



European Economic and Social Committee

SOC/180

**Admission of third-country
nationals to carry out
scientific research in the
European Community**

Brussels, 27 October 2004

OPINION

of the European Economic and Social Committee

on the

Proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research.

Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community.

Proposal for a Council Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research

(COM(2004) 178 final – 2004/0061 (CNS))

On 7 April 2004, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research.

Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community.

Proposal for a Council Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research.

COM(2004) 178 final – 2004/0061 (CNS)).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 September 2004. The rapporteur was **Mrs King**.

At its 412th plenary session on 27-28 October 2004 (meeting of 27 October 2004), the European Economic and Social Committee adopted the following opinion by 181 votes to one with three abstentions.

1. Gist of the Commission document

1.1 The subject of this Communication is a proposal for a directive and two proposals for recommendations on the admission of third-country nationals to carry out scientific research in the European Community.

1.2 These proposals are part of the Lisbon strategic objective for the European Union to develop research to become the most competitive and dynamic knowledge economy in the world by 2010. To achieve this aim it has been calculated that the European Union will need 700,000 additional researchers. The following interlocking measures have been identified:

- to make science attractive to young people at school;
- to improve the career prospects for researchers in the European Union; and
- to extend the opportunities for training and mobility.

1.3 Although the target of 700,000 extra researchers will mainly include EU nationals, it is recognised that in order to meet this target researchers from third countries will be needed. Therefore this Communication by the Commission focuses specifically on the admission of high-quality research talent from third countries to Europe by:

- facilitating the entry and residence of researchers from third countries; and
- removing the obstacles to their mobility in Europe.

1.4 The Commission also recognises the need to boost the mobility of European researchers to other parts of the world, as their mobility is a key element in the acquisition and transfer of knowledge.

2. General comments

2.1 The EESC welcomes this Communication on the admission of third-country nationals to carry out scientific research in the European Community.

2.2 As the Commission's target of 700,000 extra researchers by 2010 will mainly involve EU nationals, the EESC wants to refer the Commission to its earlier Opinion¹ in response to the Commission's communication on the problems facing career researchers on the European Research Area and the proposals and initiatives to address these².

2.3 With regard to the interlocking measures "to make science attractive to young people at school", this opinion highlights that the importance of science is insufficiently reflected in the school curricula and recommends that greater weight be given to the teaching of science, technology and mathematics in schools and stresses the importance of presenting these subjects in an attractive way to students. It is also important to target girls as they tend to be under-represented in these subject areas. There is considerable evidence to indicate that those seeking entry to higher education are now doing so in non-scientific subjects so that ability of the Community to achieve a high number of researchers is going to be undermined without urgent and detailed consideration.

2.4 For the second interlocking measure "to improve the career prospects for researchers in the European Union" this earlier opinion discusses the dilemma facing researchers working in academia or publicly funded research institutions who are usually paid in accordance with public-sector pay scales but with no job security or other benefits given to other public sector careers such as civil servants or teachers. In fact researchers face little or no job security as they are often given a series of temporary contracts, following every change of job or career move.

2.5 The final reference to the earlier opinion the EESC wants to make is about the mobility of European researchers. The EESC recognises that a career in Research in the European Area necessitates mobility and flexibility within the EU. However this should not be at the expense of personal and family living conditions and social benefits. In addition, the Commission needs to act against a possible one-way brain drain, with the best young researchers leaving the EU, especially for the USA. Current problems relating to the obtaining of visas in the USA are likely to be of short-term nature and higher education groups in the USA are already mounting pressure on the USA Government to speed up entry requirements so that they can recruit more non-USA nationals.

¹ OJ C 110 of 30.4.2004, p. 3, rapporteur: Mr Wolf.

² COM(2003) 436 final.

2.6 Returning to the current Commission's communication on the admission of third-country nationals to carry out scientific research in the European Community, the Committee agrees that removing the obstacles to the mobility of third-country researchers is vital if the European Union is to become more attractive to researchers throughout the world especially if it is to compete successfully against global competition for those researchers of the highest ability.

2.7 The Committee agrees with the Commission's statement that the globalisation of the economy, which is more and more knowledge-based, is constantly increasing the international dimension of science. However, the EESC feels that globalisation should have been made more explicit in the Communication by including comparative data on the level of resources which countries like Japan and the USA allocate to support the training, mobility and career development of researchers.

