



Consultation on the future rules on the entry and residence of non-EU national researchers, students, school pupils, unremunerated trainees and volunteers in the EU

1. Do you think that the attractiveness of the EU as a destination for school pupils should be improved? How?

Each year thousands of pupils from third countries go on long-term pupil exchanges to the EU with organisations operating pupil exchange schemes like AFS-International Programs. Pupil exchanges are a great way to increase familiarity and understanding among cultures and foster the acquirement and exchange of values, attitudes and aspirations. Pupil exchanges also increase their intercultural competence, and develop a personal relation to their EU host countries. Pupil exchanges contribute to four of the **key competences for lifelong learning**, namely communication in foreign languages, learning to learn, intercultural competence as a social/civic competence, and cultural awareness and expression.

The high number of participants in pupil exchange schemes shows that the EU countries are a rather attractive destination for third-country pupils. However, **the attractiveness can be further improved by reducing the complexity of administrative procedures for obtaining visa and residence permits, and through stronger promotion of long-term pupil exchanges**, especially in Central and East European countries.

Third-country pupils participating in long-term exchange scheme programmes face enormous administrative barriers and time-consuming procedures to obtain a visa and residence permits. These obstacles have a negative impact on the attractiveness of the EU as a destination and can discourage pupils from attending such exchange scheme programmes. In addition, it also greatly increases the resources and efforts needed from pupil exchange organisations to support participants in the application process, which increases the costs of the exchange programme, adding an additional financial barrier. Therefore, reducing or removing administrative barriers would lead to increased attractiveness of the EU for pupils and more accessible pupil exchange schemes.

Pupil exchange opportunities for third-country nationals are also **under promoted by EU institutions**, at least compared to opportunities within research projects or university studies, to which the online portal of the European Commission “Study in Europe” is dedicated. In order to increase attractiveness of the EU for pupils, stronger promotion on the side of the EU is recommended. Furthermore, pupil exchange organisations’ promotion work can be additionally facilitated and supported by the EU.

It should be considered that there is high variation in the level of attractiveness between EU countries. Western European countries are much more attractive for third-country pupils than Central and Eastern European countries. Focusing on promotion of the latter through dedicated programmes (again, on EU level or through additional support for pupil exchange organisations) would have a favourable effect on the attractiveness of the EU in general.

2. What do you see as the main issues in relation to non-EU school pupils coming to the EU and the main problems/shortcomings in the current EU rules on pupils? Explain.
- Visas X
 - Residence permits X
 - Difficulties in giving relevant information for a visa application well in advance of school pupils' arrival X
 - National rules on sickness insurance X
 - Insufficient clarity on what constitutes a "recognised organisation" operating a secondary education Programme X
 - Other

These answers are based on the pluriannual experience of the **27 EFIL members, namely AFS national organisations operating pupil exchanged in 26 countries**, and on data collected through ad-hoc questionnaires for this consultation. Questionnaires have been collected from partners in 10 EU countries (Austria, Belgium, Czech Republic, Finland, Germany, Hungary, Italy, the Netherlands, Portugal, Spain), and in 2 non-EU countries (Russian Federation, Switzerland). The EFIL members from EU countries that submitted the questionnaire operate pupil exchange scheme programmes which involve about **900 pupils from non-EU countries every year**.

The main issues in relation to third-country school pupils coming to the EU on an exchange scheme, are listed below under the different headings.

VISAS

- **Different embassies/consulates apply the same national regulations differently** and this creates a feeling of uncertainty and the impossibility for the organisations operating pupil exchanges to provide correct information to the natural families of the pupils.
- In some third countries procedures to get a visa for EU countries are still very **long** (Russia)
- In some countries, **additional documents** are required for the issuing of a visa, such as the income of the host family or a bank account on the student's name. These documents include sensitive information and are a boundary to the inclusiveness of the pupil exchange programme.
- In some countries (some Federal states in Germany) a **proof of knowledge of the official language** is required. Speaking the language prior to departure is not a prerequisite for a successful exchange experience. Moreover, such a requirement could have a negative impact on the numbers of applicants for exchange programmes, especially for destinations where the official language is not spoken outside the country itself.

