

# **Statistics on Resident Permits**

- The main definitions and methodological concepts -

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## THE MAIN DEFINITIONS

### *Residence permit*

Any authorisation valid for at least 3 months issued by the authorities of a Member State allowing a third country national to stay legally on its territory. According to Article 6.2 of the Council Regulation (CE) No 862/2007 of 11 July 2007, when national laws and administrative practices of a Member State allow for specific categories of long-term visa or immigration status to be granted instead of residence permits, such visas and grants of statuses are also included in these statistics.

### *Third country nationals*

Any person who is not a citizen of the Union within the meaning of Article 17 (1) of the Treaty, including stateless persons (see Art. 2.1 (i) of the Council Regulation (EC) no 862/2007).

### *First permit*

Residence permit issued to a person for the first time.

A residence permit is considered as a first permit also if the time gap between expiry of the old permit and the start of validity of the new permit issued for the same reason is at least 6 months, irrespective of the year of issuance of the permit.

The convention of first permit relates to permits issued at all levels of administrative / judicial instances and by all national authorities. Thus, if at the first instance permission to reside was not granted but an appeal decision was positive at the second instance, the permission (resulting from appeal decision) is considered to be a first permit (if of course the time gap conditions are met).

### *Change of immigration status or reason to stay permit*

Permission to reside is considered as a change of immigration status or reason to stay if the period between the expiry of the old permit and the start of validity of the following permit is less than 6 months and the immigration status or reason to stay has been changed.

Only changes between major categories can be recorded as a change of status permit. These major categories are:

- reasons related to family formation and reunification;
- reasons related to education and study;
- reasons related to remunerated activities;
- other reasons.

Statistics related to the change of immigration status/reason to stay include permissions granted at all levels of administrative/judicial instances and by all national authorities.

### *Long-term residents*

Long-term resident status refers to permits issued under Council Directive 2003/109/EC. This is based on a total duration of legal residence of 5 years or longer, combined with a series of other conditions that must be met to qualify for this status. Moreover, Member States may also issue national long-term resident statuses with similar conditions being applied.

### ***Valid permits on 31st December of each year***

All valid permits at the end of reference period, including first permits, change of status or reason to stay permits and renewed permits.

### ***EU Blue Card***

The authorisation bearing the term "EU Blue Card" entitling its holder to reside and work in the territory of a Member State under the terms of this Council Directive 2009/50/EC (Article 2(c)).

## **OTHER DEFINITIONS USED FOR DATA COLLECTION**

### ***1. First permits issued for family reasons***

The third-country national may be joining either an EU citizen or another third-country national residing in the EU. The rights, obligations and procedures are not the same. The rights of third-country nationals joining other third-country nationals are regulated by Directive 2003/86/EC, while the rights of third-country nationals joining EU nationals are set out in Directive 2004/38/EC.

Directive 2004/38/EC referring to the rights of third-country nationals joining EU-citizens have EEA (European Economic Area) relevance. Article 3.1 of this Directive specifies that this Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which they are a national, and to their family members who accompany or join them. Therefore, this Directive applies only when the EEA citizen is in another EEA country but not when he is in his own EEA country of citizenship. In the latter case, the national law applies.

Permissions to stay granted for the reasons related to family formation and reunification based on the national legislation (not derived from EU Directives 2003/86 and 2004/38) is also included in the statistics under the First permits issued for family reasons table. Joining citizens of Iceland, Liechtenstein and Norway, permissions issued to such third-country nationals on the basis of the national law are also reported under the category 'Joining an EU citizen'.

**Children** being third-country nationals and born after the issuance of the residence permits to parents are reported under category 'Children (Minor/Adults), even if no separate residence permit is issued to the new born child. Shall one of the parents have an EU-citizenship, and this citizenship shall be granted to the new born child, such children are excluded from this reporting (as being EU-citizens).

**Adopted children**, if the adoption process is legally completed before the permission to reside is granted, are recorded under the category 'Children (Minor/Adult)'. However, if the residence permit is issued before the administrative/legal adoption procedure has been completed (for reasons related to family formation), then the permits are recorded under the category 'Other family members'.

