



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.07.1998
COM(1998) 403 final

COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

**Commission Communication to the European Parliament
and the Council on the follow-up to the recommendations
of the High-Level Panel on the Free Movement of Persons**

Commission Communication to the European Parliament and the Council on the follow-up to the recommendations of the High-Level Panel on the Free Movement of Persons

On 24 January 1996 the Commission requested the High-Level Panel on the Free Movement of Persons, chaired by Mrs Simone Veil, to identify the problems still arising in this area and to evaluate them and propose solutions.

On 18 March 1997 the High-Level Panel presented its report, which makes over eighty recommendations in the seven chief areas of interest to citizens of the Union wishing to move within the Community area, i.e.:

- entry and residence,
- access to employment,
- social rights and family status,
- tax and financial status,
- cultural rights,
- special situation of third-country nationals,
- protection of the rights of individuals.

The Commission considers the Panel's report to be an excellent assessment of the many difficulties encountered by citizens exercising their right to the free movement of persons:

A large proportion of the Panel's recommendations have, therefore, been incorporated by the Commission into its Action Plan for the Single Market of June 1997¹ and its Action Plan for the Free Movement of Workers of November 1997.² Some other recommendations have been overtaken by events or require reassessment on account of the new legal environment which will come into existence with the entry into force of the Treaty of Amsterdam. This communication focuses on two aspects of free movement which were examined by the Panel: first, the rights of entry and residence and, second, the need to improve information to citizens regarding their rights. A detailed review of the follow-up to all of the Panel's recommendations is given in the annex.

Rights of entry and residence

As stated in the High-Level Panel's report, rights of entry and residence were initially linked to the pursuit of an occupation. Since then, mainly as a result of secondary legislation, these rights have gradually been extended to cover all citizens. This step-by-step extension has meant, however, that beneficiaries have been compartmentalised in a way that is no longer in keeping with modern forms of mobility or with the establishment of citizenship of the Union.

¹ CSE(97)1 final.

² COM(97) 586 final.

It is noted, therefore, that Community legislation, as it now stands, has been essentially conceived for workers and their families who wish to become established in another Member State either permanently or for a very long period. It is, on the other hand, ill-adapted to the circumstances of persons who exercise their right to mobility for a limited period or on a part-time basis (students, trainees, employees who are temporarily seconded, mobile self-employed persons, frontier workers, retired persons with more than one residence, etc.). The number of such persons is difficult to gauge; it is, however, expected to grow considerably on account of the effects of European integration, changes in ways of living and working, the growing need for young people undergoing initial training to spend a study or training period in another country, technological innovations in communications and the development of transport links .

Furthermore, by introducing into Article 8a of the EC Treaty the concept of citizenship of the Union, the Treaty of European Union generalised, for the benefit of all citizens, the right to enter, the right to reside and the right to remain in the territory of another Member State. From this point of view, these rights are becoming an integral part of the legal heritage of every citizen of the European Union and should be formalised in a common corpus of legislation .

For all these reasons, the Commission considers it necessary to harmonise the legal status of all Community citizens in the Member States, irrespective of whether they pursue an economic activity or not. The main guidelines of the Commission's proposals in this connection will be as follows :

- the creation, in so far as possible, of a single set of rules on free movement within the meaning of Article 8a for all citizens of the Union and the members of their families;
- a new approach to exercising the right to reside, particularly by restricting the obligation to hold a residence permit to situations where this is justified;
- a clarification of the status of those members of the family of a citizen of the Union who are nationals of a third country;
- clearer restrictions regarding the possibility of curtailing the exercise of the right to reside.

Revising the right of free movement and residence in the context of the rules on citizenship is a task of such a global nature and such broad scope that results cannot be expected for the citizens of the Union in the short term . For that reason, in tandem with this communication, the Commission is already proposing a revision of Regulation (EEC) 1612/68 and of Directive 360/68/EEC on the freedom of movement and the right of entry and residence of workers. This selective revision is aimed at improving the present situation of workers and members of their families who move, in keeping with the undertaking made by the Commission in its Action Plan of November 1997. In this connection, the European Council held on 20 November 1997 recognised the importance of the mobility of workers from the point of view of reinforcing the functioning of the national employment markets.

Measures to reform and simplify the rules on coordinating social security schemes will also be proposed by the end of 1998.

Improving information to citizens

Facilitating the free movement of persons is a many-faceted task, as is demonstrated by the great diversity of the subjects covered by the Panel's report.

