Union citizenship: free movement and residence for citizens and their families within the Member States' territory

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PURPOSE : to enhance the Union's citizens' rights of movements and residence. CONTENT : firstly, it should be noted that the right of Union citizens and their families to move and reside freely in the territory of the Member States needs enhancing. These rights are becoming an integral part of the legal heritage of every citizen of the European Union and should be formalised in a common corpus of legislation to harmonise the legal status of all Community citizens in the Member States, irrespective of whether they pursue a gainful activity or not. Therefore, a fresh look needs to be taken at the arrangements for Union citizens to exercise these rights with a view to producing a single set of rules governing freedom of movement within the measning of Articles 17 and 18 of the EC Treaty. The Directive is being proposed in the context of the new legal and political environment established by citizenship of the Union. The basic concept is as follows: - Union citizens should, mutatis mutandis, be able to move between Member States on similar terms as nationals of a Member State moving around or changing their place of residence or job in their own country. Any additional administrative or legal obligations should be kept to be bare minimum required by the fact that the person in question is a "non-national". This proposal serves several purposes: first of all, it takes the form of a single instrument in the interests of reader-friendliness and clarity; then, it streamlines the arrangements for exercising freedom of movement, which, depending on the level integration in the host Member States, range from extending the right of residence without formalities to six months, to removing any conditions or differential treatment and to putting non-nationals on an equal footing with nationals after four years of residence in the host Member State; finally, it tightens up the definitions of restrictions on the right of residence. Furthermore, this proposal considerably facilitates the right to free movement and residence of family members of a Union citizen, irrespective of nationality. Moreover, the right of entry of residence for Union citizens is currently governed by a complex corpus of legislation, comprising two regulations and nine directives. These instruments have different parts of the EC Treaty as their legal bases and are specific to different categories of people. This proposal brings these categories together in a single legislative instrument. For those in work, whether in paid employment or self-employed, the only condition on their right of residence will continue to be that they engage in gainful activity, which is to be proved simply by their making a bona fide declaration to that effect. For people not in work and students, the right of residence will, for the first four years of residence in the host Member State, continue to be subject to their having sufficient resources and sickness insurance. However, requirements have been relaxed and evidence that the two conditions are met is replaced by a simple bona fide declaration. During the first four years of residence, the residence card for Union citizens is abolished and replaced by entry in thepopulation register, certified by an attestation to that effect issued forthwith. This attestation, together with the possession of an identity card from the country of origin or a valid passport, is enough to exercise the right to residence and meets the requirements of the host Member State whereby it is informed of population movements within its territory. In view of the above, the proposal first extends the period of non-nationals can stay in another Member State with just a valid identity card or passport without having to go through any particular formalities. The extension of the current three-month period to six-months is intended to cater for the modern, high mobility lifestyles, we are witnessing in Member States. In addition, this proposal for a Directive also specifically takes into account the situation of the family members of Union citizens. While it is true that the right of movement and residence of family members of Union citizens is not explicitly referred to by the Treaty, the right does flow from the right to preserve family unity, which is intrinsically connected with the right to the protection of family life, a fundamental right forming part of the the common constitutional traditions of Member States, which are protected by Community law and incorporated in the Charter on Fundamental Rights of the European Union. This proposal for a Directive

drastically simplifies the formalities for Union citizens and their familt members to exercise the right of residence, cutting them back to the bare essentials. The proposal also eliminates any possibility of negatice influence in connection wiht family unification. Under Community law as it stands, the right of residence in the host Member State may be taken away from divorced spouses and from children who are no longer minors or dependent on a Union citizen, regardless of their nationality. Lastly, the Treaty allows the right of free movement and residence to be refused on grounds of public policy, public security ands public health. The proposal is based on the interpretation which the Court of Justice gives to the concept of public order and introduces new provisions drawing on the concept of fundamental rights which will provide Union citizens and their family members with greater safeguards in dealings with both administrative authorities and the courts concerning decisions restricting their fundamental right of movement and residence; this protection is absolute for minors who have family ties in the host country and people who have acquired a right of permanent residence.