanent residency as a prerequisite for the acquisition of citizenship. As illustrated in the table below, the number of years extend from a minimum of 3 to a maximum of 10 years.

Table 12. Minimum residency required

Minimum residency	Member States
3 years	PT
4 years	MT (a minimum of 4 years during the last 6 years), NL

[274] AT, HU, PL, SI

[275] 500.000 HUF August 2017 exchange rate 1 HUF = 0.0033 euro

[276] BE, BG, CY, CZ, EE, LT, LU, MT, PL, PT

[277] DE, ES, HR, SE

Minimum residency	Member States
5 years	BE, EL, FI, HR, LU, LV, SE
7 years	CY, RO
8 years	DE, EE, SK
10 years	AT, BG, CZ, ES, IT, LT, PL, SI

Exceptions relating to the condition of residency apply to third-country nationals whose spouse is a citizen of the host Member State[278]; to third-country nationals who have been granted asylum or refugee status by the host Member State[279]; and to minors who were born, adopted or resided in the host Member State before the age of 18[280]. In these cases, the legal requirements for residency diverge from the number of legally required years of residency are reduced.

Concerning the criteria of means of livelihood, only Austria and Belgium have stipulated specific legal requirements. In Austria, third-country nationals have to proof that they have received a regular income over a period of 36 months within the last six prior to the citizenship application. In the case of Belgium, third-country nationals at the time of application must have worked 468 days during the past 5 years. The rest of the Member States[281] only stipulate that the third-country nationals need to proof that they have sufficient financial means to sustain themselves.

Minimum language requirements have to be met in all Member States, with a number of them requiring specific proof of language proficiency in form of language certificates[282]. In the remaining Member States, sufficient language knowledge is mentioned as a perquisite for citizenship[283].

In addition to the language requirements, different proofs of integration and general knowledge about the country of residence apply in a number of Member States in order to obtain citizenship, as well as:

- Proof of a clean criminal record[284];
- Participation in a citizenship exam/naturalisation exam on civic knowledge and history[285]; and
- Renunciation of old citizenship[286].

With regard to the procedure, applications for naturalisation are made to the relevant authority in charge of the naturalisation procedure, which may include the local municipality[287], the Civil Registry Authority[288], the Ministry of Justice[289], or the police[290]. With the exception of Germany, Czech Republic and Slovak Republic application procedures have been standardised and require third-country national applicants to submit the application form together with the requested documentation[291] in person or via post to the relevant authority. Should the authorities reach the conclusion that all legal requirements are met, naturalisation will be granted.

[278] AT, CY, CZ, IT, PL
[279] AT, CZ, ES, IT, PL, SI, SK
[280] CZ, EL, ES, PL, RO
[281] BG, CZ, DE, LT
[282] AT, BE, BG, CZ, EE, ES, LT, LU, PL, HU, SK.
[283] DE, FI, CY, HR, IT, NL, PT, SI, RO
[284] AT, CZ, NL
[285] AT, DE, EE, ES, LT, LV, NL
[286] AT, DE, HR, LT, NL
[287] BE, NL, SI
[288] CY, LU, RO
[289] BG and SE
[290] LT, MT
[291] This can include birth certificate; proof of permanent residency; tax records etc.

Q6c (vii). Please review information available on the applicable rules and procedures for naturalisation and rate your agreement with the statements below: Information on procedures to apply for naturalisation is easily obtainable

In 19 Member States, national researchers either 'strongly agreed' or 'agreed to the statement' as information on obtaining citizenship is readily available and easy to find. Only Greece and Malta 'disagreed' to the statement, while in Belgium, Bulgaria and Hungary rated the statement with 3 ('neither agree nor disagree').

7.2.3 Topic 6.3: Access to employment and employment related rights

Q6d (i.a). If access to the labour market is granted to a third-country national, is this indicated on the residence card?

Irrespective of the type of the permit issued[292], the SPD requires Member States, when issuing residence permits in accordance with Regulation (EC) No 1030/2002 to indicate the information relating to the permission to work. In line with the Regulation, when access to the labour market is granted to a third-country national, this is indicated on the residence card in 19 Member States[293]. In five Member States[294], this is not the case, which raises a potential application issue with regard to Art. 7(1) of the Single Permit Directive.

The amount and type of information inserted in the residence card varies across Member States. To provide a few examples, in **Austria**, the name of the permit is indicated on the back of the card; this allows the authorities to know if a permit grants access to work or not. In **Germany**, the information about access to the labour market is stored in a chip; the information differentiates between the right to employment and self-employment. The residence card of the permanent settlement permit states if employment is allowed. In the **Czech Republic,** every type of residence has a double digit code which is printed on the residence card; in case of employment, the code on the card is "27".

Q6d (i.b). Are any other documents issued in relation to the permission to work and/or reside in the Member State other than the residence permit?

Article 6 and 7 of the SPD stipulate that, when issuing the single permit or a permit for other purposes, Member States are not allowed to issue additional permits as proof of authorisation to access the labour market. The Netherlands and the Slovak Republic, in line with the SPD[295], were found to issue an additional document providing additional details on the employer and the specific position. No other instances of Member States issuing additional documents were identified.

Q6d (ii). Are certain permits to work linked to a certain employer only?

In all Member States under examination, except for **Greece** and **Portuga**l, certain permits to work are linked to a certain employer only. Moreover, in all Member States, except for **Cyprus** and **Germany**, third-country nationals need to change the permit if they lose their job or want to change employment. In Germany, If the person loses his/her job he/she remains in possession of the existing residence permit, but the immigration authority can decide to limits its duration.

[292] Bar the exceptions listed in the SPD

[293] AT, BG, CY, CZ, DE, EE, ES, FI, HU, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK.

[294] BG, EL, HR, IT, MT

[295] The second paragraphs of Article 6(1) and 7(1)

In these cases, the procedure to require a new permit varies across countries. The length of the procedure to change the permit ranges from 20 days (e.g. in **Hungary**) to 119 days in **Finland** for some occupations for which a labour market test needs to be carried out. In seven Member States[296] the procedure lasts 30 days whereas in four countries[297] it lasts 90 days. If the applicant does not change permit, 16 Member States[298] apply sanctions, mainly financial ones.

7.2.4 Access to employment for TCN students[299]

The majority of the Member States (DE, FI, FR, IE, IT, LT, LV, LU, PT, SK, SE, UK) provide to TCN students special incentives to remain in the MS after the studies' completion so as to enter the MS's labour market. Most of these incentives are related to more favourable and easier conditions for obtaining a residence permit (change of immigration status) or the MS gives to the TNC a certain period in order to seek a job. In Sweden, TNC students have already access to the labour market prior to the studies' completion which can facilitate their later transition to a resident permit for work reasons. The Netherlands offer incentives only to TNC researchers whereas other countries offer various incentives as for example the UK that has different provisions covering many types of studies (PhD, graduate entrepreneurs etc.). A few Member States (CY, CZ, HR, HU) do not have any special incentives in place to encourage former TCN students to remain in their territory and to enter the labour market. Former TNCs students in Belgium can request a switch to their immigration status prior to the termination of their studies.

Most of the Member States have put into effort certain restrictions concerning the employment of former TCN students. For example in Cyprus, a labour market test is required whereas in Luxembourg former TCN students do not have access to positions in the public sector. Germany and the Slovak Republic offer more favourable and simplified conditions for labour market entry. In Germany specifically, in some cases labour market examination and the approval of the Federal Employment Agency are not required. Six Member States (CZ, FI, IE, LT, PT, SE) give to former TCN students the right to access the labour market without any restriction.

All Member States, except for Portugal, require the former TCN students that have been granted residence permit for the purpose of employment or entrepreneurship to prove that the residence permit is used for its new main purpose and that it is not misused for other purposes. Member States ask for different kind of proofs from the TCN but the majority of the states ask to provide a work contract (e.g. Lithuania, Croatia) or a job offer document (e.g. Sweden). Portugal is the only country that does not ask any related proof.

7.2.5 Topic 6.4: Equal treatment

Q6e (i). Are there any identified restrictions and/or obstacles for third-country nationals enjoying equal treatment compared to nationals in terms of the following:

- *Working conditions, including pay and dismissal as well as health and safety at the workplace*
- *Freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including t the benefits conferred by such organisations*
- *Social security benefits listed in Article 3 of Regulation 883/2004*

[296] BG, CY, CZ, HR, LV, MT, RO.

[297] EL, ES, LU, SK.

[298] BG, EE, ES, FI, HR, HU, IT, LU, LV, MT, NL, PL, RO, SE, SK.

[299] EMN Ad-Hoc Query on AHQ on Retaining TCN Students, Requested by EE EMN NCP on 26th May 2017

- *Education and vocational training*
- *Recognition of diplomas, certificated and other professional qualifications in accordance with the relevant national procedures*
- *Tax benefits, in so far as the worker is deemed to be resident for tax purposes in the Member State concerned*
- *Access to goods and services and the supply of foods an services made available to the public including procedures for obtaining housing as provided by national law, without prejudice to the freedom of contract in accordance with Union and national law*
- *Advice services afforded by employment offices*

Four of the examined Directives (LTR, RD, BCD, SPD) include provisions on equal treatment of TCNs with respect to nationals of the Member States, covering a number of aspects, including, *inter alia,* working conditions, freedom of association, social security benefits, education, recognition of academic and professional qualifications, tax benefits, access to goods and services and advice services. The FRD and SD do not include provisions on equal treatment. However, equality is ensured by the SPD in certain circumstances, for example if third-country nationals, falling within the scope of the FRD and SD, are authorised to work.

In 10 Member States[300], no issues have been identified with relation to the legal transposition and the practical application of equal treatment as stipulated in EU acquis.

The main problem with regard to equal treatment stems from **no or incomplete transposition** of some legal provisions of the respective Directives. This applies to 14 Member States [301]. This results in certain equal treatment rights not being (explicitly) guaranteed. Subsequently, which may lead not only to uncertainty for third-country nationals but also to exclusion of third-country nationals from certain equal treatment rights that are guaranteed by the EU acquis. This is most often the case with regard to social security benefits and access to public goods and services.

General equal treatment issues, applicable to all examined categories of third-country nationals, have been reported in five Member States[302]. In some Member States, the issues concern **access to social protection**ay. In **Hungary**, residence permit holders are not always entitled to certain types of family allowances[303]. In **Latvia**, all relevant national laws on state social allowances, social services and assistance explicitly exclude from the scope of its application persons with fixed- term residence permits, which may lead to improper application of the requirement of Regulation No.1408/71 and replaced by 883/2004 and the respective equal treatment provisions in the Directives. Similarly, in **Slovenia**, access to most payments under family benefits schemes (e.g. childbirth grant, special childcare allowance, large family allowance), payable from the state budget, are only granted when one of the parents and/or the child, or only the child, possesses a permanent residence permit and actually resides in Slovenia.[304]

Furthermore, in **Cyprus** and **Hungary**, it was also reported there is little information available about the right and modalities of accessing social security and social assistance.

With regard to **access to public goods and services**, in **Slovenia**, only those with LTR status can apply for non-profit rental housing, rental subsidies and housing loans

[300] AT, CZ, EE, HR, FI, LT, EE, PT, SE, SK

[301] BE, DE, CY, EL, ES, FI, HU, IT, LV, LU, NL, PL, RO, SI.

[302] CY, HU, LV, PL, SI

[303] based on the Act LXXXIV of 1998 on Family Support.

[304] Parental Protection and Family Benefits Act/ Zakon o starševskem varstvu in družinskih prejemkih, 3 April 2014, and subsequent modifications.

under public scheme. [305]In **Poland**, the Polish Constitution allows for a possibility of setting differentiation in access to goods and services based on nationality with respect to foreigners. Currently, however, no legislation in force has introduced such restrictions.

In **Slovenia**, third-country nationals have access to secondary and higher education under equal conditions as nationals on the basis of the principle of reciprocity (i.e. when Slovenian citizens enjoy the same rights in the country of origin). This principle may constitute a **practical application issue**.

As highlighted above, this results in certain equal treatment rights not being (explicitly) guaranteed. Subsequently, this may lead not only to uncertainty for TCNs but also to exclusion of TCNs from certain equal treatment rights that are guaranteed by the EU acquis. This is most often the case with regard to social security benefits and access to public goods and services.

With regard to **RD**, **Finland, Latvia** and **Slovenia** have not transposed Art.12 of the RD, while Spain has not transposed Art. 12(a) recognition of qualifications. In **Slovenia**, equal treatment applies only to researchers employed in Slovenia and not to those employed in the country of origin who are only hosted by the research organisation in Slovenia, which, if a third-country national is a de facto status holder under the RD, a **practical application** issue. .

As for the **BCD**, in **Belgium**, equal treatment with regards to social security and social protection is guaranteed at a general level. Uncertainty remains as to whether the provision of the Directive is completely transposed. In **Romania**, this provision has not been transposed. In **Latvia**, the provisions regarding recognition of diplomas; access to social security and advice services by employment offices have only partially been transposed, while the provision on access to goods and services have not been transposed. In **Luxembourg**, in the national law, Blue Card holders do not have access to information and counselling services afforded by employment offices made available to the unemployed.

Regarding **LTR**, in five Member States, equal treatment issues could result from unclear transposition of equal treatment provisions, which gives rise to uncertainty. For example, in **Italy**, although reference is made to "*equal treatment between nationals and legally staying foreigners as regards all types of relations with the public administration*"[306], there is no specific reference to equal treatment as regards to the public supply of goods and services made available to the public. In **Cyprus**, the LTR permit holders are entitled only to 'basic benefits of social assistance' which are not defined, resulting in uncertainty as to the eligibility of the exact benefits.

As for the **SPD**, practical problems were identified in eight Member States[307], in which similar to previous statuses, the issues revolve around lack of explicit guarantee of equal treatment (due to partial or non-transposition of certain provisions), in particular as regards to access to social protection and access to public goods and services. For example, In **Belgium** and **Germany**, as regards to 'working conditions' (Art. 12(a)), nationality is not included as an explicit protected criterion for non-discrimination. In **Luxembourg**, with regard to freedom and affiliation and membership of an organisation representing workers or employers, according to the national legislation, workers who do not have a work permit type B or C cannot represent more than one third of the workers' representatives. This reduces significantly the chances for a TCN to be elected as representative, especially in a

[305] Housing Act/ Stanovanjski zakon, 19 June 2003, and subsequent modifications.