However, the report lays stress in several places on the need to improve information to citizens regarding their rights under Community legislation and to provide better training and information for all those involved in the exercise of free movement.

In this respect, it is appropriate to highlight the measures already taken by the Commission:

- launch, on the occasion of the Cardiff European Council of 15 and 16 June 1998, of the "Dialogue with the Citizens", which follows up and builds on the "Citizens First" initiative and is aimed at providing people with practical information on their free-movement and related rights, answering their questions and directing them towards the appropriate administration if they run into difficulties;
- publication of a "Route map for job-seekers in the EU", which has been published in response to questions raised by citizens in the context of the "Citizens First" initiative;
- development and improvement of the EURES network, which provides information on job opportunities and on living and working conditions in the Member States;
- development and consolidation of the Euro-Jus network, which is aimed at providing advice and legal assistance at the level of the Commission's representative offices in the Member States;
- pursuit and development of the Karolus programme on the exchange and training of national officials responsible for single-market legislation, the "Robert Schuman" programme on raising the legal profession's awareness of Community law, the "Jean Monnet" programme for universities and the "Grotius" programme on the exchange of legal practitioners;
- support for the development of the Eurodesk network, which is aimed at providing an information service covering all questions relating to young people and the organisations responsible for their rights.

Conclusion

The object of this communication is to provide an overview of the Commission's response to the recommendations of the High-Level Panel in two important areas, one of which requires legislative proposals, while the other helps to bring Europe closer to its citizens.

In the first of these areas, the Commission has adopted legislative proposals aimed at reinforcing the free movement of workers, while embarking on a detailed analysis of the concept of European citizenship and its legal effects on citizens' right of entry and residence in the Member States.

Review of the Report of the High-Level Panel on the Free Movement of Persons

Introduction

The Report of the High-Level Panel on the Free Movement of Persons chaired by Mrs Simone Veil (hereafter referred to as the "Panel's Report"), which was presented to the Commission on 18 March 1997, aroused very keen interest on the part of a large number of bodies and institutions, particularly the European Parliament. Its methodological rigour and analytical qualities were widely acclaimed and contributed to the discussion on the practical measures to be adopted in order to achieve a genuine area of free movement of persons in the European Union.

In this context, the President of the Commission undertook to have the situation appraised at the end of the year following that in which the Report was submitted.

Such an appraisal having now been carried out, the object of this review is to sum up on the follow-up given, particularly by the Commission, to the recommendations made.

The task assigned to the Panel by the Commission consisted in identifying the existing or potential obstacles encountered by European citizens in exercising their right to move freely and to work within the Union. It was, on the one hand, to study how current legal instruments are applied and identify ways of improving them or making their operation more effective and, on the other, to recommend new measures to supplement the existing panoply of legislation which could eliminate certain obstacles or provide solutions to problems not yet tackled by the Community.

The Panel's Report accordingly contains over 80 recommendations.

An examination of the follow-up to the Panel's Report must begin by mentioning the three main Community instruments which have been adopted since it was presented and which will influence the free movement of persons.

First, the **Treaty of Amsterdam** was adopted on 19 June 1997 and signed on 2 October 1997. This Treaty introduces into the EC Treaty provisions which should make it easier to achieve the objective of the free movement of persons, from the point of view of both the abolition of internal-border checks and the right to move and reside freely within the territory of the Member States.

Second, the Amsterdam European Council also approved the **Action Plan for the Single Market**, Strategic Target 4 of which is aimed at delivering a single market for the benefit of all citizens.¹ The six actions currently being developed under this Strategic Target are directed at abolishing border checks, updating the rules on the right of residence, protecting social rights, promoting the mobility of labour within the Union, protecting consumer rights, public health and the environment and developing the dialogue with the citizen. The six-monthly Single-Market Scoreboard² makes it possible to gauge the state of progress of each measure to be implemented under the Action Plan.

Third, it is also necessary to draw attention to the publication by the Commission on 12 November 1997 of the **Action Plan for Free Movement of Workers**, which constitutes a response to some of the Panel's recommendations.³

In its Work Programme for 1998, the Commission also indicates that, on the basis of the recommendations contained in the Panel's Report, it will work towards making the principle of free movement of persons a reality. In its resolution commenting on this Programme, Parliament requests the Council and Commission to implement all the recommendations contained in the Panel's Report on the free movement of persons.

