

Right to family reunification

1999/0258(CNS) - 01/12/1999 - Legislative proposal

PURPOSE : To present a draft directive on family reunification of third country nationals. **CONTENT :** A common immigration policy has been given impetus and legal base by the provisions of the Amsterdam Treaty. As a starting point, the Commission considers that zero immigration mentioned in past Community discussion was never justified. The policy was not fully implemented for two main reasons: in the short and medium term, immigration facilities such as family reunion should not be interrupted and there are branches of industry that are short of manpower. Member States wish to maintain their privileged relationship with certain non-member countries. In the long term, there is the issue of population ageing and all that this entails in terms of welfare protection and the funding of pension schemes. The Tampere Council in October 1999 reiterated that the Union must offer fair treatment to third-country nationals residing lawfully in the territory of its Member State. This proposal establishes a right to family reunification for third country nationals residing lawfully in a Member State; it also establishes this right for Union citizens not exercising their right to free movement. This right is not absolute: its exercise is subject to respect for the practical and procedural conditions determined by the proposed Directive. The main points of the draft Directive: **Scope** · The applicants for reunion must belong to one of the categories listed. These include third country nationals residing lawfully in the Union and holding a residence permit valid for at least one year. Other eligible applicants are refugees, persons enjoying subsidiary protection and citizens of the Union not exercising his right to free movement, if the applicant's family are third-country nationals, irrespective of their legal status. The Directive shall not apply to family members of Union citizens exercising their right to free movement of persons. **Family members** · this includes spouses and children, and relatives in the ascending line. In the latter case, it must be shown that they have no family support in the country of origin and are dependent on the applicant. **Submission and examination of the applicant** · It is the applicant who files for reunion and provides documentary evidence. Refugees, who have often had to flee without the necessary documents should not be penalised and rules should be relaxed to accept other forms of evidence, such as testimony. **Practical conditions** · Member States have discretionary powers in relation to public health, public policy and domestic security. This power is not unlimited, and must be defined, with reasons given for its exercise. The applicant may be asked to prove that he has adequate accommodation, sickness insurance covering all risks, and stable and adequate resources. The evaluation criteria are strictly defined. Refugees and persons enjoying subsidiary protection cannot be subjected to the same additional conditions. Member States may set a qualifying period not exceeding one year. Again, this measure is not applicable to refugees and persons enjoying subsidiary protection. **Penalties** · the cases in which penalties are incurred are enumerated exhaustively and include fraud, falsification of documents, marriages and adoptions of convenience.