

P5_TA(2002)0030

Long-term residents *

Proposal for a Council directive concerning the status of third-country nationals who are long-term residents (COM(2001) 127 – C5-0250/2001 – 2001/0074(CNS))

The proposal was amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 57 Recital 4

(4) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(4) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, ***and, in particular, Article 21 thereof, and strengthens the prohibition of all forms of discrimination within the meaning of Article 13 of the Treaty and of the directives adopted pursuant to that Article.***

Amendment 2 Recital 5

(5) The integration of third-country nationals who are long-term residents in the Member States is a ***key*** element in promoting economic and social cohesion, a fundamental objective of the Community declared by Articles 2 and 3(1)(k) of the Treaty.

(5) The integration of third-country nationals who are long-term residents in the Member States is ***an*** element in promoting economic and social cohesion, a fundamental objective of the Community declared by Articles 2 and 3(1)(k) of the Treaty.

Amendment 3 Recital 6

(6) The chief criterion for acquiring the status of long-term resident should be the

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¹ OJ C 240 E, 28.8.2001, p.79.

duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country. Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis.

duration of residence in the territory of a Member State. ***However, due account should also be taken of progress towards integration in the form of efforts to learn a language of the Member State concerned.*** Residence should be both legal and continuous in order to show that the person has put down roots in the country. Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis.

Amendment 4
Recital 7

(7) To acquire long-term resident status, third-country nationals should prove that they have adequate resources ***and*** sickness insurance cover, to avoid becoming a burden for the Member State. The level of such resources should not be disproportionate and should be set uniformly for all the Member States. A further condition for acquiring the status is that third-country nationals should not constitute an actual threat to public order and domestic security.

(7) To acquire long-term resident status, third-country nationals should prove that they have adequate resources, sickness insurance cover ***and retirement provision comparable to that of an EU citizen in a similar employment context,*** to avoid becoming a burden for the Member State. The level of such resources should not be disproportionate and should be set uniformly for all the Member States. A further condition for acquiring the status is that third-country nationals should not constitute an actual threat to public order and domestic security.

Amendment 5
Recital 8

(8) A set of rules governing the procedures for the examination of applications for long-term resident status should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair in order to offer appropriate legal certainty to those concerned.

(8) A set of rules governing the procedures for the examination of applications for long-term resident status should be laid down. Those procedures should be effective, ***streamlined*** and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair in order to offer appropriate legal certainty to those concerned.

Amendments 77 and 6
Recital 10

(10) In order to constitute a genuine instrument for the integration of long-term residents into the society in which they live, long-term resident status should ensure equality of treatment with citizens of the Member State in a wide range of economic and social matters.

(10) In order to constitute a genuine instrument for the integration of long-term residents into the society in which they live, long-term resident status should ensure equality of treatment with citizens of the Member State in a wide range of economic and social matters. ***The learning of a language of the Member State concerned is also fundamental to social integration.***

Amendment 58
Recital 11

(11) Long-term residents should enjoy maximum protection against expulsion. This protection is based on Community law relating to free movement of persons and criteria determined by the decisions of the European Court of Human Rights. Protection against expulsion entails provision in the applicable procedures for effective judicial redress procedures.

(11) Long-term residents ***and the members of their family*** should enjoy maximum protection against expulsion. This protection is based on Community law relating to free movement of persons and criteria determined by the decisions of the European Court of Human Rights. Protection against expulsion entails provision in the applicable procedures for effective judicial redress procedures.

Amendment 8
Recital 17

(17) To avoid rendering the right of residence nugatory, long-term residents should enjoy in the second Member State the rights they enjoy in the Member State in which they acquired the status. Exceptions from this principle should be provided for as regards social security benefits to ensure that the persons concerned do not become a burden on the Member State in which they exercise the right of residence. The rights enjoyed by the persons concerned in the second Member State should be ***similar*** to those enjoyed by citizens of the Union when they exercise their right of free movement.

