

# **Proposal for a Directive on the conditions of entry and residence of third-country nationals who are human rights defenders in the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(a) and (b) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

...

## **CHAPTER I GENERAL PROVISIONS**

### **Article 1**

#### **Subject matter**

This Directive lays down:

- (a) the conditions of entry to, and residence for a prolonged stay in, the territory of the Member States, and the rights, of third-country nationals who are human rights defenders and where applicable their family members;
- (b) the rules and procedure for issuing authorisations to reside for third-country nationals who are human rights defenders and where applicable for their family members, referred to in point (a), for purposes of human rights related activities including, but not limited to work, advocacy, studies, research, training, voluntary service and rest and respite; and
- (c) the conditions of entry and residence, and the rights, of third-country nationals who are human rights defenders and where applicable their family members, referred to in point (a), in Member States other than the Member State which first grants the third-country national an authorisation under this Directive.

## Article 2

### Scope

1. This Directive shall apply to third-country nationals who are human rights defenders and who:
  - (a) reside outside the territory of the Member States at the time of application and apply to be admitted;
  - (b) have been admitted to the territory of a Member State under the terms of this Directive; or
  - (c) are otherwise present regularly or irregularly in the territory of a Member State and apply to extend or regularise their stay.

The admission and/or stay shall be for purposes of human rights related activities including continuing human rights work and capacity building; advocacy; conducting research or studying in a research organisation, education establishment, university or higher education institution in a Member State; undertaking training; undertaking voluntary service; and rest and respite.

2. This Directive shall not apply to third-country nationals:<sup>[AM1]</sup>
  - (a) who seek international protection or are beneficiaries of international protection in accordance with the Directive 2011/95/EU [Regulation (EU) 2024/1347 from 12 June 2026] of the European Parliament and of the Council or who are beneficiaries of temporary protection in accordance with the Council Directive 2011/55/EC in a Member State;
  - (b) who seek entry for a short stay not exceeding 90 days;
  - (c) whose expulsion has been suspended for reason of fact or of law;
  - (d) who are family members of Union citizens who have exercised their right to free movement within the Union;
  - (e) who enjoy long-term resident status in a Member State in accordance with Council Directive 2003/109/EC;
  - (f) who enjoy, together with their family members, and irrespective of their nationality, rights of free movement equivalent to those of citizens of the Union under agreements either between the Union and its Member States and third countries or between the Union and third countries.
3. In the event of a conflict between this Directive and Directive (EU) 2021/1883\* [the Blue Card Directive] or Directive (EU) 2016/801 of the European Parliament and of the Council\* [the Students and Researchers Directive], this Directive shall take precedence. However, a Member State should not refuse an authorisation for a third-country national under the

latter Directives on the ground that the third-country national is eligible to apply for an authorisation under this Directive.

## **Article 3**

### **Definitions**

For the purpose of this Directive, the following definitions apply:

- (1) ‘third-country national’ means a person who is not a citizen of the Union within the meaning of Article 20(1) TFEU;
- (2) ‘human rights defender’ means a third-country national who meets the definition of human rights defender in the UN Declaration on Human Rights Defenders<sup>[1]</sup><sub>[AM2]</sub>
- (3) ‘trusted third party’ means any of the accredited governmental, inter-governmental or international organisations, international or national institutions, universities and higher education institutions, civil society organisations, non-profit organisations, and professional associations listed in Annex I;
- (4) ‘application’ means an application for an authorisation;
- (5) ‘rest and respite’ refers to a period of time during which a human rights defender temporarily needs to suspend his or her professional or advocacy activities in his or her country of origin in order to recover, recuperate, regain personal well-being or access medical treatment including mental healthcare in the EU;
- (6) ‘prolonged stay’ means a stay exceeding 90 days;
- (7) ‘sponsor’ means a civil society organisation, a non-profit organisation, a university, a higher education institution, an educational establishment, a research organisation, an organisation responsible for a voluntary service scheme and an entity hosting trainees, as defined in Directive (EU) 2016/801 of the European Parliament and of the Council [the Students and Researchers Directive], to which the human rights defender is assigned for the purposes of this Directive and which is located in the territory of the Member State concerned, irrespective of its legal form, in accordance with national law;
- (8) ‘employment’ means the exercise of activities covering any form of labour or work regulated under national law or applicable collective agreements or in accordance with established practice for or under the direction or supervision of an employer;

- (9) 'first Member State' means the Member State which first issues a third-country national an authorisation on the basis of this Directive;
- (10) 'second Member State' means any Member States other than the first Member State;
- (11) 'authorisation' means a residence permit or, if provided for in national law, a long-stay visa issued for the purposes of this Directive;
- (12) 'residence permit' means an authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State;
- (13) 'long-stay visa' means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Convention or issued in accordance with the national law of Member States not applying the Schengen acquis in full;
- (14) 'family members' means third-country nationals as defined in Article 4(1) of Directive 2003/86/EC.

