

RELEX-001

Brussels, 4 April 2002

OPINION

of the

Committee of the Regions

of 13 March 2002

on the

Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities

(COM(2001) 386 final - 2001/0154(CNS))

and the

Proposal for a Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months

(COM(2001) 388 final - 2001/0155(CNS))

The Committee of the Regions

HAVING REGARD TO the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (COM(2001) 386 final - 2001/0154(CNS)) and the Proposal for a Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months (COM(2001) 388 final - 2001/0155 (CNS));

HAVING REGARD TO the decision of the Council of the European Union of 21 September 2001 to consult it under the first paragraph of Article 265 of the Treaty establishing the European Community;

HAVING REGARD TO the decision taken by its Bureau on 12 June 2001 to instruct Commission 7 for Education, Vocational Training, Culture, Youth, Sport, and Citizens' Rights to

draw up an opinion on this subject;

HAVING REGARD TO the draft opinion (CdR 386/2001 rev.1) adopted by Commission 7 on 30 November 2001 (Rapporteur: **Mr Pella, Mayor of Valdengo** (I/EPP));

adopted the following opinion by a majority at its 43rd plenary session on 13 March 2002:

1. The views of the Committee of the Regions

1. The Committee would take into account the views it has already expressed in opinions on related subjects, supporting the principle of adopting a uniform legislative framework for all EU countries while addressing the various aspects of the issues relating to the entry into the European Union of third-country nationals specifically in separate documents.
2. It would draw particular attention to relevant points made on the present subject in the following opinions: on a Community immigration policy and a common asylum procedure (CdR 90/2001 fin), on the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents (CdR 213/2001 fin), on the process of drawing up a Charter of Fundamental Rights of the European Union (CdR 327/1999 fin) and on migratory flows in Europe (CdR 227/1999 fin).
3. The Committee stresses that it is important that it be consulted, as local and regional authorities have an important role to play in the implementation of the new policies and in developing and maintaining appropriate social systems able to address the challenges posed by those policies.
4. The Committee commends the consistent application of the new principles relating to flexible methods of Union guidance, established by the 1999 Lisbon European Council, and the continued references to an open method of coordination for Community immigration policy. It recommends that local and regional authorities be duly consulted when national laws are being drafted.
5. An open coordination method is the only way to assure Member State responsibility for the economic aspects and social integration and in general for aspects that have direct repercussions on civil society, while also providing for a procedure enabling an assessment of progress on shared European objectives, so that they can be adapted to the international nature of migratory flows and the interconnection between various aspects of immigration policy.
6. A flexible legislative framework will enable all the interested parties, and the Member States in particular, to react rapidly to changes in the economic and demographic situation, while bearing in mind the needs of local and regional authorities.
7. The Committee welcomes the Commission's proposal as an effective tool for harmonising and simplifying the rules that govern the rights of third-country nationals, making them more accessible and easier to make known.

2. Recommendations of the Committee of the Regions on the proposal on conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities

1. The legal basis for this proposal is Article 63(3)(a) of the EC Treaty which provides

that the Council is to adopt “*measures on immigration policy within the following areas: (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits*”. As rightly stressed by the Commission, a coherent Community immigration policy is not possible without addressing the conditions for the entry, residence and employment of third-country nationals.

2. The current phenomenon of migration should not be analysed purely from the point of view of labour market needs. This growing phenomenon will also create the need for a political response from civil society to the breakdown of the international system of protection of human rights based on the United Nations’ 1948 Universal Declaration of Human Rights.
3. The Committee especially appreciates the efforts of the Commission to simplify administrative procedures, as local and regional authorities undoubtedly stand to gain. The proposed establishment of a single national application procedure for a single combined document, encompassing both residence and work permit within the same administrative act, will help to simplify and harmonise procedures currently in force in the Member States. However, in view of the shortage of unskilled workers in the Union, the Committee of the Regions encourages the Commission to go further, by establishing a harmonised procedure for obtaining a visa entitling the holder to seek work of this kind.
4. It is necessary to recognise the existence of a large number of illegal immigrants. The CoR therefore proposes that mechanisms be established enabling immigrants initially in breach of Community law to legalise their status. This legalisation process would not necessarily entail general amnesties, with cases being dealt with on an individual basis.
5. The CoR considers that action should be planned against illegal immigrant smuggling rings.
6. The setting of short time limits for completing administrative procedures is particularly important for local and regional authorities, in line with the principle of stepping up the efficiency of public bodies.
7. The Committee fully endorses the Commission's choice of a directive to provide guidelines for national policies, respecting the autonomy of each State in determining specific aspects and recognising individual regional and local requirements. The use of a regulation would have been detrimental to the interests of local and regional authorities.
8. The Committee would invite the Commission to place greater emphasis on the role of local and regional authorities in laying the foundations for correctly identifying labour market sectors that need third-country workers.
9. The Commission is right to confirm the need for a careful assessment of the domestic labour market situation before admitting third-country workers. This type of careful assessment can only be conducted with the active and ongoing involvement of the local and regional authorities.
10. This means reinforcing labour demand and supply information systems, for instance EURES, the European Employment Services Network, while also encouraging local and regional authorities to supply information, both to the European bodies and to employers in their areas.

