

Right to family reunification

1999/0258(CNS) - 02/05/2002 - Amended legislative proposal for reconsultation

Following the conclusions of the Laeken European Council, the Commission takes a new approach to the points still outstanding. It is concerned to preserve what has been achieved in the last two years' negotiations and therefore, has incorporated the compromises reached in Council. There are several stages to be gone through and the amended proposal is only the first of these. It is inspired by a concern for flexibility on the basis of two main parameters. First, as regards substance, the use of a standstill clause. Second, as regards the time-frame, a deadline for the next stage. The standstill clause will ensure that Member States do not use the new derogations if their legislation at the time of adoption of the Directive did not already provide for them. The objective is to ensure that the Directive does not operate paradoxically as a source of fresh divergence among the Member States. The deadline clause means that the deadline will now be set for the next stage of harmonisation of legislation governing admission for the purposes of family reunification. On this date - two years after the transposition of the Directive - the provisions that offer the greatest degree of flexibility, which are those that lie at the heart of the negotiations, will have priority for review so as to achieve progress towards harmonisation of admissions policy. The main changes necessitated by the new approach: -the former Article 4 provided for alignment of family reunification of Union citizens not covered by Community law on free movement of persons with that of citizens who have exercised their right to free movement. It has been deleted as work had begun on recasting Community law on free movement of persons. -the provision concerning the age up to which children may be reunified has been revised to provide a specific exception for certain pieces of national legislation. By way of derogation from the right to reunification for minor children: where a child is aged over 12 years, the Member State may, before authorising entry and residence, verify whether the child meets a condition for integration provided for by its existing legislation on the date of adoption of the Directive. At the same time, a provision has been inserted in the Chapter on refugees specifying that the age limit for reunifying children may under no circumstances be lowered. The provision on children will have priority for review two years after the Directive has been transposed. -resources may be checked after reunification, when family members' residence documents are up for renewal. The deadline clause provides for a review of this question. -One Article provides that Member States may require the applicant to have stayed lawfully on their territory for not more than two years before having family members join him. There is a tightly limited derogation, applicable solely where national legislation already existed when the Directive was adopted. It allows authorisations to enter for the purposes of family reunification to be spread over several years, depending on the reception capacity of the Member State concerned. This period may in no case exceed three years. This provision will also have priority for review two years after the Directive has been transposed. -the period of validity of the residence document issued to family members being reunified with a person entitled to stay permanently has been revised to refer to the proposal for a directive on the status of long-term residents, thus reinforcing consistency. Family members will now obtain long-term resident status on the basis of the same criteria as the person with whom they are reunified. Member States are free to give more favourable treatment. There is a review two years after transposition. -to improve consistency with the long-term residence status proposal, the upper limit for the grant of autonomous status of family members is set at five years residence. This will harmonise the period for obtaining permanent residence documents and autonomous status and will allow adequate flexibility to reflect different national situations.