#### **Article 4**<sup>[AM3]</sup>

##### **More favourable provisions**

1. This Directive shall apply without prejudice to more favourable provisions of:
  - (a) Union law, including bilateral and multilateral agreements concluded between the Union and its Member States on the one hand and one or more third countries on the other;
  - (b) bilateral or multilateral agreements concluded between one or more Member States and one or more third countries; and
  - (c) relevant international legal instruments.
2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the third-country nationals to whom this Directive applies.

## **CHAPTER II**

### **CONDITIONS FOR ADMISSION**

#### **Article 5**

##### **Principles**

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Draft text by Annalisa Meloni and V. Apatzidou 2024.

1. Admission of a third country national under this Directive shall be subject to the verification of documentary evidence attesting that the third-country national meets the conditions laid down in Article 7.<sup>[AM4]</sup>
2. Where all the conditions are fulfilled, the third-country national shall be entitled to an authorisation.

Where a Member State issues residence permits only on its territory and all the admission conditions laid down in this Directive are fulfilled, the Member State concerned shall issue the third-country national with the requisite visa.

## **Article 6**<sup>[AM5]</sup>

### **Volumes of admission**

This Directive shall not affect the right of Member States to determine volumes of admission of third-country nationals in accordance with Article 79(5) TFEU.

## **Article 7**

### **Criteria for admission**

1. A third country national who applies for an authorisation under the terms of this Directive shall:
  - (a) present a letter of referral in accordance with Article 10 attesting that he or she is a human rights defender and that he or she necessitates a prolonged stay in the EU;
  - (b) present a valid travel document in accordance with Article 8;
  - (c) if the human rights defender is a minor under the national law of the Member State concerned, present a parental authorisation or an equivalent document for the planned stay. A Member State may waive the parental authorisation if considered in the best interest of the minor;
  - (d) present evidence that the human rights defender has or, if provided for in national law, has applied for sickness insurance for all risks normally covered for nationals of the Member State concerned; the insurance shall be valid for the duration of the planned stay. Proof of insurance may be replaced by a document issued by a trusted third party and/or a sponsor;
  - (e) provide evidence, if the Member State so requires, that the fee for handling the application has been paid. The level of such fee shall not be disproportionate or excessive. The fee may be reduced or waived in individual cases;

- (f) provide evidence that during the planned stay the human rights defender will have sufficient resources to cover subsistence costs, and return travel costs. The assessment of the sufficient resources shall be based on an individual examination of the case and shall take into account resources that derive, inter alia, from a grant, a scholarship or a fellowship, a valid work contract or a binding job offer or a financial guarantee by a sponsor. Member States shall consider the unique circumstances of human rights defenders and apply a lenient assessment of economic self-sufficiency requirements. The requirement of submitting documents shall be kept to a minimum and shall be waived in individual cases where other sufficient evidence is provided. While documentation is generally required, the absence of it shall not be the sole ground for refusal of an authorisation if a letter of referral is provided.
  - (g) not be considered to be a threat to public policy, public security or public health in light of his or her personal conduct.
2. A Member State may require the applicant to provide his or her address in its territory.

Where the national law of a Member State requires an address to be provided at the time of application and the human rights defender concerned does not yet know the future address, Member States shall accept a temporary address.
  3. The application shall be submitted and examined either when the human rights defender concerned is residing outside the territory of the Union or when the human rights defender is legally present in the territory of the Union.

By way of derogation, a Member State shall accept an application submitted by a human rights defender who is irregularly present in the territory of the Union and is seeking to regularise his or her stay.
  4. An applicant who is irregularly present in the territory of the Union shall benefit from temporary permission to stay while his or her application is considered.
  5. The application shall be submitted by the human rights defender or a trusted third party authorised to act on his or her behalf.
  6. As a general rule, applications shall be decided on within [15?] calendar days of the date of the lodging of an application.