**Family members** who are the subject of a family formation/reunification residence permit and who also receive the right to work are included only in the statistics under the First permits issued for family reasons table and not under the First permits issued for remunerated activities table. Only family members granted an independent work permit (not linked to the sponsor) are recorded in the First permits issued for remunerated activities table.

## ***2. First permits issued for education reason***

**Study** category relates to persons granted a first residence permit and who are admitted to pursue a course of study at an establishment of higher or professional education (students). In accordance with Article 2(b) of the Council Directive 2004/114/EC - '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.

**Other educational reasons** category relates to first residence permits issued to persons admitted for education and study reasons not covered by the 'Student' definition above. This would include unremunerated trainees (according to Art.2(d) of the Council Directive 2004/114) and volunteers (according to Art.2(f) of the Council Directive 2004/114).

**Unremunerated trainee** refers to 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, school pupils (according to Art.2(c) of the Council Directive 2004/114).

**School pupil** refers to 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; this also include boarding school pupils who would be admitted under national legislation,

**Voluntary service scheme** refers to programme of activities of practical solidarity, based on a State or a Union scheme, pursuing objectives of general interest. This category does not include researchers (covered by the First permits issued for remunerated activities).

## ***3. First permits issued for remunerated activities***

**Highly skilled workers** refers to the first residence permits issued to third-country nationals admitted under national programmes facilitating the admission of highly-skilled workers. For the purpose of defining the scope of this category, the following definitions in Council Directive 2009/50/EC provide an indication of the characteristics of these types of migrants.

**EU Blue Card** refers to the first residence permits issued to persons granted such authorisation to reside. 'EU Blue Cards' means a permit as defined in Article 2(c) of the Council Directive 2009/50/EC i.e. the authorisation bearing the term 'EU Blue Card' entitling its holder to reside and work in the territory of a Member State under the terms of this Directive.

**Researcher** refers to the first residence permits issued to persons granted such authorisation to reside. 'Researcher' is defined by Council Directive 2005/71/EC as a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required.

In the absence of the common European legislative framework and common definition of the **Seasonal workers** this category include all 'third-country nationals, who retain their legal domicile in a third country but reside temporarily for the purposes of employment in the

territory of a Member State in a sector of activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between the third country national and the employer established in a Member State.

**Other remunerated activities** include first residence permits issued to persons granted authorisation to work not covered by the other categories above. This would include employed and self employed persons, remunerated trainees, and remunerated au-pairs.

#### ***4. First permits issued for other reasons***

International protection status is split in two separate categories: 'Refugee status and subsidiary protection' and 'Humanitarian reasons'.

**Refugee status and subsidiary protection** relates to first residence permits issued to persons granted such status. Refugee status means a status as defined in Article 2(d) of Directive 2004/83/EC within the meaning of Art.1 of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967. In accordance with Article 2(d) 'Refugee status' means the recognition by a Member State of a third country national or a stateless person as a refugee.

**Subsidiary protection** means a status as defined in Article 2(f) of Directive 2004/83/EC. In accordance with Article 2(f) 'Subsidiary protection status' means the recognition by a Member State of a third country national or a stateless person as a person eligible for subsidiary protection.

**Humanitarian reasons** relates to first residence permits issued to persons granted such status which is granted under national law, as opposed to the two statuses mentioned in the paragraph above which have been harmonised by Directive 2004/83/EC. A residence permit granted for humanitarian reasons could be the outcome of an asylum procedure, when there are no grounds to grant international protection but there's still a need to allow the person concerned to remain in the Member State; or it could be granted without any link to an asylum procedure, in non-asylum contexts.

**Unaccompanied minors** relates to first residence permits issued to minors considered to be unaccompanied minor as defined in Article 2(i) of Directive 2004/83/EC (non asylum related). In accordance with Article 2(i) 'Unaccompanied minors' means third-country nationals or stateless persons below the age of 18, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States. This category not include unaccompanied minors granted residence permit who are a subject of an asylum application or received refugee/subsidiary protection or who were granted residence permit for victims in trafficking in human beings. Such unaccompanied minors are primarily reported under the respective category (i.e. 'Refugee status and subsidiary protection', or 'Victims of trafficking in human beings').