For reasons of simplification and clarity, this review is divided into seven chapters corresponding to those contained in the Report. The follow-up to the special report on supplementary pensions⁴ is described in Chapter 3 (social rights and family status).

1. ENTRY AND RESIDENCE

The Panel's Report refers to persistent obstacles to the right to move and reside freely in the territory of the Member States. These obstacles fall into three categories: the continued existence of checks at internal frontiers, shortcomings in administrative practices and legislative deficiencies.

— The continued existence of checks at internal borders

The Commission of course shares the Panel's view that the citizen cannot appreciate all the effects of the internal market as long as checks continue to be carried out at internal borders. The discussions held within all the Community institutions have highlighted the differences of opinion regarding both the objective to be achieved and the means of guaranteeing a high degree of security in an area of free movement. The 1995 Commission proposals for completing all legislative instruments were not carried through. However, the new Amsterdam Treaty took up the progress achieved at the Schengen inter-governmental level and incorporating it into a Union context, setting a target date of five years to achieve this objective and

¹ CSE(97)I final, 4 June 1997.

² No 1, November 1997, SEC(97) XXXI; No 2, May 1998, SEC(98) XXX.

³ COM(97), 586 final, 12 November 1997.

⁴ Report by the High-Level Panel adopted on 28 and 29 November 1996 and annexed to the Report on the free movement of persons.

adopting ad hoc solutions for the United Kingdom, Ireland and Denmark that are given practical expression in various Protocols annexed to the Treaty. It may be noted, however, that freedom to travel without controls is already a reality between nine Member States and a tenth is preparing to join the leaders shortly.

– Shortcomings in administrative practices

The letters sent to the Commission, the numerous complaints from citizens and the petitions sent to the European Parliament merely go to confirm the High-Level Panel's findings regarding a number of shortcomings in administrative practices and the need for new initiatives, which the Commission announced in its Action Plan for the Single Market and has already started to act upon, particularly the decision to accelerate internal administrative procedures for dealing with complaints and initiating the infringement procedures set out in Article 169 of the EC Treaty and to make them more transparent to citizens (see the most recent Commission report to the European Parliament and Council on monitoring the application of Community law). The Commission will also present an interpretative communication on the application of Directive 64/221/EEC concerning public policy, public security or public health.

– Legislative deficiencies

The Commission shares the Panel's view that it is necessary to present new proposals to amend and simplify exercise of the right of free movement of persons and, in particular, to allow full benefit to be derived from the establishment of citizenship of the Union. The most ambitious method would certainly consist in a complete revision of all rights and obligations connected with the movement and residence of citizens of the Union and members of their families. This objective had already been expressed once by the 1993 Brussels European Council, but could not be achieved for reasons relating, *inter alia*, to the problem of the wide array of legal bases and legislative procedures governing the category to which the citizen exercising his right of free movement belongs.⁵

The establishment of citizenship of the Union and a new provision introduced by the Treaty of Amsterdam into Article 18(2) (former Article 8a) on the codecision procedure referred to in Article 251 (former Article 189b) should pave the way for a proposal for a revision that is capable of providing a consistent and comprehensive solution to the legal and administrative obstacles noted by the High-Level Panel.

Thus, new proposals on employed persons have been presented by the Commission in conjunction with this review. These proposals are aimed at amending Regulation (EEC) No 1612/68 and Directive 68/360/EEC along the lines announced in the Action Plan for Free Movement of Workers⁶ and are thus in keeping with several of the Panel's recommendations. In accordance with the commitment

⁵ See in this connection the Second report from the Commission on citizenship of the Union (COM(97) 230 final, 27 May 1997).

⁶ COM(97) 586 final, 12 November 1997.

contained in the Action Plan for the Single Market, the Commission will not fail to draw up further detailed proposals.

In this connection, a report on the application of the three Directives on the right of residence of students, retired persons and non-active persons will make it possible to define the legislative shortcomings which require to be remedied.

Finally, mention should be made of the judgment delivered on 12 May 1998 in *Sala*,⁷ in which the Court ruled that Community law precludes a Member State from requiring nationals of other Member States authorised to reside in its territory to produce a formal residence permit issued by the national authorities in order to receive a child-raising allowance, when the Member State's own nationals are only required to be permanently or ordinarily resident in that Member State. This judgment is important in that it establishes, through the combined application of Articles 6, 8 and 8a of the Treaty, the principle of non-discrimination against citizens of the Union in areas falling within the scope of Community law.