## **Article 8**

## **Travel document**

1. The applicant shall present a valid travel document as determined by national law. Member States may require the period of validity of the travel document to cover at least the duration of the planned stay.
2. By way of derogation from paragraph 1, Member States may in individual cases accept a travel document that has a period of validity shorter than the duration of the planned stay.
3. By way of derogation from paragraph 1, Member States may in individual cases waive the requirement of a valid travel document and accept alternative proof of identity such as a temporary or emergency travel document, a national identity card, a certificate of identity or alien's passport, an expired passport or a passport with limited validity combined with information available in relevant databases.

## **Article 9**

### **Procedure to request a letter of referral**

A third-country national seeking to apply for an authorisation under this Directive, or a sponsor on his or her behalf, shall request a letter of referral from an EU delegation or a trusted third party. The request for a letter of referral shall be submitted directly to the EU delegation or trusted third party. It must include:

- (a) a detailed explanation of the third country national's situation and the reasons for seeking a prolonged stay in the EU;
- (b) documentation demonstrating the third country national's status as a human rights defender and evidence of his or her human rights related activities; and
- (c) any other supporting documents as required by the EU delegation or the trusted third party.

## **Article 10**

### **Letter of referral**

1. The letter of referral specified in Article 7(1)(a) shall be issued by an EU delegation or a trusted third party on a request from a third country national who intends to apply for an authorisation under this Directive or a sponsor on his or her behalf when the conditions in paragraph 2 are satisfied.
2. The letter of referral shall be issued to a third country national who:
  - (a) is a human rights defender; and

- (b) necessitates a prolonged stay within the EU due to his or her specific circumstances for one or more of the purposes specified in Article 2(1).
3. The letter of referral shall be recognised as sufficient evidence of the applicant's status as a human rights defender in all Member States<sup>[AM6]</sup>.
  4. The letter of referral shall substantiate the grounds for categorising the relevant third country national as a human rights defender and the reasons justifying the need for a prolonged stay in the EU with reference where possible to information sourced from Member States' diplomatic representations and/or EU delegations.
  5. In case of doubt as to the reliability of the letter of referral, national authorities responsible for processing applications shall verify it with the issuing trusted third party or through the European External Action Service (EEAS).
  6. The EEAS shall establish specific procedures for the verification<sup>[AM7]</sup> of letters of referral.
  7. Letters of referral shall be issued in the standard format set out in Annex [...II].

## **Article 11**

### **Access to information and referral pathway**

1. The Member States and the European Commission shall provide information on how to apply for an authorisation under this Directive that is easily accessible. Such information shall be provided in accessible formats in accordance with the UN Convention on the Rights of Persons with Disabilities. This information shall be published on:
  - (a) the EEAS website;
  - (b) where they exist, EU delegation websites;
  - (c) the Member States' consulate and embassy websites; and
  - (d) any relevant and appropriate websites compliant with Directive 2016/2102<sup>1</sup>, including but not limited to the ProtectDefenders website, or another platform designated by the European Commission.
2. On the websites listed in paragraph 1, a specific searchable webpage shall provide information on the authorisation process and a dedicated email address to contact the EEAS headquarters in confidentiality. Responses to email queries regarding authorisations shall as a rule take place within [x] working days of receiving the query.

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<sup>1</sup> On the accessibility of the websites and mobile applications of public sector bodies  
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3. The Member States shall establish a system of immediate referral to local EEAS officers for potential human rights defenders who spontaneously approach visa, border and migration officials.
4. The competent authorities in each Member State and the European Commission shall publish the list of the trusted third parties approved for the purposes of this Directive. Updated versions of this list shall be published as soon as possible following any changes to it.

## **Article 12**

### **Trusted third party and approval procedure**

1. Organisations seeking inclusion on the list of trusted third parties, as contained in Annex [...] to this Directive, shall submit their applications for approval to the European Commission. The application for approval shall include all necessary documentation to demonstrate compliance with the criteria established under this Directive.
2. The European Commission shall regularly forward applications to the relevant Member State(s) and the European Parliament for consultation. The relevant Member State(s) and the European Parliament shall provide their assessment and recommendations regarding applications within [X] weeks of receipt.
3. The European Parliament and/or a Member State may request additional information on one or more applications.
4. Following consultation, the European Commission shall adopt a decision on applications for approval and notify the applicant organizations in writing.
5. Decisions on applications for approval shall be based on the following criteria:
  - (a) the tasks and purposes of the applicant organization are focused on supporting human rights;
  - (b) the operational capacity of the applicant organization is sound;
  - (c) there is evidence that the applicant organisation's work supports human rights.
6. The approval granted to an organisation shall be for a minimum period of five years. In exceptional cases, approval may be granted for a shorter period.