**Victims of trafficking in human beings** relates to the first residence permits issued to persons in accordance with the provisions of Directive 2004/81/EC. The residence permits issued under this Directive refer to third-country nationals who are, or have been victims of offences related to the trafficking in human beings, even if they have illegally entered the territory of the Member States. Member States may apply this Directive to the third-country nationals who have been the subject of an action to facilitate illegal immigration. This

Directive apply to the third-country nationals concerned having reached the age of majority set out by the law of the Member State concerned. By way of derogation, Member States may decide to apply this Directive to minors under the conditions laid down in their national law.

**Residence only** relate to the first permits issued for the reasons of residence only. However, in the absence of the common European legislative framework and common definition of the 'Residence only' this category includes permits issued for such purpose on the basis of the national legislation and administrative practices. An example of such permit may be the permit issued to the pensioner with no intention to undertake employment, study or family formation or reunification.

**Other reasons not specified category** include all other reasons for which first residence permits may be issued and which are not covered by the tables: First permits issued for family reasons, First permits issued for education reason, First permits issued for remunerated activities; and any of the other categories from the table First permits issued for other reasons.

### ***5. Change of immigration status permits***

Permit type registered in this table indicate the change from the previous status/reason to the new immigration status or reason to stay. Change of immigration status implies some degree of continuity of residence, for example, a person changing from an education-related permit to an employment-related permit. However, if the person had left the Member States at the end of their studies and was returning as an employee several years later, this should be counted under the 'First permits issued for remunerated activities' above, and not as a change of status. The general rule applied for the permission to be recorded here is that the period between the expiry of the old permit and the start of validation of the new permit should be less than 6 months. Otherwise this permit will be recorded as a new permit.

### ***6. All valid permits on 31st December***

This data include statistics on all valid permits at the end of reference period, therefore including first permits, change of status or reasons to stay and renewed permits.

The length of validity of the permit refers to the total duration of the valid permit (at the date of issuance). For example, if a 12 month permit was issued on 1 July 2008, at the reporting date (i.e. on 31 December 2008), this permit will be recorded as a permit with a duration of 12 months and more.

**Other reasons** category not include valid permit issued for the reasons related to refugee status or subsidiary protection status. Persons granted one of these statuses and holding a valid residence permit are primarily reported under the respective category (i.e. 'Refugee status' or 'Subsidiary protection').

### ***7. Long-term residents on 31st December***

The categories of permits related to this table are:

- EU long-term resident status
- National long-term resident status

**EU long-term resident status** (Long-term resident status: EU directive) refers to the number of such permits valid at the end of the reference period. This status is defined by Article 2(h) of the Migration Statistics Regulation i.e. to the definition of a long-term resident that is contained in Council Directive 2003/109/EC. This is based on a total duration of legal

residence of 5 years or longer, combined with a series of other conditions that must be met to qualify for this status.

**National long-term resident status** (Long-term resident status: National legislation) refers to the number of such permits valid at the end of the reference period. This category includes long-term resident status granted to third-country nationals under rules which are different from Council Directive 2003/109/EC. In the absence of the common definition, the minimum requirement to qualify permit under this category is the duration of the permit of at least 5 years. As Denmark, Ireland and the UK are not implementing Directive 2003/109/EC, these countries report statistics on long-term residents under category National long-term resident status.

#### ***8. EU Blue Cards statistics based on Directive 2009/50/EC***

The categories of EU Blue Cards collected are:

Status of EU Blue Card ('DECISION' in the database)

- Granted
- Renewed
- Withdrawn

Subject person ('IND\_TYPE' in the database)

- EU Blue Card holder
- Admitted family member ('Family and relatives' in the database)

**Highly qualified employment** means the employment of a person who:

- in the Member State concerned, is protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of, someone else,
- is paid, and,
- has the required adequate and specific competence, as proven by higher professional qualifications (Article 2(b) from Directive 2003/109/EC).

**Higher professional qualifications** means qualifications attested by evidence of higher education qualifications or, by way of derogation, when provided for by national law, attested by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer (Article 2(g) from Directive 2003/109/EC).

**Higher education qualification** means any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution by the State in which it is situated. For the purposes of this Directive, a higher education qualification shall be taken into account, on condition that the studies needed to acquire it lasted at least three years (Article 2(h)).

