



DIRECTIVE 2011/98/EU

Single permit and common set of rights

Constança Urbano de Sousa

Brussels, 05.05.2012

Purpose (art. 1)

- Rules on a single application procedure for issuing a single permit for TCN to reside for the purpose of work in the territory of a MS;
 - single permit: residence permit allowing a TCN to reside legally in the territory of a MS for the purpose of work;
- common set of rights to TCN legally residing in a MS (irrespective of the purposes for which they were initially admitted), based on equal treatment with MS nationals.

Who is covered? (art. 3.º)

- TCN who
 - apply to reside in a MS for the purpose of work or have been admitted to a MS for the purpose of work in accordance with EU or national law.
 - have been admitted to a MS for purposes other than work in accordance with Union or national law, who are allowed to work and who hold a residence permit in accordance with Regulation (EC) No 1030/2002 (uniform format)

TCN excluded from the scope of the Directive (art. 3.º)

- family members of EU citizens who have exercised, or are exercising, their right to free movement within the UE
- TCN who enjoy rights of free movement equivalent to those of citizens of the EU;
- Posted workers
- intra-corporate transferees;
- seasonal workers or au pairs;
- Beneficiaries of temporary protection, international protection or humanitarian protection under national law; asylum seekers;
- long-term residents (Directive 2003/109/EC);
- Returnees (removal suspended);
- self-employed workers;
- seafarers or employees on board of a ship registered in or sailing under the flag of a Member State.

Single application procedure and single permit (art 4 and 5)

- Single application procedure“: any procedure leading, on the basis of a single application made by a TCN, or by his or her employer, for the authorisation of residence and work in the territory of a MS, to a decision ruling on that application for the single permit.
- An application to issue, amend or renew a single permit shall be submitted by way of a single application procedure.
- A decision to issue, amend or renew the single permit shall constitute a single administrative act combining a residence permit and a work permit.
- The single procedure doesn't apply to TCN who are
 - allowed to work on the basis of a visa (art. 3 (4))
 - authorised to work for a period not exceeding 6 months or admitted as students (art. 3 (4)) (optional).

Single permit procedure

- Who can apply for the single permit?
 - TCN
 - Employer
- Where?
 - In the third country or
 - in the territory of the MS in which the TCN is legally present

Single Procedure : procedural rules

- MS has to issue, amend or renew a single permit if the applicant fulfils the requirements specified by EU or national law
 - Within 4 months of the date on which the application was lodged (may be extended in exceptional circumstances due to the complexity of the application);
 - Decision has to be notified in writing
 - MS have to notify the applicant in writing of any information or documents required in national law and missing in the application
 - time limit for the decision is suspended until the competent authority have received the additional information required;
 - If the applicant doesn't provide the information within the deadline set, the application may be rejected.

Single permit (art. 5)

- Residence permit issued by the MS using the uniform format as laid down in Regulation (EC) No 1030/2002)
 - Allows a TCN to reside legally in the territory of the MS for the purpose of work;
 - Additional permits as proof of authorisation to access the labour market are not allowed.
- Additional information related to the employment relationship of the TCN (e.g. name and address of the employer, place of work, type of work, working hours, remuneration): optional

Procedural guarantees and fees (art. 8 and 9)

- MS shall provide, upon request, adequate information to the TCN/ employer on the documents required to make a complete application;
- Negative decision: motivated and subject of a written notification; Shall specify the court or administrative authority where the person concerned may lodge an appeal and the time limit therefore.
- TCN has a right of appeal in accordance with national law.
- MS may reject an application on the grounds of volume of admission of TCN coming for employment.
- MS may require the payment of proportionate fees for handling applications.

Rights of the holder of a single permit (art. 11)

- Entry and reside in the territory of the MS issuing the single permit;
- Exercise the employment activity authorised under the single permit;
- Be informed about his/her rights linked to the permit conferred by this Directive and/or by national law (specially the right to equal treatment).

Right to equal treatment (art. 12)

- (a) working conditions
- (b) freedom of association and affiliation and membership of an organisation representing workers or employers
- (c) education and vocational training;
 - MS may restrict equal treatment by
 - (i) limiting its application to those TCN who are in employment or registered as unemployed;
 - (ii) excluding those TCN workers who have been admitted to their territory in conformity with Students Directive;
 - (iii) excluding study and maintenance grants and loans or other grants and loans;
 - (iv) laying down specific prerequisites including language proficiency and the payment of tuition fees, in accordance with national law, with respect to access to university and post-secondary education and to vocational training which is not directly linked to the specific employment activity;

Right to equal treatment (art. 12)

- (d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- e) Social security ;
 - MS may limit the rights to social benefits conferred on TCN workers (but shall not restrict such rights for TCN who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed).
 - MS may decide that the equal treatment with regard to family benefits shall not apply to TCN who
 - have been authorised to work in the territory of a MS for a period not exceeding 6 months,
 - have been admitted for the purpose of study, or
 - who are allowed to work on the basis of a visa.

Right to equal treatment (art. 12)

- (f) tax benefits;
- MS may limit the tax benefits to cases where the registered or usual place of residence of the family members of the TCN worker for whom he/she claims benefits, lies in the territory of the MS concerned
- (g) access to goods and services made available to the public (ex. Housing); MS may
 - limiting its application to those TCN who are in employment;
 - restricting access to housing;
- (h) advice services afforded by employment offices.
- Pensions and export of pensions.