(17) To avoid rendering the right of residence nugatory, long-term residents should enjoy in the second Member State the rights they enjoy in the Member State in which they acquired the status. Exceptions from this principle should be provided for as regards social security benefits to ensure that the persons concerned do not become a burden on the Member State in which they exercise the right of residence ***until Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community⁽¹⁾ is amended to include third-country nationals.*** The rights enjoyed

by the persons concerned in the second Member State should be *approximated* to those enjoyed by citizens of the Union when they exercise their right of free movement.

(1) *OJ L 149, 5.7.1971, p. 2.*

Amendment 82
Recital 19 a (new)

(19a) In the light of the Council's determination to take effective steps to combat terrorism, it seems appropriate to deny persons who take part in terrorist acts, as defined in the Council Framework Decision on combating terrorism, the special status of third-country nationals who are long-term residents or to exclude them from the special protection against expulsion which that status affords.

Amendment 10
Article 2, point (b)

(b) 'long-term resident' means any third-country national who has long-term resident status as provided for by Article 8;

(b) '*EC* long-term resident' means any third-country national who has long-term resident status as provided for by Article 8;

(This amendment applies throughout the text).

Amendment 12
Article 3, paragraph 2, point (d)

(d) reside in order to pursue studies, with the exception of studies for a doctorate, or vocational training, or as au pair or seasonal worker, or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services;

(d) reside *exclusively* in order to pursue studies, with the exception of studies for a doctorate, or vocational training, or as au pair or seasonal worker, or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services;

Amendment 64
Article 3, paragraph 5

5. This Directive shall apply without prejudice to the obligations imposed by **Article 33** of the Geneva Convention of 28 July 1951 on the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and **Article 3** of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

5. This Directive shall apply without prejudice to the obligations imposed by **Articles 32 and 33** of the Geneva Convention of 28 July 1951 on the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and **Articles 3 and 8** of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 **and Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.**

Amendment 13
Article 4

The Member States shall give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, **fortune**, birth, disabilities, age or sexual orientation.

The Member States shall give effect to the provisions of this Directive without discrimination on the basis of **nationality**, sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, **property**, birth, disabilities, age or sexual orientation.

Amendment 16
Article 5, paragraph 2, point (b)

(b) periods of residence for study purposes, with the exception of study towards a doctorate, shall be taken into account as to half only.

(b) periods of residence **exclusively** for study purposes, with the exception of study towards a doctorate, shall be taken into account as to half only.

Amendment 19
Article 6, paragraph 1, point (a)

(a) stable resources corresponding to the level of resources below which social assistance may be granted in the Member State concerned. Where this provision cannot be applied, the resources shall be considered to be adequate where they are equal to the level of the minimum social security pension paid by the Member State concerned. The criterion of stability of resources shall be evaluated by reference to the nature and regularity of the resources *enjoyed prior to* the application for long-term residence status.

(a) stable resources corresponding to the level of resources below which social assistance may be granted in the Member State concerned. Where this provision cannot be applied, the resources shall be considered to be adequate where they are equal to the level of the minimum social security pension paid by the Member State concerned. The criterion of stability of resources shall be evaluated by reference to the nature and regularity of the resources *available at the time of* the application for long-term residence status.

Amendment 20

Article 6, paragraph 1, point (b)

(b) sickness insurance covering *all risks in* the Member State concerned.

(b) sickness insurance *whose provisions governing acceptance of liability for costs are identical to those of the schemes covering citizens of* the Member State concerned.

Amendment 21

Article 6, paragraph 1, point (b a) (new)

(ba) retirement provision comparable to that of an EU citizen in a similar employment context.

Amendment 55

Article 7, paragraph 2a (new)

2a. It shall be for each Member State to decide whether particular criminal convictions are sufficiently serious to warrant the refusal referred to in paragraph 1.

Amendment 24

Article 7, paragraph 2b (new)

2b. When applying paragraphs 1 and 2, Member States shall ensure consistency as far as possible with the provisions of

Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health⁽¹⁾, unless a departure from its terms is justified by overriding security considerations.