- **EU countries do not have embassies/consulates in all countries of the world, therefore pupils need to travel to neighbouring countries to apply for visa baring additional costs**, in case these Embassies/Consulates require the pupils to apply in person/ have a personal interview/provide fingerprints-biometrics for the visa or for the residence permit.
Eg. Ecuadorian pupils need to travel to Peru to get a visa for the Netherlands. Columbian pupils need to travel to Brazil to get a visa for Hungary, the same happens for many third-country pupils willing to take part to an exchange programme in Czech Republic.
- Some **non EU-nationals do not need a visa to enter the EU** (eg Venezuela and Paraguay), **but the authorities stop them at the custom for investigations when they are told that pupils are planning to stay for a long period** such a school year. Apparently there is no explanation for this behaviour on the part of the migration authorities and it is not clear what documents these third-country pupils should provide (Austria).
- In some countries like Portugal, Spain and Austria, third-country pupils participating in an exchange scheme, entry EU with a **tourist Schengen visa which lasts only 2 or 3 months. Pupils need to renew the visa or apply for a residence permit upon arrival**, baring additional costs and the risk of students to become illegally present in the host country territory if the host family does not start the application procedure in due time.
- In Czech Republic, **pupils that finished secondary education in their home country cannot enter the EU as students** and they cannot enroll in pupil exchange scheme and in a secondary school establishment.
- In France, **pupils need to apply for a "mineur scolarisé" visa, meaning "underage going to school"**, therefore pupils in an exchange scheme programme cannot turn 18 before arriving in the host country.

RESIDENCE PERMITS

- The **biometric e-residence permit entails extra costs and very strict procedures**. Eg. In Finland pupils need to apply for the biometric e-residence permit in person to an Embassy/Consulate before departure and minors need to be accompanied by their parents. In Czech Republic pupils have only 3 days' time upon arrival to apply for a residence permit with biometrics to the local authorities.
- **There is lack of consistency in regulation within one country** (eg. Belgium Flanders): besides the general requirements, the **local authorities may require additional documents to register non-EU citizens moving into their community**.
- Some documents required for a residence permits **are not issued in non EU-countries**, eg. Austrian authorities require a police clearance for pupils older than 16, which is impossible to issue in Dominican Republic, Ecuador, Panama.



- In some countries the procedure to issue a residence permit is very **long** and can last from a minimum of 3 and maximum of 6 months. The procedure takes the same time whether students apply from the home country or upon arrival in the host country. Often local authorities dealing with residence permits are understaffed and overloaded with work (Austria). This means that **pupils need to apply for the residence permit well in advance in order not to become illegal in the host country.**
- In Portugal, authorities **issue a residence permit for one year even if the pupils are staying for a shorter period.** Pupils staying for a Semester programme (170 days) need to pay 150 euros for an annual residence permit, while they would need a residence permit for only 50 extra days to add to the 120 days entry visa. This practice bares unproportionate costs and the danger for third-country pupils, most of the time minors, to remain legally resident in an EU country without being enrolled in an exchange programme anymore.
- The **costs** of a residence permit are usually high, from 150-180 euros (Austria, Finland) to 300 euros (Netherlands).

Insufficient clarity on what constitutes a "recognised organisation" operating a secondary education Programme

- Often AFS organisations in EU countries or umbrella organisations gathering several pupil exchange organisations, have informal **agreements with the national governments but these are not always respected** and embassies/consulates around the world do not know about their existence (eg. UNSE, the umbrella organisation of pupil exchange organisations in France).
- The **definition** 'recognised programmes of secondary education in the context of an exchange scheme operated by an organization recognized for that purpose by the member state in accordance with its national law and administrative practice', now included in the directive 2004/114 is not clear enough because it is not linked to a provision obliging Members states to implement a system for the recognition and certification of organisations operating pupil exchanges.

National rules on sickness insurance

- In Czech Republic, the draft of the new alien act includes a provision that states that the **sickness insurance** asked for completing the visa/residence permit application procedure for the pupil has to be **issued by a company based in Czech Republic.** If this law will be approved, it would constitute an enormous barrier to the entry of pupils on an exchange scheme.



The shortcoming of the current EU regulations affecting the entry of third-country pupils in the EU are:

- The **lack of monitoring of the implementation of the current directive 2004/114** and the fact that the provisions are not mandatory and therefore have not been implemented by Member states.
- The **side effects of the European Council regulations No. 1030/2002 which requires all 27 Member states to introduce the electronic residence permit ("e-residence permit")**. This is designed to standardize the country residence permits in all EU Member states by providing the permit holder's biographic and biometric information and therefore reducing incidence of fraudulent documentation. In some countries (eg. Finland in 2012), this EU directive has been applied restrictively, therefore residence permit applications must be submitted in person because they need to include the fingerprints of the applicant. Consequently, the organisation implementing the pupil exchange programme is no longer able to submit an application for residence permit on behalf of the applicant.

