

Thursday 5 December 2002

1. Regards it as appropriate to wind up the procedure for adoption of the Statute;
2. Cites the opinion adopted by the Committee on Legal Affairs and the Internal Market (PE 294.967/rev.) for the President of the European Parliament presenting the key elements of the Statute for Members;
3. Calls on the Commission to take a position on that document;
4. Calls on the Council to bring to a conclusion the dialogue with the European Parliament, at the level of Heads of State or Government, on the practical arrangements which will lead to the adoption of the Statute;
5. Calls on the Bureau, in the light of this draft, to prepare rules on the reimbursement of expenses which should enter into force simultaneously with the Statute;
6. Instructs its President to forward this resolution to the Council and the Commission.

P5_TA(2002)0591

Short-term resident permits *

European Parliament legislative resolution on a proposal for a Council directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities (COM(2002) 71 – C5-0085/2002 – 2002/0043(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2002) 71 ⁽¹⁾),
 - having regard to Article 63, first paragraph, point (3) of the EC Treaty,
 - having been consulted by the Council pursuant to Article 67 of the EC Treaty (C5-0085/2002),
 - having regard to Rule 67 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 (A5-0397/2002),
1. Approves the Commission proposal 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 should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

⁽¹⁾ OJ C 126 E, 28.5.2002, p. 393.

Thursday 5 December 2002

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendments 2 and 3

Recital 1

(1) The framing of a common immigration policy, including the definition of the conditions of entry and residence for foreigners and measures to combat **illegal immigration**, is a constituent element of the European Union's objective of creating an area of freedom, security and justice.

(1) The framing of a common immigration policy, including the definition of the conditions of entry and residence for foreigners and measures to combat **smuggling of human beings**, is a constituent element of the European Union's objective of creating an area of freedom, security and justice. **Trafficking in human beings and smuggling of human beings are a serious violation of human rights and should be combated.**

(The words 'illegal immigration' are replaced by 'smuggling of human beings' throughout the text).

Amendment 4

Recital 3a (new)

(3a) The majority of the victims received come from Central and Eastern Europe. In view of the geographical proximity and cultural links with this region and because of enlargement, the EU has an additional responsibility here.

Amendment 5

Recital 7

(7) Victims must be informed of the possibility of obtaining this residence permit and be given a period in which to reflect on their position. This should help put them in a position to reach a well-informed decision as to whether or not to cooperate with the police and judicial authorities (in view of the risks this may entail), so that they cooperate freely and hence more effectively. Given the extreme vulnerability of victims' situation they must have access to the assistance and care they require.

(7) Victims must be informed of the possibility of obtaining this residence permit and be given a period in which to reflect on their position. This should help put them in a position to reach a well-informed decision as to whether or not to cooperate with the police and judicial authorities (in view of the risks this may entail), so that they cooperate freely and hence more effectively. Given the extreme vulnerability of victims' situation they must have access to the assistance and care they require. **Non-governmental organisations recognised by the Member State can play an important role in providing assistance and support to victims.**

Amendment 6

Recital 8

(8) Confronted with a victim who clearly intends to cooperate and whose presence the judicial authority regards as **useful to the proceedings**, the competent administrative authority will issue a short-term residence permit for six months, renewable for six-month periods.

(8) Confronted with a victim who clearly intends to cooperate and whose presence the judicial authority regards as **being relevant to such cooperation**, the competent administrative authority will issue a short-term residence permit for six months, renewable for six-month periods.

Amendment 8

Article 1

The purpose of this Directive is to introduce a short-term residence permit for third-country nationals who are victims of offences constituted by the **action to facilitate illegal immigration** or by trafficking in human beings (hereafter referred to as 'victims') who cooperate in the fight against the perpetrators of these offences.

The purpose of this Directive is to introduce a short-term residence permit for third-country nationals who are victims of offences constituted by the **smuggling of human beings, the direct result of which is exploitation**, or by trafficking in human beings (hereafter referred to as 'victims') who cooperate in the fight against the perpetrators of these offences.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 9

Article 2, point (b)

(b) **'action to facilitate illegal immigration'** means **the offences defined in Articles 1 and 2 of the Council Directive .../.../CE [on defining the facilitation of unauthorised entry, transit and stay];**

(b) **'smuggling of human beings'** means **the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a Member State of which the person is not a national or a permanent resident.**

Amendment 11

Article 2, point (ba) (new)

(ba) 'illegal entry' means crossing borders without complying with the necessary requirements for legal entry into the receiving state.