2. ACCESS TO EMPLOYMENT

Where **access to public-service jobs** is concerned, the Court has laid down in its case law the criteria for deciding which sectors are reserved for nationals pursuant to Article 48(4) of the EC Treaty. Accordingly, the Commission will ensure that Member States fully abolish all restrictions on access to such jobs in the public sector.

As regards the general principle of mutual recognition in all public sectors in the Member States, progress has been made and discussions are continuing with and between the Member States. Where the specific question of professional experience acquired in another Member State is concerned, it should be pointed out that the Court, in its *Kalliope* judgment of 15 January 1998,⁸ declared as being contrary to Article 48 of the EC Treaty a clause in a collective agreement applicable to the public service of a Member State which did not take any account of previous periods of comparable employment completed in the public service of another Member State. This case law was confirmed by the judgement of 12 March 1998 in *Commission v Greece*.⁹ In this respect, the principle of equivalence of situations for occupational purposes has been incorporated into the proposal for the revision of Regulation (EEC) No 1612/68 and of Directive 68/360/EEC and the effects of this principle should be felt mainly in the area of public-service jobs (see below).

⁷ Case C-85/96.

⁸ Case C-15/96.

⁹ Case C-187/96.

Where **recognition of diplomas** is concerned, it should be pointed out first that the Directive on the freedom of establishment of lawyers was adopted on 16 February 1998.¹⁰

Also in December 1997, in the context of the SLIM (Simpler Legislation for the Single Market (SLIM) initiative, the Commission presented a proposal for a Directive aimed at simplifying and modernising the seven sectoral Directives for the regulated professions (nurses, dentists, vets, midwives, architects, pharmacists and doctors).¹¹ This proposal also incorporates some of the Panel's recommendations (as regards the general system, the obligation to take into consideration, in examining applications for recognition, experience gained after the award of the qualification; as regards the sectoral Directives, the possibility of recognising qualifications awarded to Community nationals in third countries).

Finally, the Council has agreed a common position on the amended version of the February 1996 proposal for a Directive¹² consolidating the Directives on access to craft and industrial activities and establishing a mechanism for the recognition of qualifications in respect of professional activities not yet covered by the general system. This proposal consolidates about thirty directives granting access to regulated activities on the basis of professional experience in the country of origin and completes them by creating for these same activities a procedure for recognition of diplomas.

Several pilot schemes have been launched under the Socrates and Leonardo da Vinci programmes on the evaluation and accreditation of **professional qualifications**.

In this connection, as indicated in the Panel's Report, a feasibility study on a "professional passport" had been requested by the Council. However, in 1995, the final report on the "individual portfolio" project highlighted technical and cultural problems which prevented the portfolio playing its full role in fostering the transparency of skills and qualifications.

The proposal for a Commission Decision aimed at establishing a Community information document ("EUROPASS-Training") for young people who are undergoing training, including apprenticeship, and undertake one or more training periods in another Member State,¹³ is now at the common-position stage within the Council and should be finalised before the end of 1998. This proposal demonstrates that it is possible to reinforce transparency without interfering in the powers of the Member States. The Commission is in fact examining the possibility of following up the EUROPASS-Training initiative with a similar one in the field of continuing

¹⁰ Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, OJ No L77, 14 March 1998.

¹¹ COM (97) 638 final, 2 December 1997.

¹² OJ No C 264, 30 August 1997.

¹³ See footnote 23.

training. The central question hinges on the portability of the skills acquired throughout an individual's career, whether through formal training resulting in qualifications or through initiatives taken by firms in conjunction with new validation and accreditation methods, as suggested in the Commission White Paper entitled "Teaching and learning: towards the learning society".

The Commission is currently pursuing its efforts in a number of directions with a view to overcoming these difficulties in order to improve the information exchanged.

Moreover, the Commission has included the principle of equivalence of situations for occupational purposes in its proposal for the revision of Regulation (EEC) No 1612/68. This principle is aimed at enabling facts or events which have legal or professional effects in one Member State to be taken into account even if they have occurred in another Member State. It will apply, therefore, to professional qualifications acquired in other Member States, so that they may be valid in the host Member State.

Furthermore, as announced in the Action Plan for Free Movement of Workers, the Commission wishes to involve the social partners in the implementation of free movement. It believes that such involvement could result in the establishment of systems that would make professional qualifications more transparent and easier to compare between Member States. The social partners have also been able to participate and express their views in the context of meetings of experts.

