

Permanente commissie
van deskundigen in
internationaal vreemdelingen-,
vluchtelingen- en strafrecht

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Baroness Ludford
Member of the European Parliament
Brussels
Belgium

CM01-019

Utrecht, 20th of August 2001

Dear Baroness Ludford,

In March 2001 the European Commission published its proposal for a Directive on the status of third-country nationals who are long-term residents in the European Union. Please find enclosed a memorandum of the Standing Committee of experts on international immigration, refugee and criminal law on this proposal.

The Standing Committee considers the proposal to be an important step towards fair treatment of third-country nationals. It is to be welcomed as an important step towards full integration of third-country nationals into the social and economic life of the European Union. However, in order to further that aim, the proposal in our view needs to be amended. Our main recommendations for amendments are summarised hereunder. The enclosed memorandum contains concrete proposals for amendments of specific provisions of the proposed Directive.

1) Long-term third-country nationals should be granted rights as near as possible to those enjoyed by European Union citizens.

The proposed directive does not guarantee, to the extent possible, full application of Community law and therefore fails to fully implement the Tampere principle of equal treatment for long-term residents with EU citizens.

We mention two examples:

a) Family members

Family members are defined in accordance with the proposed directive on the right to family reunification. The latter proposal concerns migrants from outside the EU to third-country nationals who do not necessarily have long residence in an EU Member State. Since the proposal under consideration concerns migrants with long residence in the EU

and is primarily oriented towards migration within the EU, the definition of the term 'family members' given in Regulation 1612/68 should apply.

b) Protection against expulsion

For the same reasons, family members of long-term third-country residents who have been admitted in an EU Member State, should be granted the same protection against expulsion as family members of EU citizens under Directive 64/221. Article 13 does not provide this protection for family members.

2) *The Directive should contain both minimum standards and a standstill clause.*

A standstill clause should be inserted in order to avoid that the Directive would induce Member States to reduce the rights presently granted to third-country nationals with long residence under their national law. Moreover, Member States should be free to grant more rights to long-term residents under their national legislation, as provided in Article 14.

The Standing Committee kindly requests you to consider inclusion of the amendments mentioned in our memorandum in the report of the European Parliament on the proposal for a directive on the status of third-country nationals who are long-term residents in the European Union.

Yours sincerely,

Prof. dr. C.A. Groenendijk
Chairman of the Standing Committee
of experts on international immigration, refugee and criminal law