(1) OJ 56, 4.4.1964, p. 850.

Amendment 25
Article 8, paragraph 3

3. If the conditions provided for by Articles 5 and 6 are met, and *the person does not represent a threat within the meaning of Article 7*, the Member States concerned shall grant the third-country national concerned long-term resident status. This status shall be permanent, subject to Article 10.

3. If the conditions provided for by Articles 5 and 6 are met, and *there are no grounds for refusal pursuant to Article 7*, the Member States concerned shall grant the third-country national concerned long-term resident status. This status shall be permanent, subject to Article 10.

Amendment 26
Article 9, paragraph 3

3. A long-term resident's EC residence permit shall be issued *free of charge or* against payment of a sum not exceeding the charges required of nationals for the issuance of identity cards.

3. A long-term resident's EC residence permit shall be issued against payment of a sum not exceeding *the administrative costs and not exceeding* the charges required of nationals for the issuance of identity cards. *Member States may provide for permits to be issued free of charge.*

Amendment 29
Article 10, paragraph 5, point (a)

(a) long-term resident status is withdrawn pursuant to paragraph 1(a) *or (b)*; or

(a) long-term resident status is withdrawn pursuant to paragraph 1(a); or

Amendment 30
Article 11, paragraph 1

1. Reasons shall be given for any decision rejecting an application for long-term resident status or withdrawing that status. It shall be notified in writing to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

1. **Full** reasons shall be given for any decision rejecting an application for long-term resident status or withdrawing that status. It shall be notified in writing, **without delay**, to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

Amendment 31
Article 11, paragraph 3

3. Where an application for long-term resident status is rejected or that status is withdrawn or the residence permit is not renewed, the person concerned shall have the right to apply to the courts of the Member State concerned.

3. Where an application for long-term resident status is rejected or that status is withdrawn or the residence permit is not renewed, the person concerned shall have the right to apply to the courts of the Member State concerned **for a review of the merits of that decision and/or any breach of procedural rights.**

Amendment 32
Article 12, paragraph 1, point (c)

(c) recognition of diplomas, certificates and other qualifications issued by a competent authority;

(c) recognition of diplomas, certificates and other qualifications issued by a competent authority **in the first Member State;**

Amendment 33
Article 12, paragraph 1, point (i a) (new)

(ia) access to legal proceedings and effective legal remedies.

Amendment 56
Article 12, paragraph 1, point (i b) (new)

(ib) participation in community life at local level.

Amendment 69
Article 12, paragraph 1, point (i c) (new)

(ic) exercise of cultural and religious activities;

Amendment 70
Article 12, paragraph 1, point (i d) (new)

(id) rights enshrined in the Charter of Fundamental Rights and applicable to all persons resident in the European Union;

Amendment 35
Article 12, paragraph 2

2. Member States may extend the benefit of equal treatment to matters not referred to in paragraph 1.

2. Member States may extend the benefit of equal treatment to matters not referred to in paragraph 1, ***such as active participation in political life, including voting rights at local and European level.***

Amendment 71
Article 12, paragraph 2a (new)

2a. The Member States shall take the measures required to prevent discrimination in practice and to remedy cases of discrimination.

Amendment 36
Article 13, paragraph 1

1. Member States may take a decision to expel a long-term resident solely where ***his*** personal conduct constitutes an actual and sufficiently serious threat to public order or domestic security that affects a fundamental interest of society.

1. Member States may take a decision to expel a long-term resident ***or the members of his family***, solely where ***their*** personal conduct constitutes an actual and sufficiently serious threat to public order or domestic security that affects a fundamental interest of society.

Amendment 38
Article 13, paragraph 4, introduction

4. Before taking a decision to expel a long-term resident, Member States shall have regard to the following factors:

4. Before taking a decision to expel a long-term resident, Member States shall have regard to the following factors *in accordance with the case-law of the European Court of Human Rights*:

Amendment 40
Article 13, paragraph 6

6. Legal aid shall be given to long-term residents lacking adequate resources, on the same terms as apply to nationals of the State where they reside.