**Professional experience** means the actual and lawful pursuit of the profession concerned (Article 2(i) from Directive 2003/109/EC).

**Regulated profession** means a regulated profession as defined in Article 3(1)(a) of Directive 2005/36/EC<sup>1</sup> (i.e. a professional activity or group of professional activities, access to which,

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<sup>1</sup> [Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications \(Text with EEA relevance\)](#); OJ L 255, 30.9.2005, p. 22–142

the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications; in particular, the use of a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification shall constitute a mode of pursuit. Where the first sentence of this definition does not apply, a profession referred to in paragraph 2 shall be treated as a regulated profession) (Article 2(j) from Directive 2003/109/EC).

**EU Blue Card granted** means EU Blue Card issued in compliance with the following requirements:

- a) when no residence permit was issued by the Member State to the person concerned before: 'EU Blue Card GRANTED' is each such permit issued by the Member State authority for the first time;
- b) when a residence permit was already issued by the Member State to the person concerned in the past but for a different reason: 'EU Blue Card GRANTED' is each such permit issued by the Member State authority irrespective of the time gap between the expiry of the previous permit and the start of validity of the EU Blue Card<sup>2</sup>;
- c) when a residence permit (EU Blue Card) was already issued by the Member State to the person concerned in the past for the same reason: 'EU Blue Card GRANTED' is each such permit issued by the Member State authority after at least 6 months, since the expiry of the previous EU Blue Card;

**Occupation** - In accordance with the requirements of the Article 20 from Directive 2003/109/EC, data on EU Blue Card holders shall, as far as possible, be disaggregated by the 'Occupation' (providing this category is voluntary for MS). For the purpose of this disaggregation the 'International Standard Classification of Occupations, 2008 version' (ISCO-08) is applied. ISCO-08 is a tool for organising jobs into a clearly defined set of groups according to the tasks and duties undertaken in the job. For more information please consult Eurostat metadata server Ramon<sup>3</sup> or International Labour Organization (ILO)<sup>4</sup>.

### **9. Single permit statistics based on the Article 15 (2) Directive 2011/98/EU**

**Single permit** means a residence permit issued by the authorities of a Member State within a simplified procedure that allow a third-country national to “reside legally in its territory for the purpose of work “(Art 2 (c) Directive 2011/98/EU)

*“This Directive lays down: (a) a single application procedure for issuing a single permit for third-country nationals to reside for the purpose of work in the territory of a Member State, in order to simplify the procedures for their admission and to facilitate the control of their status;”* (Art 1 (a) of Directive 2011/98/EU on Subject matter)

*“Single permit means a residence permit issued by the authorities of a Member State allowing a third-country national to reside legally in its territory for the purpose of work”* (Art 2 (c) of Directive 2011/98/EU)

A ‘Single Permit’ should be understood as a residence permit that meets the following cumulative three main conditions (for each permit):

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<sup>2</sup> Note that this implies that some of the permits which under the Article 6 data collection (residence permits) would be considered as change of status of renewals will be reported as 'EU Blue Cards GRANTED'. This approach ensures that all first time issued EU Blue Cards which are granted to the TCNs already residing at the territory the EU Member State will be reported under the data collection of Article 20 of the Directive 2009/50/EC

<sup>3</sup> [http://ec.europa.eu/eurostat/ramon/index.cfm?TargetUrl=DSP\\_PUB\\_WELC](http://ec.europa.eu/eurostat/ramon/index.cfm?TargetUrl=DSP_PUB_WELC)

<sup>4</sup> <http://www.ilo.org/public/english/bureau/stat/isco/index.htm>

1. results from single application procedure (as defined under article 2(d) Directive 2011/98/EU)
2. includes the right to reside
3. includes the right to work legally

Single application procedure' means any procedure leading, on the basis of a single application made by a third-country national, or by his or her employer, for the authorisation of residence and work in the territory of a Member State, to a decision ruling on that application for the single permit.