[306] Art. 2(5) D. Lgs. 286/1998

[307] BE, DE, EL, IT, LV, LU, NL, PL

small company. The national law is thus not in conformity with the EU Directive in that it makes it more difficult, if not impossible for TCNs to take up a representation role[308].

Only **Cyprus** reported on practical application issues with regard to working conditions not directly related a transposition issue. As documented by several national and international monitoring body reports, the working conditions and salary of domestic workers and agricultural workers are infinitely inferior and cannot be compared to the equivalent of nationals.[309]

Q6e (ii). Are there any third-country nationals, not covered by the Directives, who are enjoying equal treatment compared to the Member State's nationals?

Despite the fact that the EU Migration Directives do not cover all third-country nationals, the equality of some groups falling outside their scope is still guaranteed in some Member States. This is the case in 17 Member States[310], where TCNs, not covered by the EU Migration Directives, are enjoying equal treatment compared to the Member State's nationals.

The categories of beneficiaries vary across countries. In several Member States, such as **Belgium**, (Geneva Convention) refugees enjoy equal treatment with nationals.

In some Member States the list of persons entitled to equal treatment is broad whereas in others such as **Germany** it is restricted[311]. In **Hungary,** numerous categories may also, often dependent on certain conditions, enjoy equal treatment:

- Beneficiaries of subsidiary protection;
- Asylum-seekers after 9 months of the date of submission of the application with work permit;
- Tolerated persons with a work permit;
- Persons under Humanitarian Protection with a work permit;
- Statelessness persons with a work permit;
- Holders of a Residence Permit for the Purpose of Intra-corporate Transfer and Permit for Long-term Mobility;
- Holders of a Residence Permit for Seasonal Workers;
- Holders of a Residence Permit for the Pursuit of Gainful Activity;
- Holders of a Registration Certificate for EEA/Hungarian Nationals;
- Interim Permanent Residence Permit holders;
- Holders of a National Permanent Residence Permit Granted for National Economy Considerations.

In other countries, equality is ensured on certain conditions. In **Romania**, foreigners not covered by the EU legal migration acquis enjoy equal treatment with nationals if they work in projects developed by central/local administration entities which contribute to the development and modernisation of the economic infrastructure of the country and have a positive effect for the economic growth.

[308] Conformity assessment of the BCD

[309] U.S. State Department, 2016 Human Rights Reports: Cyprus, available at www.state.gov/j/drl/rls/hrrpt/2016/eur/265408.htm, section 7(b); U.N. Committee on the Elimination of Racial Discrimination, Concluding observations on the twenty-third and twenty-fourth periodic reports of Cyprus, available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CYP/INT_CERD_COC_CYP_27472_E.pdf

[310] BE, BG, CY, DE, ES, FI, FR, HU, IT, LT, LU, PL, PT, RO, SE, SI, UK.

[311] Equal treatment is ensured to the following categories: TCN holding a permanent settlement permit; TCN holding a residence permit on purposes of vocational training; TCN holding a residence permit on humanitarian grounds.

Q6e (iii.) Does the Member State have a mechanism in place to monitor labour exploitation of third-country nationals?

In all Member States except Finland competent authorities do not have separate departments which specifically monitor labour exploitation[312]. Cooperation between national (governmental) authorities for the identification of TCNs is established formally by law or regulation[313]. While 17Member States[314] have a mechanism in place to monitor labour exploitation, nine Member States[315] do not. This is the case of **Italy** which, although it has a sufficiently developed legal framework to sanction labour exploitation both at a criminal and administrative level and to offer protection to victims, it neither has a mechanism to monitor labour exploitation, nor any other specific measures to prevent labour exploitation[316]. In Member States which have a monitoring mechanism, this falls within the competence of various authorities such as the Labour Inspection Office, the Anti-discrimination authority, the Tax and Customs Board etc. Despite their existence, the mechanisms in place are not always specifically tailored to third-country nationals. As a result, abusive situations involving some groups of migrants might not be easily detected.

Several national researchers drew attention to the fact that third-country nationals suffer from poor working conditions especially in the agriculture and domestic work sectors, such as **Cyprus** and **Italy**. Although equality is recognised by law, it appears to not be fully applied in practice in **Cyprus.** For instance, although the law provides for equal pay of foreign and local workers, migrant workers are frequently paid wages much lower than those provided for in the collective agreements[317]. Since the minimum wage applies only to a small number of occupations and collective agreements do not exist in all sectors, the also system leaves a wide margin of discretion to employers to fix salaries at will.

While, 16 Member States[318] have a mechanism in place to monitor labour exploitation, nine Member States[319] do not. This is the case of **Italy** which, although it has a sufficiently developed legal framework to sanction labour exploitation both at a criminal and administrative level and to offer protection to victims, it has neither a mechanism to monitor labour exploitation, nor any other specific measures to prevent labour exploitation[320].

In Member States which have a monitoring mechanism, this falls within the competence of various authorities such as the Labour Inspection Office, the Anti-discrimination authority, the Tax and Customs Board etc. Despite their existence, the mechanisms in place are not always specifically tailored to third-country nationals. As

[312] EMN Synthesis Report 2017, p. 22. Illegal employment of third-country nationals in the European Union.

[313] Ibid.

[314] BE, BG, CZ, DE, EE, EL, ES, FI, LT, LU, MT, NL, RO, SE, UK.

[315] AT, CY, HR, HU, IT, LV, PL, PT, SI.

[316] Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2014), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA(2014)18, https://rm.coe.int/1680631cc1; Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2017), Report on Italy under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA(2016)29, https://rm.coe.int/16806edf35.

[317] ECRI fourth report on Cyprus

[318] BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, LT, LU, MT, NL, RO, SE, UK.

[319] AT, HR, HU, IT, LV, PL, PT, SI.

[320] Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2014), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA(2014)18, https://rm.coe.int/1680631cc1; Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2017), Report on Italy under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA(2016)29, https://rm.coe.int/16806edf35.

a result, abusive situations involving some groups of migrants might not be easily detected.

In **Belgium**, there is a general labour inspection mechanism that includes the monitoring of labour conditions of third-country nationals' employment although not specifically targeted to them. This service is part of the federal administration (SPF employment). The mechanism is based on investigations on the ground with a dedicated section for labour exploitation (known as "Cellules ECOSOC").[321] Moreover, in October 2015, the federal administration launched a Contact Point for fair competition through which individuals can report abuses.[322] This is complementary to investigations as workers can report directly to the administration. Likewise, in **Greece,** the Labour Inspectorate is mainly responsible for inspecting work places and detecting violations of labour legislation.

In **Germany**, the Federal Anti-Discrimination Agency is inter alia mandated to consult persons who have been discriminated because of their race/ethnicity at their workplace including cases of labour exploitation. In **Estonia**, control visits, such as inspections and checks, are carried out by the Tax and Customs Board and Police and Border Guard Board in cooperation with the Labour Inspectorate. Inspections are carried out based on risk assessment as well as on an ad-hoc basis. Although multiple mechanisms exist, in **Finland** it is the Occupational Health and Safety Authority which monitors, supervises and investigates issues related to the employment of foreigners including labour exploitation and the black economy.

Nine Member States to not have a monitoring system specifically targeting third country nationals. For example, in **Cyprus**. The system does not differentiate between nationals and third country nationals and treats all cases equally. The Department of Labour operates an inspectorate system whereby labour inspectors perform monitoring checks on employers either on their own initiative or after receiving a complaint by workers or workers' unions. No inspections are carried out in private homes where the vast majority of the migrant labour force, such as domestic workers, are employed.

Similarly, no mechanism to monitor specifically the labour exploitation of TCNs exists in **Poland,** however, this issue is at least partially covered by the activities of other bodies. The National **Labour Inspectorate** is authorised to check the legality of employment and stay of foreigners. Likewise, there is no agency dedicated to the labour exploitation of TCNs in **Slovenia.**

Q6e (iv). What sanctions / other consequences has the Member State in place against labour exploitation?

Moreover, the phenomenon of labour exploitation is tackled differently across the EU in terms of sanctions and other legal consequences. Employers can face a number of sanctions, among the most common are administrative and criminal sanctions[323]. How sanctions are calculated and applied differs substantially from Member State to Member State[324].

Several Member States (e.g. Bulgaria, Belgium, Italy etc.) impose financial sanctions to punish labour exploitation whereas others foresee a combination of both financial penalties and the deprivation of liberty. This is the case in **Belgium**, where both a fine and imprisonment can be imposed along with other measures. In particular when the

[321] For more information you can consult the annual report of DG social inspection at: https://socialsecurity.belgium.be/fr/publications/rapport-annuel-dg-inspection-sociale.

[322] https://www.pointdecontactfraudesociale.belgique.be/en/index.html

[323] EMN Synthesis Report 2017, p. 26. Illegal employment of third-country nationals in the European Union.

[324] Ibid.

employer does not comply with the legal requirements regarding labour relations, for instance if labour conditions are illegal, the work permit is withdrawn.[325]

Sanctions against employers that do no respect labour conditions and legal requirements vary according to the level of the infraction committed. If labour exploitation amounts to human trafficking this is a criminal infraction punished by the Criminal Code in **Belgium** (Article 433quinquies of the Penal Code). In such cases the employer can be punished to an imprisonment sentence of one to five years and a fine of at least 500€ and maximum 50.000€.

The deprivation of liberty is also foreseen in **Portugal**, where penalties vary according to the type of crime. Sanctions applying to those who solicit or attempt to solicit labour exploitation differ from sanctions applicable to those who commit exploitation. The severity of the penalty ranges from one to five years (six in case of repeated offence) unless other legal provision imposes a more grievous sentence. In **Cyprus**, the deprivation of liberty can be increased to up to 10 years[326] if the exploited person is a child. In **Czech Republic,** while financial sanctions are applicable to employers, illegally employed employees can be expelled out of the territory of the country.

Labour exploitation falls within different types of crimes across EU Member States. To provide an example under the **Italian law** labour exploitation can be punished as:

- Slavery or servitude (Art. 600, Criminal Code);
- Trafficking of human beings (Art. 601, Criminal Code) punished with 8 to 20 years detention;
- Illegal brokering and labour exploitation (Art. 603bis of the Criminal Code) punished with 5 to 8 years detention and a fine of 1.000-2.000 euro per each worker recruited;
- Hire of undocumented TCNs (Art. 22(12), (12bis) and (12ter), D. Lgs. 286/1998)

Finally, 10 Member States[327] have specific measures in place to *prevent* labour exploitation of TCNs. For instance, in **Portugal**, there are several intervention measures, such as training actions, awareness campaigns, information material, conferences and seminars aimed to prevent the phenomenon etc. These actions aim at discouraging the demand for irregular TCN work, increase the likelihood of identification of potential victims of labour exploitation by police officers and the general population and increase the likelihood of people denouncing the potential situations.

7.2.6 Topic 6.5: Integration

Two Directives (FRD and LTR) stipulate that Member States may require compliance with integration 'measures' (FRD) and 'conditions' (LTR). According to the Commission's guidelines on the FRD[328], Member States may impose a requirement on family members to comply with integration measures under Article 7(2), but this may not amount to an absolute condition upon which the right to family reunification is dependent. The Directives do not define integration 'measures' and 'conditions'. Integration 'measures' (or pre-integration measures) could refer to measures conducted in the immigrant's country of origin, including language courses, 'adaptation' and civic orientation courses, including courses on history and culture of

[325] Royal Decree of 9 June 1999, Article 35.

[326] Law revising the legal framework regulating the prevention, combating of trafficking and exploitation of persons and protection of victims N.60(I)/2014, 15 April 2014, article 8. Available at http://cylaw.org/nomoi/arith/2014_1_060.pdf

[327] BG, CY, ES, FI, HR, LU, NL, PT, RO, SK.

[328] COM(2014) 210 final

the country of origin[329]. In contrast, integration 'conditions' as laid down in the LTR refer to evidence of integration in the host society.

Integration requirements and measures differ significantly across Member States. The majority of Member States do not require TCNs to fulfil specific integration measures in order to reunite with family[330][331]. Where integration measures exist prior to admission for family reunification, (Member) States require family members to demonstrate basic language proficiency, corresponding to A1 level of the Common European Framework of Reference for Languages (e.g. in AT, DE, NL) or take a civic integration exam (NL)[332]. Table 13 below provides an overview of the integration requirements and measures in the Member States. In 12 Member States[333], there are mandatory integration requirements, while in the remaining Member States, integration measures (such as language and integration courses) are voluntary. In five of these[334], the mandatory integration requirements only concern applicants for **long-term residence**, who need to demonstrate integration through knowledge of national language(s) and knowledge about society and culture of the country. For example, in **Greece**, in order to obtain a long-term residence permit, the applicant need to demonstrate sufficient knowledge of the Greek language, history and civilization. This can be demonstrated through the following means: document of graduation from Greek school or university; certificate of attainment in Greek of at least B1 level and special certificate of sufficient knowledge of the Greek language and elements of Greek history and civilization.

Commonly, in the majority of Member States[335], refusal to participate in the integration measures can result in loss of status. In **Belgium, Germany** and **the Netherlands**, not attending the integration and language courses may also result in a financial fine. Refusing to participate in the planning (30 days) or not attending the scheduled planning session (15 days) or refusal or failure to participate in the planned activities (60 days) will result in the withdrawal of social benefits for a number of days. Fees in relation to integration and language courses depend on the country of origin, course provider or course format (examination fee ranges from €75 to €130 for levels A1, A2 and B1 of CEFR in AT, €150 in NL)[336].