Prior to the expiration of the approval period, organisations may apply for renewal. The renewal application shall be assessed based on continued compliance with the criteria specified in this Article.

7. The approval shall not be renewed or shall be withdrawn where:
  - (a) an organisation no longer complies with paragraph 5 of this Article;
  - (b) the approval has been fraudulently acquired; or
  - (c) where relevant, an organisation has issued a letter of referral to a third country national fraudulently or negligently.
8. Any decision rejecting an application, refusing renewal, or withdrawing approval shall be open to legal challenge.
9. Where an application for renewal has been refused or where the approval has been withdrawn, the organisation concerned may be banned from reapplying for approval for a period of up to [x] year(s) from the date of the decision on non-renewal or withdrawal.

## **CHAPTER III**

### **AUTHORISATIONS AND DURATION OF RESIDENCE**

#### **Article 13**

##### **Authorisations**

1. Member States shall ensure that the process for issuing and renewing authorisations takes into account the security concerns of the applicant. If an applicant requests that their role as a human rights defender be kept confidential due to safety concerns, Member States shall provide a broad, non-descriptive reference under the heading "remarks" for the authorisation.
2. When the authorisation is in the form of a residence permit, Member States shall use the format laid down in Regulation (EC) No 1030/2002. Under the heading "remarks" on the residence permit, Member States shall enter a general reference such as "engaged in research," "in human rights related work", "student," "trainee," "volunteer," or similar terms that describe the nature of the activity, without explicitly labeling the holder as a "human rights defender" if the individual requests confidentiality for security reasons.
3. When the authorisation is in the form of a long-stay visa, Member States shall enter a reference stating that it is issued for the same reasons mentioned in paragraph 1.

## **Article 14**

### **Duration and renewal of authorisation**

1. The initial authorisation granted to a human rights defender shall be valid for a period of one year, unless a different duration is specified in the authorisation.
2. The authorisation may be renewed upon request by the human rights defender to carry out an activity listed in Article 2(1) if the conditions laid down in Article 7, read in connection with Article 17, continue to be met. Member States may in individual cases accept an expired travel document for the extension of the duration of the authorisation or waive the requirement of a valid travel document in accordance with Article 8. The renewal period shall be for one year, unless otherwise specified.
3. In cases where a longer duration is required to achieve the objectives of the human rights-related activities, the human rights defender may request an extension of the authorisation. The total duration of the authorisation, including extensions, shall not exceed 2 years, unless otherwise provided in specific cases due to exceptional circumstances.
4. Member States shall ensure that the renewal procedure is straightforward and does not unduly delay the continuation of the human rights defender's activities. Any application for renewal shall be submitted no later than two months before the expiry of the current authorisation.
5. In the event of a pending renewal application, the existing authorisation shall remain valid until a final decision is made, provided that the renewal application was submitted within the prescribed time frame.
6. Member States shall assess the application for renewal based on the continued compliance with the conditions laid down in Article 7 and take into account any changes in circumstances that may affect the human rights defender's situation.
7. Residence under an authorisation shall count towards the acquisition of long-term resident status under Directive 2003/109/EC.

## **Article 15**

### **Procedural Safeguards**

1. The competent authorities of the Member State concerned shall adopt a decision on the application for authorisation and notify the applicant in writing, in accordance

with the notification procedures laid down in the law of that Member State. That decision shall be adopted and notified as soon as possible but not later than 15 days after the date of submission of the complete application.

2. Where the documents presented or information provided in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional documents or information that are required and shall set a reasonable deadline for presenting or providing them. The period referred to in paragraph 1 shall be suspended until the authorities have received the additional documents or information required. If the additional documents or information required have not been provided within that deadline, the application may be rejected.

3. If a human rights defender is already present in the territory of the European Union and has applied for an authorisation under this Directive, the Member State where the human rights defender is located shall grant him or her temporary residence status while a decision on the authorisation is made.

## **CHAPTER IV**

### **GROUND FOR REJECTION, WITHDRAWAL OR NON-RENEWAL OF AUTHORISATIONS**

#### **Article 16**

##### **Grounds for rejection**

1. A Member State shall reject an application for authorisation where:

- (a) the documents presented have been fraudulently acquired, falsified or tampered with;
- (b) false or misleading information has been presented in the application;
- (c) the third-country national concerned is considered to pose a threat to public policy, public security or public health.

Where a human rights defender is considered of posing a threat to public policy or public security on the basis of a Schengen Information System alert, the Member State considering the application for an authorisation shall undertake a rapid review of the alert to assess whether the grounds forming the basis of the alert are sufficiently serious to justify refusal of an authorisation in view of the individual circumstances of the human rights defender concerned. The existence of a criminal record from the country of origin alone or of an Interpol red notice shall not be

considered conclusive evidence that the applicant poses a threat to public policy, public security, or public health.

