

# **Visas, asylum, immigration: passage to qualified majority voting and to co-decision (Art. 251) for certain areas covered by Title IV of Part three of the EC Treaty**

2004/0816(CNS) - 23/11/2004 - Legislative proposal

**PURPOSE** : to extend the application of the co-decision procedure (Article 251 of the Treaty establishing the European Community) to certain areas covered by Title IV, part three of the same Treaty.

**PROPOSED ACT** : Decision of the Council.

**CONTENT** : this Decision proposes that certain measures relating to Title IV of the Treaty establishing the European Community should henceforth be subject to qualified majority voting and the application of the co-decision procedure (Article 251) as opposed to the current practice of finding unanimity within the Council. The draft decision recalls that the Treaty of Amsterdam awarded the EU power to adopt measures in the field of visas, asylum, immigration and other policies relating to the free movement of persons. Any measures relating to these issues were to be adopted by the Council acting unanimously after consulting the European Parliament. Five years after the following into force of the Treaty of Amsterdam, Article 67 obliges the Council to examine whether all or parts of the areas covered by Title IV should be governed by Article 251. The Council has decided that the following policies will, in future, be adopted in accordance with Article 251:

- As from 1 April 2005, the Council shall apply Article 251 when adopting measures referred to in Article 62 (1) measures with a view to ensuring the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders; Article 62 (2) (a) measures on the crossing of the external borders of the Member States which shall establish standards and procedures to be followed by Member States in carrying out checks on persons at such borders; and Article 62 (3) measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months.

- As from April 2005, the Council shall act in accordance with Article 251 when adopting measures referred to in Article 63 (2) (b) measures on refugees and displaced persons within the following areas: promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons; and 63 (3) (b) measures on immigration policy within the following areas: illegal immigration and illegal residence, including repatriation of illegal residents.

In addition the Council has decided that until such time as the adoption of the European Constitution, it will continue to apply unanimity, following consultation with the Parliament, in matters relating to the legal migration of third country nationals to and between Member States. Lastly, all provisions relating to family law will not be affected by this Decision.

In accordance with the Protocol attached to the Treaty on European Union, Denmark will not take part in the adoption of this Decision. Ireland and the United Kingdom on the other hand have expressed their wish to take part in its adoption and application.