2.8 The EESC is also very concerned about the age structure of the existing researchers in the EU. Many persons in this category are now reaching possible retirement age with few new entrants being sufficiently attracted or encouraged to replace them. Without recognition of this fact and action taken urgently the EU's target will not be met. This is also the result of the current situation in Europe where the population is ageing and the birth rate is reducing. Also in a number of EU states the population is projected to begin to decline after 2010. This makes the target of 700,000 extra researchers by 2010 a very ambitious one even with a top-up of researchers from third countries.

2.9 The EESC does understand that this communication focuses solely on admissions and therefore researchers from third countries who are already in the European Union, some of which are leaders in their field, will not come under the proposed directive and recommendations. However, it suggests that a future directive is needed to address the specific problem of access of this group to highly qualified jobs as this would help with reaching the target of 700,000 extra researchers. Some of these researchers have refugee status in the EU and their talents and contribution are sadly under-utilised at present. There is no systematic provision to help such researchers in the EU other than by grants given by voluntary or charitable bodies. If modest funding is provided to support such persons it is likely that the number of researchers in the EU will increase by at least 40,000³. The Committee therefore strongly recommends that the Commission set up a process so that these researchers can be identified and considered as researchers and have easier access to research jobs.

2.10 The Committee notes the definition of researcher provided by the Commission. Again it wants to refer to the definition recommended in its earlier opinion 305/2004, point 5.1.1.7: "*Experts engaged in the conception or creation of new knowledge, products, processes, methods and systems, and in the management of the projects concerned, for which they are qualified by virtue of their training and experience*". This definition has the advantage of recognising any management skills that the researcher has.

³

This figure is based on an estimate of current statistical information available.

3. **Specific comments**

3.1 *Proposals in line with the European Research Policy*

3.1.1 The EESC believes that creating a specific residence permit for third-country researchers, is not the only issue to be addressed. Other issues include the immigration status of the researcher as well as the status of the researchers within the EU as discussed in the EESC opinion 305/2004. The Committee is also of the view that a key area will be movement of researchers within the Community. Researchers will need to be able to seek employment irrespective of their immigration status.

3.1.2 The Committee notes that researchers' residence permits would supersede the need for a work permit and welcomes this attempt to streamline this process.

3.2 *Proposals to complement Community immigration policy instruments*

3.2.1 The Commission's recommendation, for the controlled re-opening of legal immigration channels according to specific parameters and category of migrants, is welcomed. However, the Committee requires that these be unambiguous and specific. Some of those admitted may well be in need of refuge and protection under the Geneva Convention 1951. As well as being afforded the opportunity of becoming migrants, they may at the same time wish to apply for refugee status once they have arrived. The Committee appreciates that it is not possible for the Commission to give a clear view on these issues at this time but would welcome their resolution in the near future.

3.2.2 The EESC agrees with the recommendations of the short-term visa for free movement of third-country researchers around the Schengen area. It also agrees that long-term residents from third countries, who have been legally resident in an EU Member State for five years, should have the right of residence throughout the EU.

3.2.3 The EESC is pleased that the Commission recognises that third-country researchers being permitted to bring members of their family to join them is an essential aspect of the problem of mobility.

3.2.4 The EESC notes that this issue is dealt with in the separate Directive 2003/86 of 22 September 2003 on the right to family reunification and that this Communication supplements the proposal COM(2002) 548 on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service.

3.3 *Central Role of Research Organisations*

3.3.1 The EESC understands that the hosting agreement is inspired by the hosting protocol in France. The Committee notes that the division of roles between the research organisation and the Member States' immigration authorities would on the one hand make it easier for highly skilled third-

country nationals to enter the EU while at the same time satisfy the security measures of EU Member States.

3.3.2 Also as Member States have the power to check whether a hosting agreement satisfies the requirement of Articles 5(2), this step is welcomed by EESC as it should prevent abuses.

3.4 *Assumption of responsibility by research organisations*

3.4.1 The Committee believes that the Commission's definition of a "Research organisation" is incomplete. It should be expanded to include public or private organisations that allocate grants for research as well as those organisations, that conduct research.

3.4.2 The EESC is pleased to see the reiteration of the Barcelona European Council commitment to increase investment in research and technological development to 3% of GDP by 2010, with two-thirds of that investment coming from the private sector.

3.4.3 The Committee strongly recommends that the Commission consults the private sector on this proposal in general and specifically on the task being recommended that the research establishment produces the hosting agreement that triggers the admission of a researcher to a Member State.