**Main reason** refers to the main reason to reside in the Member State Territory when the Single Permit was granted.

**First permit** versus **change of status** and **renewal** - If the time gap between the expiry of the previous permit and the start of the validity of the new permit is shorter than 6 MONTHS the new permit should be regarded as a **renewal** or as a **change of status** permit.

**Renewed** is considered the residence permits issued **in maximum 6 months** from the time when the previous permit expire and the main reason of immigration status is the same as in the previous residence permit (a new permits was issued with the same immigration reason).

The statistics on Single Permits follow the general principles of technical guidelines for the Residence Permits data collection, namely the references to “third-country nationals”, the definition of “Residence permit”, the definition of “First permit”, the definition of “Change of status“, the persons/permits rule and the duration/length of validity of the permit.

#### *New long-term residence permits issued during the year*

**New long-term residence status** refers to the long-term residence permits issued during the year with at least five years of validity, excluding the renewal cases (e.g. the prolongation of the EU or National LTR permit). The cases where a new long-term residence status is granted following a change of status or reason to stay should be included in the New LTR permits (i.e. including the change of permit from National long-term residence to EU long term residence).

'**EU long-term resident status**' refers to the number of such permits issued during the reference period. This status is defined by Article 2(h) of the Migration Statistics Regulation i.e. to the definition of a long-term resident that is contained in Council Directive 2003/109/EC. This is based on a total duration of legal residence of 5 years or longer, combined with a series of other conditions that must be met to qualify for this status.

'**National long-term resident status**' refers to the number of such permits issued during the reference period. This category includes long-term or permanent residence status granted to third-country nationals under rules which are different from Council Directive 2003/109/EC. In the absence of the national definition, the minimum requirement to qualify permit under this category shall be the validity of the permit of at least 5 years. Permanent residence cards issued to third-country nationals who are family members of EU citizens under Article 20 of Directive 2004/38/EC should not be included in this category.

## ***10. Residence permits issued for family reunification with beneficiaries of protection status***

**The FRPS permits** represent a subset of data reported in tables RP1 (First permits issued for family reasons - flow data) and RP6 (All valid permits - stock data), following one of the cases:

1. Residence permits issued based on the Family Reunification Directive 2003/86/EC for the purpose of joining third-country nationals who hold a refugee status. In practice, the sponsor receives a refugee status and thereafter applies for family reunification (referred to in the Family Reunification Directive). In most cases the members of the family are outside of the Member State when the application for family reunification is submitted. Therefore, the fact that the member of the family is outside of the Member State when the application for family reunification is submitted can be used as an alternative criterion for including the TCNs in this category (when the information on legal framework is not available), as long as the sponsor holds a refugee status.
2. Residence permits issued for "family unity" reasons under Article 23 of the Qualification Directive (Directive 2011/95/EU). It refers to the specific situation when family members were already present on the territory of the Member State in relation to the application of the sponsor for international protection. This data collection covers cases where the family members are issued a 'family member' residence permit and not a protection status. The fact that the member of the family is in the territory of the Member State when the application for family reunification is submitted can be used as an alternative criterion for including the TCNs in this category (when the information on legal framework is not available).
3. Residence permit issued for the purpose of family reunification based on national legislation (not derived from Directives 2003/86/EC or 2011/95/EU), if the sponsor is a third country national who benefits from a protection status. When there is a national legal framework involved, the criteria mentioned under point 1 and 2 (family member outside/inside of the Member State) is not applied but instead all cases should be reported in the category "based on national legislation".

**Beneficiary of protection status** = third country national who benefits in the present<sup>5</sup> of a protection status (see definition of protection status below). Whenever the beneficiary of protection status applies for family reunification, he or she is referred to as "**sponsor**" in this context. **Note that the beneficiaries of protection status should not be counted for FRPS statistics. Only his/her family members who receive the permission to stay for family reasons (and not as beneficiary of protection status) should be counted for FRPS statistics.**

**'Sponsor'** means a third country national residing lawfully in a Member State whose family members seek to reside in that Member State based on the family relationship with him/her.

**Family members** are spouses, minor/adult children and all other relatives for whom national law provides for the possibility to be admitted through family reunification or family unity.

**FRPS permit** = residence permit issued to a third country national for the purpose of family reunification under Family Reunification Directive 2003/86/EC, family unity under Article 23 of the Qualification Directive (Directive 2011/95/EU) or relevant national legislation where the sponsor is a beneficiary of protection status.

