

Council Directive 2003/109/EC of 25 November 2003 concerning  
the status of third-country nationals who are long-term residents

CHAPTER III

**RESIDENCE IN THE OTHER MEMBER STATES**

*Article 14*

**Principle**

1 A long-term resident shall acquire the right to reside in the territory of Member States other than the one which granted him/her the long-term residence status, for a period exceeding three months, provided that the conditions set out in this chapter are met.

2 A long-term resident may reside in a second Member State on the following grounds:

- a exercise of an economic activity in an employed or self-employed capacity;
- b pursuit of studies or vocational training;
- c other purposes.

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.

4 By way of derogation from the provisions of paragraph 1, Member States may limit the total number of persons entitled to be granted right of residence, provided that such limitations are already set out for the admission of third-country nationals in the existing legislation at the time of the adoption of this Directive.

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.

6 This Chapter is without prejudice to the relevant Community legislation on social security with regard to third-country nationals.

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### Article 15

#### Conditions for residence in a second Member State

1 As soon as possible and no later than three months after entering the territory of the second Member State, the long-term resident shall apply to the competent authorities of that Member State for a residence permit.

Member States may accept that the long-term resident submits the application for a residence permit to the competent authorities of the second Member State while still residing in the territory of the first Member State.

- 2 Member States may require the persons concerned to provide evidence that they have:
- a stable and regular resources which are sufficient to maintain themselves and the members of their families, without recourse to the social assistance of the Member State concerned. For each of the categories referred to in Article 14(2), Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions;
  - b sickness insurance covering all risks in the second Member State normally covered for its own nationals in the Member State concerned.

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 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).

Without prejudice to the second subparagraph, the persons concerned may be required to attend language courses.

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.

## Article 16

### Family members

1 When the long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family, who fulfil the conditions referred to in Article 4(1) of Directive 2003/86/EC shall be authorised to accompany or to join the long-term resident.

2 When the long-term resident exercises his/her right of residence in a second Member State and when the family was already constituted in the first Member State, the members of his/her family, other than those referred to in Article 4(1) of Directive 2003/86/EC may be authorised to accompany or to join the long-term resident.

3 With respect to the submission of the application for a residence permit, the provisions of Article 15(1) apply.

4 The second Member State may require the family members concerned to present with their application for a residence permit:

- 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 that they have stable and regular resources which are sufficient to maintain themselves without recourse to the social assistance of the Member State concerned or that the long-term resident has such resources and insurance for them, as well as sickness insurance covering all risks in the second Member State. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions.

5 Where the family was not already constituted in the first Member State, Directive 2003/86/EC shall apply.

## Article 17

### Public policy and public security

1 Member States may refuse applications for residence from long-term residents or their family members where the person concerned constitutes a threat to public policy or public security.

When taking the relevant decision, the Member State shall consider the severity or type of offence against public policy or public security committed by the long-term resident or his/her family member(s), or the danger that emanates from the person concerned.

2 The decision referred to in paragraph 1 shall not be based on economic considerations.

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## Article 18

### Public health

1 Member States may refuse applications for residence from long-term residents or their family members where the person concerned constitutes a threat to public health.

2 The only diseases that may justify a refusal to allow entry or the right of residence in the territory of the second Member State shall be the diseases as defined by the relevant applicable instruments of the World Health Organisation's and such other infectious or contagious parasite-based diseases as are the subject of protective provisions in relation to nationals in the host country. Member States shall not introduce new more restrictive provisions or practices.

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.

4 A Member State may require a medical examination, for persons to whom this Directive applies, in order to certify that they do not suffer from any of the diseases referred to in paragraph 2. Such medical examinations, which may be free of charge, shall not be performed on a systematic basis.

## Article 19

### Examination of applications and issue of a residence permit

1 The competent national authorities shall process applications within four months from the date that these have been lodged.

If an application is not accompanied by the documentary evidence listed in Articles 15 and 16, or in exceptional circumstances linked with the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended for a period not exceeding three months. In such cases the competent national authorities shall inform the applicant thereof.

2 If the conditions provided for in Articles 14, 15 and 16 are met, then, subject to the provisions relating to public policy, public security and public health in Articles 17 and 18, the second Member State shall issue the long-term resident with a renewable residence permit. This residence permit shall, upon application, if required, be renewable on expiry. The second Member State shall inform the first Member State of its decision.

3 The second Member State shall issue members of the long-term resident's family with renewable residence permits valid for the same period as the permit issued to the long-term resident.