3.5 *A broad interpretation of the concept of researcher, adapted to the needs of the European Union*

3.5.1 The EESC agrees with the Commission's recommendation, not to restrict the procedure to persons who already have the status of researcher in their country of origin.

3.5.2 However the EESC does not concur with the restriction with regards to the purpose of admission. This is because there are cases where persons meet the minimum requirements for a researcher, as set out in the directive, but their original purpose of admission to a Member State is not to carry out a research project. Such researchers may have obtained a qualification in the EU and may wish to seek a corresponding position.

3.5.3 The EESC is pleased that the requirements with regards to the qualifications of persons for whom admission is sought and the scientific value of the research planned are clear and unambiguous. Although not part of the remit of this communication, the EESC feels it is necessary, to have some scope for qualities of researchers to be assessed, so that the EU is responsive to changes within research requirements as they develop. This is because new technologies are being developed all the time and the EU must aim to recruit researchers that can develop and extend such techniques.

3.5.4 The Committee draws the Commission's attention to an earlier opinion⁴ that highlights a further obstacle to mobility, namely the lack of transparency in qualifications and competences. This has resulted in numerous examples of qualifications not being accepted, particularly from developing countries. Researchers are made to requalify or take post-doctoral qualifications again in order to become a researcher in the EU. The Committee suggests that the Commission's Action Plan⁵ to facilitate mobility within the EU; namely the implementation and development of instruments supporting the transparency and transferability of qualifications and the establishment of a one-stop European Mobility Information site, should be used to address this issue.

3.6 *A resident permit not linked to the status of the researcher*

3.6.1 The EESC welcomes the proposal to provide third-country researchers with a uniform status throughout the EU.

3.6.2 It also welcomes the recommendation that researchers admitted on the basis of an employment contract will not need to obtain a work permit in Member States.

3.7 *The mobility of researchers in the European Union*

3.7.1 The EESC is pleased with the Commission's recommendation to simplify the admission procedure to promote mobility so that third-country nationals can pursue a research project in several different Member States without encountering admission difficulties.

3.7.2 It also notes that this will apply to third-country nationals who are long-term residents.

3.8 *Choice of legal base for the proposed directive*

3.8.1 The EESC agrees with the legal base chosen, but regrets that the directive is not binding on Denmark and the United Kingdom. It notes Ireland's decision to opt-in to this directive and hopes that the United Kingdom decides to do the same. It is strongly of the view that this matter be re-examined as the research base, especially in the UK, is such that the EU efforts to attract such researchers in the number required will be severely hampered without their participation.

3.9 *Other matters*

3.9.1 The EESC believes that the issue of attracting potential researchers to the EU has to be recognised and that the issue of the "brain drain" from some third countries needs to be examined in great detail. These are not unrelated. The issue of training researchers in the UK warrants very

⁴ EESC Opinion 658/2004 of 28 April 2004, rapporteur: Mr Dantin.

⁵ COM(2002) 72 final.

particular consideration. Some potential researchers may need some further course work or period of study. In numerous cases they could quickly apply for a research position in the EU once such work has been completed. The directive needs to be considered with this in mind.

3.9.2 The Committee is very concerned about the consequences of a "brain drain" from certain developing countries and believes a detailed debate on how the quantum of researchers throughout the world may be increased. It should be noticed that some governments encourage researchers to go abroad and gain experience of benefit to the country of origin. It is noted that the Dutch Presidency is hosting a conference in The Hague entitled "Brain Gain The Instruments". The issue of the impact to developing countries of the brain drain or brain gain is being addressed at the conference and the Commission is producing a report on this subject by the end of the year. The EESC believes this is a start in addressing a very serious issue.

3.9.3 One of the topics from the previous Commission's Communication on researchers – COM(2003) 436 final - that the Committee wants to highlight is gender. The under-representation of women researchers especially in management and leadership roles needs to be highlighted. This is especially the case with third country researchers. The Committee wants to reiterate the Commission's recommendation for a code of conduct for the recruitment of researchers based on best practice, especially in the area of equality of opportunity. The Committee strongly believes that there is gross inequality in the treatment of female researchers in that not nearly sufficient female researchers are offering themselves for appointment and that when they do they are required to take up less senior positions than they are qualified to undertake. There is a need to improve the transparency of the recruitment process and increase the proportion of female applicants.

Brussels, 27 October 2004.

The President
of the
European Economic and Social Committee

The Secretary-General
of the
European Economic and Social Committee

Anne-Marie Sigmund

Patrick Venturini