A small number of (Member) States may additionally require family members to acquire further language proficiency after admission (usually A2 or B1 level of CEFR) (AT, NL), or to take a civic language exam after admission (NL, UK) as part of their general integration programme or as part of requirements for permanent settlement in the country (AT, DE, LV, NL, UL). Estonia, Latvia and Norway provide free-of-charge language training in instances[337]. Other post-admission requirements may include attending civics classes (BE, DE, EE, NL, SE), reporting to an integration centre (AT) or signing a declaration of integration (BE and NL)[338].

[329] IOM (2009), Stocktaking of international pre-integration measures and recommendations for action aimed at their implementation in Germany

[330] BG, CY, CZ (only if the TCN applies for permanent residency), EL, ES, FI, HR, HU, IE, LT, LU, NO, PL, SI, SK, UK

[331] EMN Synthesis Report for the EMN Focussed Study 2016, p.26. Family reunification of Third-Country Nationals in the EU plus Norway: National Practices.

[332] Ibid.

[333] AT, BE, BG, CY, DE, EL, FI, HR, IT, LU, MT, NL

[334] CY, EL, HR, LU, MT

[335] AT, BE, BG, DE, EL, ES, FI, FR, HR, IT, MT

[336] EMN Synthesis Report for the EMN Focussed Study 2016, p.26. Family reunification of Third-Country Nationals in the EU plus Norway: National Practices.

[337] EMN Synthesis Report for the EMN Focussed Study 2016, p.27. Family reunification of Third-Country Nationals in the EU plus Norway: National Practices.

[338] Ibid.

Table 13. Overview of integration requirements and measures

MS	Voluntary (V)/ Mandatory (M)	Categories of TCNs	Types of integration measures	Sanctions/consequences of not attending (Y/N)
AT	**M**	Red-white-red Cards Red-white-red Cards plus and family members	German language skills	Y Loss of status
BE (Flemish Community)	**M**	Family members of a TCN only; other categories are exempted	Tailored programme: - a basic course of Dutch (up to 600 hours, so as to reach A2 level), a course of social orientation: which includes an introduction to the Flemish and Belgian society, career guidance, individual counselling	Y A fine of 50 to 5.000€.
BE (Wallonia)	**M**	Family members of a TCN only; other categories are exempted	Integration programme: - personalised reception - Language courses (at least 120 hours) - Citizenship and social orientation courses (at least 20 hours) - Socio-professional guidance	Y T The first administrative fine is set at 50€. The fine can increase if the TCN still does not take part in the programme.
BG	**M**	Medical professions only	Language courses	Y Inability to have medical profession obtained/recognised
CY	**M** (language test is mandatory but not language courses)	LTR applicants	Language courses in order to pass a language test	Y Test is obligatory for the LTR status
CZ	*No integration requirements in CZ*			
DE	**M**	TCNs who reside for the purpose of gainful employment according to s18 and s21RA, for the purpose of family reunification	Integration courses	Requirement for obtaining a permanent settlement permit according and for a long-term residents permit. There is the option of issuing coercive means which can inter alia be a fine. Furthermore, the TCN can be obliged to pay the cost

MS	Voluntary (V)/ Mandatory (M)	Categories of TCNs	Types of integration measures	Sanctions/consequences of not attending (Y/N)
				contribution.
EE	V	Available to all foreigners (both EU nationals and TCN)	Welcoming programme which includes also short language training	N
EL	**M**	LTR applicants	Proof of sufficient knowledge of the Greek language, history and civilization	No eligibility for long-term resident permit
ES	V	Holders of temporary permits	Integration effort report: element in the renewal of temporary permits under the competence of the Autonomous Communities Administrations.	N
FI	**M**	In case the TCN is unemployed or receives income support during the first three years of his/her residence; family members of the immigrant may be included in such a plan.	Tailored individual plan Integration measures (such as language courses and other courses such as civic orientation courses, vocational or other training or education etc.)	Refusing to participate in the planning (30 days) or not attending the scheduled planning session (15 days) or refusal or failure to participate in the planned activities (60 days) will result in the withdrawal of benefits for a number of days.
HR	**M**	LTR applicants	LTR will be accorded to a TCN who knows the Croatian language and Latin alphabet as well as the Croatian culture and social system.	No eligibility for long-term resident permit
HU	V	all TCNs	Integration measures implemented by NGOs	N
IT	**M**	Integration agreement - all TCNs who enter Italy for the first time and apply for a new residence permit of a duration equal to or longer than one year Italian language test - LTR applicants	Integration agreement - knowledge of the Italian language (equivalent to level A2), a good understanding of Italian institutions (e.g. in the field of health, education, labour, etc.); compulsory education to the children Italian language test	Integration agreement – non-participation may result in loss of residence permit and a return The Italian language test is mandatory in order to obtain a LTR permit
LT	V		Voluntary Lithuanian language courses, voluntary participation in the centres' of immigrants, communities' activities	N
LU	**M**	LTR applicants	When authorities examine the application for long term residency, they can take into consideration the degree of	Y The application for long-term residence will be refused

MS	Voluntary (V)/ Mandatory (M)	Categories of TCNs	Types of integration measures	Sanctions/consequences of not attending (Y/N)
			integration of the third country national who can prove this by bringing evidence of language classes, witnesses, etc	
LV	V	All third-country nationals	Language courses	N
MT	**M**	LTR applicants	Attendance of at least 100 hours of an integration course and achieved a 75% pass mark in the examination of such course in the last 12 months immediately prior to the application for long term residence; and has obtained a pass mark of at least 65% pass mark in a Maltese language course at secondary education level.	Y The application for long-term residence will be refused
NL	**M**	TCNs with a residence permit based on family reunification, with a sponsor who has a non-temporary right to stay, and TCNs intending to work in the Netherlands as spiritual counsellors in public	Introduction about core values of the Netherlands	Y Residence permit can be revoked as a consequence of not passing the exam (individual circumstances and, if applicable, art. 8 ECHR and will be taken into account). Residence consequences for not passing the exam are that family members cannot apply for an autonomous residence permit, permanent or EU long-term residence permit or Dutch citizenship to which the integration requirement applies. TCNs can be fined: up to €1250 annually for not passing the exam in time and up to € 340 annually for not signing the participation declaration.
PL	V	All third-country nationals	NGOs and local authorities offer such courses free of charge	N
PT	V	All third-country nationals	Language courses and service for supporting immigrants	N

MS	Voluntary (V)/ Mandatory (M)	Categories of TCNs	Types of integration measures	Sanctions/consequences of not attending (Y/N)
RO	V	All third-country nationals	cultural accommodation activities, counselling and learning the Romanian language	N
SE	V	All third-country nationals	language training, and other mainstreamed services	N
SI	V	All third-country nationals	Slovenian language courses and courses on Slovenian history, culture and constitutional order	N
SK	V	Depends (provided on project basis by NGOs)	language and integration courses	N

7.3 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 14 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described above.

Table 14. Overview of most common conformity issues

Directives and relevant provision	N° of MS	MS
RD		
Article 12 Equal treatment Holders of a residence permit shall be entitled to equal treatment with nationals as regards: (a) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures; (b) working conditions, including pay and dismissal; (c) branches of social security as defined in Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (1). The special provisions in the Annex to Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality (2) shall apply accordingly; (d) tax benefits; (e) access to goods and services and the supply of goods and services made available to the public.	5	ES, FI, HU, LV, SI
BCD		
Article 9 Withdrawal or non-renewal of the EU Blue Card 1. Member States shall withdraw or refuse to renew an EU Blue Card issued on the basis of this Directive in the following cases: (a) when it has been fraudulently acquired, or has been falsified or tampered with; (b) wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence laid down in this Directive or is residing for purposes other than that for which the holder was authorised to reside; (c) when the holder has not respected the limitations set out in Articles 12(1) and (2) and 13.	5	ES, LU, LV, PT, RO
Art. 9 (2) The lack of communication pursuant to Article 12(2) second subparagraph and 13(4) shall not be considered to be a sufficient reason for withdrawing or not renewing the EU Blue Card if the holder can prove that the communication did not reach the competent	6	BG, ES, IT, LT, NL, RO

Directives and relevant provision	N° of MS	MS
authorities for a reason independent of the holder's will.		
Article 14 Equal treatment 1. EU Blue Card holders shall enjoy equal treatment with nationals of the Member State issuing the Blue Card, as regards: (a) working conditions, including pay and dismissal, as well as health and safety requirements at the workplace; (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security; (c) education and vocational training; (d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures; (e) provisions in national law regarding the branches of social security as defined in Regulation (EEC) No 1408/71. The special provisions in the Annex to Regulation (EC) No 859/2003 shall apply accordingly; (f) without prejudice to existing bilateral agreements, payment of income-related acquired statutory pensions in respect of old age, at the rate applied by virtue of the law of the debtor Member State(s) when moving to a third country; (g) access to goods and services and the supply of goods and services made available to the public, including procedures for obtaining housing, as well as information and counselling services afforded by employment offices; (h) free access to the entire territory of the Member State concerned, within the limits provided for by national law. EN 18.6.2009 Official Journal of the European Union L 155/25	5	BE, HU, LV, LU, RO
LTR		
Art. 11 Equal treatment 1. Long-term residents shall enjoy equal treatment with nationals as regards: (a) access to employment and self-employed activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration; (b) education and vocational training, including study grants in accordance with national law; (c) recognition of professional diplomas, certificates and other qualifications, in accordance with the relevant national procedures; (d) social security, social assistance and social protection as defined by national law; (e) tax benefits; (f) access to goods and services and the supply of goods and services made available to the public and to procedures for obtaining housing;	7	BE, DE, IT, LV, MT, RO, SI

Directives and relevant provision	N° of MS	MS
(g) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security; (h) free access to the entire territory of the Member State concerned, within the limits provided for by the national legislation for reasons of security.		
Article 18 3. Diseases contracted after the first residence permit was issued in the second Member State shall not justify a refusal to renew the permit or expulsion from the territory.	7	BE, FR, HR, LT, PL, RO, SK
SPD		
1. An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure. Member States shall determine whether applications for a single permit are to be made by the third-country national or by the third-country national's employer. Member States may also decide to allow an application from either of the two. If the application is to be submitted by the third-country national, Member States shall allow the application to be introduced from a third country or, if provided for by national law, in the territory of the Member State in which the third-country national is legally present.	7	BG, DE, ES, LU, LV, NL, RO
Article 12 Right to equal treatment 1. Third-country workers as referred to in points (b) and (c) of Article 3(1) shall enjoy equal treatment with nationals of the Member State where they reside with regard to: (a) working conditions, including pay and dismissal as well as health and safety at the workplace; (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security; (c) education and vocational training; (d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures; (e) branches of social security, as defined in Regulation (EC) No 883/2004; (f) tax benefits, in so far as the worker is deemed to be resident for tax purposes in the Member State concerned; (g) access to goods and services and the supply of goods and services made available to the public including procedures for obtaining housing as provided by national law, without prejudice to the freedom	9	BE, DE, EL, FR,HU, IT, LU, LV, NL, SI

Directives and relevant provision	N° of MS	MS
of contract in accordance with Union and national law; (h) advice services afforded by employment offices.		

Table 15 presents an overview of the may clauses relevant to Migration Phase 6 and the member States which did not transpose these.

Table 15. Transposition of may clauses

Directives and relevant provision	N° of MS not transposed	MS
SD		
Article 12 2. Without prejudice to Article 16, renewal of a residence permit may be refused or the permit may be withdrawn if the holder: (a) does not respect the limits imposed on access to economic activities under Article 17 (b) does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice.	9	BG, CZ, HU, IT, LU, MT, PL, RO, SK
Article 12 2. Without prejudice to Article 16, renewal of a residence permit may be refused or the permit may be withdrawn if the holder: (a) does not respect the limits imposed on access to economic activities under Article 17 (b) does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice.	10	BG, CZ, HU, IT, LU, MT, NL, RO, SI, SK
Article 17 Economic activities by students 1. Outside their study time and subject to the rules and conditions applicable to the relevant activity in the host Member State, students shall be entitled to be employed and may be entitled to exercise self-employed economic activity. The situation of the labour market in the host Member State may be taken into account. Where necessary, Member States shall grant students and/or employers prior authorisation in accordance with national legislation.	6	BG, IT, LT, PL, PT, SK
Art. 17 (3) Access to economic activities for the first year of residence may be restricted by the host Member State.	13	AT, BE, BG, CZ, FI, FR, HR, HU, IT, LV, PL, RO, SK
Art. 17 (4) Member States may require students to report, in advance or otherwise, to an authority designated by the	11	BE, DE, HR, HU, IT, LV, MT,

Directives and relevant provision	N° of MS not transposed	MS
Member State concerned, that they are engaging in an economic activity. Their employers may also be subject to a reporting obligation, in advance or otherwise.		PL, RO, SE, SK
RD		
Article 5 6. A Member State may, among other measures, refuse to renew or decide to withdraw the approval of a research organisation which no longer meets the conditions laid down in paragraphs 2, 3 and 4 or in cases where the approval has been fraudulently acquired or where a research organisation has signed a hosting agreement with a third-country national fraudulently or negligently. Where approval has been refused or withdrawn, the organisation concerned may be banned from reapplying for approval up to five years from the date of publication of the decision on withdrawal or non-renewal.	8	CZ, HR, LT, LV, PL, RO, SE, SK
Article 10 Withdrawal or non-renewal of the residence permit 1. Member States may withdraw or refuse to renew a residence permit issued on the basis of this Directive when it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence provided by Articles 6 and 7 or is residing for purposes other than for which he was authorised to reside.	7	CZ, FI, IT, LT, LV, RO, SK
Art. 10 (2) 2. Member States may withdraw or refuse to renew a residence permit for reasons of public policy, public security or public health.	7	CZ, IT, LT, LV, NL, RO, SK
BCD		
Article 8 2. Before taking the decision on an application for an EU Blue Card, and when considering renewals or authorisations pursuant to Article 12(1) and (2) during the first two years of legal employment as an EU Blue Card holder, Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for filling a vacancy.	6	DE, FI, HR, LV, PT, RO
Art. 9 (3) Member States may withdraw or refuse to renew an EU Blue Card issued on the basis of this Directive in the following cases: (a) for reasons of public policy, public security or public health; (b) wherever the EU Blue Card holder does not have sufficient resources to maintain himself and, where applicable, the members of his family, without having recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and	5	DE, LT, LV, NL, SI