2. A Member State may reject an application where:

(a) the conditions laid down in Article 7 are not met except for the condition mentioned under paragraph (1)(f);

(b) there is insufficient explanation as to the reasons why a long-term authorisation is needed and a short-term authorisation could not serve the purposes of the visit.

## **Article 17**

### **Grounds for withdrawal or non-renewal of the authorisation**

1. Member States shall withdraw or, where applicable, refuse to renew an authorisation where:

(a) the authorisation or the documents presented have been fraudulently acquired, or falsified, or tampered with;

(b) the third-country national is residing for purposes other than those for which the third-country national was authorised to reside.

2. Member States may withdraw or refuse to renew an authorisation where:

(a) the third-country national no longer meets the conditions laid down in Article 7;

(b) for reasons of public policy, public security or public health;

(c) the third country national is unable to demonstrate engagement with human rights-related activities;

(d) the trusted third party or EU delegation have withdrawn or not renewed the referral letter;

(e) the grounds laid down in Article 8(2) of Directive (EU) 2021/1883 [the Blue Card Directive] apply, particularly regarding the misuse of the authorisation for purposes other than employment under the terms initially granted;

(f) the grounds laid down in Article 21(2) of Directive (EU) 2016/801 apply, including where a student or researcher is found to be non-compliant with national laws or administrative rules related to their residence status.

3. Without prejudice to paragraph 1, any decision to withdraw or to refuse to renew an authorisation shall take account of the specific circumstances of the case and shall respect the principle of proportionality. Special consideration shall be given to *Proposal for a Directive on the conditions of entry and residence of third-country national HRDs in the European Union*.  
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the impact on the human rights defender's ability to continue their work, as well as any potential risks they may face upon return to their country of origin.

## **Article 18**

### **Remedies**

1. Any decision declaring inadmissible or rejecting an application, refusing renewal, or withdrawing an authorisation shall be open to legal challenge in the Member State concerned, in accordance with national law.
2. Reasons for a decision declaring inadmissible or rejecting an application or refusing renewal shall be given in writing to the applicant. Reasons for a decision withdrawing an authorisation shall be given in writing to the third-country national.
3. The written notification shall specify the court or administrative authority with which an appeal may be lodged and the time limit for lodging the appeal.
4. The appeal shall have suspensive effect.

## **Article 19[...]**

## **CHAPTER V**

### **RIGHTS**

## **Article 20**

### **Access to employment**

1. Human rights defenders holding an authorisation under this Directive shall have the right to engage in human rights-related employed or self-employed activities subject to the rules generally applicable to the profession concerned or to the public service, immediately after authorisation was issued without the need for an additional work permit.
2. The rights provided under this Article do not preclude Member States from applying their national labor market regulations, including those relating to working conditions, labor rights, and other employment-related matters, in a manner that is consistent with the provisions of this Directive.

3. Member States shall ensure that human rights defenders are adequately informed of their rights to access the labor market and engage in self-employment. Information shall be available in accessible formats for persons with disabilities. Procedures for applying for employment and self-employment opportunities shall be transparent, clear, and accessible.

## **Article 21**

### **Access to education**

1. Human rights defenders shall have access to education and vocational training under the same conditions as nationals of the Member State that granted them admission under this Directive. This includes eligibility for scholarships and grants.

2. Human rights defenders shall be entitled to participate in lifelong learning programs, adult education opportunities, and training for requalification, facilitating their continuous professional and personal development. Member States shall ensure that human rights defenders have access to such programmes under conditions comparable to those available to their nationals participating in similar educational and training activities.

3. Member States shall provide human rights defenders with the necessary support and accessible information to facilitate their integration into the educational system, including access to language courses, digital competency training and preparatory programmes as needed.

4. Member States shall ensure that human rights defenders have access to student support services, including academic counseling, career advice, the necessary technical equipment and, where applicable, financial support or scholarships, under the same conditions as their nationals.

5. Human rights defenders enrolled in educational programmes or vocational training shall be allowed to extend their authorisation for the duration of their studies or training, provided they continue to meet the conditions laid down in Article [...] and submit timely renewal applications.

6. The rights to access mainstream education and related support services provided under this Article do not preclude Member States from applying their national regulations and policies concerning educational institutions and programs.