In addition, in order to reinforce the participation and contribution of the social partners, the Commission, in the context of the revision of Regulation (EEC) No 1612/68, presented a proposal on merging the existing advisory committees on the free movement of workers and the coordination of social security schemes. The new committee resulting from the merger of the old tripartite committees (Member States, employers and trades unions) will be destined to become a highly qualified forum for discussing and analysing all issues relating to the mobility of workers in Europe: employment policy, social security, recognition of qualifications, etc.

Finally, the Commission is making a substantial effort to improve practical information for job-seekers. Since the Panel's Report was presented, the EURES network, which supplies information on job opportunities and on living and working conditions, has grown to such an extent that it comprised 477 Euroadvisers by the end of 1997. Both the Action Plan for the Single Market and the Action Plan for Free Movement of Workers provide for improvements to this system, particularly in cross-border areas.

3. SOCIAL RIGHTS AND FAMILY STATUS

The Treaty of Amsterdam does not change the unanimity rule laid down in Article 51, as suggested in the Panel's Report.

The Panel makes a number of recommendations for simplifying the rules on the coordination of **social security** schemes.

In the Action Plan for Free Movement of Workers, the Commission undertook to present, by the end of 1998, a proposal for revising and simplifying Regulation (EEC) No 1408/71 on the coordination of social security schemes.¹⁴ These rules have, moreover, been selected for the third phase of the SLIM exercise.

On 29 June 1998,¹⁵ the Council adopted part of the Commission proposal of 13 December 1991 to extend the coordination of social security schemes to special schemes for civil servants.¹⁶ However, the section on students and non-employed persons is still under discussion.

The Commission is making every effort to ensure that the proposals for extending the practical scope of Regulation (EEC) No 1408/71 to early-retirement schemes and to the maintenance of unemployment benefits, which are still pending before the Council, are adopted even before the entry into force of the Treaty of Amsterdam. Moreover, if these two proposals have not yet been adopted by the Council, the Commission will consider incorporating the guidelines they contain into the proposal for simplifying and reforming Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72.

The Panel's report also emphasised the need to improve information to citizens regarding their rights in connection with the coordination of social security schemes. In this respect, the Commission departments are pursuing a global information strategy aimed at citizens as a whole and at more specific target groups such as the legal professions or the social partners. This strategy hinges, in particular, on the publication of various guides explaining Community rules on social security, including those deriving from the case law of the Court. 1998 will be devoted to this campaign and will be marked by the launch of a quarterly news bulletin aimed at a very wide public throughout the Community, but also by the organisation of seminars in each Member State, in which members of all the professions involved in the application of the coordination rules will participate, the object being to trigger a debate on the difficulties connected with applying the rules on the coordination of

¹⁴ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, as updated by Council Regulation (EC) No 118/97 of 2 December 1996, OJ No L 28, 30 January 1997.

¹⁵ Council Regulation (EC) No /98 of 29 June 1998.

¹⁶ OJ No C 46, 20 February 1992.

social security schemes at national level. Finally, such a debate will make it possible to contribute to the discussions under way on reforming and simplifying the coordination rules, which will constitute an important step towards making Community rules more transparent to the citizen.

One of the Panel's recommendations was to make it possible for computerised national social security cards to be read in any Member State. In the view of the Commission, while the technology required for their introduction by the social security bodies is available, such a large-scale introduction would come up against many administrative and organisational problems, such as standardisation of the information and data to be stored on the card; linguistic problems; the complexity of national and Community social security rules and the substantial differences existing in the structure of the relevant institutions in each Member State. In addition, efficient use of a card replacing certain "E" forms implies the existence between those institutions of a telematic infrastructure similar to that created by the banking sector prior to the massive introduction of bank cards. Modernisation projects on the telematic exchange of data in the social security field have made it possible to establish a few links for the telematic exchange of data on forms in the pensions sector. However, setting up the projects has meant a shift in the objectives and resources of the relevant institutions of the Member States. The Commission, while recognising the difficulties and complexities of national situations, is studying the question and trying to propose solutions to the national authorities.