Directives and relevant provision	N° of MS not transposed	MS
may take into account the level of minimum national wages and pensions as well as the number of family members of the person concerned. Such evaluation shall not take place during the period of unemployment referred to in Article 13; (c) if the person concerned has not communicated his address; (d) when the EU Blue Card holder applies for social assistance, provided that the appropriate written information has been provided to him in advance by the Member State concerned.		
Article 14 Equal treatment 1. EU Blue Card holders shall enjoy equal treatment with nationals of the Member State issuing the Blue Card, as regards: (a) working conditions, including pay and dismissal, as well as health and safety requirements at the workplace;	15	AT, BG, CZ, ES, FR, HR, HU, IT, LV, PL, PT, RO, SE, SI, SK
(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;	20	AT, BE, BG, CZ, DE, ES, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SI, SK
Art. 14 (4) When the EU Blue Card holder moves to a second Member State in accordance with Article 18 and a positive decision on the issuing of an EU Blue Card has not yet been taken, Member States may limit equal treatment in the areas listed in paragraph 1, with the exception of 1(b) and (d). If, during this period, Member States allow the applicant to work, equal treatment with nationals of the second Member State in all areas of paragraph 1 shall be granted.	15	AT, BE, CZ, DE, ES, FI, HR, IT, LT, LU, LV, NL, PL, RO, SI
LTR		
Art. 5(2) Member States may require third-country nationals to comply with integration conditions, in accordance with national law. Article 8 Long-term resident's EC residence permit 1. The status as long-term resident shall be permanent, subject to Article 9. 2. Member States shall issue a long-term resident's EC residence permit to long-term residents. The permit shall be valid at least for five years; it shall, upon application if required, be automatically renewable on expiry.	11	BE, BG, CZ, DE, FI, HU, LV, PL, SE, SI, SK
Art. 11 (2). With respect to the provisions of paragraph 1, points (b), (d), (e), (f) and (g), the Member State	12	AT, BG, ES, HR, HU, LT,

Directives and relevant provision	N° of MS not transposed	MS
concerned may restrict equal treatment to cases where the registered or usual place of residence of the long-term resident, or that of family members for whom he/she claims benefits, lies within the territory of the Member State concerned.		LU, MT, PT, RO, SI, SK
Art. 11 (3). Member States may restrict equal treatment with nationals in the following cases: (a) Member States may retain restrictions to access to employment or self-employed activities in cases where, in accordance with existing national or Community legislation, these activities are reserved to nationals, EU or EEA citizens;	13	BE, CY, CZ, DE, ES, HU, LT, LU, LV, PL, PT, SI, SK
Art. 11 (3) (b) Member States may require proof of appropriate language proficiency for access to education and training. Access to university may be subject to the fulfilment of specific educational prerequisites.	12	AT, BG, EE, HR, HU, IT, LT, LV, PL, PT, SI, SK
Art. 11 (4). Member States may limit equal treatment in respect of social assistance and social protection to core benefits.	19	AT, BE, BG, CZ, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PT, RO, SE, SI, SK
Art. 11 (5). Member States may decide to grant access to additional benefits in the areas referred to in paragraph 1. Member States may also decide to grant equal treatment with regard to areas not covered in paragraph 1.	20	AT, BE, BG, CY, CZ, DE, FI, FR, HR, HU, LT, LU, MT, NL, PL, PT, RO, SE, SI, SK

8 Phase 7 – Intra-EU mobility phase

8.1 Main findings

Mobile third-country nationals and their families overall are facilitated if they wish to exercise their right to intra-EU mobility, without needing to acquire entry visa and with the possibility to submit their residence or work (Blue card) applications without having to leave the European Union (either inside the first or second Member State). In comparison, applications by first time applicant under EU directives or equivalent national schemes in most cases need to be lodged outside the EU at the time of the application.

Few Member States have provided for additional facilitations to the procedures and documentation requirements for mobile third country nationals – these include, for example, shorter application processing times, an exemption from need to provide proof of sickness insurance, as well as exemptions from integration measures, proof of accommodation and labour market tests. Compared to EU citizens, who are subject only to a "registration regime", procedures and application supporting documents required by mobile third country nationals are part of a "permit regime", i.e. the Member State has the discretion to decline an application. In terms of rights for family members of mobile third country nationals: these are subject to national legislation, and very few Member States make any connection with rights in first Member States.

Short-term mobility, as far as regulated by the current directives is facilitated by the fact that only five member states apply any regime for notification and only two for authorisation; only two Member States require additional documents in addition to residence permit and valid travel documents for short term mobility.

8.2 Findings per research topic

Provisions on intra EU-mobility exist in the LTR, the BCD, the SD and the RD[339]. In general, third-country nationals who are in possession of a valid travel document and a residence permit or a long-stay visa issued by a Member State applying the Schengen acquis in full, are allowed to **enter into and move freely** within the territory of the Member States applying the Schengen acquis in full, for a period up to 90 days in any 180 days period. This applies to all Schengen states – but those countries which are not applying the Schengen acquis in full can also recognise these permits and long-stay visas as equivalent to their national visas[340].

The analysis below assesses the specific procedures, conditions and rights linked to the movement of third-country nationals and their family members between EU Member States, in particular for the purpose for pursuing work or studies, and establishing short or longer term residence. Beyond assessing the practical application of the Directives, this section also examines how the procedures and conditions for the mobility of third-country nationals under EU Directives permits compare to the mobility under national schemes or mobile EU citizens.

This section addresses three aspects:

- The procedures and rules for intra-EU mobility of third-country nationals from the point of view of the accepting, i.e. 'second', Member State.
- The procedures, conditions, and rights linked to the mobility of the third-country national family members.
- The specifics around short-term mobility.

8.2.1 Research topic 7.1: Conditions and procedures for intra-EU mobility (in the second Member State)

Q7(a) (i). If a third-country national wants to move from a first Member State, in which s/he holds a residence permit, to your Member State, do the conditions and procedures listed in the table below in your member state differ for this 'mobile' third-country national compared to those for applicants who are applying for the first time?

This section aims to examine if there are any facilitating or additional conditions that mobile third-country nationals needs to fulfil. The tables below compare the conditions and documents required that mobile third-country nationals need in comparison to: (1) first time applicants under EU directives permits (2) first time applicants under equivalent national schemes, and (3) mobile EU citizens.

Many of differences between mobile third-country nationals and first time applicants stem naturally from the intra-EU mobility directives:

In the **BCD**, the key differences between procedures for mobile third-country nationals and first time applicants stem from Art. 18(1-3). Art. 18 allows Blue Card holders, after 18 months of legal residence in the first Member State, to move to another Member State for the purpose of highly qualified employment. They can enter and reside in a second Member State for up to 30 days without a visa or permit, during which period they need to submit their application for a Blue Card while inside the

[339] They also exist in the ICT and the S&RD, but these are not covered by Task II

[340] Decision No 565/2014/EU

second Member State. They may also submit their application from the first Member State.

Art. 8 of the **SD** lays down the conditions for a third-country nationals who have already been admitted as a student and applies to follow in another Member State part of the studies already commenced. Such a student needs to fulfil all the conditions to which first time applicant student is subject in Art. 6 and Art. 7 of the SD, or to complement them with a related course of study in another Member State, if the student participates in a bilateral exchange programme or has been admitted as a student in a Member State for no less than two years.

Art. 13 of the **RD** allows third-country national who have been admitted as researchers under the RD to carry out part of their research in another Member State. Art. 13.2 allows the researcher to stays in another Member State for a period of up to three months, on the basis of the hosting agreement concluded in the first Member State. Art. 13.5 also allows for in-country applications.

Art. 14 of the **LTR** provides long-term resident with the right to move to another Member State under certain conditions. Art. 15 is where, the conditions for intra EU mobility are listed, and where most of the conformity issues and differences with first time applicants arise. According to art. 15.1 long term residents may enter the territory of another Member State for up to three months without a visa, and may submit while in the second Member State their application for a residence permit. Art. 15.2 of the LTRD regarding the evidence of stable and regular income and sickness insurance as well as Art.15.4 regarding the documentary evidence needed to show that the conditions for intra-EU mobility are met are where most conformity issues arise.

Table 16. Do the conditions and procedures for admission in a second Member State differ for 'mobile' TCNs compared those for a first time applicant third-country nationals under EU Directives

		Blue Card Directive (2009/50/EC)	Family Reunification Directive (2003/86/EC)	Students Directive (2004/114/EC)	Researchers Directive (2005/71/EC)	Long-term residents Directive (2003/109/EC)
Procedures and conditions to request a residence permit	Yes	AT, BG, CZ, DE, EE, EL, FI, IT, LV, MT, NL, PT, RO, SK,	DE, EE, FI, LT, LV, NL, SK,	BG, DE, EE, FI, IT, LU, LV, MT, NL,	BG, DE, EE, FI, IT, LU, LV, NL, PL, RO, SK,	AT, BE, BG, CZ, DE, EE, ES, FI, IT, LT, LV, MT, NL, PL, PT, SE, SK,
	No	BE, ES, HR, HU, LT, LU, PL, SE, SI,	AT, BE, CY, CZ, EL, ES, HR, HU, IT, LU, MT, PL, PT, RO, SE, SI,	AT, BE, CY, CZ, EL, ES, HR, HU, LT, PL, PT, RO, SE, SI, SK,	AT, BE, CY, CZ, EL, ES, HR, HU, LT, MT, PT, SE, SI,	CY, EL, HR, HU, LU, RO, SI,
	N/A	CY,	BG,			
Procedures and conditions to request	Yes	BG, EE, EL, IT, MT, NL, RO, SE	NL, SK,	LU, NL,	DE, EE, IT, LU, NL,	BE, BG, DE, ES, IT, NL, SE, SK

		Blue Card Directive (2009/50/EC)	Family Reunification Directive (2003/86/EC)	Students Directive (2004/114/EC)	Researchers Directive (2005/71/EC)	Long-term residents Directive (2003/109/EC)
a work permit	No	AT, BE, CZ, DE, ES, HR, HU, LT, LU, LV, PL, PT, SI, SK,	AT, BE, CY, CZ, DE, EE, EL, ES, HR, HU, IT, LT, LU, LV, MT, PL, PT, RO, SE, SI,	AT, BE, CY, CZ, DE, EE, EL, ES, HR, HU, LT, LU, LV, PL, PT, RO, SE, SI, SK,	AT, BE, CY, CZ, EL, ES, HR, HU, LT, LU, LV, MT, PL, PT, RO, SE, SI, SK,	AT, CY, CZ, EE, EL, HR, HU, LT, LU, LV, MT, PL, PT, RO, SI,
	N/A	CY, FI,	BG, FI,	BG, FI, IT, MT,	BG, FI,	FI,
Documentation requirements to prove residence	Yes	AT, BE, BG, EL, FI, SI, SK,	FI, IT, SK,	FI, SI,	FI, SI,	BE, ES, FI, LT, NL, SI, SK,
	No	CZ, DE, EE, ES, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE,	AT, BE, CY, CZ, DE, EE, EL, ES, HR, HU, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI,	AT, BE, CY, CZ, DE, EE, EL, ES, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SK,	AT, BE, CY, CZ, DE, EE, EL, ES, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SK,	AT, CY, CZ, DE, EE, EL, HR, HU, IT, LU, LV, MT, PL, PT, RO, SE,
	N/A	CY,	BG,	BG,	BG,	BG,
Other different conditions / procedures	Yes	BE, CZ, LV, MT, RO, SK,	BE, LV, RO, SK,	BE, LV,	BE, FI, LV, RO,	BE, CZ, ES, LV, NL, RO, SK,
	No	AT, DE, EE, EL, ES, FI, HR, HU, IT, LT, NL, PT, SI,	AT, CY, CZ, DE, EE, EL, ES, FI, HR, HU, IT, LT, MT, NL, PT, SI,	AT, CY, CZ, DE, EE, EL, ES, FI, HR, HU, IT, LT, MT, NL, PT, RO, SI, SK,	AT, CY, CZ, DE, EE, EL, ES, HR, HU, IT, LT, MT, NL, PT, SI, SK,	AT, CY, DE, EE, EL, FI, HR, HU, IT, LT, MT, PT, SI,
	N/A	BG, CY, LU, PL,	BG, LU, PL,	BG, LU, PL,	BG, LU, PL,	BG, LU, PL,

8.2.1.1 Mobile third-country nationals versus first time applicants under EU Directives

Overall, with regard to work permits, procedurally the majority of Member States apply the same procedure for intra-EU mobility as for first time applicants. For residence permits this is less pronounced, and the procedures are much facilitated. In terms of the documents needed, again, in the majority of Member States there is no difference between first time applicants and mobile third-country nationals.

Regarding the **BCD,** the referred to in the table above, are linked only to Art. 18.1 and 18.2. In terms of proof of residence, six Member States[341] require such evidence: they may include copy of previous Blue Card or residence permit (BE, SI) or only evidence of local residence in case when applying from within the second Member State (FI).

As regards the **SD**, mobile third-country students who can prove that the studies in the second Member State are either complementary to those in the first Member State or are part of an exchange programme, do not need a long-term visa to enter the second Member State in five cases[342] and are entitled to a residence permit for which they may apply from within the Member State in six others[343]. Mobile third-country students in three Member States have to show that they are pursuing studies / or hold residence permits of a minimum duration of 2 years in the first Member State[344]. Another difference relates to health coverage: in Finland, for instance, mobile third-country nationals who are covered by the European Health Insurance Card and/or those with long-term EU residence permit from the first Member State, do not need show proof of health insurance. Some Member States require proof of a previously held residence permit from the first Member State (LU, SI).