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<sup>5</sup> The sponsor benefits from the protection status when FRPS first permit is issued during the reference year. In case of stock data, the sponsor has the protection status at the end of the year, when the valid FRPS permit is counted.

**FRPS first permit** refers to the permit complying with the concept of 'first permit' in the Residence Permit data collection (see the definition of the 'first permit' in the First Permit section above).

**FRPS permit valid in the end of the year** refers to all **FRPS** permits valid at the end of the year (stock of the permits at the end of the year)

**The term 'Beneficiary of protection status'** refers to three different categories of protection statuses as defined in the Asylum data collection under Article 4 of the Migration Statistics Regulation:

1. Person granted refugee status means a person covered by a decision granting refugee status, taken by administrative or judicial bodies during the reference period. Refugee status means status as defined in Art.2(e) of Directive 2011/95/EC within the meaning of Art.1 of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967. According to Art.2(d) of that Directive refugee means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it.
2. Person granted subsidiary protection status means a person covered by a decision granting subsidiary protection status, taken by administrative or judicial bodies during the reference period. According to the Art.2(f) of that Directive a person eligible for subsidiary protection means a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of citizenship, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country. Subsidiary protection status means a status as defined in Art.2(g) of Directive 2011/95/EC, entailing the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection.
3. Person granted authorisation to stay for humanitarian reasons means a person covered by a decision granting authorisation to stay for humanitarian reasons exclusively under national law (and not EU law) concerning international protection, taken by administrative or judicial bodies during the reference period. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments, but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments. Examples of such categories include persons who are not removable on ill health grounds and unaccompanied minors.

#### ***11. Data collection on "Seasonal workers" based on Directive 2014/36/EU***

**The authorisation for the purpose of seasonal work** means any of the authorisations referred to in Article 12 (see in the next section - Types of authorisation for the purpose of seasonal work) entitling their holder to stay and work on the territory of the Member State that issued the authorisation under this Directive (Article 3(h) of Directive 2014/36/EU);

## **Types of authorisations for the purpose of seasonal work**

Authorisations for the purpose of seasonal work depend, firstly on the duration (i.e. stays exceeding or not 90 days), secondly, on the type of authorisation each Member State chooses to provide when transposing the Directive. In total, across all Member States, six possible types of authorisations can be issued in accordance Article 12 of Directive 2014/36/EU:

### **A. For stays not exceeding 90 days<sup>6</sup>, authorisations can be:**

1. only a short-stay visa;
2. both a short-stay visa and a work permit indicating that they are issued for the purpose of seasonal work; or
3. only a work permit indicating that it is issued for the purpose of seasonal work<sup>7</sup>

### **B. For stays exceeding 90 days<sup>8</sup>, authorisations can be:**

4. only a long-stay visa, indicating that it is issued for the purpose of seasonal work;
5. only a seasonal worker permit; or
6. both a seasonal worker permit and a long-stay visa, if the long-stay visa is required under national law for entering the territory.

## **Precise definitions are listed in Article 3 of the Directive:**

**Short-stay visa** "means an authorisation issued by a Member State as provided for in point (2)(a) of Article 2 of the Visa Code or issued in accordance with the national law of a Member State not applying the Schengen acquis in full" (Article 3(e) of Directive 2014/36/EU);

**Work permit** "means any authorisation issued by a Member State in accordance with national law for the purpose of work in the territory of that Member State" (Article 3(i) of Directive 2014/36/EU);

**Long-stay visa** "means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Implementing Convention or issued in accordance with the national law of a Member State not applying the Schengen acquis in full"(Article 3(f) of Directive 2014/36/EU);

**Seasonal worker permit** "means an authorisation issued using the format laid down in Council Regulation (EC) No 1030/2002 bearing a reference to seasonal work and entitling its holder to stay and work in the territory of a Member State for a stay exceeding 90 days under the terms of this Directive" (Article 3(d) of Directive 2014/36/EU);

## **Please note that:**

- **"authorisation for the purpose of seasonal work" ≠ "seasonal worker permit"**
- **and "work permit" under this Directive ≠ "seasonal worker permit"**

## **Status of authorisation for the purpose of seasonal work**

There are three possible statuses of the authorisation for the purpose of seasonal work:

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<sup>6</sup> Article 12(1), Authorisations for the purpose of seasonal work of Directive 2014/36/EU.