Finally, in its Action Plan for Free Movement of Workers, the Commission indicates that it will foster cross-border cooperation by covering specific issues such as social security. It should also be noted that the proposal for the revision of Regulation (EEC) No 1612/68 makes a reference to cross-border workers in a provision of a general nature.¹⁷

Attention should also be drawn to the two judgments delivered on 28 April 1998 in *Decker* and *Kohll*,¹⁸ in which the Court considered that the prior authorisation required by a national legislation as a precondition for reimbursing spectacles purchased and dental treatment carried out in another Member State was inconsistent with Community law and, in particular, with the principle of the free movement of goods (Articles 30 and 36 of the EC Treaty) and of the freedom to provide services (Articles 59 and 60 of the Treaty) in so far as such authorisation was not required for purchases or treatment within the Member State in question and in the absence of appropriate justification based on general interest.

In its Action Plan for Free Movement of Workers, the Commission also indicates that, like the High-Level Panel, it is in favour of extending the **right to family reunification** to the following:

¹⁷ Article 7a lays down that "Social, tax and other advantages enjoyed by virtue of residence in a Member State shall not be refused to non-resident workers who work in this State and can objectively be considered to be in a situation comparable to that of a resident worker."

¹⁸ Cases C-120/95 and C-158/96.

- children over 21 years of age who are not dependent on their parents and relatives in the ascending line who are not dependent on their children;
- unmarried partners of Community workers, provided that the legislation of the Member State in question treats the unmarried partner of a national worker as a spouse.

The Commission drew up proposals to this effect as far back as 1989. Its proposal for the revision of Regulation (EEC) No 1612/68 and of Directive 68/360/EEC incorporates these provisions and extends the right of residence to all other family members who are dependent on the worker or are living under his roof in the country from which he comes.

It should be added that this proposal also contains provisions aimed at reinforcing the legal status of the members of a worker's family in order to facilitate their social integration in the host Member State, particularly in cases where the marriage is dissolved. In this respect, the Panel's Report recommended granting a right of residence to a divorced spouse who is a third-country national.

Chapter 7 of this review describes the steps taken to inform and train the appropriate national authorities.

On 8 October 1997 the Commission adopted a proposal for a Council Directive on **safeguarding the supplementary pension rights** of employed and self-employed persons moving within the European Union.¹⁹ The High-Level Panel had presented a special report on this important question along with its main Report. This proposal covers the preservation and transferability of supplementary pension rights and the possibility for a worker seconded to another Member State to continue to pay contributions to a supplementary pension scheme in his Member State of origin. On 4 June 1998 a political agreement was achieved in the Council on this proposal.

4. TAX AND FINANCIAL STATUS

In the **field of taxation**, the Commission is examining the Panel's recommendations together with the representatives of the national tax administrations and will propose initiatives as soon as possible, as stated in its Work Programme for 1998.

In order to facilitate cross-border labour mobility, it makes provision, in its Action Plan for Free Movement of Workers, for fostering cross-border cooperation between the relevant administrations and social partners, particularly in the field of tax law.²⁰

In the light of the recommendations regarding vehicle-users who are penalised through double registration tax, the Commission has submitted to the Council a proposal for a Directive governing the tax treatment of private motor vehicles moved permanently to another Member State in connection with a transfer of residence or used temporarily in

¹⁹ OJ No. C 5, 9 January 1998.

²⁰ See also footnote 17.

a Member State other than that in which they are registered.²¹ This proposal was discussed in the plenary session of the European Parliament on 17 June 1998. It is based on the principle that a vehicle which has already been taxed in the country of origin should be exempt from registration tax. There is provision for a consultation procedure in cases where two national administrations dispute the place of residence. The proposal also lays down that Member States must register vehicles of Community nationals with not a normal residence but a secondary residence in their territory.

As regards systems for the declaration of **financial** movements above a certain threshold, the Commission continues to deal with the complaints which it receives within the context of the infringement procedure laid down in Article 169 of the EC Treaty and seeks appropriate solutions with the Member States concerned where the requirements connected with the declaration or the sanctions applicable appear excessive.

5. CULTURAL RIGHTS

The Amsterdam Treaty supplemented Article 128(4) of the EC Treaty (Article 151 of the consolidated version) by specifying that Community policies must take account of cultural aspects, particularly with a view to respecting and promoting the diversity of European cultures. Article 126 (Article 149 of the consolidated version) on education and youth has not, on the other hand, been amended (the Panel's Report suggested an amendment to this Article to make it possible to establish a Community system aimed at facilitating academic recognition of qualifications and periods of study).