In the case of the **RD**, again, mobile third-country nationals can enter some second Member States without acquiring a long-term visa[345], and it is possible to apply for a residence permit from within the country[346]. In Italy for short stay (up to 3 months) rather than the authorisation to work, the third-country national must submit a communication to the local responsible authority ("Prefettura") within 8 days from entry; attached to this communication the TCN must submit a copy of the hosting agreement signed with the hosting institution in the first Member State; this hosting agreement must include information on the research period in Italy, availability of resources, and a sickness insurance valid during his/her stay in Italy. In addition to this the third-country national must attach a declaration from the hosting institution in Italy.

Regarding the **LRT**, mobile third-country long-term residents in some Member States are required to submit additional documents in comparison to first time applicants in order to obtain residence or work permit. These can include medical certificate / insurance (BE,MT); criminal record (BE, SK[347]); evidence of sufficient means (BE, MT); a certificate issued by the educational institution in first Member State (BG, MT); evidence of accommodation (MT); language test score (MT); and residence permit from first Member State (NL SI).

In other Member States, mobile third-country nationals are **exempted from certain requirements** that first time applicants need to meet, such as exemption from integration conditions (language, culture) if already met in first Member State (NL); exemption from permit procedure if evidence of sufficient means is presented (NL). Another facilitation factor mentioned is Shorter processing time for application (CZ, PT). In Portugal, there is an entirely different residence permit scheme for EU LTRs.

In terms of *work permits* mobile third-country nationals may also face additional requirements, such as: consent of the labour market institutions (AT, DE); evidence of job offer / contract (SK); previous work permit (BG, MT). Facilitations, on the other hand conditions include: the possibility for the third-country national, as opposed to only the employer, to apply for the work permit (NL); shorter-term work permits

[341] BE, CZ, LV, MT, RO, SK,

[342] DE, IT, NL, LU, MT

[343] BE, BG, DE, EE, FI, LT

[344] IT, LU, MT

[345] DE, IT, NL, RO

[346] BE, DE, EE, FI, LT, SK

[347] This requirement is at the discretion of Slovak authorities, and is not mandatory.

(NL)[348]; exemption from the work permit requirement if employed for previous 12 months under work permit B (BE); exemption from labour market test (BE[349], EE); exemption from meeting salary thresholds (EE).

Box 13 Evidence from the OPC

Based on the results of the Open Public Consultation, 68% (n=123)[350] of Profile 2 respondents did not encounter any problems in getting a residence permit in a second Member State.

8.2.1.2 Mobile third-country nationals versus first time applicants under National equivalent schemes

Table 17 below shows that only for national long-term residence permits, Member States have different procedures and conditions between mobile third-country nationals and first time applicants under national schemes.

In Slovenia, for instance, the general procedures and conditions for mobile EU third-country nationals and first time applicants are the same, but the national law sets up a special procedure for two groups, both consisting of nationals of the former Socialist Federal Republic of Yugoslavia (SFRY), which may obtain permanent resident status under the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia. This act was adopted to provide a regularisation opportunity to certain categories of citizens after the fall of SFRY. They did not have to meet any of the conditions set out in the Aliens Act, meaning that a parallel system was introduced. The only conditions that they have to satisfy is that they fall in one of the two categories of "erased" persons" or "de facto residents" and that they continued to de facto reside in Slovenia, without interruptions.

In Latvia, mobile long-term resident third-country nationals can apply for residence permit from within the country and without a criminal record check, unlike first time applicants under national schemes.

In Germany, one difference with first time applicants under the national equivalent scheme, is that absence periods under previous EU LTR permits are taken into account when considering the residence permit application

Table 17. Do Conditions and Procedures in a <u>second</u> Member State differ for 'mobile' third-country nationals compared to those for a first time applicant under National equivalent schemes[351]

	National equivalent to Blue Card Directive (2009/50/EC)	National equivalent to Students Directive (2004/114/EC)	National equivalent to Researchers Directive (2005/71/EC)	National equivalent to Long-term residents Directive (2003/109/EC)	
Procedure				DE, LV, SI	Yes

[348] TCNs only need a work permit for the first 12 months whilst other TCNs are required to have a work permit for 5 years

[349] Only if in labour shortage profession

[350] Country of residence: AT, BE, CZ, DE, EE, ES, FI, FR, HR, IT, LU, LV, PL, PT, LU, MT, NL, NO, SE, SL, UK

[351] Member States that do not have a national equivalent scheme are marked N/A.

	National equivalent to Blue Card Directive (2009/50/EC)	National equivalent to Students Directive (2004/114/EC)	National equivalent to Researchers Directive (2005/71/EC)	National equivalent to Long-term residents Directive (2003/109/EC)	
s and conditions to request a residence permit	AT, BE, DE, EE, ES, FI, IT, LT, MT, NL, PT, SE,	AT, CZ, ES, PT,	AT, ES, FI, IT, PT,	AT, BE, ES, FI, HR, HU*, LT, NL, PT,	No
	BG, CY, CZ, EL, HR, HU, LU, LV, PL, RO, SI, SK,	BE, BG, CY, DE, EE, EL, FI, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BE, BG, CY, CZ, DE, EE, EL, HR, HU, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BG, CY, CZ, EE, EL, IT, LU, MT, PL, RO, SE, SK,	No national scheme
Procedures and conditions to request a work permit				SI	Yes
	AT, BE, DE, ES, EE, IT, LT, MT, NL, PT, SE,	AT, CZ, ES, PT,	AT, ES, IT, PT,	AT, BE, DE, ES, HR, HU, LT, LV, NL, PT,	No
	BG, CY, CZ, EL, FI, HR, HU, LU, LV, PL, RO, SI, SK,	BE, BG, CY, DE, EE, EL, FI, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BE, BG, CY, CZ, DE, EE, EL, FI, HR, HU, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BG, CY, CZ, EE, EL, FI, IT, LU, MT, PL, RO, SE, SK,	No national scheme
Documentation requirements to prove residence					Yes
	AT, BE, DE, EE, ES, FI, IT, LT, MT, NL, PT,	AT, CZ, ES, PT,	AT, ES, FI, IT, PT,	AT, BE, DE, ES, FI, HR, HU, LT, LV, NL, PT, SI,	No
	BG, CY, CZ, EL, HR, HU, LU, LV, PL, RO, SE, SI, SK,	BE, BG, CY, DE, EE, EL, FI, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BE, BG, CY, CZ, DE, EE, EL, HR, HU, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BG, CY, CZ, EE, EL, IT, LU, MT, PL, RO, SE, SK,	No national scheme
Other different conditions / procedures				LV	Yes
	AT, BE, DE, EE, ES, FI, IT, LT, MT, NL, PT,	AT, CZ, ES, PT,	AT, ES, FI, IT, PT,	AT, BE, DE, ES, FI, HR, HU, LT, NL, PT,	No
	BG, CY, CZ, EL, HR, HU, LU, LV, PL, RO, SE, SI, SK,	BE, BG, CY, DE, EE, EL, FI, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BE, BG, CY, CZ, DE, EE, EL, HR, HU, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK,	BG, CY, CZ, EE, EL, IT, LU, MT, PL, RO, SE, SI, SK,	No national scheme

Q7(a) (ii). Do the conditions and procedures in your Member State differ for mobile third-country nationals and mobile EU citizens who want to move from a first Member State to your Member State? Please identify whether there are any specific categories of third-country nationals (e.g. under the directives or national equivalent statuses) which are treated the same way as mobile EU citizens when moving to another Member State, and identify those that are not, describing the differences.

None of the Member States reported any provisions concerning any category of third-country nationals under which they can move to a second Member State under the same rules as EU citizens. Generally, beyond the 90 day period, all third-country nationals need to satisfy conditions to obtain a residence or work permits. EU citizens, on the other hand, do not need to apply either for residence or work permit, as in Member States they simply **register** with competent local or national authorities. EU citizens need to provide sufficient resources after 3 months of stay.

8.2.2 Research topic 7.2: Movement and rights of family members

Q7(a) (v). Are dependent family members of mobile third-country nationals allowed to move from a first Member State to your Member State?

The right of mobile third-country national family members to move is guaranteed in Art. 16 of the **LTR** and provides for the right of LTR family members to move whenever the long-term resident to exercise their right to move to another Member State. The LTR sets up a number of additional conditions in Art. 16, such as the need by the family to be constituted in the first Member State, as otherwise the family would be reunited under the FRD. Art. 16 also allows Member States to require from family members to provide, along with their application, (a) their long-term resident's EC residence permit or residence permit and a valid travel document or their certified copies; (b) evidence that they have resided as members of the family of the long-term resident in the first Member State (c) evidence of sufficient income to maintain themselves (d) sickness insurance.

Art. 18 of the **BCD** provides for the right of family members to move along with the Blue Card holder after the 18th month of legal residence in the first Member State. The specific requirements and conditions that Member States may requires are articulated in Art. 19 of the BCD (residence permit in the first Member State and a valid travel document; evidence that they have resided as members of the family of the EU Blue Card holder; evidence of sickness insurance; evidence of available accommodation or sufficient funds).

All Member States conform to the general provisions of Art. 16.1 of LTR and Art. 18 of BCD and the vast majority of Member States also grant this right to family members of mobile third-country nationals as part of the other statuses.

The **SD, RD, SPD** and **FRD** do not contain any specific provisions concerning the intra-EU mobility of family members, and the issue was left to national legislation. The S&RD (Ar. 27) has now filled the gap for family members of mobile third country national researchers.

In cases where the family has been constituted after the third country national has moved to the second Member State or still resides in a third country when applying to join the mobile third country national, the LTR (Art.16.5) refers to the Family Reunification Directive (FRD). The FRD therefore covered all cases, where the mobile third country national has moved to a second Member State and has acquired a residence permit there.

The only Member State that had an exceptional approach was Czech Republic, where family members of third-country nationals, who have student or researcher status,

could join a third country national in the Czech Republic, only if the sponsoring third country national is undertaking studies or research in the Czech Republic for a period of minimum of 15 months and that the spouses are over 20 years of age.

Table 18. Are dependent family members of mobile TCNs allowed to move from a one Member States to a second Member States?

	EU legal migration Directives					National equivalent statuses			
	BCD	FRD	SD	RD	LTR	BDC national	SD national	RD national	LTR national
AT	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
BE	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	No
BG	Yes	Yes	Yes	Yes	Yes	NA	NA	NA	Yes
CY	NA[352]	Yes	No	No	Yes	NA	NA	NA	NA
CZ	Yes	Yes	Yes	Yes	Yes	NA	Yes	NA	NA
DE	Yes	Yes	Yes	Yes	Yes	Yes			Yes
EE	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	NA
EL	Yes	Yes	Yes	Yes	Yes	NA	NA	NA	NA
ES	Yes	No	No	No	Yes	No	No	No	No
FI	Yes	Yes	Yes	Yes	Yes	Yes	NA	Yes	Yes
FR									
HR	Yes	Yes	Yes	Yes	Yes	NA	NA	NA	Yes
HU	Yes	Yes	Yes	Yes	Yes	NA	NA	NA	Yes
IT	Yes	Yes	Yes	Yes	Yes	Yes	NA	Yes	NA
LT	Yes	Yes	No	Yes	Yes	No	NA	NA	Yes
LU	Yes	Yes	NA	Yes	Yes	NA	NA	NA	NA
LV	Yes	Yes	Yes	Yes	Yes	NA	NA	NA	Yes
MT	Yes	Yes	NA	Yes	Yes	No	NA	NA	NA
NL	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	Yes
PL	Yes	Yes	Yes	Yes	Yes				
PT	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
RO	Yes	Yes	No	No	Yes				
SE	Yes	Yes	Yes	Yes	NA	Yes			
SI	Yes	No	No	Yes	Yes	NA	NA	NA	NA
SK	Yes	Yes	Yes	Yes	Yes				
Total - Yes	*23*	*22*	*17*	*21*	*23*	*9*	*3*	*4*	*10*
Total - No	*0*	*2*	*5*	*3*	*0*	*3*	*1*	*1*	*2*

[352] The law allows it but as there are no Blue Cards issued, the practical applicability cannot be assessed.

Q7(a) (i). If a third-country national wants to move from a first Member State, in which s/he holds a residence permit, to your Member State, do the conditions and procedures in your Member State differ for this 'mobile' third-country national compared to those for applicants who are applying for the first time under EU directives? (Rights of family members)

As regards the **procedures and conditions concerning** (Table 19 below) the mobility of family members of third-country nationals, one key difference is that family members of Blue Card holders can enter a second Member State without an entry visa[353]. The following facilitated conditions are provided to family members of mobile Blue Card holders in comparison to first time applicants:

- Reduced processing times (BE, FI)
- Possibility to prove family ties only with previous permit (BG)
- In-country applications (EE, FI, SK)
- Exemption from housing condition (BE)
- Access to labour market (NL, SK)
- No need for long-stay visa (DE, NL)

For family members of mobile long-term residents, only the Netherlands provides facilitations, such as exemption from an integration examination and possibility to obtain a work permit for the first 12 months of their stay.

The only country which differentiates between the family members of mobile third-country nationals and first time applicants under **equivalent national status** is the Netherlands, where family members of mobile LTR third-country nationals or of mobile EU Blue Card holders do not need the long-stay visa to travel to the Netherlands on the condition that they have lived together with the sponsor in the first Member State, and can travel to the Netherlands directly.

Table 19. Extent to which conditions and procedures differ between 'mobile' third-country national compared to first-time applicants under EU directives? (Rights of family members)

	Blue Card Directive (2009/50/EC)	Family Reunification Directive (2003/86/EC)	Students Directive (2004/114/EC)	Researchers Directive (2005/71/EC)	Long-term residents Directive (2003/109/EC)
Yes	AT, BE, BG, EE, EL, FI, HU, NL, SK,	HU, NL, RO, SE, SK,	HU, NL, SK,	HU, NL, SK,	BE, CZ, ES, HU, NL, SI, SK,
No	CZ, DE, ES, HR, IT, LT, LU, LV, MT, PL, PT, RO, SE, SI,	AT, BE, CY, CZ, DE, EE, EL, ES, FI, HR, IT, LT, LU, LV, MT, PL, PT, SI,	AT, BE, CY, CZ, DE, EE, EL, ES, FI, HR, IT, LT, LU, LV, PL, PT, RO, SE, SI,	AT, BE, CY, CZ, DE, EE, EL, ES, FI, HR, IT, LT, LU, LV, MT, PL, PT, RO, SE, SI,	AT, CY, DE, EE, EL, FI, HR, IT, LT, LU, LV, MT, PL, PT, RO,
N/A	CY,	BG,	BG, MT,	BG,	BG, SE,

[353] AT, BE, EE, FI, NL, SK

Q7(a) (vi). Do dependent family members of mobile third-country nationals who are allowed to move from a first Member State to your Member State (if your answer to the question q7(v) above is Yes), maintain the same rights as in the first Member State?

