

SUMMARY TEST IN LAWYER-LINGUISTS COMPETITION

In this test, you will be given a text in language 3 and asked to write on computer a summary of it in language 1 (the language of the competition). The length of test is approximately 2 hours. The use of dictionaries is forbidden.

Example

Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

1. Context of the proposal

This proposal forms part of the EU's efforts to develop a comprehensive immigration policy. The Hague Programme of November 2004 recognised that 'legal migration will play an important role in enhancing the knowledge-based economy in Europe, in advancing economic development and thus contributing to the implementation of the Lisbon Strategy' and asked the Commission to present a policy plan on legal migration 'including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market'.

The subsequent December 2005 Commission Communication A Policy Plan on Legal Migration provided for the adoption of five legislative proposals on labour immigration, including a proposal for a directive on intra-corporate transferees, between 2007 and 2009.

The Stockholm Programme, adopted by the European Council of 10 and 11 December 2009, recognises that labour immigration can contribute to increased competitiveness and economic vitality and that, in the context of the important demographic challenges that will face the EU in the future with an increased demand for labour, flexible immigration policies will make an important contribution to the EU's economic development and performance in the longer term. It thus invites the Commission and Council to continue to implement the 2005 Policy Plan on Legal Migration.

The proposals regarding highly qualified workers ('EU Blue Card') and for a general Framework Directive were presented in October 2007. The Council adopted the first of these proposals on 25 May 2009; the second one is currently being negotiated in the European Parliament and in the Council.

In face of the obstacles encountered by businesses in relation to the complexity and diversity of rules, the aim of this Directive is, in particular, to facilitate intra-corporate transfers of skills both to the EU and within the EU in order to boost the competitiveness of the EU economy, and to complement the set of other measures the EU is putting in place to achieve the goals of the EU 2020 Strategy. It is specifically aimed at responding effectively and promptly to demand for managerial and qualified employees for branches and subsidiaries of multinational companies by setting up transparent and harmonised conditions of admission of this category of workers, by creating more attractive conditions of temporary stay for intra-corporate transferees and their family and by promoting efficient allocation and re-allocation of transferees between EU entities. Achieving this objective would also help to meet the EU's international trade commitments, including specific rules on intra-corporate transferees. Promotion of such transnational movements requires a climate of fair competition and respect for the rights of workers, including creating a secure legal status for intra-corporate transferees.

As a result of the globalisation of business, increasing international trade, the growth and spread of multinationals and the ongoing restructuring and consolidation of many sectors, movements of managerial and technical employees of branches and subsidiaries of multinational corporations, temporarily relocated for short assignments to other units of the company, have become more crucial in recent years. The capacity of businesses to react more rapidly to new challenges, to transfer know-how to their future managers and to harmonise qualifications in every country where the company is active, is essential. Developments in the organisation of work and allocation within businesses also necessitate increasing mobility.

However, a number of factors currently limit the scope for international companies to rely on mobility of intra-corporate transferees. Many multinationals wishing to transfer their personnel have run into inflexibility and limitations, including the lack of clear specific schemes in most EU Member States, the complexity of requirements, costs, delays in granting visas or work permits and uncertainty about the rules and procedures. In addition, there are big differences between Member States in terms of conditions of admission and restrictions on family rights.

Measures to attract highly qualified third-country nationals, such as key staff of transnational corporations, are part of the broader framework identified by the EU 2020 Strategy, which set the objective of the Union becoming an economy based on knowledge and innovation, reducing the administrative burden on companies and better matching labour supply with demand. Facilitation of intra-corporate transfers is also an objective shared by EU trade policy.

This proposal complies with fundamental rights, especially Articles 15, 21 and 31 (fair and equal treatment), 12 (freedom of association and affiliation), 34 (social security) and 7 (respect for private and family life) of the Charter of Fundamental Rights, as it recognises and safeguards the principle of equal treatment for intra-corporate transferees and includes procedural guarantees and the right to family life.

Personal data that authorities are required to handle when implementing this proposal will have to be processed in accordance with Directive 95/46/EC on the protection of individuals with regard to the processing of personal data.

Analysis of the 130 contributions sent during the public consultation showed general support for a common EU policy on economic immigration, albeit with big differences in the approaches to be followed and in the expected end-result. Another clear request was to propose simple, non-bureaucratic and flexible solutions. As a large number of Member States were not in favour of a horizontal approach, the Commission considered that a sectoral approach was more realistic and would respond better to the requests for flexibility.

2. Legal elements of the proposal

The proposal establishes a transparent and simplified procedure for admission of intra-corporate transferees, based on a common definition and harmonised criteria: the transferee must occupy a post as manager, specialist or graduate trainee, as provided for in the EU's commitments under GATS; the prior employment within the same group of undertakings must have lasted at least 12 months, if required by the Member State; an assignment letter must be produced confirming that the third-country national is transferred to the host entity and specifying the remuneration. A specific scheme for graduate trainees is envisaged. Intra-corporate transferees admitted would be issued with a specific residence permit (marked 'intra-corporate transferee') allowing them to carry out their assignment in diverse entities belonging to the same transnational corporation, including, under certain conditions, entities located in other Member States. This permit would also give them favourable conditions for family reunification in the first Member State.

This proposal concerns conditions of entry and residence for third-country nationals and procedures for issuing the necessary permits. It also lays down the conditions under which a third-country national may reside in a second Member State. Consequently, the appropriate legal basis is Article 79(2)(a) and (b) of the Treaty on the Functioning of the European Union (TFEU).

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union. The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons:

- The treatment granted to intra-corporate transferees at EU level, combined with the conditions and procedures regulating such movements, have an impact on the attractiveness of the EU as a whole and influence the extent to which multinational companies decide to do business or invest in a certain area.
- Rigidities in transferring foreign intra-corporate transferees from one European corporate headquarters to another are extremely important for multinational companies. Action at EU level is the only way to remove these rigidities.

- A common legal framework laying down common conditions of admission for intra-corporate transferees, including in terms of social and economic rights, would prevent the risk of unfair competition.

- The big differences between Member States in terms of entry procedures and temporary residency rights could hamper uniform application of the international commitments which the EU and its Member States have taken on in the WTO negotiations.

The proposal therefore complies with the subsidiarity principle.

The proposal complies with the proportionality principle for the following reasons.

The instrument chosen is a directive, which gives Member States a high degree of flexibility when it comes to implementation.

A directive is the appropriate instrument for this action: it sets binding minimum standards but gives Member States flexibility in respect of the form and method for putting these principles into effect in their national legal system and general context. Non-binding measures would have too limited an effect, as potential ICTs and their host EU companies would continue to face an array of different rules for admission.

The action is limited to what is necessary to achieve the above aim. The proposed rules concern admission conditions, procedure and permit, as well as rights of ICTs, including intra-EU mobility, hence the areas that constitute elements of a common immigration policy under Article 79 of the Treaty. The administrative burden imposed on Member State in terms of change of legislation (design of specific rules on intra-corporate transfer) and cooperation would be moderate as intra-corporate transferees are already singled out by trade instruments and as this burden would be outweighed by the large benefits flowing from the enhanced possibility to easily transfer intra-corporate staff from one Member State to another.