Third-country nationals in the Member states : Convention on rules for the admission

1997/0227(CNS) - 30/07/1997 - Legislative proposal

PURPOSE: to lay down rules for the admission of third-country nationals for the purposes of employment, self-employed activity, study, non-gainful activity and family reunification.

PROPOSED ACT: Council Act

CONTENT: the draft Convention applies to third-country nationals who wish to reside in a Member State for longer than three months. It also covers refugees with the status of long-term residents under the terms of the Geneva Convention.

The proposal does not seek to create automatic rights to admission: each Member State is free to decide each individual case. All initial applications for admission must be made outside the Union.

Admission for the purposes of paid employment may be granted if a vacancy cannot be filled in the short term by a citizen of the Union, a third-country national, or a third-country national who is already a long-term resident. A work contract for at least one year's duration must be submitted on initial admission. Residence authorization may be renewed at a later date.

The following persons are admissible:

- seasonal workers, for up to six months, preference being given to those who have previously performed seasonal work,
- transfrontier workers who are employed in a Member State and return to their place of origin each day or at least once a week,
- self-employed workers who have sufficient resources and whose economic activity may have a beneficial effect on the employment market. Initial residence authorization is granted for two years and may be renewed subsequently on certain conditions.

- students, for the period indicated in their enrolment application (should they wish to remain in the Member State in order to work there after completing their studies, they must first return to their country of origin and apply for admission for this new purpose),
- trainees, for an initial period of one year, if they hold a training agreement with an establishment or undertaking and furnish proof that they can support themselves and are covered by social security.

Authorization may be extended if necessary, but not for the purpose of taking up employment.

Pupils in primary and secondary education and apprentices are not covered by the Convention.

The right to family reunification is granted to the spouse and children below the age of legal majority.

In principle, family members qualifying for admission must wait six months before taking up employment.

Lastly, the status of long-term resident may be granted to persons who have been legally resident in a Member State for at least five years, and provided that they hold an authorization which permits residence

for a total period of ten years from their first admission. Long-term residents are afforded increased protection against expulsion. They enjoy the same treatment as citizens of the Union with regard to employment, trade union rights, the right of association, access to housing, and schooling.

Any person recognized as a long-term resident in a Member State may apply for employment or to pursue a course of study in another Member State. After two years' residence in the new Member State, that person is recognized as a long-term resident.