Dependent family members of third-country nationals who are allowed to move from a first Member State to a second Member State, generally do not automatically maintain the same rights they had in the first Member State. Member States bestow rights to family members in accordance with their own national legislation. If they held a right in the first Member State that is not part of legislation of the second Member State, then it is not transferred. Therefore, the rights are the same as the ones of provided to family members that joined under conditions of the FRD.

The type of rights that family member may have immediate access to include:

- Right to the labour market, including self-employment (CY, ES, LU, PT, IT)
- Right to education (CY, IT)
- Right to vocational training (CY, IT)
- Access to social services (IT)
- Access to health insurance (if ensured in first Member State) (CZ, PT)
- Immediate access to labour market for family member of mobile third country national (CZ)

Belgium, Greece, the Netherlands and Malta grant the same rights as in the first Member State under all EU statuses, whereas Lithuania grants these for the BCD, FRD and LTR

8.2.3 Research topic 7.3: Short-term mobility

Q7 (d) (i). How does your Member State ensure short-term mobility of third-country nationals (e.g. work, travel, study, exchange, holidays) in practice?

Generally, Art 21 of the **Convention implementing the Schengen Agreement**, stipulates that third-country nationals who hold valid residence permits issued by one of Member States may, on the basis of that permit and a valid travel document, move freely for up to three months within the territories of other Member States. Art. 22 further leaves at the discretion of Member States to oblige third-country nationals to report their presence either at the border or within three days of their arrival.

The BCD does not specifically provide rules on short-term mobility. Art. 18.2 makes it mandatory for Blue Card holders to apply within 1 month for a Blue Card in the second Member States.

Mobility of students is subject to Art. 8 of the SD, but it does not differentiate between long or short term mobility. Art. 13 of the RD arranges for the short term mobility of researchers, stipulating that for a period of **up to three months**, the research may be carried out on the basis of the hosting agreement concluded in the first Member State, provided that he has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or public health in the second Member.

The ICT and S&RD provide for short term and long term mobility – which are both seen as temporary movements. Art. 21 of ICTD defines short-term mobility as a period of up to 90 days in any 180-day period per Member State, and provides detail on the notification. While Art. 28 of the S&RD stipulates rules for the short-term mobility of researchers, defining it as 180 days in any 360-day period.

The section below examines three aspects of short term mobility:

- The need for notification by mobile TCNs
- The need for authorisation

- The documents needed to exercise the right for short-term mobility.

Five Member States require some type of notification, as presented in Table 20 below.

Table 20. Member States requiring notification in case of short-term mobility

MS	Authority notified	Time	Scope / additional conditions
CZ	Czech Foreign Police	3 days after the arrival	All third-country nationals If staying in hotel, hostel or guesthouse, this obligation is fulfilled automatically by the accommodation provider.
IT	Questura Single Desk for Immigration of local Prefettura	8 working days from their entry	All third-country nationals Researchers should submit copy of the hosting agreement signed with the institution in the first Member State and a declaration from the institution in the second Member State.
LU		3 days of arrival	All third-country nationals
RO	Border police	Upon arrival at border	All third-country nationals
SI	Police Employment Service of Slovenia	3 days of arrival Prior to arrival	All third-country nationals shall be reported to the police by either a landlord or by a host or in person. Third-country nationals for employment except researchers under RD.

Regarding the **need for authorisation** for TCNs for short term mobility, only two Member States have such provisions in their legislation. The Czech Republic requires a work permit, if the short term visit of a Blue Card Holder is with an employment purpose. The permit needs to be obtained in advance by the Czech Labour Office. In Greece, third-country nationals need authorisation granted by the Greek Consular Authority for short-term mobility.

Q7 (d) (ii). Is the residence permit a third-country national is holding, in addition to valid travel documents sufficient for short term mobility?

Only two Member States require from the mobile third-country nationals additional documentation aside from a residence permit and a valid travel documents when it comes to short-term mobility. In Sweden, regarding the Students Directive a third-country national also needs a certificate from the Swedish university and a certificate from the university in the home country. The other exception is Slovenia, where regarding the Family Reunification Directive if the permits to family members are not issued by the State Party to the Convention implementing the Schengen Agreement, or if the family members are not citizens of a visa-free country, a visa is required, provided that the applicant fulfils requirements for the issuance of a visa (e.g. sufficient means of subsistence, health insurance).

8.3 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 21 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described in the section above.

Table 21. Overview of most common conformity issues

Directives and relevant provision	No of MS	MS
SD		
Article 8 Mobility of students 1. Without prejudice to Articles 12(2), 16 and 18(2), a third-country national who has already been admitted as a student and applies to follow in another Member State part of the studies already commenced, or to complement them with a related course of study in another Member State, shall be admitted by the latter Member State within a period that does not hamper the pursuit of the relevant studies, whilst leaving the competent authorities sufficient time to process the application, if he/she: (a) meets the conditions laid down by Articles 6 and 7 in relation to that Member State; and (b) has sent, with his/her application for admission, full documentary evidence of his/her academic record and evidence that the course he/she wishes to follow genuinely complements the one he/she has completed; and (c) participates in a Community or bilateral exchange programme or has been admitted as a student in a Member State for no less than two years. 2. The requirements referred to in paragraph 1(c), shall not apply in the case where the student, in the framework of his/her programme of studies, is obliged to attend a part of his/her courses in an establishment of another Member State. 3. The competent authorities of the first Member State shall, at the request of the competent authorities of the second Member State, provide the appropriate information in relation to the stay of the student in the territory of the first Member State.	8	EE, ES, LT, PL, RO, SE, SI, SK
BCD		
Art. 18 (4) In accordance with the procedures set out in Article 11, the second Member State shall process the application and inform in writing the applicant and the first Member State of its decision to either: (a) issue an EU Blue Card and allow the applicant to reside on its territory for highly qualified employment where the conditions set in this Article are fulfilled and under the conditions set out in Articles 7 to 14; or (b) refuse to issue an EU Blue Card and oblige the applicant and his family members, in accordance with the procedures provided for by national law, including removal procedures, to leave its territory where the conditions set out in this Article are not fulfilled. The first Member State shall immediately readmit without formalities the EU Blue Card holder and his family members. This shall also apply if the EU Blue Card issued by the first Member State has expired or has been withdrawn during the examination of the application. Article 13 shall apply after	5	CY, DE, EE, LU, PL

Directives and relevant provision	No of MS	MS
readmission.		
LTR		
Art. 15(4) The application shall be accompanied by documentary evidence, to be determined by national law, that the persons concerned meets the relevant conditions, as well as by their long-term resident permit and a valid travel document or their certified copies. The evidence referred to in the first subparagraph may also include documentation with regard to appropriate accommodation. In particular: (a) in case of exercise of an economic activity the second Member State may require the persons concerned to provide evidence: (i) if they are in an employed capacity, that they have an employment contract, a statement by the employer that they are hired or a proposal for an employment contract, under the conditions provided for by national legislation. Member States shall determine which of the said forms of evidence is required; (ii) if they are in a self-employed capacity, that they have the appropriate funds which are needed, in accordance with national law, to exercise an economic activity in such capacity, presenting the necessary documents and permits; (b) in case of study or vocational training the second Member State may require the persons concerned to provide evidence of enrolment in an accredited establishment in order to pursue studies or vocational training.	8	EL,FI,LU,LV, MT,PT, RO, SE

Table 22 presents an overview of the may clauses relevant to Migration Phase 7 and the Member States which did not transpose these.

Table 22. Overview of most common conformity issues

Directives and relevant provision	No MS not transposed	MS
RD		
Art. 13 (3) If the researcher stays in another Member State for more than three months, Member States may require a new hosting agreement to carry out the research in that Member State. At all events, the conditions set out in Articles 6 and 7 shall be met in relation to the Member State concerned.	5	AT,LT,LV,PL,PT
BCD		
Art. 18 (3) The application may also be presented to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first	7	BG,DE,LT,PL,PT,RO,SK

Directives and relevant provision	No MS not transposed	MS
Member State.		
Art. 18 (5) If the EU Blue Card issued by the first Member State expires during the procedure, Member States may issue, if required by national law, national temporary residence permits, or equivalent authorisations, allowing the applicant to continue to stay legally on its territory until a decision on the application has been taken by the competent authorities.	6	BE,IT,LT,PT,RO,SE
Art. 18 (6) The applicant and/or his employer may be held responsible for the costs related to the return and readmission of the EU Blue Card holder and his family members, including costs incurred by public funds, where applicable, pursuant to paragraph 4(b).	7	BG,CZ,DE,ES,LT,LU,SI
Art 18 (7) In application of this Article, Member States may continue to apply volumes of admission as referred to in Article 6. 8. From the second time that an EU Blue Card holder, and where applicable, his family members, makes use of the possibility to move to another Member State under the terms of this Chapter, 'first Member State' shall be understood as the Member States from where the person concerned moves and 'second Member State' as the Member State to which he is applying to reside.	15	AT,BE,CZ,DE,FI,HU,IT,LT,LU,lV,NL,PT,SE,SI,SK
LTR		
Art. 14 (3) In cases of an economic activity in an employed or self-employed capacity referred to in paragraph 2(a), Member States may examine the situation of their labour market and apply their national procedures regarding the requirements for, respectively, filling a vacancy, or for exercising such activities. For reasons of labour market policy, Member States may give preference to Union citizens, to third-country nationals, when provided for by Community legislation, as well as to third country nationals who reside legally and receive unemployment benefits in the Member State concerned.	10	AT,BE,BG,EE,ES,HU,LT,LU,lV,PL,SE
Art. 14 (5) This chapter does not concern the residence of long-term residents in the territory of the Member States: (a) as employed workers posted by a service provider for the purposes of cross-border provision of services; (b) as providers of cross-border services. Member States may decide, in accordance with national law, the conditions under which long-term residents who wish to move to a second Member State with a view to exercising an economic activity as seasonal workers may reside in that Member State. Cross-border workers may also be subject to specific provisions of national law.	10	AT,CZ,FI,IT,LT,LU,NL,PT,RO,SK
Art. 15 (3). Member States may require third-country nationals to comply with integration measures, in accordance with national law. This condition shall not apply where the	15	AT,BE,BG,CY,CZ,ES,FI,HU,IT,LT,PL,PT,RP

Directives and relevant provision	No MS not transposed	MS
third-country nationals concerned have been required to comply with integration conditions in order to be granted long-term resident status, in accordance with the provisions of Article 5(2).		,SI

9 Phase 8 – End of legal stay, leaving the EU

9.1 Main findings

A main challenge for third-country nationals in this phase is having access to and obtaining clear information on the exportability of social security benefits earned during their stay in a Member State. While most Member States do have arrangements in place and concluded bilateral agreements with third countries on this topic, finding information on the scope and modalities of transferring certain social security benefits is a challenge.

Compliance issues were flagged in the transposition and implementation of Article 9(7) of the LTR in certain Member States. This Article provides that a third-country national who loses the long-term status, or the status is withdrawn but does not lead to a removal, should be able to remain in the territory of the Member State concerned if s/he fulfils the conditions provided for in national legislation and/or if s/he does not constitute a threat to public policy or public security. Five Member States did not transpose this Article and three other Member States partially transposed it which may lead to legal uncertainty for third-country nationals concerned and potentially to removals which are not allowed by EU law.

The situation of third-country nationals who cannot be removed following a return decision is not addressed in a harmonised manner across Member States. Whilst certain Member States provide for a specific residence permit in such situations, in other Member States, this category of third-country nationals is tolerated with unclear rights as to access to basic healthcare, education or access to the labour market.

9.2 Findings per main research topic

9.2.1 Topic 8.1: Exploring procedures around leaving the Member State

*Q8(a)(i). Does your Member State have any specific procedures in place for third-*country nationals who choose to leave the Member State?

Most Member States have established a number of specific procedures or notification requirements for third-country nationals choosing to leave their territory.[354] These procedures are overall the same for all categories of residence permits. They mainly entail a requirement for de-registration from the local authorities where the third-country national was residing, the return of the residence permit and leaving details of the country of next residence. These requirements are generally notification requirements and their non-compliance is rarely sanctioned.

De-registration (or notification of departure) from local authorities of residence is a requirement in a majority of Member States.[355] The moment of de-registration is specifically determined in a few Member States. For example, a third-country national has to deregister three days before the end of his/her residence in Czech Republic,

[354] AT, BE, BG, CY, CZ, EE, ES, FI, HU, LU, LT, LV, NL, PL, RO, SE and SI.

[355] AT, BE, CZ, EE, ES, FI, HU, IT, LU, LV, NL, RO, SE and SI

report his/her departure one week before departure in Sweden, and up to eight days after departure in Slovenia. Non-compliance with this requirement is sanctioned in the Netherlands, where national authorities can impose a fine on third-country nationals.

Alongside deregistration formalities, third-country nationals also have to return their residence permits in certain Member States, as they are considered property of the State.[356] More specifically, holders of long-term residence permits need to give their residence permits when leaving the country in four Member States.[357] It is possible to return any residence card when already present in the country of origin to the consulate of Lithuania. There is no requirement to return the residence permit in Finland as the act of deregistration and related information are automatically shared with relevant authorities.

Leaving details of the country of next residence is not a requirement in most Member States.[358] A few Member States request this information together with the deregistration process.[359] In Slovenia, holders of a long term residence permit (under EU or national schemes) that wish to settle abroad have to notify national authorities within 15 days of their new permanent address abroad.

