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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position with a view to the adoption of a European Parliament and Council directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States
(13263/3/2003 – C5-0014/2004 – 2001/0111(COD))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Giacomo Santini

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

At its sitting of 11 February 2003 Parliament adopted its position at first reading on the amended proposal for a European Parliament and Council directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2001) 257 – 2001/0111(COD)).

At the sitting of 15 January 2004 the President of Parliament announced that the common position had been received and referred to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (13263/3/2003 – C5-0014/2004).

The committee had appointed Giacomo Santini rapporteur at its meeting of 11 September 2002.

It considered the common position and the draft recommendation for second reading at its meetings of 22 January, 18 February and 19 February 2004.

At the last meeting it adopted the draft legislative resolution by 23 votes to 4.

The following were present for the vote: Jorge Salvador Hernández Mollar (chairman), Johanna L.A. Boogerd-Quaak (vice-chairman), Giacomo Santini (rapporteur and vice-chairman), Mary Elizabeth Banotti, Michael Cashman, Carmen Cerdeira Morterero, Gérard M.J. Deprez, Adeline Hazan, Marie-Thérèse Hermange (for Thierry Cornillet), Margot Keßler, Timothy Kirkhope, Eva Klamt, Lucio Manisco (for Giuseppe Di Lello Finuoli), Luís Marinho (for Ozan Ceyhun), Marjo Matikainen-Kallström (for Charlotte Cederschiöld), Erik Meijer (for Ilka Schröder, pursuant to Rule 153(2)), Elena Ornella Paciotti, Paolo Pastorelli (for Giuseppe Brienza), Hubert Pirker, Bernd Posselt, Olle Schmidt (for Baroness Ludford), Ole Sørensen (for Bill Newton Dunn), Sérgio Sousa Pinto, Joke Swiebel, Anna Terrón i Cusí, Maurizio Turco and Christian Ulrik von Boetticher.

The recommendation for second reading was tabled on 23 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position with a view to the adoption of a European Parliament and Council directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States
(13263/3/2003 – C5-0014/2004 – 2001/0111(COD))**

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (13263/3/2003 – C5-0014/2004),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 257)²,
 - having regard to the amended Commission proposal (COM(2003) 199³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 78 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0090/2004),
1. Approves the common position;
 2. Notes that the act is adopted in accordance with the common position;
 3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 4. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Union;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 43 E, 19.2.2004, p. 42.

² OJ C 270 E, 25.9.2001, p. 150.

³ Not yet published in OJ.

19 February 2004

MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure
by Olle Schmidt

I fully support the right to freedom of movement of individuals as one of the fundamental freedoms on the internal market. I am concerned that country after country is introducing transitional rules for the new Member States. There is now a risk that we shall have to live with these transitional rules which discriminate against the new Member States for 10-20 years. The transitional rules are being introduced on the grounds that there is a risk that the present Member States' benefit systems will be misused when the borders are opened to the new EU citizens this spring.

At the present time, 10 hours of employment a week is sufficient to gain access to the new country's welfare system. The requirement should instead be that people can support themselves by working. I have therefore pushed for a number of general measures, covering all EU citizens, amending the definition of work to the effect that it must be sufficient to support the person concerned. This already applies to pensioners and students. The EU would then be open to the free movement of labour but not to benefit abuse.

I am also doubtful about the definition of 'family member', which should be broadened to include spouse, and registered or unmarried cohabiting partners, regardless of gender.

19 February 2004

MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure
by Maurizio Turco and Marco Cappato

On the advice of the rapporteur, the Committee on Citizens' Freedoms and Rights went back on many fundamental amendments adopted by Parliament at first reading, bowing to pressure from the Council, which had threatened Parliament by stating that any amendment to the text would block the legislative procedure. More specifically, the committee rejected the amendments we retabled concerning the definition of the 'family', which were designed to establish the principle of mutual recognition by Member States, in particular to allow couples, irrespective of the sex of the partners, to be able to move freely within EU territory. The outcome is an acceptance of discrimination against homosexual couples, in particular where one of the two partners is a non-Community citizen – despite being legally married or in a civil partnership in one of the countries which permit arrangements of this kind, such persons would lose these acquired rights when crossing EU borders. Similarly, the retrograde steps in the definition of direct descendant, and in the provisions concerning the exercise of and conditions for freedom of movement and residence, the periods for acquiring the right to permanent residence, and expulsion are unacceptable. For the umpteenth time, Parliament has given way to the Council, abandoning the political ideals set out at first reading in favour of a pragmatic approach – which is quite simply one of timidity and compliance – at second reading.