<sup>7</sup> where the third-country national is exempted from the visa requirement in accordance with Annex II of Regulation (EC) No 539/2001 and the Member State concerned does not apply Article 4(3) of that Regulation to him or her. In other words, when the third-country national is exempted from the visa requirement, the authorisation consists (only) of a work permit.

<sup>8</sup> Article 12(2), Authorisations for the purpose of seasonal work of Directive 2014/36/EU.

1. **"issued for the first time"** refers to all authorisations for the purpose of seasonal work issued to third-country nationals at the beginning of their stay for seasonal work (excludes renewals/extensions of the SW authorisation). This category differs from the category of "first permit" from the First Permit data collection (e.g. the criteria of 6 months from the previous permit doesn't apply in this context);
2. **"extended"** (synonym with "renewed" in this context) refers to an "authorisation for the purpose of seasonal work" issued to the same person with the validity starting immediately after<sup>9</sup> the expiry of the previous authorisation, in line with Article 15 of Directive 2014/36/EU (Extension of stay or renewal of the authorisation for the purpose of seasonal work);
3. **"withdrawn"** refers to the situation in which the "authorisation for the purpose of seasonal work" was withdrawn in accordance with Article 9 of Directive 2014/36/EU (withdrawal of the authorisation for the purpose of seasonal work).

## ***12. Data collection on "Intra-Corporate Transfers" based on Directive 2014/66/EU***

**Intra-corporate transfer** means the temporary secondment for occupational or training purposes of a third-country national who, at the time of application for an intra-corporate transferee permit, resides outside the territory of the Member States, from an undertaking established outside the territory of a Member State, and to which the third-country national is bound by a work contract prior to and during the transfer, to an entity belonging to the undertaking or to the same group of undertakings which is established in that Member State, and, where applicable, the mobility between host entities established in one or several second Member States; (Art 3(b) Definitions - Directive 2014/66/EU).

**Intra-corporate transferee** means any third-country national who resides outside the territory of the Member States at the time of application for an intra-corporate transferee permit and who is subject to an intra-corporate transfer;

### **Mobility of intra-corporate transferees**

Directive 2014/66/EU sets up a specific intra-EU mobility scheme whereby the holder of a valid intra-corporate transferee permit issued by a Member State is allowed to enter, to stay and to work in one or more Member States; Two types of mobility schemas are considered by this Directive:

1. **Short-term mobility** for the purposes of this Directive should cover stays in Member States other than the one that issued the intra-corporate transferee permit, for a period of up to 90 days per Member State.
2. **Long-term mobility** for the purposes of this Directive should cover stays in Member States other than the one that issued the intra-corporate transferee permit for more than 90 days per Member State.

### **Distinction between countries of destination**

**First Member State** means the Member State which first issues a third-country national an intra-corporate transferee permit; (Art 3(m) Definitions - Directive 2014/66/EU)

**Second Member State** means any Member State in which the intra-corporate transferee intends to exercise or exercises the right of mobility within the meaning of this Directive, other than the first Member State; (Art 3(n) Definitions - Directive 2014/66/EU)

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<sup>9</sup> In practical terms, an extension/renewal corresponds to the situation where the third-country national applies from the territory of the EU Member State. On the contrary, if the third-country national applies from outside, this is clearly not an extension/renewal but another authorisation issued "for the first time".

## **Types of permits to reside for ICT reasons**

**Intra-corporate transferee permit** means an authorisation bearing the acronym ‘ICT’ entitling its holder to reside and work in the territory of the first Member State and, where applicable, of second Member States (implies the possibility of short-term mobility), under the terms of this Directive; (Art 3(i) Definitions - Directive 2014/66/EU).

**Permit for long-term mobility** means an authorisation bearing the term ‘mobile ICT’ entitling the holder of an intra-corporate transferee permit to reside and work in the territory of the second Member State under the terms of this Directive (Art 3(j) Definitions - Directive 2014/66/EU).