Seven Member States do not have any specific requirements set up for third-country nationals deciding to leave the Member State.[360]

9.2.2 Topic 8.2: Examining rights to transfer benefits

Q8(b)(i). On the basis of the relevant provisions in the Single Permit and Blue Card Directives, does your Member State allow third-country nationals to export certain social security benefits when leaving for a third country?

Most (24) Member States allow third-country nationals to export certain social security benefits when leaving for a third country.[361] The exportability of pension benefits is generally foreseen in national legislation or bilateral agreements with third-countries.[362] Invalidity or sickness benefits, and parental benefits can also be transferred in some cases. Unemployment benefits cannot be exported, unless a bilateral agreement with a third country includes it.[363]

In some cases, the exportability of social security benefits is only possible if Member States have signed a bilateral agreement with the respective third country.[364] Where this applies, the scope, modalities and procedures for the transfer of the benefits are set out in the agreement. In such cases, third-country nationals would usually have to apply for a transfer of social security benefits to local authorities in their country of origin.[365]

In the absence of a bilateral agreement with a third country, the principle of the portability of pensions in respect of old age, death or invalidity should apply if it also applies to nationals of the Member State.[366] This principle is however not fully applied

[356] AT, BG, CZ, LV, LU, NL and SI.

[357] BE, CZ, HU and LT.

[358] It is not a requirement in BE, BG, CY, CZ, DE, EL, ES, HR, HU, IT, LT, LV, NL, MT, PL, PT, RO and SE.

[359] AT, EE, FI, LU and SI.

[360] DE, EL, FR, IT, MT, PT and SK.

[361] BE, BG, CZ, CY, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI and SK.

[362] BE, BG, CZ, DE, EE, FI, HR, HU, IT, LT, LU, MT, NL, PT, RO, SE, SI and SK.

[363] DE, EE and FR.

[364] BG, CZ, DE, EE, FR, HU, LV, PT, RO, SE and SI.

[365] BG, CZ, EE, HU, LV, PT and SI.

[366] As established by Articles 12(4) of the SPD and Article 3 of Regulation 883/2004.

in a number of Member States.[367] As an example, recent case law[368] in Belgium ruled that a bilateral agreement is no longer necessary for the transferability of pensions thus ensuring the portability of statutory pensions for all third-country nationals. In France, pensions cannot be exported in the absence of a bilateral agreement. In the Netherlands, benefits can also be transferred without the existence of a bilateral agreement, but only a certain share of the total amount (e.g. receive a pension based on a minimum of 50% of the net minimum wage) can be accessed, whereas a social security treaty can guarantee access to the full amount..

To request a transfer of benefits, third-country nationals may either lodge a request to the channels foreseen in bilateral agreements (i.e. either request directly to authorities of the Member States[369] and/or to authorities designated to manage such requests in third-countries[370]) or lodge a request directly to Member States' authorities where there is no such agreement.[371] For example, in Italy, application for exportability may be submitted online or via consulates in third-countries.

Q8(b)(ii). Does your Member State make information on the portability of social security rights available?

With the exception of a few Member States, information provided above on exportability of social security benefits is in practice not easily accessible to third-country nationals[372] nor made available by national authorities in a clear manner.[373]

Information is generally not published on websites of national authorities responsible for migration nor on websites of diplomatic missions abroad,[374] and an expert eye needs to look for them on websites of the relevant social security agencies[375] or request them in person or by phone.[376]

The language in which this information is available may also be a hampering factor. While in the Netherlands, information available on social security agencies is available in German, French, Spanish, Polish and Turkish, information available in Czech Republic is for example available only in Czech.

Furthermore, the content of the information published may not be sufficient. Not all Member States publish the bilateral agreements signed with third countries.[377] Some Member States only publish the bilateral agreements – which can be general in nature without specifying the administrative procedures to be followed in a clear manner.[378]

[367] As shown by the transposition of Article 12(4)(e) of the SPD, partial conformity was noted in BG, CZ, DE, EL, FR, LV and SI. For example, in CZ, national legislation does not provide explicitly for such principle in its national legislation, and in DE and LV this principle can be limited by the scope of bilateral agreements signed with third countries.

[368] Court of cassation ruling of 15 December 2014

[369] BE, HR, IT and SK.

[370] IT and NL.

[371] BE, HR, FI, IT, NL, LT and SK.

[372] Information easily available: FI, FR, NL, RO, SI and SK (experiential questions).

[373] Information clear: FI, FR, HR, NL, RO and SK (experiential questions).

[374] With the exception of BE, ES and LT.

[375] BE, BG, CZ, EE, FI, FR, HU, IT, LU, NL, PT, RO, SE, SI and SK.

[376] AT, BE, CZ, EE, ES, FI, HR, HU, IT, LT, NL and SI.

[377] AT, EE and LU do not publish social security bilateral agreements concluded with third countries.

[378] FR, PT and SK publish social security bilateral agreements concluded with third countries on websites of national social security authorites or agencies.

9.2.3 Topic 8.3: Identifying procedures around absences from the Member State

Q8(c)(i). How long can a third-country national residing in your Member State be absent from the territory before s/he loses the residence permit/right?

The LTR[379] and BCD[380] contain provisions regulating the period of absences tolerated outside the EU before a residence permit is withdrawn. As the other legal migration Directives do not contain provisions on this topic, the legislative framework in a number of Member States' does not provide for rules in this area for permits issued based on the FRD, SD and RD.[381] For example in Slovenia, the sole fact of absence from the Member State cannot constitute on its own a revocation or withdrawal of a residence permit. In Poland, whilst there is no period of absence set in national legislation, a prolonged absence from its territory may indirectly put into question the validity and purpose of the residence permit (e.g. whether the third-country national continues to work or study in Poland).

Periods of absences allowed in other Member States are the following:

- FRD: on average, 7 months of absence are allowed in Member States,[382] ranging from 30 days in Croatia and Greece to up to two years in Finland.
- SD: on average, 5 months of absence are allowed in Member States, ranging from 30 days in Croatia to up to one year in the Netherlands.
- RD: on average, 7 months of absence are allowed in Member States, ranging from one month in Croatia, three months in Cyprus, Spain and Greece to up to two years in Finland.

While the BCD only regulates the period of absence allowed in cases where the (former) Blue Card holder has long-term residency status, it does not include provisions concerning absences taken *before* the third-country national has reached that point. Not all Member States have regulated this nationally.[383] For example, Estonia does not take into account periods of absences outside its territory as the validity of the residence permit is linked to the purpose and length of the residence permit. In other Member States,[384] the periods of absences allowed depend on the implementation of the BCD. Blue Card holders in Belgium and Germany can be absent for 12 consecutive months. In Bulgaria, Spain, Greece and Latvia, Blue Card holders can be absent for 12 consecutive months with a total of 18 months within the five years period of the validity of the residence permit. In other Member States, absences to the country of origin for work and/or studies (e.g. Romania), or for short-term visits or holidays (e.g. Finland) are not taken into account.

Most Member States comply with the provisions set in the LTR regarding the minimum period of absences from the EU before a long-term residence permit is withdrawn.[385] According to Article 9(1)(c) of the LTR Directive, holders of a long-term residence status will have their status withdrawn in the event of absence from the territory of

[379] Article 9(1) of the LTR stipulates that third-country nationals are now longer entitled to the states in case of an absence for a period of 12 consecutive months from the territory of the Member State

[380] Article 16(4) of the BCD states that by way of derogation from Article 9(1)(c) of the LTR, Member States shall extend to 24 consecutive months the period of absence from the territory of the Community which is allowed to an EC long-term resident holder of a long-term residence permit with the remark referred to in Article 17(2) of this Directive and of his family members having been granted the EC long-term resident status.

[381] AT, BG, CZ, EE, FR, HU, LV, MT, PL, SE and SI.

[382] BE, CY, DE, ES, FI, HR, IT, LT, LV, LU, NL, PT, RO, and SK.

[383] AT, CZ, EE, HU, MT, PL, SE and SI.

[384] BE, BG, CY, DE, EL, ES, FI, IT, LT, LU, LV, NL, PT, RO and SK. In HR however, the absence of 12 consecutive months concerns absences outside Croatia and not the EU.

[385] With the exception of EE and ES.

the EU longer than 12 consecutive months. A few Member States have allowed for a longer period of absence in their legislation, in accordance with the option left in Article 9(2) of LTR.[386]

Problems with transposition of Article 9(1)(c) of LTR were noted in two Member States.[387] It is due to a restrictive interpretation of the geographical scope of the provision – 12 consecutive months outside the EU and it was transposed as 12 consecutive months outside the Member State (Croatia).

The 'may' clause of Article 9(2) of LTR – which states that Member States may consider absences exceeding 12 consecutive months or for specific or exceptional circumstances as not causing a withdrawal of the LTR status – was transposed by 16 Member States.[388] In four Member States specific or exceptional circumstances are not clearly specified in national legislation.[389]

Figure 9. Periods of absence allowed by the EU Directives

Q8(c)(ii). Does your Member State monitor absences from the national territory?

In a number of Member States, absences of third-country nationals from the national territory are not monitored.[390] For example in Italy, national police authorities do not monitor absences from the national territory unless they receive information from other authorities.

In contrast, a monitoring system exists in some Member States.[391] Authorities involved in the monitoring are either local authorities,[392] migration authorities[393] or

[386] AT and FI provide for two years of absence, and France provides for three years of absence.

[387] HR and NL and.

[388] AT, BE, CZ, DE, EE, EL, ES, FI, LT, LU, LV, MT, NL, PL, PT and SI.

[389] EE, EL, FR and MT.

[390] AT, CZ, DE, EE, HR, HU, IT, MT, NL, PL, PT and SE.

[391] BE, BG, CY, EL, ES, FI, LT, LU, LV, RO, SI and SK.

[392] BE andLU.

[393] LV, RO and SI.

national law enforcement authorities.[394] Some Member States collect this information systematically,[395] either on a daily basis or continuously, whilst in other Member States this is done on an ad-hoc basis, for example when third-country nationals requests a prolongation of the right to stay or through visits to check whether the third-country national is still residing on the territory.[396] In the latter, monitoring of absences is closely linked to the de-registration process and notification procedures to national authorities.

In a few Member States, information on absences registered in population registers is also used for monitoring purposes.[397] Other Member States use information systems made available to border police to monitor entry and return of third-country nationals to their territory.[398]

Q8(c)(iii). If a third-country national is considered to have exceeded the maximum allowed period of absence from your Member State, what documentation is required from him/her to prove that this is not correct?

In most Member States, proof that a third-country national can bring to substantiate that he/she has not exceeded the maximum period of absence allowed is not regulated in legislation and the principle of freedom of proof prevails. Overall, any documentation which may prove the actual presence of the third-country national concerned on the territory of the Member State are accepted. This can include:

- Entry and exit stamps on passports;[399]
- Travel tickets;[400]
- Any other documents proving that the third-country national was living on the territory of the Member State such as house agreement, and utility bills (e.g. EL, LU, RO), proof of professional activity (e.g. PT, RO), registration to school or university (e.g. PT), but also statements from witnesses (e.g. SI).

Q8(c)(iv). Does your Member State allow third-country nationals to leave the national territory when they are awaiting the delivery or the renewal of the permit?

Most Member States allow for third-country nationals to leave the national territory when they are awaiting delivery or the renewal of a residence permit, albeit conditions differ greatly between Member States.[401]

In certain Member States, third-country nationals only may leave and re-enter the national territory during the issuance or renewal of a residence permit if no visa is required for (re)entering the Member State. This will depend on the nationality of the third-country national and on whether he/she benefits from visa facilitation agreements.[402] Similarly, in other Member States, third-country nationals may leave the territory while waiting for a decision on an application for residence permit as long as the initial entry visa is still valid.[403]

[394] BE, CY, EL, ES and SK.
[395] BG and EL.
[396] FR, LT, LU and SK.
[397] FI, LT and SI.
[398] CY and EL.
[399] CZ, ES, LU, LV, PL, PT and RO.
[400] ES, FI and PL.
[401] CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI and SK.
[402] FI, HR and PL.
[403] BG, CY and IT.

Other Member States allow third-country nationals to leave their national territory only while waiting for the renewal of a residence permit.[404] For example, Germany and Portugal consider that third-country nationals waiting for renewal of their residence permit are entitled to the same rights as third-country nationals holding a residence permit. In Slovakia, however, only third-country nationals applying for the renewal of a single permit can leave the territory. In such situations, Member States deliver either a specific visa[405] or a certificate proving that the application for renewal of a residence permit was lodged, which is necessary to re-enter the territory of the Member State.[406] The validity of these visas or duration of the absence ranges from two months (Czech Republic) to up to one year (the Netherlands).

9.2.4 Topic 8.4: Exploring processes for circular migration

Q8(d)(i). Does your Member State have measures or a scheme in place to allow circular migration?

Few (seven) Member States have established measures encouraging circular migration.[407] In some, such measures were adopted to answer the political and economic priorities of these Member States, as they are interlinked with the signature of wider bilateral agreements in the area of migration management with third countries[408] or target specific geographical regions (for example neighbouring third-countries).[409]

Measures encouraging circular migration in two Member States are mainly targeted at allowing seasonal work in specific sectors such as agriculture and/or tourism.[410] Employment in the Member State is possible for 9 months within a 12 months period and the scheme is accompanied by measures encouraging return to the country of origin.

In Poland, based on an employer's letter of intent, a third-country national (citizens of Belarus, Moldova, Russia, Ukraine and Armenia) can apply for an entry visa for work purposes or a temporary residence permit. The signature of the employment contract will be possible after entry into the country.

In Sweden, national legislator has merely adopted a commitment to facilitate circular migration, via for example facilitating the acquisition of a permanent resident permit by labour migrants.

