

Council Directive 2004/114/EC of 13 december 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

The purpose of this Directive is to determine:

- (a) the conditions for admission of third-country nationals to the territory of the Member States for a period exceeding three months for the purposes of studies, pupil exchange, unremunerated training or voluntary service;
- (b) the rules concerning the procedures for admitting third-country nationals to the territory of the Member States for those purposes.

#### *Article 2*

##### **Definitions**

For the purposes of this Directive:

- (a) ‘third-country national’ means any person who is not a citizen of the European Union within the meaning of Article 17(1) of the Treaty;
- (b) ‘student’ means a third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to its national legislation;
- (c) ‘school pupil’ means a third-country national admitted to the territory of a Member State to follow a recognised programme of secondary education in the context of an exchange scheme operated by an organisation recognised for that purpose by the Member State in accordance with its national legislation or administrative practice;
- (d) ‘unremunerated trainee’ means a third-country national who has been admitted to the territory of a Member State for a training period without remuneration in accordance with its national legislation;
- (e) ‘establishment’ means a public or private establishment recognised by the host Member State and/or whose courses of study are recognised in accordance with its national legislation or administrative practice for the purposes set out in this Directive;
- (f) ‘voluntary service scheme’ means a programme of activities of practical solidarity, based on a State or a Community scheme, pursuing objectives of general interest;

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- (g) ‘residence permit’ means any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally in its territory, in accordance with Article 1(2)(a) of Regulation (EC) No 1030/2002.

### *Article 3*

#### **Scope**

1 This Directive shall apply to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of studies.

Member States may also decide to apply this Directive to third-country nationals who apply to be admitted for the purposes of pupil exchange, unremunerated training or voluntary service.

2 This Directive shall not apply to:

- a third-country nationals residing in a Member State as asylum-seekers, or under subsidiary forms of protection, or under temporary protection schemes;
- b third-country nationals whose expulsion has been suspended for reasons of fact or of law;
- c third-country nationals who are family members of Union citizens who have exercised their right to free movement within the Community;
- d third-country nationals who enjoy long-term resident status in a Member State in accordance with Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents<sup>(1)</sup> and exercise their right to reside in another Member State in order to study or receive vocational training;
- e third-country nationals considered under the national legislation of the Member State concerned as workers or self-employed persons.

### *Article 4*

#### **More favourable provisions**

1 This Directive shall be without prejudice to more favourable provisions of:

- a bilateral or multilateral agreements between the Community or the Community and its Member States and one or more third countries; or
- b bilateral or multilateral agreements between one or more Member States and one or more third countries.

2 This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.

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(1) [OJ L 16, 23.1.2004, p. 44.](#)