



**COUNCIL OF
THE EUROPEAN UNION**

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**Interinstitutional File:
2001/0074 (CNS)**

OUTCOME OF PROCEEDINGS

of :	Strategic Committee on Immigration, Frontiers and Asylum
on :	22 and 23 July 2002
No.prev.doc.:	10462/02 MIGR 62
No.Cion prop.:	8237/01 MIGR 33 - COM(2001) 127 final
Subject :	Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents

The **Committee** had an exchange of views on some questions relating to the draft Directive concerning the status of third-country nationals who are long-term residents on which agreement could not yet be reached (8237/01 MIGR 33). These questions had been identified by the Presidency and outlined in a Note submitted to the Committee (10462/02 MIGR 62).

Scope as regards refugees (Article 3)

Some delegations (E, EL, D and A) felt that refugees should not be covered. **These delegations** considered that, since refugees enjoy a special status to be granted on the basis of international instruments (the Geneva Convention and other relevant texts), they may not be assimilated to economic immigrants.

However, a large number of delegations (**B, F, FIN, I, L, NL, P and S**) took the view that, irrespective of the status of the person concerned (refugee or economic immigrant), the provisions of this Directive should apply to all third-country nationals who have been residing for a long period of time in the territory of a Member State. Moreover, according to **S**, the long-term resident status should also be granted to persons enjoying subsidiary protection.

The duration of residence in a Member State that is required with a view to acquiring status as long-term resident (Article 5(1))

A **vast majority of delegations** supported the 5 year deadline suggested by the Commission in its proposal.

EL and I were not in favour, insofar as their national legislations provide for longer time-limits (10 and 6 years respectively).

Other conditions for acquiring status as long-term resident (Articles 6 and 7)

Some delegations suggested adding additional requirements.

Regarding **Article 6**, it was pointed out that it should also include the conditions of an *appropriate accommodation* (**D, I and A**), of *integration* (**D, NL and A**) and *compliance with tax obligations* (**E**).

Moreover, according to **EL**, the determination of the level of stable resources referred to in 6(1)(a) should be left to the discretion of the Member State concerned.

With respect to **Article 7**, it was considered that the long-term resident status should also be refused *if the conduct of the person concerned constitutes a threat to international relations* (**A**, supported by **EL**), or *if he/she has committed particularly serious crimes* (**D and I**).

Expressing their favour for the conditions suggested by the Commission, various delegations (**B, F, FIN, P and S**) opposed the introduction of any new requirements. Moreover, with respect to the condition of possessing stable resources referred to in 6(1)(a), **S** wondered why such a requirement should be met by third-country nationals who have acquired the status in one Member State and do not intend to move to another Member State. Concerning the introduction of a condition of integration, it was stressed that it would be extremely difficult to define objective criteria in order to evaluate the fulfillment of such a requirement. In this context **NL** stated its willingness to submit a suggestion - to be drafted together with **D and A** -, concerning the determination of appropriate criteria which would enable an assessment to be made whether the condition of integration has been met or not.

The **Presidency** invited the said delegations to submit such a suggestion with a view to a further meeting of the Committee. It also took the view that, should new conditions be introduced, they need to be as limited as possible. Moreover, it felt that the possibility of setting optional conditions might also be envisaged. In this respect **F** stressed the need for harmonisation and **D** did not favour the inclusion of optional conditions.

Treatment to be granted to long-term residents (Article 12)

Evoking the conclusions of the European Council of Tampere, **FIN and S** pointed out that persons who have acquired the status of long-term residents should enjoy treatment equivalent to that of EU nationals.

D observed that the said conclusions called for an approximation of the treatment of third-country nationals to that of EU nationals. Taking the view that the fact of granting the individual rights indicated in Article 12 - and in particular access to the labour market and to social security - may raise some difficulties for the Member States and result in a heavy financial burden, it favoured defining a list of areas in which long term residents enjoy comparable rights. **A** expressed some concern regarding various rights listed in Article 12. It considered that it should be possible, by means of bilateral agreements, to grant more favourable treatment to nationals of certain third-countries, without extending it to all third-country nationals.

E wanted the addition it suggested for point i) to be agreed (*subject to the measures required for the protection of public order and domestic security*, see 9636/02 MIGR 50, page 8)

The Presidency invited **D** to submit a list of the rights that long-term residents may have access to.

Residence of long-term residents in another Member State (Chapter III)

Exercise of an economic activity in a employed or self-employed capacity in a second Member State (Article 16(1))

F, NL and S stressed that the mobility of long-term residents from one Member State to another is a central issue of this Directive and constitutes its added value.

While supporting the principle of the mobility of long-term residents, **D** felt that in order to allow such a right certain preconditions should be met. In particular, it stressed the need for avoiding 'exporting' social assistance from one Member State to another. Noting that the competent authorities should be entitled to regulate access to the labour market, it opposed an automatic transfer of the right to work from the first to the second Member State. Similar concerns regarding, in particular, access to the labour market were expressed by **E, EL, FIN, P and A**.

Feeling that Chapter III needs to be revised, **B** wondered whether it might not be appropriate - in particular as far as access to the labour market is concerned - to introduce a reference to national legislation.

Noting that discussions are ongoing in Italy on the issue of mobility, **I** requested estimations concerning the potential impact of migratory flows within the EU as a consequence of the application of this Directive.

The **Presidency** noted that the majority of delegations were in favour of the principle of the mobility of long-term residents. However, it stressed the need for further examining Chapter III, and in particular the wording of Article 16(1). The Presidency also announced that it is considering submitting a compromise suggestion concerning the introduction of a time limit for granting access to the labour market.

Finally, the **Presidency** noted that all the above-mentioned issues need to be further considered by the Committee at a next meeting.