## **Article 22**

### **Recognition of qualifications**

1. Human rights defenders shall enjoy equal treatment with nationals of the Member State that granted them admission under this Directive in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.
2. Without prejudice to Article 2(2) and Article 3(3) of Directive 2005/36/EC of the European Parliament and of the Council, competent authorities shall facilitate full access to the procedures referred to in paragraph 1 of this Article for human rights defenders who cannot provide documentary evidence of their qualifications.
3. Human rights defenders shall enjoy equal treatment with nationals of the Member State that granted them admission under this Directive as regards access to appropriate schemes for the assessment, validation and recognition of their prior learning outcomes and experience.

## **Article 23**

### **Social welfare and access to support services**

1. Member States shall make provisions for human rights defenders to receive necessary assistance in terms of social welfare and suitable accommodation. This support shall include, at least the core benefits, emergency medical care and essential treatment of illness.
2. Member States shall establish dedicated funds to provide financial support to human rights defenders or organizations supporting human rights defenders during their stay. This fund shall cover a part of their living expenses, legal fees, healthcare, and other necessities.
3. The absence of proof of sufficient resources shall not be a reason for refusing the application of human rights defenders. In such cases, additional evidence may be required from either the human rights defenders, a trusted third party or a sponsor which shall provide information at least on the accommodation and health insurance of the applicant during their stay in the EU.

## **Article 24**

### **Access to banking services**

1. Member States shall ensure human rights defenders have access to banking services immediately after authorisation is issued and without discrimination.

2. Financial institutions shall be guided to simplify the account-opening process for human rights defenders, addressing issues related to excessive documentation and accommodating the unique circumstances of human rights defenders who may lack such documentation.

## **Article 25**

### **Support to continue human rights activity**

1. Member States shall ensure that human rights defenders have the necessary support to continue their human rights work. This support shall include access to resources and services that enable them to carry out their activities effectively and safely.
2. Member States shall facilitate opportunities for human rights defenders to connect, collaborate, and exchange experiences with other defenders. This may include supporting the organization of conferences, workshops, and networking events.
3. Human rights defenders shall have the opportunity to register non-governmental organizations and receive funding to support their activities.
4. Member States shall ensure that human rights defenders have access to free or subsidized workspace. This includes providing access to office facilities, meeting rooms, and other necessary infrastructure to support their work.

## **Article 26**

### **Equal treatment**

1. Human rights defenders shall be entitled to equal treatment with nationals of the Member State concerned with regard to:
  - (a) terms of employment and working conditions, including with regard to remuneration, dismissal, working hours, leave and holidays and the equal treatment of men and women, as well as health and safety at the workplace;
  - (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;
  - (c) education and vocational training;
  - (d) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
  - (e) social security, as defined in Regulation (EC) No 883/2004;
  - (f) tax benefits, in so far as the human rights defender is deemed to be resident for tax purposes in the Member State concerned;

- (g) access to goods and services and the supply of goods and services made available to the public including procedures for obtaining housing as provided by national law, without prejudice to the freedom of contract in accordance with Union and national law;
- (h) advice services afforded by employment officers.

2. Member States may impose restrictions on equal treatment as regards human rights defenders:

- (a) in accordance with the conditions set out in Article 22 (2) of Directive (EU) 2016/801;
- (b) in accordance with the conditions set out in Article 16 (2) of Directive (EU) 2021/1883;
- (c) in cases of exceptional circumstances such as high unemployment rates or economic crises, provided that such restrictions are justified, proportional, and do not undermine the fundamental rights of the human rights defender.

## **Article 27**

### **Family members**

1. For the purpose of allowing family members of human rights defenders to join the human rights defender in the host Member State, Member States shall process their application jointly and simultaneously with that of the human rights defender or at a later stage if the human rights defender is already in possession of an authorisation. Member States shall apply the provisions of Directive 2003/86/EC with the specific derogations set out in this Article.

2. By way of derogation from Article 3(1) and Article 8 of Directive 2003/86/EC, the granting of a residence permit to family members shall not be contingent upon the human rights defender having reasonable prospects of obtaining the right of permanent residence or having completed a minimum period of residence.

3. By way of derogation from the last subparagraph of Article 4(1) and Article 7(2) of Directive 2003/86/EC, integration conditions and measures may only be applied after the family members have been granted a residence permit.

4. By way of derogation from Article 5(4) of Directive 2003/86/EC, residence permits for family members shall be issued by a Member State, if the relevant conditions are fulfilled, either at the same time as that of the human rights defender in cases of joint applications or, when the family member(s) is joining the human right defender at a later stage, within [x] days from the date on which a complete application is

submitted. The residence permit for family members shall be granted only if the human rights defender holds a valid authorisation under this Directive.

