Union citizenship: free movement and residence for citizens and their families within the Member States' territory

2001/0111(COD) - 30/12/2003 - Commission communication on Council's position

The Commission has accepted the common position which, although less ambitious than the Commission's original proposal as amended following Parliament's opinion, strikes a balance between the positions of the Member States and marks a major step forward in terms of freedom of movement and residence in relation to the existing situation. The Commission considers that the text represents a fair, balanced compromise, enabling Union citizens' rights to be strengthened in matters of freedom of movement and residence. - With respect to the definition of the family, the Commission has accepted the approach proposed by the Council. While it is true that the definition of Article 2(2)(b) is more limited than the text of the amended proposal, it must be considered that the content of Article 3 has been extended to include any type of durable relationship. The Commission considers that the concept of durable relationship may cover different situations: same-sex marriage, registered partnership, legal cohabitation and common-law marriage. - Regarding the extension up to six months of the unconditional right of residence, in order to resolve these difficulties, the Commission has agreed to revert to the current "acquis", which lays down a period of three months that is not subject to conditions or formalities. However, the Commission has expressly undertaken to examine the possibility of proposing an extension to six months in the report that it will present two years after the directive enters into force. - On the question of the expulsion of a person having recourse to social assistance in the host Member State, the new recital 16 further clarifies the concept of unreasonable burden, which could potentially lead to the expulsion of the person who has obtained social assistance without being entitled to it. - The rules concerning procedural guarantees have been transferred to a specific article, Article 15, without the content having been changed. The Commission endorses this approach, which clarifies the conditions in which the Union citizen's right of residence is lost, while respecting the current "acquis" and the case-law of the Court of Justice on the subject. It also considers that the division into two articles makes the text clearer and more coherent.