The three large-scale action programmes on education, training and youth (Socrates, Leonardo da Vinci and Youth for Europe), which were adopted for a five-year period ending in 1999, have continued to contribute to the development of a European educational area. In this connection, on 12 November 1997, the Commission adopted a communication entitled "Towards a Europe of knowledge",²² which focuses, *inter alia*, on measures to promote language skills and understanding of different cultures, as well as measures to encourage physical mobility, including an extension of mutual recognition arrangements to all areas concerned. In keeping with these guidelines, the Commission adopted proposals on 26 May 1998 for the implementation of a new generation of programme in the field of education (Socrates), professional training (Leonardo da Vinci) and youth, which will apply from 1 January 2000 until 31 December 2004. These programmes include a large number of mobility measures targeted at different groups of persons according to the objectives sought. This new generation of programme should enable 1.2 million students, 200 000 teachers, 400 000 young trainees and 660 000 young people under the youth programmes (i.e. a total of 2.5 million Europeans) to benefit from a programme to encourage mobility. These new programmes also provide for enhanced quality and accessibility by setting more specific objectives, more consistent measures, simplification of formalities and decentralisation.

²¹ OJ No C 108, 7 April 1998.

²² COM(97) 563 final, 12 November 1997.

In the field of vocational training and apprenticeship, the Commission drew up a proposal on 12 November 1997 for a Council Decision to promote European pathways for work-linked training, including apprenticeships.²³ This project provides for the creation of a "EUROPASSPORT-Training" document at Community level with a view to making cross-border training periods more transparent and visible. A budget of ECU 7.3 million has been earmarked for the 1999-2004 period.

In the youth sector, on 27 December 1996, the Commission transmitted to the Council the proposal for a European Parliament and Council Decision establishing the "European Voluntary Service" programme.²⁴ This is aimed at organising a Community programme aimed at integrating young people into working life by allowing them to participate in measures of value to society. Since the relevant procedure is well under way, the proposal is expected to be adopted in the near future.

The Panel's Report pointed out that a specific action should be developed aiming to take better into account the special situation of artists and others active in the field of culture. On this point, the first European Community framework programme in support of culture (2000-2004)²⁵ mentions this question specifically and specifies that the Commission "will make a detailed inventory of the obstacles which impede artists and others active in the field of culture' free movement and transnational mobility".

6. THE SPECIAL SITUATION OF THIRD-COUNTRY NATIONALS

The Panel's recommendations on improving the situation of third-country family members of a citizen of the Union were taken into account in the proposal for a Council Act establishing the Convention on the rules of admission presented by the Commission on 30 July 1997.²⁶ Article 25 of this proposal provides that members of the family of a Union citizen who has not used his or her right of free movement, benefit from the same family reunification rules as those established by Community law. In addition, persons falling within the scope of the Convention of 1951 on refugees and stateless persons would benefit from the rights attached to the situation of third-country nationals installed on a long-term basis, pursuant to Chapter VIII of this proposal for a Convention on admission. Reference should also be made to the new Chapter of the Treaty of Amsterdam on "Progressive establishment of an Area of Freedom, Security and Justice" which introduces into the EC Treaty a new Title IV (consolidated version) on "Visas, asylum, immigration and other policies related to free movement of persons"

²³ COM(97) 572 final, 12 November 1997.

²⁴ OJ No C 302, 3 October 1997.

²⁵ Com (98), 266 final of 6 May 1998, See also the Commission staff working paper SEC (98), 837 of 14 May 1998 "Culture, the Cultural Industries and Employment" paragraph 2.1.3.

²⁶ Proposal for a Council Act establishing the Convention on rules for the admission of third-country nationals to the Member States, OJ No C 337, 7 November 1997.

In tandem with the Action Plan on Free Movement of Workers of November 1997, a proposal for an amendment to Regulation (EEC) No 1408/71 was presented by the Commission on 12 November 1997 with a view to allowing third-country nationals legally residing in a Member State to benefit from this instrument.²⁷

The Panel's Report also emphasises the need to clarify the situation of third-country nationals employed by a Community firm and temporarily seconded by that firm to another Member State in the context of a cross-border supply of services (Article 59 of the EC Treaty). In the autumn of 1997, the Commission departments informed and consulted the Member States and professional organisations involved at Community level on the Panel's recommendation that Community action be taken to reduce the obstacles encountered by employers, particularly in connection with visas and residence and work permits. The Commission departments are scrutinising the information and comments received with a view to taking them into account in drafting a possible proposal for a Directive.

