


Procedure file

Basic information		
CNS - Consultation procedure Directive	2001/0154(CNS)	Procedure lapsed or withdrawn
Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities		
Subject 7.10 Free movement and integration of third-country nationals		

Key players			
European Parliament			
Council of the European Union			
Council configuration	Justice and Home Affairs (JHA)	Meeting	Date
		2548	27/11/2003
European Commission			
Commission DG	Justice and Consumers	Commissioner	

Key events			
10/07/2001	Legislative proposal published	COM(2001)0386	Summary
01/10/2001	Committee referral announced in Parliament		
21/01/2003	Vote in committee		Summary
20/01/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0010/2003	
11/02/2003	Debate in Parliament		
12/02/2003	Decision by Parliament	T5-0050/2003	Summary
27/11/2003	Debate in Council	2548	
17/03/2006	Additional information		Summary

Technical information	
Procedure reference	2001/0154(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 063
Stage reached in procedure	Procedure lapsed or withdrawn

Documentation gateway

Legislative proposal		COM(2001)0386 OJ C 332 27.11.2001, p. 0248 E	11/07/2001	EC	Summary
Economic and Social Committee: opinion, report		CES0028/2002 OJ C 080 03.04.2002, p. 0037	16/01/2002	ESC	
Committee of the Regions: opinion		CDR0386/2001 OJ C 192 12.08.2002, p. 0020	13/03/2002	CofR	
Committee report tabled for plenary, 1st reading/single reading		A5-0010/2003	21/01/2003	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0050/2003 OJ C 043 19.02.2004, p. 0070-0230 E	12/02/2003	EP	Summary

Additional information

European Commission	EUR-Lex
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Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities

PURPOSE: to create EU harmonised rules concerning the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activity. **CONTENT:** A comparative study, commissioned by the EU in 2000, on the admission of third-country nationals for paid employment and self-employed economic activities, illustrated that the rules on admission of third-country nationals to work in the EU differs considerable from Member State to Member State. Only a few common rules and principles applicable to all Member States actually exist. Thus, in accordance with the conclusions of the Tampere European Council in 1999 in which it was agreed to create enhanced "freedom, security and justice" in the European Union, the Commission is proposing a draft harmonising Directive. This proposal has been designed to be fully compatible with and complementary to the recently proposed draft Directive on long-term resident third-country nationals. Similarly, it has also been prepared in such a way so as to be compatible with the WTO Agreement on Trade in Services (GATS). The Directive is based on Article 63 (3) of the EC Treaty which provides that the Council should adopt "measures on immigration policy within the following area: conditions of entry and residence, and standards on procedures for the issue by member States of long-term visas and residence permits." Given the divergence of national procedures, and based on the principle of subsidiarity, it is felt that the proposed "one-stop shop procedure" should greatly benefit not only those seeking entry to the EU for work but also national governments and local authorities. The objective of the proposed Directive are as follows: - to lay down common definitions, criteria and procedures regarding the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, based on concepts, which have already been successfully applied in Member States; - to lay down common criteria for admitting third-country nationals to employed activities and self-employed economic activities and opening different options for demonstrating compliance with these criteria; - to provide procedural and transparency safeguards in order to assure a high level of legal certainty and information for all interested actors on Member State rules and administrative practice in the field of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities; - to provide a single national application procedure leading to a combined title, encompassing both residence and work permit within one administrative act, in order to simplify and harmonise the diverging rules currently applicable in Member States; - to provide rights to third-country national whilst respecting Member States discretion to limit economic migration; - to provide a flexible framework allowing all interested parties, including Member States to react quickly to changing economic and demographic circumstances; - to add real meaning to the commitments that the EC and its Member States have entered into in the context of the WTO GATS Agreement; - to acknowledge Member States' right to limit admission of third-country national under the terms of this proposal, if a Member State considers that it is necessary to apply horizontal measures. This proposal is based on Title IV of the EC Treaty, which does not apply to the United Kingdom and Ireland unless those Member States decide to do otherwise in accordance with the Protocol. Likewise, Title IV does not apply to Denmark by virtue of the Protocol on the position of Denmark.?

Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities

The committee adopted the report by Anna TERRÓN i CUSÍ (PES, E) amending the proposal under the consultation procedure. The main amendments were as follows: - residence permits for workers and self-employed workers should be issued for a minimum of one year and a spouse or recognised partner should also be entitled to such a permit; - the chief criterion for admitting third country nationals should be that a vacancy cannot be filled from the domestic labour market within 3 weeks (rather than 4 weeks as proposed by the Commission) by other EU nationals or by non-EU nationals already legally resident in the Community. Member States should nevertheless be allowed to adopt their own rules for vacancies in specific sectors that cannot be filled from the domestic labour market, although they should then consult employers' and employees' organisations; - once a permit has been granted and if the worker has a valid work contract, evidence that the job cannot be filled by others should not be needed in order to extend the permit. If a worker with a valid permit wishes to change jobs within the same line of

work, approval should be granted automatically. Changing employment to another line of work should be allowed when permits are renewed. Moreover, permits should not be restricted to a particular region; - the deadline for the authorities to decide on applications for permits should be shortened from six to three months; - the period during which company employees outside the EU must have worked for their firm before they can be transferred to a branch of that firm within the EU should be cut from twelve to six months. As soon as they have obtained a residence permit they should be allowed to work in any Member State; - Member States should be allowed to grant non-EU nationals temporary residence permits, valid for six months, to seek employment or attend professional training courses targeted at obtaining employment; - if an employee leaves his post within twelve months of taking up employment, his employer may fill the vacancy with another third country national without having to fulfil all the criteria again; - holders of residence permits should be granted access to education, social assistance for access to housing and the right to free legal aid. Furthermore, residence permits should not be revoked before the end of a period of entitlement to unemployment benefit; - lastly, the committee stressed that Member States should remain free to apply more favourable rules if they wish.?

Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities

The European Parliament adopted a resolution drafted by Anna TERRON I CUSI (PES, Spain) and made some amendments to the Commission's proposal. (Please refer to the document dated 21/01/03.) Parliament also made the following amendments: - Member States may establish a dedicated website with job vacancies, so as to provide up-to-date information to applicants, and make the job vacancies available on the website of the European Employment Services (EURES); - Member States may impose national conditions for the issue of the 'residence permit-worker' relating to consultation between the social partners and cooperation with the country of origin; - a late application for renewable will not constitute grounds for refusing a permit; - a residence permit-worker may not be revoked before the end of the period of entitlement to unemployment benefit; - there are special provisions for a "residence permit-intra corporate transferee" and a "residence permit-contractual service supplier"; - applicants will be entitled to receive information on the progress of their application fifteen working days after the end of the average time it takes to process applications; - any applicant will be informed immediately if the authorities stop processing the application.?

Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities

As announced in Official Journal C 64 of 17 March 2006, the Commission decided to withdraw this proposal, which had become obsolete.