

## **P5\_TA(2004)0135**

### **Short-term residence permits for victims of trafficking \***

**European Parliament legislative resolution on the proposal for a Council Directive on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have been the subjects of an action to facilitate illegal immigration who co-operate with the competent authorities (14432/2003– C5-0557/2003 – 2002/0043(CNS))**

**(Consultation procedure - renewed consultation)**

*The European Parliament,*

- having regard to the Council draft (14432/2003)<sup>1</sup>,
  - having regard to the Commission proposal to the Council (COM(2002) 71)<sup>2</sup>,
  - having regard to its position of 5 December 2002<sup>3</sup>,
  - having been reconsulted by the Council pursuant to Article 67 of the EC Treaty (C5-0557/2003),
  - having regard to Rules 67 and 71(3) of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Legal Affairs and the Internal Market and the Committee on Women's Rights and Equal Opportunities (A5-0099/2004),
1. Approves the Council draft as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in OJ.

<sup>2</sup> OJ C 126 E, 28.5.2002, p. 393.

<sup>3</sup> OJ C 27 E, 30.1.2004, p. 140.

Amendment 1  
Recital 1 (new)

***(1) The European Union, in view of enlargement and its cultural affinities with its new neighbours, has an important responsibility to fight trafficking in human beings and to provide help to victims of action to facilitate illegal immigration.***

Amendment 2  
Recital 2 (new)

***(2) Trafficking in human beings is a grave violation of human rights and should be combated actively.***

Amendment 3  
Recital 3 (new)

***(3) With a view to the protection of third-country nationals who are victims of trafficking, Member States should conduct an assessment of the risks such persons run whether they choose to return to their country of origin or not.***

Amendment 4  
Recital 4 (new)

***(4) With a view to enabling victims to regain their independence and ensuring that they do not re-establish contact with the criminal network responsible for their plight, Member States may couple the issue of such a residence permit with participation by the victims in programmes to foster their integration into society or to prepare them for a return to their home country.***

Amendment 5  
Recital 5 (new)

***(5) The Council, the Commission and the European Parliament consider the Brussels Declaration on Preventing and Combating Trafficking in Human Beings as the primary reference text for the further development of anti-trafficking policy at European level. This Directive falls within the scope and is in line with the ambitions of that document.***

Amendment 6  
Article 4

***This Directive shall be without prejudice to the protection extended to refugees, to beneficiaries of subsidiary protection and persons seeking international protection under international refugee law and without prejudice to other human rights instruments, such as the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms.***

Amendment 7  
Article 6

This directive shall not prevent Member States from adopting or maintaining more favourable provisions for the persons covered by this Directive.

This Directive shall not prevent Member States from adopting or maintaining more favourable provisions for the persons covered by this Directive, ***including minors who have fallen victim to trafficking in human beings or to actions to facilitate illegal immigration.***

Amendment 8  
Article 7, paragraph 1

When the competent authorities of the Member States take the view that a third-country national may fall into the scope of this Directive, they shall inform him/her of

When the competent authorities of the Member States take the view that a third-country national may fall into the scope of this Directive, they shall inform him/her of

the possibilities offered under this Directive.

the possibilities offered under this Directive *in a language which he/she understands*.

#### Amendment 9

##### Article 8, paragraph 1, subparagraph 2

The duration *and starting point* of the period *referred to in the first subparagraph shall be determined according to national law*.

The duration of *this* period *shall be 30 days from the time when the third-country national breaks off all relations with those suspected of committing the offences referred to in Article 2(b) and (c)*.

#### Amendment 10

##### Article 8, paragraph 2a (new)

*2a. The reflection period shall be extended in exceptional cases such as physical or psychological distress or for reasons relating to the safety of third parties.*

#### Amendment 11

##### Article 9, paragraph 1

1. Member States shall ensure that the third-country nationals concerned who do not have sufficient resources are granted standards of living capable of ensuring their subsistence and access to emergency medical treatment. They shall attend to the special needs of the most vulnerable, including, where appropriate *and if provided by national law*, psychological assistance.

