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LIMITE

ASIM 210

NOTE

from: future Spanish presidency

to : Migration Working Party (Admission)

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Subject: Proposal for a joint position on the status of third-country nationals residing legally
in the Union for a long period

Delegations will find attached a new proposal from the future Spanish Presidency based on the discussions which took place under the previous Presidency.

The proposal will be presented at the meeting of the Migration Working Party (Admission) on 18 July 1995.

DRAFT COUNCIL JOINT POSITION
ON THE STATUS OF THIRD-COUNTRY NATIONALS
RESIDING LEGALLY IN THE UNION FOR A LONG PERIOD

THE COUNCIL OF THE EUROPEAN UNION

Having regard to Article K.3(2)(a) of the Treaty on European Union, whereby the Council may "adopt joint positions and promote, using the appropriate form and procedures, any cooperation contributing to the pursuit of the objectives of the Union";

Whereas Article K.1(3)(b) of the Treaty on European Union stipulates that the Member States shall regard conditions of residence by nationals of third countries in the territory of Member States of the European Union as a matter of common interest among others;

Whereas the Member States must make progress in the adoption of measures to facilitate the integration of third-country nationals settled in their territory as long-term residents into the host society;

Whereas integration contributes to greater security and stability, both in residents' daily lives and in their work, and to social order in the various Member States;

Whereas in order to make progress in the integration of long-term residents in the territory of the State in which they reside, it is necessary to establish a number of principles common to the Member States to be taken into account when any amendments are being made to legislation in force in this matter;

Whereas the application of such principles should not interfere with the application of national laws on public policy, public health or public security;

HAS DEFINED THE FOLLOWING JOINT POSITION:

Point 1

1. The Member States will act in a coordinated fashion to promote the integration of third-country nationals residing in their territory on a long-term basis.
2. Accordingly, they will adopt the principles regarding the status of long-term residents set out below, which the Council invites them to use as a basis.

Point 2

1. These principles will apply to third-country nationals residing in the territory of Member States of the European Union on a long-term basis.
2. They shall not apply to:
 - citizens of the European Union or members of their families who are covered by Community law;
 - nationals of the EFTA countries party to the Agreement on the European Economic Area or members of their families who are covered by Community law;
 - members of the family of a citizen of the European Union residing with him in the country of which he is a national where the legislation of that Member State grants them the same rights as Community law grants to members of the families of nationals of the Member States;
 - third-country nationals whose status is governed by agreements concluded by the European Union and its Member States with third countries, as regards the more favourable provisions of such agreements;

- nationals of third countries legally resident in a Member State as refugees in accordance with the provisions of the Geneva Convention;
 - nationals of third countries with which the Member States have concluded agreements regarding the conditions of entry, residence or employment;
 - third-country nationals who have been admitted to a Member State for the purposes of study.
3. For the purposes of this Article, the term "family members" shall be construed in accordance with the Community legal order.

Point 3

1. Each Member State will recognize as long-term residents in its territory third-country nationals in either of the following categories:
- third-country nationals who prove that they have resided regularly and without interruption in its territory for a specified period in accordance with its laws;
 - third-country nationals who provide proof, in accordance with the provisions of that Member State's laws, of the existence of a special link with the State in which they reside.
2. Each Member State will grant third-country nationals in either of the categories set out in paragraph 1 a residence permit for at least ten years or a permanent residence permit.

Point 4

1. Where an application for a residence permit is made on grounds of prior residence in the Member State, the level and stability of the means of existence which the applicant demonstrates, particularly the conditions for exercising his occupation, shall be taken into account.
2. Where the application for a residence permit is based on the existence of special links with the Member State of residence, proof of such links must be provided (member of the family of nationals of the Member State, etc.)
3. A long-term residence permit will be renewed automatically unless there are reasons for allowing it to lapse.

Point 5

1. A third-country national enjoying the status of long-term resident shall in principle have access to the territory of the Member State in which he resides and freedom of movement within it.
2. A long-term resident and the members of his family residing legitimately with him shall in principle enjoy no less favourable treatment than nationals of the Member State in which they reside with regard to
 - employment, remuneration and working conditions
 - membership of trade unions
 - accommodation
 - social security, in accordance with agreements on the matter and the provisions of the Member State's legislation
 - compulsory schooling.

3. However, as regards certain non-contributory advantages related to national solidarity it will be possible to require, in accordance with the Member State's legislation, that the third-country national provide proof of a period of residence in the Member State concerned.

Point 6

The residence permit granted to a third-country national enjoying the status of long-term resident will lapse for the following reasons:

- an expulsion measure has been issued against the holder in accordance with provisions of the Member State's legislation. A long-term resident will enjoy special protection against the adoption of an expulsion measure, with due allowance being made for the proportionality between the measure and the alleged offence which prompted it;
- the holder has definitively left the country;
- the holder has been absent from the territory of the Member State for a period in excess of six months unless an extension of the period has been authorized;
- the residence permit has been proved to have been obtained by means of false declarations.

Point 7

Third-country nationals who are long-term residents in the territory of a Member State will be able to obtain authorization to engage in gainful activities, whether employed or self-employed, in accordance with the provisions of the Member State's legislation.

Point 3

The principles set out above must be taken into account when amendments are being made to legislation in force in the Member States in relation to long-term residents.

Point 9

Member States will ensure that their legislation complies with the above principles by 1 January (1997) at the latest.
