Freedom to provide cross-border services: admission to the third-country nationals established within the Community

1999/0013(CNS) - 27/01/1999 - Legislative proposal

PURPOSE : to extend the freedom to provide cross-border services to third-country nationals established within the Community. CONTENTS : this proposal aims to ensure that nationals of a third-country legally established within the Community enjoy the freedom to provide services, on a temporary basis, without having to establish themselves in another Member State, regardless of their economic status in the member State in which they are established (connected to a company or an independent entrepreneur). The Directive shall not cover nationals of a third-country as recipients of crossborder services and provisions of services in the transport sector. It is the counterpart to the proposal for a Directive on the secondment of salaried persons from third countries in the context of the provision of cross-border services (see procedure 1999/0012 COD). For the purposes of this Directive, "service provider" means any person who is a third-country national and who, in the Member State of establishment, - has lawfully set up his main establishment from which he has maintained an actual, continuous link as a self-employed person with the economy of that Member State for at least 12 months; - has his residence, in accordance with the the legislation of that State; - is not also an employee. This Directive cannot be extended to service providers operating in the transport sector. When a provider of services who is from a third country, in the ordinary course of his business, intends to move to, and to reside in, one or more other Member States, the Member State in which he is established shall be obliged to issue him, on request, an EC service provision card which is valid for a maximum of 12 months. In order to obtain a card, confirmation shall be given that the service provider is affiliated to the social security system of the competent Member State against the risk of sickness and industrial accidents in that State. The card is renewable if the conditions as to its issue are fulfilled. The EC service provision card shall contain information such as details of the service provider, the period of validity, and the issuing authority and assuing Member State. A subsequent Proposal shall specify the format of the card according to a uniform Community model. The Member State in which services are provided shall permit entry into and residence on its territory of a self-employed person who is a third-country national for the purposes of one or more provisions of services, if such a person is in possession of the EC service card, and of an identity card or passport valid for the period in which the services are to be provided. This State would no longer be entitled to demand various other authorisations (visa, residence permit, work permit, etc). Any Member State in which a service is to be provided may require the service provider to declare, before he enters the territory, his intended presence, the period of presence provided for and the service provision or provisions for whichhe is moving. If the total period required for the service provision or provisions in question exceeds 6 months out of a period of 12 months, the Member State shall issue, after entry, a temporary residence permit showing that residence is authorised. The State that issues the card will have sole responsibility for the presence of the self-employed worker on the territory of the Community. That Member State shall not be allowed to refuse the readmission of the worker after the card has been issued. Moreover, the Member State shall not give more favourable treatment to self-employed persons established outside the Community than to those established in the Community. The Member States shall designate the authorities responsible for issuing the EC service provision card and the temporary residence permit. Furthermore, the Member States shall provide for cooperation between the public administrations. They shall take necessary measures to simplify as far as possible the formalities and the deadlines for the issue of cards. The Directive should enter into force no later than 30.06.2002.