5. By way of derogation from Article 13(2) and (3) of Directive 2003/86/EC, the duration of validity of the residence permit for family members shall generally align with the validity of the human rights defender's authorisation. This includes any authorisations granted for job-searching or entrepreneurship. Member States may require that the travel documents of family members cover at least the duration of the planned stay.

6. Family members who are granted residence under this Article shall have access to the same rights and benefits as family members of nationals of the Member States including access to education, employment, and social services.

7. Member States shall provide clear and accessible information on the procedures and requirements for family reunification to human rights defenders and their family members, ensuring that they are informed of their rights and the process.

## **[Article 27a**

### Protection

*Comment: to include provisions on protection including reporting, safety and security and access to assistance if targeted - linking with the proposals we are making on protection for HRDs within the EU.*

1. Member States shall take measures to ensure the protection of human rights defenders, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate activities in the promotion, protection or defence of human rights including through the establishment of a reporting mechanism and protection programmes.

2. Member States shall take measures to ensure the protection of human rights defenders against arbitrary or unlawful intrusion and interference in their family, home, places of work, possessions and correspondence including any form of surveillance, recording, search and seizure as a consequence of their legitimate activities in the promotion, protection or defense of human rights.

3. Member States shall guarantee that human rights defenders can receive public services and participate in civic life without having to connect online.

## CHAPTER VI

### MOBILITY BETWEEN MEMBER STATES

#### Article 28

##### Short-term mobility of human rights defenders

1. Where a human rights defender who holds a valid authorisation issued by a Member State that applies the Schengen *acquis* in full enters and stays in one or several second Member States for a period of 90 days in any 180-day period, the second Member State shall not require any authorisation for exercising such activity other than the authorisation provided in accordance with Article [..].

2. A human rights defender who holds a valid authorisation issued by a Member State that does not apply the Schengen *acquis* in full shall be entitled to enter and stay for in one or several second Member States for up to 90 days in any 180-day period on the basis of the human rights defender's authorisation and a valid travel document. Where the authorisation holder crosses an internal border for which controls have not yet been lifted into a second Member State that applies the Schengen *acquis* in full, the second Member State may require the authorisation holder to provide evidence of the purpose of the stay.

#### Article 29

##### Long-term mobility of human rights defenders

1. In relation to human rights defenders who hold a valid authorization issued by the first Member State and who intend to stay in order to carry out part of their human rights activities in any organization or institution in one or several second Member States for more than 90 days in any 180-day period, the second Member State shall either:

(a) apply Article [..] and allow the human rights defender to stay on the territory on the basis of and during the period of validity of the authorization issued by the first Member State; or

(b) apply the procedure provided for in the following paragraphs.

The second Member State may define a maximum period of the long-term mobility of a human rights defender.

2. When an application for long-term mobility is submitted:

(a) The second Member State may require the human rights defender, the organization in the first Member State, or the organization in the second Member State to transmit the following documents:

(i) A valid travel document and a valid authorization issued by the first Member State;

(ii) evidence that the human rights defender has sickness insurance for all the risks normally covered for nationals of the Member State concerned;

(iii) evidence that during the stay the human rights defender will have sufficient resources to cover subsistence costs without recourse to the Member State's social assistance system, as well as travel costs to the first Member State;

(iv) where not specified in any of the documents presented by the applicant, the planned duration and dates of the mobility.

(b) The second Member State may require the applicant to provide the address of the human rights defender concerned in its territory. Where the national law of the second Member State requires an address to be provided at the time of application and the human rights defender does not yet know their future address, that Member State shall accept a temporary address. The human rights defender shall provide their permanent address at the latest at the time of the issuance of the authorization for long-term mobility.

(c) The second Member State may require the applicant to present the documents in an official language of that Member State or in any official language of the Union determined by that Member State.

2.1 The second Member State shall take a decision on the application for long-term mobility and notify the decision to the applicant in writing as soon as possible, but not later than 90 days from the date on which the complete application was submitted to the competent authorities of the second Member State.

2.2 The human rights defender shall not be required to leave the territories of the Member States in order to submit an application and shall not be subject to a visa requirement.