3. What actions (including non-legislative actions) could help to facilitate access of non-EU school pupils to the EU? Please include any examples of relevant best practice which you are aware of and indicate whether in your view the rules on the admission of non-EU school pupils should become mandatory for the Member States.

The future EU rules on the admission of third-country pupils should be mandatory for the Member states and there should be a more effective enforcement and monitoring of the transposition of directive's provisions by Member states.

The following **actions could help facilitating the access of non-EU school pupils in the EU**, some draw from best practices in EU countries:

ROLE OF ORGANISATIONS OPERATING PUPIL EXCHANGES

- The new EU rules, should encourage **national legislations** on the entry of third-country nationals to:
 - o **include simplified procedures for the issuing of visas and residence permits for pupils taking part to exchange scheme programmes of recognised and certified organisations;**
 - o **promote institutionalised/formal agreements between governments and organisations operating pupil exchange programmes.**



Some agreements between national authorities and organisations operating pupil exchanges are already in place in some countries but because of their informality, they are not sustainable and are continuously threatened by the restructuring of migration offices/ministries. In order to have a sustainable policy to attract pupils from non-EU countries to EU, formal agreements between the governments and exchange organisations are needed.

- **National umbrellas of organisations operating pupil exchanges already exist** in France, Germany and the Netherlands (and also in Denmark and Switzerland). Thanks to these umbrellas, organisations became trusted interlocutors of national authorities. These National umbrellas could **serve as a platform for the certification of organisations operating pupil exchange programmes** that can benefit of simplified procedures.
- The new EU directive on visas and residence permits, should include a **provision that obliges Member states to implement a system for the recognition and certification of organisations operating pupil exchange schemes.**
- Organisations operating pupil exchange schemes such as AFS, with a long history(60 years) and experience with pupils exchanges, should be recognised as providers of exchange schemes and given by Member states a role in the procedure of visa/residence permit. They should be granted the status of Guarantor/Bailer of the pupils participating in the exchange scheme programmes so that they could **invite pupils and obtain and entry visa for them without the need of providing the details of the host family and host school.** Moreover, organisations should be able **to apply for residence permits for pupils enrolled in their exchange scheme programmes** (also in case of the e-residence permit), so that host families are not in charge of this administrative matter and the organisation can ensure that the pupils do not become illegal in the host country.

EMBASSIES/CONSULATES

- **Explain to Members states what pupil exchanges are, their value and benefits, and which are the organisations operating the exchange scheme programmes.** Consequently, the embassies and consulates of EU countries around the world will be more approachable for pupils and exchange organisations.
- **Embassies and consulates should provide support to applicants** and comply to standards of customer satisfaction. Customer satisfaction surveys could be used by Members states to compile the report on the implementation of the future directive, to be submitted to the European Commission.



DOCUMENTS REQUIRED

- The requirements for visas and residence permits for EU countries should be **standardised, and documentation should be kept to a minimum.**
- The **sickness insurance should be valid in the host country and does not need to be issued by a company based in the host country.**

APPLICATION PROCEDURE

- Embassies/Consulates should make a **fast check of documents** received by the applicant and inform the applicant right away regarding the status of the application (eg. received-reviewed-completed) and if there are any missing documents. For this, it would be useful to have an online tracking system where applicants can check the status of their application and also upload the missing documents.
- Embassies/Consulates should provide **transparent information and clear deadlines** for the application procedure for visa/residence permit and **promote the awareness of procedural rights and safeguards** on the part of the applicants, including the right to question. No additional documents should be asked at the last minute, after an applicant has already been in contact with the Embassy/Consulate and provided the documents s/he was initially required to. The deadlines for providing documents should be communicated in time to provide space for the applicant and the organisation operating the pupil exchange scheme, to prepare the needed documents.
- The time needed to issue visas and residence permits should be **shortened (max 3 months).**
- **Embassies/Consulates should allow applications to be sent by post mail or fax or submitted by other persons than the applicant**, e.g. representatives of the organisation operating the pupil exchange scheme.
- In order to avoid extra costs and barriers to access of third-country pupils to the EU, **applicants should be able to apply in all countries in the world for their visa and residence permit to EU countries (including the biometric ones).** This can be achieved by agreements between EU countries that allow an Embassy/Consulate of an EU country to issue visas and residence permits for some other EU countries.
- Since in some countries pupils have to travel long and bare high extra costs to go in person to an Embassy/Consulate to provide the biometrics, they should be given the possibility **to choose whether they want to apply for a biometric residence permit from their home country and go in person at the Embassy to provide the biometrics, or apply for a residence permit upon arrival on the host country**, with the help of the organisation operating the pupil exchange scheme.

