



**COUNCIL OF
THE EUROPEAN UNION**

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PRESIDENCY NOTE

to :	Permanent Representatives Committee/Council
Subject :	Proposal for a Council Directive concerning the status of third country nationals who are long term residents

1. It is the intention of the Presidency to submit the above draft Directive to the attention of the Ministers at the meeting of the JHA Council to be held on 8 May 2003. The Presidency reaffirms the need for further progress on this draft Directive, which is one of the two instruments - together with the Directive on the right to family reunification, on which a general political orientation has been already reached at the meeting of the JHA Council held on 27 February 2003 - which should be adopted by the deadline of June 2003 set by the European Council of Seville (conclusion n.30). This common objective will only be achieved with the effective cooperation of all delegations to take a constructive approach in order to facilitate the adoption of this Directive, which will constitute a second important milestone in the formation of a Common European Policy in legal migration.

2. With regard in particular to the meeting of the JHA Council to be held on 8 May 2003 the debates should focus on the following points:
 - a) to clarify some still outstanding questions in the first Section of the Directive (Chapters I, II and IIa), dealing with the acquisition of the long-term resident status, on which the Presidency wishes to reach overall agreement. On this Section broad agreement has already been reached (see 8408/03 MIGR 26);
 - b) an in depth political discussion on the question of the mobility of the third-country nationals who have acquired long-term resident status in a Member State to other Member States and of the relevant conditions which need to be met by the persons concerned.
3. With regard to point b), the Presidency observes that the question of mobility was already addressed at the meeting of the JHA Council held on 15 October 2002, during which the Ministers held a first exchange of views on this sensitive issue. The outcome of this preliminary discussion was that delegations favoured and supported the idea of the mobility of long-term residents, though the granting of this benefit should be subject to some specific conditions. The question of determining the relevant conditions has been extensively considered by the Council bodies in a number of meetings. However, the discussions showed the existence of two fundamental diverging positions, which need to converge in order to reach agreement:
 - a) on one side, some delegations felt that the third-country nationals who are long-term residents should comply only with the compulsory conditions required for acquiring long-term resident status in the first Member State (ie: possession of adequate resources and sickness insurance) in order to be granted the right of residence in the second Member State where they have moved on a permanent basis.

- b) on the other side, other delegations supported a more restrictive approach, whereas on top of requiring the fulfilment of the said conditions by the person concerned, Member States should be allowed to limit the right of residence on the basis of specific grounds. In this context, it was envisaged in particular the possibility of allowing Member States to introduce or maintain a quota system or restrictions to the access to the labour market.

Therefore, a substantial divergence exists between the more liberal approach suggested by the Commission in its original proposal and the approach adopted by the Member States who wish to maintain the possibility of providing for some additional restrictions. It also appears clear that the consequences of the adoption of one of the two positions might differ with respect in particular to the mobility within the Union of the third-country nationals who have acquired long-term resident status.

- 4. Since the Seville Conclusions have set a clear deadline for the adoption of this Directive by June 2003, the Presidency invites the Ministers to address this highly political issue of the mobility of legal migrants within the Union, in order to give clear orientation to the relevant Council bodies in view of the JHA Council in June, on the following questions:

The right of residence in a second Member State should:

- a) only be subject to the fulfilment of the same conditions which are required in order to obtain long-term resident status in the first Member State, or
- b) also be subject to additional optional restrictions to which the second Member State may have recourse?

In this case, what specific additional optional restrictions might be envisaged (i.e. quotas, restrictions to the access to the labour market etc)?
