

# ADMISSION OF TCN RESEARCHERS IN THE EU

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# INSTRUMENTS

- 1) One directive 2005/71 on admission for long stay (more than 3 months / immigration policy of the EU)
  - 2) One (non binding) recommendation of 28 september 2005 on admission for short stays (less than 3 months / visa policy of the EU)
- Recommendation of 12 October 2005 aimed at preparing ground before transposition of directive not relevant anymore

# DIRECTIVE 2005/71

- To be transposed by Member States for 12/10/2007
- Report was due by Commission for 23/11/2008 (call for tender for comparative study re-launched during summer 2010)

# DIRECTIVE 2005/71

## PURPOSE:

- To facilitate and accelerate the admission and mobility of TCN for the purpose of research in line with needs of the EU and TCN researchers

## MECHANISM (French model):

- Involving research organisations in immigration procedures to facilitate them in cooperation with competent ministries

# DIRECTIVE 2005/71

## LARGE DEFINITIONS:

- Research: fundamental or applied
- Researcher: TCN holding degree giving access to Phd selected by a organisation for a research (not necessary to be a professional researcher)
- Research organisations: including private organisations but after procedure for approval valid for 5 years

# MECHANISM

## HOSTING AGREEMENT AT THE CORE:

- To be signed between organisation and researcher about:
  - Research project approved by organisation
  - Researcher has sufficiently monthly resources and sickness insurance
  - Legal relationship and working conditions

# IMMIGRATION PROCEDURE

- Admission on presentation of hosting agreement if no public threat + financial responsibility of organisation if required
- Application on territory only accepted in accordance with national legislation
- Decision “ASAP” and where appropriate following accelerated procedure (no precise deadline)

# IMMIGRATION PROCEDURE

## ADVANTAGES:

- No work permit is anymore required
- Independent of researcher's legal status ((self)-employment, trainee, grant holder but not student covered by directive 2004/114)



# RIGHTS OF RESEARCHERS

- Of course reside and do the research foreseen
- + teaching in case within maximum hours/days determined by hosting Member State
- Equal treatment with nationals as regards in particular :
  - recognition of degrees (what in practice?)
  - social security

# MOBILITY WITHIN THE EU

- On basis of the hosting agreement in first Member State if enough resources for less than 3 months (advantage: no work permit)
- On basis of new hosting convention if required with visa/permit delivered in a « timely manner » for more than 3 months

# RECOMMENDATION OF trio.be

## 28/10/2005 ON SHORT STAYS

- Expedited procedure (but no precise deadline)
- Promote mobility by issuing multiple entry visas for researchers travelling frequently
- Harmonise supporting evidence required from researchers upon consultation of research organisations
- Free visa instead of 60 Euros (confirmed by article 16, §4, c) of Visa Code)

# RECOMMENDATION OF 28 trio.be

## SEPTEMBER ON SHORT STAYS

- Not legally but politically binding
- « The possibility of incorporating the recommendation in an appropriate legally binding instrument should be examined »
- No transposition required but well report to Commission about best practices for 28 September 2006: apparently not done

# MORE FAVORABLE PROVISIONS IN EU LAW

- Directive and recommendation outdated on some points because new EU instruments?
- “Blue Card” Directive 2009/50 for highly skilled workers (for instance more favourable provisions on family reunification)
- Community Visa Code Regulation 809/2009 (for instance common rule with deadline of 15 days for decision applicable also to researchers)

# QUESTIONS

## 1) What in practice?

- Is admission procedure simple & fast in practice as expected legally?
- What about recognition of degrees?
- What about mobility?
- What about the implementation of the visa recommendation by Member States?

# QUESTIONS

2) How to follow-up on basis of future Commission report (2011)?

3) Which strategy?

Better implementation of existing instruments or envisage new initiatives to amend them?