**Notification** (related to short-term or long-term mobility)

The notification of the mobility of intra-corporate transferees is related to the right of the intra-corporate transferee "to stay in any second Member State and work in any other entity, established in the latter and belonging to the same undertaking or group of undertakings" (based on Art 21 Short-term mobility - Directive 2014/66/EU).

**Notification for the mobility of intra-corporate transfers** refers to the notification by the host entity in the "first Member State" to the "second Member State"<sup>10</sup> mentioning the intention of the intra-corporate transferee to work in an entity established in the second Member State. (Based on Art 21 Short-term mobility - Directive 2014/66/EU)

The notification for the purpose of intra-corporate transfer is applicable only to the Member States that require this procedure as stated in Article 21(2) Short-term mobility - Directive 2014/66/EU or those that require this procedure as stated in Article 22(1) Long-term mobility - Directive 2014/66/EU.

Depending on the choices made by the Member States in relation to mobility, the following possibilities exist in practice:

- for short-term mobility (<3 months) : the second Member State can ask either : a) nothing or b) a notification (by the host entity in the first Member State);
- for long-term mobility (>3 months): the second Member State can ask: 1) nothing or 2) a notification (by the host entity in the first Member State) or 3) an application for a permit for long-term mobility.

In the final version of these guidelines, some information will be provided (through a table in annex or a web link) in order to indicate for each Member State the procedures chosen for short-term and long-term mobility (no procedure / notification / application).

In the present data collection two types of notifications are considered, based on the Directive 2014/66/EU:

1. **Notification received** by the Second Member State;
2. **Notification objected** in accordance with Article 21(6) - Directive 2014/66/EU.

## **Transferee position**

**Manager** means a person holding a senior position, who primarily directs the management of the host entity, receiving general supervision or guidance principally from the board of directors or shareholders of the business or equivalent; that position shall include: directing the host entity or a department or subdivision of the host entity; supervising and controlling work of the other supervisory, professional or managerial employees; having the authority to

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<sup>10</sup> See definitions above in the section "Distinction between countries of destination".

recommend hiring, dismissing or other personnel action; (Art 3(e) Definitions - Directive 2014/66/EU).

**Specialist** means a person working within the group of undertakings possessing specialised knowledge essential to the host entity's areas of activity, techniques or management. In assessing such knowledge, account shall be taken not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification including adequate professional experience referring to a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession; (Art 3(f) Definitions - Directive 2014/66/EU)

**Trainee employee** means a person with a university degree who is transferred to a host entity for career development purposes or in order to obtain training in business techniques or methods, and is paid during the transfer; (Art 3(g) Definitions - Directive 2014/66/EU)

### **Status of authorisation to reside for intra-corporate transfer (ICT)**

There are three possible decisions for intra-corporate transferee permits counted:

1. **Permits issued for the first time** refers to all ICT permits issued to third-country nationals when they are admitted to the territory of a Member State under the terms of this Directive, in the framework of an intra-corporate transfer as managers, specialists or trainee employees. This category excludes renewals/extensions of the ICT permits and refers to the "**Intra-corporate transferee permit**".
2. **"Renewed"** refers to ICT permits issued to the same person with the validity starting immediately after the expiry<sup>11</sup> of the previous ICT permit (Extension of stay or renewal of the previous ICT permit).
3. **"Withdrawn"** refers to the situation in which the ICT Permit (issued or renewed) was withdrawn in accordance with the Article 8 of the Directive 2014/66/EU (Withdrawal or non-renewal of the intra-corporate transferee permit).

For "**permits for long-term mobility**" the same three possible decisions apply (issuance, renewal, withdrawal).

**Notifications** (for short or long-term mobility) **should be counted by the second Member State** when they are made by the hosting entity in the first Member State. There is no "renewal", "extension" or "withdrawal" of notification but there can be 'objections' to notification by the second Member State, see Article 21(6).

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<sup>11</sup> In practical terms, an extension/renewal corresponds to the situation where the third-country national applies from the territory of the EU Member State. On the contrary, if the third-country national applies from outside, this is clearly not an extension/renewal but another permit issued "for the first time".