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'I/A' ITEM NOTE

From:	Presidency
To:	Council
No. Cion doc.:	8580/22+ADD 1-ADD 4
Subject:	Proposal for a Directive of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast) - General approach

I. INTRODUCTION

1. On 28 April 2022, as part of the Skills and Talent Package, the Commission submitted to the European Parliament and the Council a proposal for a Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (recast).¹

¹ 8580/22

2. The proposal aims at amending Directive 2011/98/EU ('Single Permit Directive'). The objective of this recast is to simplify and clarify the scope of the Directive, streamline the application procedure, reduce the overall duration of the procedure and make the procedure more effective. It also aims at strengthening the safeguards and equal treatment of third-country nationals and improve their protection from labour exploitation.
3. Detailed examination of the proposal started at the meeting of the Working Party on Integration, Migration and Expulsion (Admission) on 22 July 2022, during the Czech Presidency. A first compromise proposal was examined by the IMEX (Admission) WP on 9 November 2022. Following the oral and written comments made by Member States, the Swedish Presidency issued an amended compromise proposal, which was discussed and further fine-tuned at the IMEX (Admission) WP meetings on 27 January 2023 and 6 March 2023, and at the meeting of JHA Counsellors (Admission) on 25 April 2023.
4. During these discussions, most Member States expressed broad support for the amended proposal and welcomed the compromise suggestions presented by the Presidency.
5. In the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) is responsible for examining the proposal. A draft report was prepared by the rapporteur, Javier Moreno Sánchez (S&D, ES). The LIBE Committee adopted its report on the proposal on 23 March 2023. The European Parliament voted in favour of inter-institutional negotiations on 19 April 2023.

II. MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE TEXT

6. The compromise text amends the Commission's proposal on several aspects. The compromise text limits the scope of the Directive (Article 3) compared to the Commission's proposal, excluding certain categories of third-country nationals.
7. While the possibility for applications to be made from the territory of a Member State has been maintained in Article 4, the compromise text states, as a safeguard, that the concerned third-country national should be a holder of a valid residence permit. Member States also have the possibility to accept applications from other third-country nationals who are legally present in their territory.
8. The compromise text provides additional flexibility to Member States as regards the four-month time limit for issuing a decision (Article 5). In particular, the time required to issue the requisite visa to obtain a single permit is no longer included in the four-month time limit. Conversely, checks of the labour market situation carried out in connection with an individual application for a single permit are included in this deadline.
9. In Article 11, the compromise text maintains the right for the single permit holder to change employer and to be protected in case of unemployment, while setting a number of conditions and safeguards. For example, the text determines that, in addition to verifying the conditions for admission in accordance with national law, Member States may subject the change of employer to a notification or an application procedure. Moreover, Member States may set a minimum period of time during which the single permit holder is required to work for the first employer. The compromise text also clarifies that loss of employment shall not in itself constitute a reason for withdrawing the single permit unless the total period of unemployment exceeds two months. Member States may allow longer periods of unemployment.

10. The changes in Articles 13 and 14 aim at clarifying the scope of Member States' obligations with respect to the prevention of possible abuses, the sanctioning of infringements and the facilitation of complaints against employers.

III. CONCLUSION

11. The Presidency considers that the compromise represents a fair and balanced approach taking into account views expressed by a majority of Member States.
12. In view of the above, on 24 May 2023, the Permanent Representatives Committee decided to invite the Council:
 - to reach a General Approach on the text as set out in doc. 9474/23, with HU abstaining, at the session of the JHA Council on 8 June 2023;
 - to take note of the statement set out in the addendum to this note.
