Third-country nationals: entry and residence for the purpose of paid employment and self-employed activities

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PURPOSE: to create EU harmonised rules concerning the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activity. CONTENT: A comparative study, commissioned by the EU in 2000, on the admission of third-country nationals for paid employment and self-employed economic activities, illustrated that the rules on admission of third-country nationals to work in the EU differs considerable from Member State to Member State. Only a few common rules and principles applicable to all Member States actually exist. Thus, in accordance with the conclusions of the Tampere European Council in 1999 in which is was agreed to create enhanced "freedom, security and justice" in the European Union, the Commission is proposing a draft harmonising Directive. This proposal has been designed to be fully compatible with and complementary to the recently proposed draft Directive on long-term resident third-county nationals. Similarly, it has also been prepared in such a way so as to be compatible with the WTO Agreement on Trade in Services (GATS). The Directive is based on Article 63 (3) of the EC Treaty which provides that the Council should adopt "measures on immigration policy within the following area: conditions of entry and residence, and standards on procedures for the issue by member States of long-term visas and residence permits." Given the divergence of national procedures, and based on the principle of subsidiarity, it is felt that the proposed "one-stop shop procedure" should greatly benefit not only those seeking entry to the EU for work but also national governments and local authorities. The objective of the proposed Directive are as follows: - to lay down common definitions, criteria and procedures regarding the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, based on concepts, which have already been successfully applied in Member States; - to lay down common criteria for admitting third-country nationals to employed activities and self-employed economic activities and opening different options for demonstrating compliance with these criteria; - to provide procedural and transparency safeguards in order to assure a high level of legal certainty and information for all interested actors on Member State rules and administrative practice in the field of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities; - to provide a single national application procedure leading to a combined title, encompassing both residence and work permit within one administrative act, in order to simplify and harmonise the diverging rules currently applicable in Member States; - to provide rights to third-country national whilstrespecting Member States discretion to limit economic migration; - to provide a flexible framework allowing all interested parties, including Member States to react quickly to changing economic and demographic circumstances; - to add real meaning to the commitments that the EC and its Member States have entered into in the context of the WTO GATS Agreement; - to acknowledge Member States' right to limit admission of third-country national under the terms of this proposal, if a Member State considers that it is necessary to apply horizontal measures. This proposal is based on Title IV of the EC Treaty, which does not apply to the United Kingdom and Ireland unless those Member States decide to do otherwise in accordance with the Protocol. Likewise, Title IV does not apply to Denmark by virtue of the Protocol on the position of Denmark.