9.2.5 Topic 8.5: Reviewing the consequences of overstaying

Q8(e)(i). Please describe the consequences in your Member State in case a third-country national deliberately overstays

In all Member States where a third-country national deliberately overstayed the duration of their residence permit, national authorities may start a return procedure which entails a period during which voluntary departure is possible, before a forced

[404] CZ, DE, ES, FR, IT, NL, PL, SI and SK.

[405] CZ and NL.

[406] DE, ES, FR, IT, SI and SK.

[407] DE, EL, ES, IT, PL, PT and SE.

[408] ES, FR and PT.

[409] DE, EL and PL. In Germany, this refers to a specific category of third-country nationals: cross-border workers that have the option to apply for a cross-border card, issued to third-country nationals residing in a country neighbouring Germany. This card allows third-country nationals to enter Germany and to work. In Greece, it focuses on the Greek regional and seasonal work context as Greece has concluded agreements with Albania and Egypt. In Poland, the regulation which allows circular migration does not specify any category of workers or labour market sector but citizenship. Citizens of Armenia, Belarus, Moldova, Russia and Ukraine are allowed to work based on an employer's declaration of intent to entrust a job to a foreigner without necessity of obtaining a work permit.

[410] ES and IT.

return procedure is started (as per Article 7 of the Return Directive). Some Member States impose an administrative fine or criminal sanction on third-country nationals that deliberately overstay (i.e. who do not comply with the voluntary departure period).[411]

In Portugal, a third-country national maintains a right to stay for up to 6 months after the expiry date of the residence permit during which he/she can regularise the situation. If, after the expiry of this period, a third-country national did not obtain a right to stay, a return procedure is started by national authorities. In Spain, over-stayers lose their right to work but keep certain basic rights such as access to healthcare and education.

With regard to the RD specifically, most (19) Member States transposed the may clause contained in Article 5(3) of the Directive,[412] which provides that Member States may require "a written undertaking of the research organisation that where a researcher remains illegally in the territory of a Member State, it will be responsible for reimbursing the costs related to his/her stay and return incurred by public funds". This financial responsibility of the research organisation ends at the latest six months after the termination of the hosting agreement. Two application issues were spotted: Member States transposed the obligation to require from research organisations a written undertaking stating their responsibility in case a researcher remains illegally on the territory of the Member State. However, the last part of the provision – on the termination of the responsibility of the research organisation, was not transposed, which in practice could lead to these organisations being held liable indefinitely.[413]

Article 9(7) of LTR provides that where a third-country national loses the long-term status or the status is withdrawn but does not lead to a removal, Member States shall authorise the person concerned to remain in its territory if he/she fulfils the conditions provided for in its national legislation and/or if he/she does not constitute a threat to public policy or public security. This provision would appear not to be transposed[414] or incorrectly transposed[415] by seven Member States. Incorrect transposition stems from uncertainty around the type of residence permit to be issued in such cases (Malta); no definition of threat to public policy or public security in national legislation (Croatia), and; the personal scope of third-country nationals benefiting from this measure (only refugees granted long-term residence permit in the Netherlands). Incorrect transposition could lead to third-country being removed without legal grounds or to them being left in a legal limbo.

9.2.6 Topic 8.6: Examining the procedure for those who cannot be returned

Q8(f)(i). Which are the procedures in place for third-country nationals who lost their right to stay in a Member State and who cannot be returned?

Procedures around third-country nationals who cannot be returned (i.e. persons who cannot be returned due to either practical obstacles to enforce their return, such as the lack of travel documents, lack of cooperation from the third-country national concerned or from his/her country of origin, or based on legal grounds) fall outside EU legal migration directives as well as outside the scope of application of the Return Directive. Hence, procedures set up by Member States regarding this category of third-country nationals vary greatly.

[411] CZ, HR, PL, PT and SK.

[412] BE, BG, CY, CZ, DE, EE, EL, FI, FR, HU, IT, LT, LU, MT, NL, PL, RO, SI and SK.

[413] In EE and EL.

[414] BE, LT, SI and RO.

[415] HR, MT and NL.

A number of Member States do not have specific procedures.[416] Third-country nationals remain under an irregular status on the territory of the Member States concerned for as long as their return is postponed. They are generally tolerated on territory of the Member States. In Bulgaria, a third-country national in such situation has to appear periodically at the local police unit. A few Member States regulate the situation of such third-country nationals by providing specific residence permits, with a validity varying from 3 months to a year.[417] In the Netherlands, third-country nationals in an irregular situation can apply for a temporary residence permit in case he/she can demonstrate that departure from the Netherlands is not possible against his/her own will. However, such residence permits are rarely issued in practice. Other Member States do not provide for residence permits but 'tolerate' their stay (e.g. BE, RO) and may grant access to the labour market (e.g. MT).

Where requirements are reunited, third-country nationals who cannot be returned may apply for a visa or residence permits for humanitarian or medical reasons.[418]

9.3 Main conformity issues and may clauses

A full overview of the provisions of the EU Directives relevant to all migration phases is included in Annex 3 to this report. Table 23 below presents the provisions which most Member States (> 5) failed to transpose correctly. The extent to which these have led to practical application issues has been described in sections 9.2.3 and 9.2.5 above.

Table 23. Overview of most common conformity issues

Directives and relevant provisions	N° of MS	MS
Researchers Directive		
Article 5(3). Member States may require, in accordance with national legislation, a written undertaking of the research organisation that in cases where a researcher remains illegally in the territory of the Member State concerned, the said organisation is responsible for reimbursing the costs related to his/her stay and return incurred by public funds. The financial responsibility of the research organisation shall end at the latest six months after the termination of the hosting agreement.	2	EE and EL
Long-term residents Directive		
Article 9(1). Long-term residents shall no longer be entitled to maintain long-term resident status in the following cases: […] (c) in the event of absence from the territory of the Community for a period of 12 consecutive months.	2	HR, NL
Article 9(2) By way of derogation from paragraph 1(c), Member States may provide that absences exceeding 12 consecutive months or for specific or exceptional reasons shall not entail withdrawal or loss of status.	4	EE, EL, FR, MT
Article 9(7) Where the withdrawal or loss of long-term resident status does not lead to removal, the Member State shall authorise the person concerned to remain in its territory if he/she fulfils the conditions provided for in its national legislation and/or if he/ she does not constitute a threat to public policy or public security.	7	BE, HR, LT, MT, NL, RO, SI

[416] BE, BG, EE, EL, HR, FR, LU, LV and NL.

[417] DE, FI, LT, PL, PT, SE, SI and SK.

[418] CZ, EL, ES, LT and PL.

Annex 1 List of interviews

1.1 List of interviews carried out by national researchers

Member State	Organisation/authority interviewed	Date of interview
Austria	Telephone contact with visa service hotline at the Ministry of Interior, Department II/3.	
Austria	Telephone and e-mail contakt with various district administrative authorities and Magistrat Vienna (MA 35).	
Austria	Telephone and e-mail contact with Tracing Service and Family Reunification, Österreichisches Rotes Kreuz, Landesverband Salzburg.	
Austria	Kammer für Arbeiter und Angestellte für Wien, Telephone and e-mail contact with,	
Belgium	Private individual	3 March 2017
Belgium	Private individual	9 August 2017
Croatia	Ministry of Interior	26 July 2017 3 July 2017 7 July 2017 7 July 2017
Cyprus	Immigration Authorities (official name: Department of Archives Population and Immigration, Ministry of Interior)	13 July 2017
Cyprus	Immigration Authorities (official name: Department of Archives Population and Immigration, Ministry of Interior)	13 July 2017
Cyprus	Immigration Authorities (official name: Department of Archives Population and Immigration, Ministry of Interior)	13 July 2017
Cyprus	Immigration Authorities (official name: Department of Archives Population and Immigration, Ministry of Interior)	13 July 2017
Cyprus	Immigration Authorities (official name: Department of Archives Population and Immigration, Ministry of Interior)	11 July 2017
Estonia	Police and Border Guard Board	14.06.2017 and 22.06.2017
Germany	Foreigners Authority Munich	29 May - 30 June (via email)
Germany	Foreigners Authority Constance	22 June

Member State	Organisation/authority interviewed	Date of interview
Greece	Greek Council for Refugees	2/6/2017
Greece	HIAS Greece	30/5/2017
Greece	ARSIS	8/6/2017
Hungary	Immigration and Asylum Office	Phone interviews: Between 15 May 2017 and 20 June 2017 Email response: 20 June 2017
Hungary	Menedék -Hungarian Association for Migrants	5 June 2017
Hungary	Hungarian Embassy in Abuja, Nigeria	3 June 2017
Italy	Italian migration lawyer, member of the Italian Association of Legal Migration Studies (ASGI)	19.05.2017 10.07.2017 20.07.2017
Italy	Italian migration lawyer	16.05.2017 13.06.2017
Italy	Official at the Italian Ministry of Foreign Affairs	02.07.2017
Latvia	NGO Shelter "Safe House"	14 June 2017
Latvia	The Office of Citizenship and Migration Affairs	21 June 2017
Latvia	Euroaxess Latvia	30 June 2017
Latvia	Ministry of Welfare	4 July 2017
Latvia	State Labour Inspectorate of Latvia	31 August 2017
Luxembourg	LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère des Affaires étrangères et européennes Direction de l'immigration	Interview in person: 17 May 2017
Luxembourg	LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère des Affaires étrangères et européennes Direction de l'immigration	Email follow-ups on: 12 July 2017 and 18 July 2017
Luxembourg	Dwellworks	Email contacts on: 6 July 2017 and 17 July 2017
Poland	Mazoviecki Voivode Office	questions sent on 07.06.17, answered on 07.06.17

Member State	Organisation/authority interviewed	Date of interview
Poland	Mazoviecki Voivode Office	questions sent on 13.06.17, answered on 13.06.17
Poland	Podlaski Voivode Office	questions sent on 07.06.17, answered on 07.06.17 and 18.06.17
Poland	Lubuski Voivode Office,	questions sent on 07.06.17, answered on 18.06.17
Poland	Lubelski Voivode Office	questions sent on 07.06.17, answered on 14.06.17
Poland	Wielkopolski Voivode Office	questions sent on 07.06.17, answered on 24.06.17
Poland	Labour Office (Warsaw)	questions sent on 29.06.2017, answered on 29.06.2017
Poland	Helsinki Foundation for Human Rights	22.06.2017
Poland	Helsinki Foundation for Human Rights	22.06.2017
Poland	Mazoviecki Voivide Office	
Portugal	CNAIM/ACM, I.P.	30th June 2017, 6th July 2017, 29th August 2017
Slovenia	Ministry of the Interior, Internal Administrative Affairs, Migration and Naturalisation Directorate	19 July 2017 - date of reponse; additional information provided in written on 27 July 2017
Spain	Progestion /Expert Lawyer on Migration	14/06/2017
Spain	ADSIS Foundation /Expert Lawyer on Migration	16/06/2017
Spain	Expert Independent Lawyer on Migration.	07/06/2017
Spain	Comillas Pontifical University/ International Coordinator. ICAI School of Engineering.	12/06/2017
Spain	La Rueca Association/ Technical Expert.	15/06/2017
Spain	Ges Document - Immigration Corporate Counselling Solutions / Technical Expert.	08/06/2017
Sweden	The Swedish Migration Agency	August 2017
Sweden	Malmö University	June-August
Sweden	Malmö University	June-August

1.2 List of interviews carried out by national researchers

Table 24. Migration agencies in the EU

Agency	Member State	Status
1.FRAGOMEN	Belgium, Luxembourg and the Netherlands	Completed 25/10/2017
2.Matrix Relocations (South East Europe)	Bulgaria	Completed 23/10/2017
3.Point for Mobility	Germany	Completed 05/10/2017
4.Matrix Relocation	Croatia	Completed 05/10/2017
5.Peregrine Immigration Management	Hungary, Poland and UK	Completed 02/11/2017
6.International Business Support s.r.o.	Czech Republic	Completed 29/09/2017
7.Arletti & Partners	Italy	Completed 2/10/2017
8.Kroes Advacaten	Netherlands	Completed 07/11/2017
9.Pro Relocation Sp. z o.o.	Poland	Completed 06/10/2017
10.Eurohome Relocation Services	Netherlands (head office), secondary offices located in Prague and Moscow, and Poland	Completed 23/10/2017
11.Immigration Manager at Executive Relocations	France	Completed 24/11/2017

Table 25. Migration agencies outside the EU

Agency	Country	Status
1.Solicitor at Farani Taylor Solicitors	Brazil	03/10/2017
2. Global Visa	Brazil	17/08/2017
3. Crownhub Consulting	Nigeria	20/08/2017
4. MOAF Consulting	Nigeria	22/08/2017
5. Talented Students Team (TST)	Russia	29/08/2017

Annex 2 EMN resources used

EMN Ad-Hoc Query 'Attesting highly professional qualifications by professional experience, Requested by LT EMN NCP on 1st July 2016

EMN Ad-Hoc Query National residence permits of permanent or unlimited validity requested by COM on 8th September 2016

EMN Ad-Hoc Query on AHQ on Retaining TCN Students, Requested by EE EMN NCP on 26th May 2017

Synthesis Report for the EMN Focussed Study 2015, p.12. Changes in immigration status and purpose of stay: an overview of EU Member States' approaches

EMN Synthesis Report 2017, p. 22. Illegal employment of third-country nationals in the European Union

EMN Synthesis Report for the EMN Focussed Study 2016, p.26. Family reunification of Third-Country Nationals in the EU plus Norway: National Practices

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:

via EU Bookshop (http://bookshop.europa.eu);

- more than one copy or posters/maps:
  from the European Union's representations
  (http://ec.europa.eu/represent_en.htm);
  from the delegations in non-EU countries
  (http://eeas.europa.eu/delegations/index_en.htm);
  by contacting the Europe Direct service
  (http://europa.eu/europedirect/index_en.htm) or calling 00 800 6 7 8 9 10 11
  (freephone number from anywhere in the EU) (*).

  (*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (http://bookshop.europa.eu).

Priced subscriptions:

- via one of the sales agents of the Publications Office of the European Union
  (http://publications.europa.eu/others/agents/index_en.htm).

doi: 10.2837/396264