Resolution on Swiss quotas on the number of residence permits granted to nationals of Poland, Lithuania, Latvia, Estonia, Slovenia, Slovakia, the Czech Republic and Hungary

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The European Parliament adopted by 486 votes to 30 with 27 abstentions a resolution on Swiss quotas on the number of residence permits granted to nationals of Poland, Lithuania, Latvia, Estonia, Slovenia, Slovakia, the Czech Republic and Hungary.

The resolution was tabled by the EPP, S&D, ALDE, Greens/EFA and ECR groups. It notes that the Federal Council of Switzerland decided to introduce as of 1 May 2012 **quantitative limitations on category B residence permits for stays for up to five years** granted to nationals of Poland, Lithuania, Latvia, Estonia, Slovenia, Slovakia, the Czech Republic and Hungary.

Swiss quotas on the number of residence permits granted to EU nationals: Parliament **highly regrets** that the Swiss authorities decided to re-establish quantitative limitations on the long-term residence permits granted to EU citizens who are nationals of eight of the Member States that joined the EU in 2004, thus limiting the free movement of people as provided for in the 1999 Agreement with the EU on the free movement of persons. It considers this decision to be **discriminatory and unlawful** in that it finds no legal basis for any such national differentiation in the existing treaties between Switzerland and the EU, and it urges the Swiss authorities to **review their decision and withdraw from the invocation of the safeguard clause.** Members recall that this clause is enshrined in Article 10 of the 1999 Agreement, allows the Swiss to introduce such temporary restrictive measures if, in a given year, the number of residence permits granted exceeds the average of the previous three years by at least 10 %. The Swiss authorities declared that such situation had occurred in the case of nationals of the eight European Union (EU) Member States.

However, Parliament notes that the conditions for applying the provisions of Article 10(4) of the 1999 Agreement, as completed by the 2004 Protocol, have not been met. The safeguard clause recalled by the Swiss authorities, as it stands in Article 10 of the 1999 Agreement, **does not provide for any differentiation on the basis of nationality** when ceilings for residence permits, or quotas on their number, are to be established, and refers to ‘employed and self-employed persons of the European Community’. Members consider that instead of introducing restrictive measures within the current framework, the two sides should work on developing a more adequate, effective and flexible system of cooperation in order further to facilitate the free movement of persons. They calls upon the Commission to raise this issue with the Swiss authorities at the earliest opportunity, and to put the matter on the agenda for the next meeting of the Joint Committee established by the Agreement.

Parliament welcomes the timely and critical statement of the High Representative/Vice President of the European Commission, urging her services to take all necessary action needed to request the repeal by the Swiss authorities of their decision. It notes that Switzerland extended free movement rights to Bulgaria and Romania in Protocol II in 2008, but regrets that the agreement provides transition periods of up to seven years. Members deplore the fact that in May 2011 the Swiss Government decided to extend the transitional period for Bulgarians and Romanians until 31 May 2014.

Obstacles to the full implementation of the single market: Parliament notes Switzerland has adopted a number of **flanking measures**, accompanying the Free Movement of Persons Agreement (FMPA), which can hinder the provision of services by EU businesses – notably small and medium-sized enterprise (SME) – in Switzerland, and, according to Court of Justice case-law, a number of these supporting measures can only be acceptable if they protect, in a proportional manner, a general interest that is not already protected in the state of origin of the service providers. Parliament further notes that **some of these flanking measures are disproportionate to the intended aims,** such as the obligation to provide prior notification with an 8-day waiting period, the requirement to contribute to the enforcement costs of tripartite commissions, and the obligation for foreign enterprises providing cross-border services to place a guarantee of financial probity. These measures are particularly burdensome for SMEs wishing to provide services in Switzerland.

Members ask the Commission to indicate what actions have been undertaken, since the adoption of the Parliament resolution of 7 September 2010 on EEA-Switzerland: Obstacles with regard to the full implementation of the internal market, to solve the problems regarding the flanking measures which make it difficult for SMEs from the EU to provide services in Switzerland, and to convince the Swiss authorities to repeal regulations which oblige foreign enterprises providing cross-border services to deposit a guarantee of financial probity. It is also concerned about the decision of the Swiss Federal Council to examine additional flanking measures.

Members reiterate their concern regarding the **situation at Swiss airports** where, as a consequence of the Swiss authorities‘ refusal, German and Austrian taxis are not allowed to take passengers, and urge the Commission to examine the compatibility of this decision with the FMPA.

They regret that the Agreement does not take account of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, and they call for:

- a more dynamic adaptation of the agreements in internal-market-related areas to the evolution of the EU acquis;

- new progress to be made in finding horizontal solutions to issues related to the need for a dynamic adaptation of agreements to the evolving acquis, a homogeneous interpretation of the agreements, independent surveillance and judicial enforcement mechanisms, a dispute settlement mechanism that is not subject to fragmentation, transparency in the decision-making system and communication between the Joint Committees.

Lastly, Parliament states that it is crucial for the further development of Switzerland's participation in the single market that rules provide economic operators from both sides with a more transparent and predictable environment.