

Migration policy: single application procedure for a single permit to reside and work, common set of rights for third-country workers

2007/0229(COD) - 05/11/2008

The Committee on Civil Liberties, Justice and Home Affairs adopted a report drafted by Patrick GAUBERT (EPP-ED, FR), and amended the proposal for a Council directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

The main amendments – adopted in the framework of the consultation procedure – are as follows :

Scope: Members stated that the proposal should not apply to workers who have been admitted to the territory of a Member State to work on a seasonal period to work on a seasonal basis, since seasonal workers should be covered by a separate directive. Nor will the Directive apply to workers who have been admitted to the territory of a Member State in order to work there for a period not exceeding six months, as regards solely the field of the single procedure. However, the Directive will apply to applicants under temporary protection schemes.

Common set of rights: the common set of rights must apply to all nationals admitted to the territory for employment purposes, and also to all those who were initially admitted for other reasons but who obtained the right to work on the basis of national or Community law, irrespective of the purposes for which they were initially admitted to the territory of a Member State. The committee clarified that, while the single permit procedure applies only to certain third-country workers, the common set of rights is equally applicable to all third-country workers. Otherwise, discrimination between third-country workers would be likely to arise on such a fundamental issue as the right to equal treatment.

Equal treatment: third-country workers must enjoy equal treatment with nationals at least with regard to: working conditions, including pay, holidays, working time and dismissal as well as health and safety at the workplace; education in the broad sense of the term (language learning and cultural familiarisation with a view to improving integration) and vocational training; portability of pensions or annuities in respect of old age, death, or invalidity; information and counselling services offered by employment offices. The Committee deleted some of the exceptions which the Commission has proposed in respect of the right to equal treatment.

Application for a single permit: the committee stipulated that it shall be the responsibility of Member States to determine whether the application for a single permit is to be submitted by the third-country national concerned, by his future employer or by either. Where an application for a single permit is submitted by the third-country national concerned, it must be possible for that application to be submitted and examined either when the third-country national is residing outside the territory of the Member State to which he wishes to be admitted or when he is already legally in the territory of the Member State concerned.

Other procedural rules : the committee's amendments are as follows :

- if the applicant's **permit expires** before a decision has been taken on his renewal application, the Member State responsible for considering the application shall authorise the person concerned and, where applicable, his family, to stay legally within its territory until a decision is taken concerning his application for renewal of the single permit;

- **objective and verifiable reasons** shall be given in the written notification for a decision rejecting the application not granting, not modifying or not renewing, suspending or withdrawing the single permit on the basis of criteria specified in national or community law. Those criteria shall be objective and open to the public, so that the decision can be verified. A challenge shall suspend the administrative decision until the final court decision is taken;

- a Member State may issue to a holder of a combined permit issued by another Member State a permit enabling him to perform **frontier work**. Such a permit shall be issued pursuant to the national law of that Member State . The period of validity of such a permit may not exceed the period of validity of the combined permit issued by the other Member State.

Payment of fees: Members agreed that Member States may request applicants to pay fees for handling applications. However, the level of fees must be proportionate and reasonable and shall not exceed the actual costs incurred by the national administration. An overall maximum amount shall be fixed in national law, including, where appropriate, the costs of subcontracting incurred by using external firms to collect the documents necessary for compiling a file with a view to obtaining a permit.

Period of validity: the period of validity of the single permit will be as determined by each Member State. The Directive does not affect the competence of the Member States with respect to the admission of third-country nationals to their labour markets.

Information: Member States shall ensure that regularly updated information concerning the conditions of third-country nationals' entry into and stay in their territory for the purpose of work is made available to the general public, in particular via their consulates. Members stipulate that notification and information be communicated in such a way that the applicant is able to comprehend their content and implications.

More favourable rules: the Directive has to be implemented without prejudice to more favourable provisions contained in EU legislation and international instruments.

Sanctions: Member States shall take the necessary measures to ensure that any infringement of the rights is subject to effective, proportionate and dissuasive measures, including the use of penalties where appropriate.

It should be noted that this proposal is closely linked to the proposal on the Blue Card.