TIME VALIDITY OF ENTRY VISA/ RESIDENCE PERMIT

- In general, the **visa and residence permit should be valid from the arrival in the host country and for all the period of the exchange, without need for renewal.**
- In case it is not possible for third country pupils to obtain a visa for the whole period of the exchange, or apply for the residence permit from their home country, and therefore they need to **enter the EU with a tourist Schengen visa (2-3 months)** and apply for a long term visa or a residence permit upon arrival, **the organisation operating the pupil exchange scheme and not the host family should be in charge of applying for the visa extension or the residence permit on behalf of the pupil.**
- **The residence permit should expire when the exchange programme comes to an end** and have a **proportionate cost for the days of its validity**, both for legal reasons and unnecessary costs.
- **The Schengen tourist visa lasting 3 months (90 days) issued to pupils coming from the Russian Federation and participating in an exchange programme in the EU, should have a longer and more flexible validity.** The fact that the 90 days period is fixed, causes problems in organising trimester exchanges with the Russian Federation. School pupils could get a **special visa through a simplified procedure similar to the Schengen tourist visa, for the number of days they will spend in the EU** for their exchange programme, which is usually a period between 3 and 4 months.
- **Pupils coming from neighbouring countries in South East Europe** participating in an exchange programme in the EU should benefit from **the visa exemption.**

The new EU rules could be based on [the current existing agreements between exchange organisations and governments:](#)

- **AFS Italy agreements with the relevant ministries (Education, Interior, Foreign affairs)**
- **AFS Finland agreement with MIGRI and the Belgian law of 1992 which allow pupils to apply for a visa and residence permit without providing the host family and host school placement because the exchange host organisation guarantees**, although not all embassies/consulates are aware of these agreements/laws
- **Faster procedures** like the 'Schweigefristverfahren' (Silent procedure) in Germany for the organisations members of AJA, the National umbrella of organisations operating pupil exchange schemes. According to this procedure, **if the local authority of the municipality where the pupil will be hosted, provide no refusal in 3 weeks + 2 days, the visa is automatically issued.** However, in Germany the local authorities are becoming stricter and they interrupt more often the period of 3 weeks+2 days to make further investigations.



- The practice of Swiss embassies/consulates to receive **a list with the names of all pupils who applied for an exchange scheme programme operated by an organisation member of Intermundo**, the National umbrella of organisations operating pupil exchange schemes. Swiss embassies/consulates issue an entry visas (usually valid for 3 months) for each pupil before they receive the placement confirmation (host family and host school) from the organisation operating the pupil exchange scheme. Once the students have entered Switzerland with these single-entry visas, they will be issued a residence permit by the canton of their residence.

Effective legislation present in some EU countries:

- **Pupils apply for the residence permit already from their home country and pick it up from the local authorities when they enter the host country (Austria)**
- **Pupils participating in an exchange programme for a period up to 6 months, do not need to apply for a residence permit upon arrival because the entry visa is enough (Austria)..** This type of visa is issued in only 2-3 weeks in their home country
- **Pupils that have finished high school in their home country, can apply for a visa as students** and take part to an exchange scheme programme in a secondary school establishment in the host country (Germany).
- Visas free of charge (Russia, Germany)
- Proportionate costs for residence permits (Hungary, 60 euros)

National laws currently under development:

- In the Netherlands the government is discussing a new law on immigration and plans to **have a special agreement with accredited organisations operating pupil exchange schemes, allowing pupils to provide less documents to the immigration office.** However, accredited organisations need to have all documents requested on file so the Immigration office can check them. If documents are not kept following the regulations, the accredited organisation gets a fine and can lose accreditation for 3 years in case these episodes happen repeatedly.
- In Czech Republic the government is drafting a new alien act, **aiming at a closer cooperation with organisations operating pupil exchange schemes. This regulation would allow pupils participating in an exchange scheme operated by accredited organisations, to apply for a national visa for a period from more than 3 months to one year, following a simplified procedure.** However the period of one year cannot be extended with a different purpose of stay (eg. studying at university/working).