Free movement of workers: posting of third-country nationals for the provision of cross-border services

1999/0012(COD) - 27/01/1999 - Legislative proposal

PURPOSE : to legislate for the posting of workers who are third country nationals for the provision of cross-border services by means of the introduction of an 'EC service provision card'. CONTENT : This proposal for a Directive concerns the introduction of an 'EC service provision card' - a document to be issued by the Member State in which a service provider is established and from which he intends to post workers who are nationals of a third country to provide services. Any other Member State in which this service is provided must recognise this document and cease to apply its own requirements regarding visa, residence and access to employment to the worker and service provider concerned (a proposal to extend the freedom to provide cross-border services to third-country nationals has been proposed in parallel to this text : CNS 0013/99/EC). To ensure that such postings do not result in unrestricted movements of third-country workers, the declaration system incorporates guarantees by the country in which the service provider is established by means of the introduction of "the EC service provision card". The principle of this Proposal would be that the Member State, in which the service provider is established and in which the employee resides, issues the "EC service provision card". The card is not issued each time a service is provided but rather for a certain period of time during which the service provider has the guarantee that the employee concerned can be posted 'at any time' within the single market. The period of validity of the card can be 6 to 12 months depending on the application made by the service provider concerned and on the duration of the regular and actual work done by the worker on the territory of the Member State that issues the card. The card is issued to the service provider at his request; it can only cover one specific worker and not several. It will be renewable only if the conditions for its issue and for the requested period of validity are still met. Information is given in the proposal relating to the specification of the information on the card (information on the service provider, the worker, the validity and duration of the card, the issuer and the issuing country). A subsequent proposal will specify the format of the card according to a uniform Community model. In order to obtain a card, the worker concerned should be legally admitted to a Member State and affiliated to the social security scheme in the Member State responsible for the risk of sickness or industrial accident. The State issuing the card would take prime responsibility for the presence of the worker on the territory of the Community. This Member State must re-admit the person to its territory under all circumstances. Member States are obliged to recognise the "EC service provision card" and, hence, the entry, residence and secondment of the persons concerned on their territory for the sole purpose of providing a service. This recognition naturally covers the entire stay needed during and at the time of the secondment to a Member State. The Member State where the services will be carried out will no longer be able to impose various authorisation procedures needed before each secondment (visa, residence permit, work permit). It will be otherwise able to impose that any Member State in which a service is provided may require the service provider to declare, before the worker enters the territory, the intended presence of the posted worker, the period of presence provided for and the service provision or provisions for which he is to be posted. If the total period required for the service provision or provisions in question exceeds 6 months then a temporary residence permit is required. Lastly, as far as professional qualifications are concerned, the proposal lays down that any Member State in which a service is carried out shall ensure the equality of treatment between third-country nationals and citizens of the Union posted as workers for the purpose of provision of services as regards the recognition of diplomas, certificates and other qualifications acquired within the Community. The Member State would designate the authorities responsible for issuing the EC service provision card. Member States shall provide for cooperation between the public administrations responsible. The Directive would come into force no later than 30.06.2002.