As regards the effects of external agreements signed by the Community on the situation of third-country nationals, reference may be made to the judgment delivered by the Court on 15 January 1998 in *Babchenini*, which applies the principle of non-discrimination to the granting of a disability allowance to the spouse of an Algerian worker on the ground that Article 39 of the EEC-Algeria Agreement has a direct effect.²⁸

7. PROTECTION OF THE RIGHTS OF INDIVIDUALS

The Panel's Report emphasised the right of access to information, legal information, raising the awareness of the legal profession and improving the legal protection of persons encountering difficulties connected with free movement.

Firstly, the right of citizens of the Union to have **access to information** has been laid down by the Treaty of Amsterdam in the new Article 191a of the EC Treaty (Article 255 of the consolidated version). This provision establishes the principle of the right of access to the documents of the European Parliament, Council and Commission in accordance with procedures to be determined following the entry into force of the Treaty.

The efforts already made to **inform and advise people** under the "Citizens First" initiative will be developed further through the establishment of machinery for holding a dialogue with the citizens and with firms, as provided for by the Action Plan for the Single Market and presented to the Cardiff European Summit on 15 and 16 June 1998. The first phase of the "Citizens First" initiative covered the right to reside, work and study. It affected 75 million people in Europe and 969 000 consulted the call centre and Internet site direct. The second phase, which was launched in November 1997, deals with rights in connection with the purchase of goods and services, travel and

²⁷ OJ No C 6, 10 January 1998.

²⁸ Case C-113/97.

equal opportunities. In this context, information is also provided to citizens on the remedies at their disposal both within and outside the courts.

As regards the objective of **raising the awareness** of those involved in the free movement of persons, the Karolus programme for the exchange of national officials has been extended until the end of 1999.²⁹ This programme, which includes training and information measures, is currently the subject of a discussion as to whether its scope should be extended substantially in a subsequent period (Karolus 2000).

The Commission recently launched the pilot phase of the Robert Schuman Project, the object of which is to develop a "Community reflex" among judges, public prosecutors and lawyers. To this end, the project supports training and information initiatives which are aimed at raising awareness of Community law among the legal professions. Similarly, the Jean Monnet Project continues to expand in the university context. In this connection, a substantial number of measures are aimed at including the study of Community law in the first two years of legal studies (this lacuna was highlighted in the Panel's Report). Finally, the Grotius programme for the training and exchange of legal practitioners has greatly expanded and contributed to improved legal cooperation, which automatically has repercussions on improving the legal protection of persons encountering problems connected with free movement.

Where the **legal protection** of citizens is concerned, the High-Level Panel stated that it was concerned that the Euro-Jus network remained at an embryonic stage despite the very useful service it provided. It had since been decided to reinforce this network by allocating more funds to it and increasing the number of hours worked by Euro-Jus lawyers. The overall budget for the network amounts to ECU 552 000 for 1998 and there is provision for Euro-Jus lawyers to be available on average two days a week this year. Euro-Jus is a system for providing advice and assistance on an informal basis to persons confronted with a problem involving the interpretation or application of Community law.

The question of a legal framework for the exercise of associations' activities at Community level is still pending before the Council on account of its links with the question of employee participation in the European Company, which was relaunched in the wake of the Davignon Report and has still not been resolved.

The recommendation that all departments dealing directly with the free movement of persons be placed under the responsibility of one Member of the Commission will be raised by the Commission departments when the new Commission is formed in 1999.

Where remedies not involving the courts are concerned, it should be pointed out that, at Community level, the Commission's new internal rules require departments to keep complainants regularly informed of any action taken, in response to their complaint, in order to initiate proceedings under Article 169 of the EC Treaty and that the matter should not be closed without giving complainants an opportunity to express their point

²⁹ Decision No 889/98/EC of the European Parliament and of the Council of 7 April 1998 amending Council Decision 92/481/EEC on the adoption of an action plan for the exchange between Member State administrations of national officials who are engaged in the implementation of Community legislation required to achieve the internal market, OJ No. C 26, 28 April 1998.

of view. The European Ombudsman has recently had to intervene on several occasions in this connection. At national level, a network of officers has been established to mediate between national Ombudsmen and the European Ombudsman.³⁰

³⁰ See point 5 of the 1996 annual report of the European Ombudsman, OJ No C 272, 8 September 1997.

ISSN 0254-1475

COM(98) 403 final

DOCUMENTS

EN

01 05 06

Catalogue number : CB-CO-98-433-EN-C

ISBN 92-78-37899-2

Office for Official Publications of the European Communities

L-2985 Luxembourg