EC/Switzerland agreement: free movement of persons

1999/0103(AVC) - 04/05/1999 - Initial legislative proposal

PURPOSE: conclusion of an agreement with Switzerland regarding the free movement of persons.
CONTENT: In the context of the overall package of liberalisation agreements negotiated with Switzerland and initialed by the parties on 26.02.1999, the Commission is proposing an agreement regarding the free movement of persons seeking to mutually abolish the majority of restrictions imposed on the free movement of persons. The approach advocated by the Community is a 'global' one integrating in each of the 7 agreements concerned, a common clause on simultaneous entry into force (this is to avoid that the referendum method that operates in Switzerland to approve these agreements does not generate a partial application of the agreements). As far as the free movement of persons is concerned, this draft agreement seeks to establish between the Union and Switzerland equivalent rules to those provided for in the 'acquis communautaire'. The purpose is to accord the same living, employment and working conditions as those accorded to nationals. The fundamental rights to enter, reside, work, to establish as self-employed, to study and the right to social security would all be covered by this agreement. They would be founded on the principles of non-discrimination on the basis of nationality and equality of treatment. Workers, self-employed persons, students, pensioners and non-active persons, as well as members of their family, whether their nationality is Swiss or of one of the Member States, would benefit from this agreement, which provides for a long transition period given the sensitivity of the liberalisation of the labour market in Switzerland. Workers and the self-employed would have the right to professional and geographical mobility. Persons not exercising an economic activity would have to have at their disposal sufficient financial means and sickness insurance covering all risks, in accordance with the measures that apply in the Community. The agreement also provides for the right to acquire real estate in the country of principal residence under certain conditions. The mutual recognition of diplomas, certificates and other qualifications is also provided for. The freedom to offer trans-border servics, linked to free circulation would be guaranteed up to a limit of 90 working days per year. The complete liberalisation of these services is, however, not envisaged. With respect to the co-ordination of social security systems, the agreement follows the provisions laid down in the 'acquis communautaire' and in operation between the Member States since 1971 and 1972 (Regulations 1408/71/EEC and 574/72/EEC). Specific conditions are put forward to take account of the Swiss social security systems. The agreement is concluded for an initial period of 7 years and is tacitly renewable for an unlimited period. For the first five years of application, Switzerland may maintain quantitative limits concerning access to an economic activity for stays of over 4 months. Stays of less than 4 months, however, will not be restricted. From the beginning of the sixth year of the agreement's application, all quantitativelimits would be abolished but Switzerland could apply a correction mechanism up until the twelfth year of the agreement. For as long as transitional rules regarding the right to free movement of workers exist, a single derogation to the acquis is provided for concerning the right to Swiss unemployment benefits for workers who have worked for less than one year in Switzerland. In reciprocity, the retrocession of contributions for unemployment insurance is envisaged or maintained for as long as it is already part of a bilateral agreement.