6. Legal aid shall be given to long-term residents lacking adequate resources, on the same terms as apply to nationals of the State where they reside. *They may be provided with an interpreter.*

Amendment 41
Article 13, paragraph 7

7. Emergency expulsion procedures shall be prohibited against long-term residents

7. Emergency expulsion procedures shall be prohibited against long-term residents, *unless they can be justified by overriding security interests.*

Amendment 43
Article 16, paragraph 1, point (b)

(b) pursuit of studies or vocational training, and possession of adequate resources available *to avoid becoming a burden on the second Member State during the period of residence* and sickness insurance covering *all* risks in the second Member State; or

(b) pursuit of studies or vocational training, and possession of adequate resources available and sickness insurance covering *the usual* risks in the second Member State; or

Amendment 44
Article 16, paragraph 1, point (c)

(c) possession of adequate resources available to avoid becoming a burden on the second Member State during the period of residence and sickness insurance covering *all* risks in the second Member State.

(c) possession of adequate resources available to avoid becoming a burden on the second Member State during the period of residence and sickness insurance covering *the usual* risks in the second Member State

and proof of retirement provision comparable to that of an EU citizen in a similar employment context.

Amendment 45
Article 16, paragraph 2, point (c)

*(c) they embark on vocational training. Deleted
Unless they are in a state of involuntary unemployment, the retention of worker status depends on the existence of a relation between the previous occupational activity and the training concerned.*

Amendment 46
Article 17, paragraph 3, point (c)

(c) evidence that they have adequate resources and sickness insurance covering *all* risks in the second Member State. (c) evidence that they have adequate resources and sickness insurance covering *the usual* risks in the second Member State.

Amendment 47
Article 17, paragraph 4, point (b)

(b) evidence that they have adequate resources and sickness insurance covering *all* risks in the second Member State. (b) evidence that they have adequate resources and sickness insurance covering *the usual* risks in the second Member State.

Amendment 48
Article 18, paragraph 2, point (c)

(c) evidence that they have adequate resources and sickness insurance covering *all* risks in the *Second* Member State or that the long-term resident has such resources and insurance for them. (c) evidence that they have adequate resources and sickness insurance covering *the usual* risks in the *second* Member State or that the long-term resident has such resources and insurance for them.

Amendment 51
Article 19, paragraph 2 a (new)

2a. When applying paragraphs 1 and 2, Member States shall ensure consistency as far as possible with the provisions of

Directive 64/221/EEC, unless a departure from its terms is justified by overriding security considerations.

Amendment 52
Article 21, paragraph 4

4. Permits shall be issued ***free of charge or*** against payment of a sum not exceeding the charges required of nationals for the issuance of identity cards.

4. Permits shall be issued against payment of a sum not exceeding ***the administrative costs and not exceeding*** the charges required of nationals for the issuance of identity cards. ***Member States may provide for permits to be issued free of charge.***

Amendment 53
Article 22, paragraph 1

1. Reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified in writing to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

1. ***Full*** reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified in writing, ***without delay***, to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

Amendment 54
Article 25, paragraph 2

2. ***Expulsion decisions may not be accompanied by a permanent ban on residence.***

Deleted

European Parliament legislative resolution on the proposal for a Council Directive concerning the status of third-country nationals who are long-term residents (COM(2001) 127 – C5-0250/2001 – 2001/0074(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2001) 127¹),
 - having regard to Articles 63(3) and (4) of the EC Treaty,
 - having been consulted by the Council pursuant to Article 67 of the EC Treaty (C5-0250/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Legal Affairs and the Internal Market, the Committee on Employment and Social Affairs and the Committee on Petitions (A5-0436/2001),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 240 E, 28.8.2001, p. 79.