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Commission calls for end to social security discrimination against non-EU nationals

The Commission today adopted a proposal to end discrimination against third country nationals who are currently unable to maintain their social security rights when they move between EU countries to stay, live or work. The twin objectives of the initiative are to help the integration of third country nationals by providing for comparable rights and obligations to those of EU citizens and to encourage mobility of workers, including of non-EU nationals. The Commission proposal for a regulation, which will now be submitted to European Parliament for its opinion and the Council for adoption, potentially concerns 13 million non-EU citizens legally resident in the EU.

Social Affairs Commissioner Anna Diamantopoulou said : 'We want the fullest possible integration of third-country nationals based in the EU, including rights and obligations comparable to those of EU citizens. It is important to ensure respect for the fundamental rights of third-country nationals, but also to remove obstacles to worker mobility and labour market participation – two key challenges for the Barcelona summit in March'.

Justice and Home Affairs Commissioner Antonio Vitorino said : 'This initiative will help to bring the Tampere summit objective nearer : that the EU should ensure comparable treatment of EU nationals and third-country nationals who reside legally on the territory of its member states.'

The Commission is proposing a Council regulation which extends the scope of existing EU social security co-ordination rules - up to now applicable to EU nationals, stateless persons, refugees and members of families and survivors of EU nationals - to third country nationals in general. For the record, social security systems are a matter for individual member states but, in the interests of mobility, the EU has since 1971 had provisions guaranteeing maintenance of social security rights acquired in another member state. These provisions do not, at present, extend to third-country nationals.

Background

The Commission had originally proposed on 12 November 1997 to integrate third-country nationals by tabling an amendment to Regulation 1408/71 under Articles 42 and 308 of the EC Treaty. However, in view of entry into force of the Amsterdam Treaty (in particular Title IV) and the Court of Justice judgement of 11 October 2001 in Khalil (C-95/99), the Commission has now amended the legal base for the proposal to Article 63(4) on the conditions of EU entry and residence of third-country nationals.

The proposal must be adopted under the procedure laid down in Article 67 of the EC Treaty which provides for decision by unanimity after consultation of the European Parliament. Protocols to the Treaty provide for opt-ins for the UK and Ireland and an opt-out for Denmark with regard to Title IV.

It is important to note that application of Regulation 1408/71 to all third-country nationals will not itself confer any entitlement to enter, stay or reside in a member state or to have access to its labour market. The scope of this initiative is to provide equal treatment for non-EU nationals who are legally resident in one member state and are (legally) moving to another member state.