11. As already stated in a previous Committee opinion (CdR 90/2001 fin), local and regional authorities must be encouraged to get involved, in order to establish a jobs network in every region, with a view to managing the EU's skilled and non-skilled labour shortage problems as effectively as possible.
12. In accordance with the Commission's stated intention to apply an open method of coordination in immigration policy, the Committee would stress the need to adopt common statistical methods for data in general and in particular for data on demand for third-country workers.
13. The Committee appreciates the care taken by the Commission in the draft directive to highlight the need to ensure that third-country workers do not become a burden on the host State. The right balance must be found between ensuring that holders of a "residence permit - worker" are not a burden and requiring them to contribute to the Member State's welfare system in order to benefit from the social and health protection measures available.
14. The economic impact, at local, regional and national level, of an immigration policy open to third-country workers must be carefully assessed and financial safeguards put in place to ensure that the distribution of costs between the national, regional and local tiers is proportionate to their effective involvement.
15. The procedural and transparency requirements of Chapter V of the draft directive also demand the direct involvement of the local and regional authorities, not least to satisfy the stated legitimate interest of economic operators "to be informed and updated under which circumstances and in accordance with which procedures they may recruit third-country nationals" and in addition to ensure that "the administrative procedures leading to the issue of a work permit are handled within a reasonable delay".
16. In this respect, the involvement of local and regional authorities is indispensable to provide complete and coordinated information on the consequences that the new measures will have on those directly concerned, i.e. on employers, job centres and local and regional training bodies.
17. There is no doubt that local and regional authorities are in the front line when it comes to promoting the integration of third-country workers and combating the main obstacles to this, such as racism and xenophobia. The Committee of the Regions therefore suggests that Community legislation is needed establishing activities aimed at facilitating the social integration of immigrants in the form of programmes specifically aimed at regions and local authorities.
18. Furthermore, only local and regional authorities can secure equality in working conditions and access to services.

The Committee would place particular emphasis on the need to find a common solution to the problem of access to State owned housing, which current legislation reserves for nationals of the country concerned in many Member States.

19. The Committee also recognises the need for integration, including the need to control and limit immigration with due regard for the integration problems of Member States with a high proportion of foreigners. At the same time, it is necessary to uphold and promote the right of third-country workers not to lose contact with their countries of

origin by taking economic measures designed to ensure that workers can benefit from economic rights acquired in Europe when they return home to their countries of origin.

20. As for the recruitment of highly skilled workers, the Committee would stress that a Union aspiring to be an area of freedom, security and justice has a responsibility to ensure that the countries of origin do not suffer a "brain drain", while fully respecting workers' personal freedom. At the same time efforts must be made, in cooperation with the countries of origin, to establish production and research facilities able to employ those skilled workers in their country of origin, thus contributing to the development of those countries.
21. The EU's responsibility with regard to third countries lies in defining policies under which economic migration works to the advantage of both the country of origin and the host country.

3. Recommendations of the Committee of the Regions on the proposal for a Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months

1. Article 62(3) of the EC Treaty provides the legal basis for the draft Directive with regard to the free movement of third-country nationals within the territory of the Member States during a period of no more than three months, whilst Article 63(3) provides the legal basis for the conditions of entry and movement for periods not exceeding six months.
2. The proposal complies fully with the principles laid down by the Lisbon European Council in 1999, by adopting "soft" methods of Union guidance.
3. It also embraces many of the principles espoused by the Commission - and broadly endorsed by the Committee of the Regions - in the Communication on a Community immigration policy (COM(2000) 757 final), notably the two-tier approach: the first being a common legislative framework and the second an open method for coordination.
4. As the Commission rightly points out, the proposal is fully compatible with other previous Commission initiatives.
5. The Commission should be particularly commended for the fact that, whilst using the same guidelines to address the different aspects of migration, and helping to frame a consistent common legislative framework, it deals with the above aspects specifically, and issues individual, comprehensive proposals for directives or communications.
6. Moreover, the draft Directive makes a vital contribution to defining an area of "freedom, security and justice in the European Union".
7. The Committee welcomes the definition of "third-country national", *viz.* any person who is not an EU citizen under Article 17 (1) of the Treaty establishing the European Community, including stateless persons.
8. The introduction of a specific travel authorisation, harmonised and recognised throughout the Member States, will help to cut red-tape for third-country immigration and is thus of benefit to local and regional authorities.

9. The Committee welcomes the Commission's proposed deadline of seven working days for third-country nationals to report their presence. Since, in principle, those spending only two or three days in a Member State would not be required to report, this would considerably lighten the workload for local offices.
10. The Committee is fully aware of the importance of ensuring entry for third-country nationals without overburdening them with bureaucratic procedures, since this is the optimum outcome of a European "area of freedom, security and justice".
11. In accordance with the "scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union", further legislative initiatives concerning the conditions of entry and residence for the purpose of study or vocational training and unpaid activities will have to be prepared and adopted by the Commission shortly.
12. The Committee would once again stress the need for it to be consulted on all immigration issues which are still to be addressed by the Commission. It eagerly awaits the presentation of the relevant initiatives, given the enormous, significant involvement of local and regional authorities in the various aspects of immigration, particularly as regards integration, healthcare, housing, employment and welfare.

Brussels, 13 March 2002

The President

The Secretary-General

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of the

Committee of the Regions

Committee of the Regions

Albert Bore

Vincenzo Falcone

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