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EUROPEAN PARLIAMENT

20 February 1998

DRAFT OPINION
(Rule 147)

for the Committee on Employment and Social Affairs

on the Commission communication on an action plan for free movement of workers (COM(97) 0586)
(report by Mrs Weiler)

Committee on Civil Liberties and Internal Affairs

Draftsman: Mrs Schaffner

PROCEDURE

At its meeting of ... the Committee on Civil Liberties and Internal Affairs appointed Mrs Schaffner draftsman.

It considered the draft opinion at its meeting(s) of ... .

At the latter/last meeting it adopted the following conclusions by ... votes to ..., with ... abstentions/unanimously.

The following took part in the vote/The following were present for the vote: ..., chairman/acting chairman; ... (and ...), vice-chairman/chairmen; ..., draftsman; ..., .. (for ...), ... (for ... pursuant to Rule 138(2)), ... and ... .

1. BACKGROUND

The Commission communication entitled 'An action plan for free movement of workers' (COM(97) 0586) elaborates on some aspects of the report of the High Level Panel on the free movement of persons set up by the Commission in 1996. A heading on p. 6 points to a number of flaws and lacunae. The Commission links its action plan to employment policy, a connection for which in our view more evidence is needed. Free movement of persons does not in principle increase employment. In our view, therefore, it is more important to eliminate existing barriers.

This brings us to two questions. The first is how to prevent discrimination between workers from differing Member States, the second is how the administrative procedures surrounding the practice of freedom of movement can be transformed from obstacles and red tape into genuine help from the government.

That the Commission should be more active in this field is beyond dispute. The experiences of 30 years' efforts towards free movement of workers have not so far been very encouraging. While the High Level Panel chaired by Mrs Veil considers that, apart from a few details, the legislative framework is adequate, the report describes many problems to which no solutions have yet been found. The Commission communication can be regarded as positive, given the coherence of the measures it deals with. However, consideration must also be given to a comprehensive policy on European citizenship pursuant to Article 8A of the EC Treaty. An opinion such as this cannot go into detail on the entire Commission communication, but the following are a few thoughts on the communication as it relates to the areas of responsibility of the Committee on Civil Liberties and Internal Affairs.

2. A NEW LEGAL BASIS?

Article 8A of the EC Treaty reads:

'1 Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect

'2. The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this Treaty, the Council shall act unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament.'

If Article 8A is to be fully implemented, the first step must be to adopt a policy on the basis of Article 8A using paragraph 2 to adopt regulations and directives. The Commission has not taken this step. The fact that the Commission is still relying on the traditional Treaty articles does have the advantage that unanimity is not required for every proposal, but it also involves a loss of coherence. The former course of action should therefore be advocated and the Commission called on to carry out a study on this question.

3. THE VEIL REPORT AND REACTIONS TO IT

The most important recommendations of the High Level Panel on freedom of movement for workers are the following: Information for and about people moving around the Union must be improved; access to employment in the Member States must be facilitated; employment in the public sector must be opened up; social rights need modernising; family rights should be amended to reflect social change; training across the EU (vocational, language training) must be facilitated; greater equality of tax treatment should be achieved; the situation of legally resident third country nationals must be improved([1]).

The Commission' s reaction, as set out in the communication, is that the first priority should be the effective enforcement of the existing rules. The Commission has also announced its intention, 'following the report of the High Level Panel, which also concerns free movement of persons who are not exercising an economic activity, ... to present in 1998 proposals to simplify and enhance the

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([1]) COM(97)569, p.6

existing secondary legislation with a view to drawing all consequences in order to give full value to citizenship of the Union'.

The action plan has a five-fold approach: to improve and adapt the rules; to make the labour market more transparent; to develop responsibility and cooperation; to improve knowledge and visibility of the right to free movement; and to develop innovative projects.([1])

4. THE COMMISSION'S MOST CONCRETE PROPOSALS

'At present, Directive 360/68 contains a legal lacuna since the situation of job seekers is not covered. ...As regards workers who have a number of successive short term employment contracts, the existing legal framework entitles Member States to impose successive renewals of their residence cards. Directive 360/68 should provide for the accumulation of residence periods under short term contracts in order to entitle the worker to a long term residence card, avoiding repetitive renewal of the residence documents after a total residence of over one year'([2]).

The High Level Panel proposed the abolition of visa requirements for family members of a person working in the EU who come from a third country. The Commission rightly regards this as an (over) ambitious proposal, but your draftsman nevertheless agrees with the Commission that at least 'the procedures for issuing visas in these cases must be further facilitated, in particular as regards the place of issuing the visa, so that the visa may also be delivered at the place where the worker is fixing his/her residence with his/her family([3]).

The Commission aims to adapt, update and simplify the existing rules and regulations so as to facilitate the free movement of workers, by submitting during the first half of 1998 proposals for amendments to Regulations 1612/68, 360/68 and 1251/70 taking account of the case law of the Court of Justice. It also proposes to submit to the Council a proposal for the reform and simplification of Regulation 1408/71; to submit a proposal for the extension of Regulation 1408/71 to third country nationals covered by the social security system in one Member State; to press for the adoption of pending proposals aimed at enhancing Regulation 1408/71; and to press for the adoption of the proposal for a directive on supplementary pensions([4]).

The establishment of active cooperation with the national authorities with a view to guaranteeing the effective operation of the existing legal basis, with the involvement of the social partners, would guarantee a further improvement with regard to mobility.

The Commission will encourage the Member States, inter alia, to create special contact points for migrant workers aimed at dealing with specific urgent problems relating to freedom of movement, and will also propose, during 1998, a merger of the two advisory committees (on free movement of

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([1]) COM(97)0586, p.9
([2]) COM(97)0586, p.10
([3]) COM(97)0586, p.10
([4]) COM(97)0586, p.13

workers and on social security for migrant workers) in order to make the cooperation more efficient.([1]).

Education may be regarded as one of the generally recognized fundamental rights. Here, however, it is not the right to education which is at issue but the opportunity to obtain (further) training in another Member State, and to have the equivalence of this training recognized. Further work needs to be done on this too.

5. CONCLUSIONS

The Committee on Civil Liberties and Internal Affairs calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following conclusions in its report:

1. Refers to the conclusions of its resolution on the report of the High-Level Panel on the free movement of persons chaired by Mrs Simone Veil;

2. Considers that the Commission must seek to give substance to European citizenship by proposing regulations and directives;

3. Considers that the Commission must organize an information campaign, targeting the Member States and their officials, with a view to eliminating the administrative obstacles which European citizens still find placed in their way;

4. Notes the essential distinction which needs to be drawn, as regards the freedom of movement of persons and the right of establishment, between European citizens, third country nationals who have been legally resident for a long period in the European Union and other categories of third country nationals;

5. Urges that education place more stress on European unification and the European identity, in view of the still evidently widely-held view that the free movement of European citizens should be strictly monitored and regulated;

6. Calls on the Member State governments to launch a campaign as soon as possible to make clear that European citizens resident in a country other than the one whose nationality they possess must be given the same treatment as the nationals of that country.

([1]) COM(97)0586, p.17