1. Member States shall ensure that the third-country nationals concerned who do not have sufficient resources are granted standards of living capable of ensuring their subsistence and access to emergency medical treatment. They shall attend to the special needs of the most vulnerable, *such as pregnant women, disabled persons, victims of rape or other forms of violence and, insofar as Member States make use of the possibility provided for in Article 3(3), minors*, including, where appropriate, psychological assistance.

#### Amendment 12

##### Article 9, paragraph 3, subparagraph 2

Member States *may* provide the third-country nationals concerned with free legal aid, *if established and* under the conditions set by national law.

Member States *shall* provide the third-country nationals concerned with free legal aid, under the conditions set by national law.

Amendment 13  
Article 9, paragraph 3, subparagraph 2a (new)

***Member States shall ensure the effective availability of the third-country national to cooperate with the competent authorities for the duration of the residence permit.***

Amendment 14  
Article 10, paragraph 2a (new)

***2a. When issuing a residence permit, Member States shall consider issuing family members accompanying the victim a residence permit for the same limited period.***

Amendment 15  
Article 10, paragraph 2b (new)

***2b. The fact that a third-country national does not have identity papers or is in possession of false papers shall not preclude the issuing and renewal of a residence permit.***

Amendment 16  
Article 12, paragraph 1, subparagraph 1

1. Member States shall define the rules under which holders of the residence permit shall be authorised to have access to the labour market, to vocational training and education.

1. Member States shall define the rules under which holders of the residence permit shall be authorised to have access to the labour market, to vocational ***and language*** training and education.

Amendment 17  
Article 13a (new)

***Article 13a***  
***Judicial proceedings***  
***Member States shall protect the privacy***

*and identity of persons who take part in judicial proceedings and shall guarantee, in particular, that such proceedings are not held in public.*

Amendment 18  
Article 14, point (ca) (new)

*(ca) In addition, Member States shall ensure that unaccompanied minors are accommodated on the basis of arrangements in the following order of preference:*

- with adult relatives;*
- with a foster family;*
- in institutions which specialise in accommodating minors;*
- in other forms of accommodation suitable for minors.*

Amendment 19  
Article 16, paragraph 1

1. The residence permit issued on the basis of this Directive shall not be renewed *if the conditions of Article 10(2) cease to be satisfied or if a decision adopted by the competent authorities has terminated the relevant proceedings.*

1. The residence permit issued on the basis of this Directive shall not be renewed *in the following cases:*

- (a) where it is no longer necessary for the purpose of the investigation or of the judicial proceedings to prolong the stay of the third-country national concerned, or*
- (b) where a decision of the competent authorities concludes the proceedings.*

Amendment 20  
Article 16, paragraph 2

2. When the residence permit issued on the

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basis of this Directive expires ordinary aliens law shall apply.

basis of this Directive expires ordinary aliens law shall apply. ***If the third-country national concerned submits an application for another type of residence permit, and without prejudice to the relevant rules of ordinary aliens law, Member States shall take into account their cooperation when considering their application.***

Amendment 21  
Article 17, points (a) to (e)

***(a) if the holder has actively, voluntarily and in his/her own initiative renewed contacts with those suspected of committing the offences in question, or***

***(a) for reasons relating to the protection of public policy and public security, or***

***(b) if the competent authority believes that the victim's co-operation or complaint is fraudulent or wrongful, or***

***(b) when the victim ceases to cooperate, or***

***(c) for reasons relating to public policy and to the protection of national security, or***

***(c) if the holder has renewed contacts with those suspected of committing the offences in question, or***

***(d) when the victim ceases to cooperate;***

***(d) if the competent authority believes that the victim's cooperation or complaint is fraudulent or wrongful.***

***(e) when the competent authorities decide to dismiss the case.***

Amendment 22  
Article 17, paragraph 1a (new)

***Should they decide not to renew or to withdraw a third-country national's residence permit, the competent authorities shall assess the risks to that person's safety regardless of whether or not he or she intends voluntarily to return.***

Amendment 23  
Article 17, paragraph 1b (new)

*A decision taken by the competent authorities not to renew a third-country national's residence permit or to withdraw it may be the subject of an appeal to a court.*