2.3 The human rights defender shall be allowed to carry out part of their human rights activities in the organization or institution in the second Member State until a decision on the application for long-term mobility has been taken by the competent authorities, provided that:

- (i) neither the period referred to in Article 14 nor the period of validity of the authorization issued by the first Member State have expired; and
  - (ii) if the second Member State so requires, the complete application has been submitted to the second Member State at least 30 days before the long-term mobility of the human rights defender starts.
3. The second Member State may reject an application for long-term mobility where:
- (a) the conditions set out in point (a) of paragraph 2 are not complied with;
  - (b) one of the grounds for rejection set out in Article 16, applies;
  - (c) the human rights defender's authorization in the first Member State expires during the procedure; or
  - (d) the maximum duration of stay has been reached.
4. Where the second Member State takes a positive decision on the application for long-term mobility as referred to in paragraph 2 of this Article, the human rights defender shall be issued an authorization in accordance with Article 13. The second Member State shall inform the competent authorities of the first Member State when an authorization for long-term mobility is issued.
5. Human rights defenders who are considered to pose a threat to public policy, public security or public health shall not be allowed to enter or to stay on the territory of the second Member State.

## **CHAPTER VII**

### **FINAL PROVISIONS**

#### **Article 30**

##### **Statistics**

1. Member States shall communicate to the Commission statistics on the number of authorisations issued for the purposes of this Directive, the number of third-country nationals whose authorisations have been renewed or withdrawn. Statistics on admitted family members of human rights defenders shall be communicated in the same manner. Those statistics shall be disaggregated by type of decision, reason for the decision, length of validity of permits, citizenship, sex and age.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be communicated to the Commission within six months of the end of the reference year. The first reference year shall be [...].

3. The statistics referred to in paragraph 1 shall be communicated in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council (1).

## **Article 31**

### **Reporting**

Periodically, and for the first time by [...], the Commission shall submit a report to the European Parliament and the Council on the application of this Directive in the Member States and propose amendments if appropriate.

## **Article 32**

### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall immediately communicate the text of those measures to the Commission. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

## **Article 33**

### **Entry into force**

This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

## **Article 34**

### **Addresses**

*Proposal for a Directive on the conditions of entry and residence of third-country national HRDs in the European Union.*  
Draft text by Annalisa Meloni and V. Apatzidou 2024.

This Directive is addressed to the Member States in accordance with the Treaties.

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## **Annex I**

### **List of trusted third parties (indicative)**

UN affiliated organisations

CoE and affiliated organisations

OSCE

FRA accredited bodies

The EU Human Rights Defenders mechanism, ProtectDefenders.eu and associated organisations

Frontline Defenders

National Human Rights Institutions (NHRIs)

International NGOs such as Human Rights Watch, Amnesty International

Regional NGOs

Scholars at risk, Artists at risk

Universities and higher education institutions

Professional associations

## **Annex II**

### **Letter of certification format**

**Identification details of the applicant:** Full name, date of birth, nationality (if any), and passport or identification number (if any).

**Basis for categorization as a human rights defender:** A detailed explanation of how the applicant meets the EU definition of a human rights defender, including references to relevant human rights activities, roles, and any recognitions or affiliations.

**Necessity for prolonged stay:** Justification for the applicant's need for a prolonged stay in the EU, including the specific circumstances that require such a stay, as well as the intended duration.

**Purpose of stay:** The specific purpose of the applicant's stay in the EU, such as work, study, research, traineeship, volunteerism, or rest and respite, in line with the purposes specified in Article 2(1).

**Supporting evidence:** stipulating whether the organization is responsible for reimbursing costs related to the stay and return of a human rights defender applying for authorisation.

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[1]

The EU and its Member states define human rights defenders (HRD) in the spirit of the 'UN Declaration on Human Rights Defenders' as: *individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms through peaceful means. Human rights defenders seek the promotion and protection of civil and political as well as the promotion, protection and realization of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. It is therefore in the core interest of the EU and its Member States to support their work and protect them.* See EU Guidelines on Human Rights Defenders, 2008, para 3 and UN Declaration on Human Rights Defenders, and the Council Working Party on Human Rights' (COHOM) Guidance Note on the EU Guidelines on Human Rights Defenders (2020, COHOM, 9793/20).

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[AM1]Para 2 is standard

[AM2]Definition in footnote is the same as in the Visa Code Handbook

[AM3]Article 4 may be considered standard more or less

[AM4]Article 5 is also present in other sectoral directives but the first paragraph may need to be deleted. This is because an authorisation may discretionally be issued by a Member State even when the entry conditions in Article 7 are not met (this is unlike other sectoral directives where the conditions have to be met).

[AM5]standard

[AM6]This links to the comment on blacklisting of organisations by some Member States

[AM7]should verification be deleted?