## <sup>F1</sup>Article 19a

### Amendments of long-term resident's EU residence permits

1 Where a long-term resident's EU residence permit contains the remark referred to in Article 8(4), and where, in accordance with the relevant international instruments or national law, responsibility for the international protection of the long-term resident is transferred to a

second Member State before that Member State issues the long-term resident's EU residence permit referred to in Article 8(5), the second Member State shall ask the Member State which has issued the long-term resident's EU residence permit to amend that remark accordingly.

2 Where a long-term resident is granted international protection in the second Member State before that Member State issued the long-term resident's EU residence permit referred to in Article 8(5), that Member State shall ask the Member State which has issued the long-term resident's EU residence permit to amend it in order to enter the remark referred to in Article 8(4).

3 Following the request referred to in paragraphs 1 and 2, the Member State which has issued the long-term resident's EU residence permit shall issue the amended long-term resident's EU residence permit no later than 3 months after receiving the request from the second Member State.]

#### Textual Amendments

- F1** Inserted by [Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection \(Text with EEA relevance\)](#).

### Article 20

#### Procedural guarantees

1 Reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the possible redress procedures available and the time limit for taking action.

Any consequences of no decision being taken by the end of the period referred to in Article 19(1) shall be determined by the national legislation of the relevant Member State.

2 Where an application for a residence permit is rejected, or the permit is not renewed or is withdrawn, the person concerned shall have the right to mount a legal challenge in the Member State concerned.

### Article 21

#### Treatment granted in the second Member State

1 As soon as they have received the residence permit provided for by Article 19 in the second Member State, long-term residents shall in that Member State enjoy equal treatment in the areas and under the conditions referred to in Article 11.

2 Long-term residents shall have access to the labour market in accordance with the provisions of paragraph 1.

Member States may provide that the persons referred to in Article 14(2)(a) shall have restricted access to employed activities different than those for which they have been granted their residence permit under the conditions set by national legislation for a period not exceeding 12 months.

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Member States may decide in accordance with national law the conditions under which the persons referred to in Article 14(2)(b) or (c) may have access to an employed or self-employed activity.

3 As soon as they have received the residence permit provided for by Article 19 in the second Member State, members of the family of the long-term resident shall in that Member State enjoy the rights listed in Article 14 of Directive 2003/86/EC.

## *Article 22*

### **Withdrawal of residence permit and obligation to readmit**

1 Until the third-country national has obtained long-term resident status, the second Member State may decide to refuse to renew or to withdraw the resident permit and to oblige the person concerned and his/her family members, in accordance with the procedures provided for by national law, including removal procedures, to leave its territory in the following cases:

- a on grounds of public policy or public security as defined in Article 17;
- b where the conditions provided for in Articles 14, 15 and 16 are no longer met;
- c where the third-country national is not lawfully residing in the Member State concerned.

2 If the second Member State adopts one of the measures referred to in paragraph 1, the first Member State shall immediately readmit without formalities the long-term resident and his/her family members. The second Member State shall notify the first Member State of its decision.

3 Until the third-country national has obtained long-term resident status and without prejudice to the obligation to readmit referred to in paragraph 2, the second Member State may adopt a decision to remove the third-country national from the territory of the Union, in accordance with and under the guarantees of Article 12, on serious grounds of public policy or public security.

In such cases, when adopting the said decision the second Member State shall consult the first Member State.

When the second Member State adopts a decision to remove the third-country national concerned, it shall take all the appropriate measures to effectively implement it. In such cases the second Member State shall provide to the first Member State appropriate information with respect to the implementation of the removal decision.

[<sup>F13a</sup> Unless, in the meantime, the international protection has been withdrawn or the person falls within one of the categories specified in Article 21(2) of Directive 2004/83/EC, paragraph 3 of this Article shall not apply to third-country nationals whose long-term resident's EU residence permit issued by the first Member State contains the remark referred to in Article 8(4) of this Directive.

This paragraph shall be without prejudice to Article 21(1) of Directive 2004/83/EC.]

4 Removal decisions may not be accompanied by a permanent ban on residence in the cases referred to in paragraph 1(b) and (c).

5 The obligation to readmit referred to in paragraph 2 shall be without prejudice to the possibility of the long-term resident and his/her family members moving to a third Member State.

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#### Textual Amendments

- F1** Inserted by [Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection \(Text with EEA relevance\)](#).

### Article 23

#### Acquisition of long-term resident status in the second Member State

1 Upon application, the second Member State shall grant long-term residents the status provided for by Article 7, subject to the provisions of Articles 3, 4, 5 and 6. The second Member State shall notify its decision to the first Member State.

2 The procedure laid down in Article 7 shall apply to the presentation and examination of applications for long-term resident status in the second Member State. Article 8 shall apply for the issuance of the residence permit. Where the application is rejected, the procedural guarantees provided for by Article 10 shall apply.