

Status of third-country nationals who are long-term residents

2001/0074(CNS) - 25/11/2003 - Final act

PURPOSE: to establish certain rules on the status of third-country nationals who are long-term residents in Member States.

LEGISLATIVE ACT: Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

CONTENT: The aim of this Directive is the integration of third-country nationals who are long-term residents in the Member States. Such integration is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty. The main provisions of the directive are as follows:

- the main criterion for acquiring the status of long-term resident is the duration of residence in the territory of a Member State . Residence must be both legal and continuous in order to show that the person has put down roots in the country. Provision is 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;
- to acquire long-term resident status, third-country nationals must prove that they have adequate resources and sickness insurance, to avoid becoming a burden for the Member State. Member States, when making an assessment of the possession of stable and regular resources may take into account factors such as contributions to the pension system and fulfilment of tax obligations;
- moreover, third-country nationals who wish to acquire and maintain long-term resident status must not constitute a threat to public policy or public security. The notion of public policy may cover a conviction for committing a serious crime;
- economic considerations are not a ground for refusing to grant long-term resident status and will not be considered as interfering with the relevant conditions;
- the Directive lays down a set of rules governing the procedures for the examination of application for long-term resident status. Those procedures should be effective and manageable, as well as being transparent and fair, in order to offer appropriate legal certainty to those concerned. They must not constitute a means of hindering the exercise of the right of residence;
- the acquisition of long-term resident status will be certified by residence permits enabling those concerned to prove their legal status easily and immediately. Such residence permits must satisfy high-level technical standards, notably as regards protection against falsification and counterfeiting, in order to avoid abuses;
- long-term residents must enjoy equality of treatment with citizens of the Member State in a wide range of economic and social matters, under the relevant conditions defined by the Directive;

- with regard to social assistance, the possibility of limiting the benefits for long-term residents to core benefits is to be understood in the sense that this notion covers at least minimum income support, assistance in case of illness, pregnancy, parental assistance and long-term care. The modalities for granting such benefits will be determined by national law.
- Member States remain subject to the obligation to afford access for minors to the educational system under conditions similar to those laid down for their nationals;
- the notion of study grants in the field of vocational training does not cover measures which are financed under social assistance schemes. Moreover, access to study grants may be dependent on the fact that the person who applies for such grants fulfils on his/her own the conditions for acquiring long-term resident status. As regards the issuing of study grants, Member States may take into account the fact that Union citizens may benefit from this same advantage in the country of origin.
- in order to ensure protection to long-term residents against expulsion Member States should provide for effective legal redress;
- certain Member States issue permits with unlimited validity on conditions that are more favourable than those provided for by this Directive. This Directive provides that permits issued on more favourable terms do not confer the right to reside in other Member States;
- the directive provides that the right of residence in another Member State may be exercised in order to work in an employed or self-employed capacity, to study or even to settle without exercising any form of economic activity;
- family members are able to settle in another Member State with a long-term resident in order to preserve family unity and to avoid hindering the exercise of the long-term resident's right of residence. With regard to the family members who may be authorised to accompany or to join the long-term residents, Member States must pay special attention to the situation of disabled adult children and of first-degree relatives in the direct ascending line who are dependent on them;
- to avoid rendering the right of residence nugatory, long-term residents will enjoy in the second Member State the same treatment, under the conditions defined by this Directive, they enjoy in the Member State in which they acquired the status. The granting of benefits under social assistance is without prejudice to the possibility for the Member States to withdraw the residence permit if the person concerned no longer fulfils the requirements set;
- third-country nationals are granted the possibility of acquiring long-term resident status in the Member State where they have moved and have decided to settle under comparable conditions to those required for its acquisition in the first Member State;
- the United Kingdom, Ireland and Denmark do not take part in the adoption of this Directive, and are not bound by it or subject to its application.

ENTRY INTO FORCE: 23/01/2004.

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