Amendment 12

Article 2, point (c)

(c) 'trafficking in human beings' means the offences defined in Articles 1, 2 and 3 of **the** Council Framework Decision of [...] [on combating trafficking in human beings];

(c) 'trafficking in human beings' means the offences defined in Articles 1, 2 and 3 of Council Framework Decision **2002/629/JHA of 19 July 2002** on combating trafficking in human beings ⁽¹⁾;

⁽¹⁾ OJ L 203, 1.8.2002, p. 1.

Amendment 14

Article 3, paragraph 2a (new)

2a. If protection is extended to minors, Member States shall ensure that they are entrusted to the care of relevant governmental organisations or recognised non-governmental organisations.

Amendment 15

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.

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, in particular, the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms.**

Amendment 16

Article 7, paragraph 1

Persons who are identified by the competent authorities as victims within the meaning of Article 1 shall immediately be informed of the possibility of obtaining the short-term residence permit provided for by this Directive.

Persons who are identified by the competent authorities as victims within the meaning of Article 1 shall immediately be informed **in a language that they understand** of the possibility of obtaining the short-term residence permit provided for by this Directive.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 17

Article 7, paragraph 2a (new)

During initial reception, non-governmental organisations recognised by the Member States can play a special part in providing assistance as referred to in Article 9.

Amendment 18

*Article 7a (new)****Article 7a******Consultation of NGOs***

When identifying persons as victims within the meaning of Article 1, the authorities may consult competent non-governmental organisations and associations.

Amendment 19

Article 8, paragraph 1

1. Victims shall be granted a reflection period of 30 days to take the decision to cooperate with the competent authorities. This period starts from the moment they sever relations with those suspected of committing the offences referred to in Article 2(b) and (c).

1. Victims shall be granted a reflection period of 30 days to take the decision to cooperate with the ***relevant*** competent authorities. This period starts from the moment they sever relations with those suspected of committing the offences referred to in Article 2(b) and (c) ***and they have been referred to a relevant governmental organisation or recognised non-governmental organisation.***

Amendment 21

Article 8, paragraph 4a (new)

4a. The thirty-day reflection period may be extended only on serious grounds.

Amendment 22

Article 9, paragraph -1 (new)

-1. Member States shall protect the privacy and identity of people involved in legal proceedings, particularly by ensuring that the proceedings are not held in public.

Amendment 23

Article 9, paragraph 1

1. Without prejudice to the application of measures relating to the protection of victims and witnesses, Member States shall ensure that victims have access to suitable accommodation, ***emergency*** medical and psychological treatment ***and medical care that cannot be postponed***, and to the necessary support in the form of social welfare and means of subsistence if they do not have sufficient resources. They shall attend to the special needs of the most vulnerable.

1. Without prejudice to the application of measures relating to the protection of victims and witnesses, Member States shall ensure that victims have access to suitable accommodation, ***to*** medical and psychological treatment, and to the necessary support in the form of social welfare and means of subsistence if they do not have sufficient resources. They shall attend to the special needs of the most vulnerable, ***such as minors, women, in particular when they are pregnant, and disabled people.***

Thursday 5 December 2002

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 24

Article 9, paragraph 2a (new)

2a. Non-governmental organisations recognised by the Member State may play an important part in providing assistance to the victim.

Amendments 25 and 26

Article 10

1. The authority responsible for the investigation or prosecution shall **decide on** the following matters, at the latest ten days after the expiry of the 30-day reflection period:

- (a) whether the **presence** of the victim **is useful**;
- (b) whether the victim has shown a clear intention to cooperate substantiated, for example, by an initial, material declaration to the authorities responsible for the investigation or prosecution, or the lodging of a complaint, or any other act provided for by the Member State's legislation;
- (c) whether the victim has severed all relations with those suspected of acts that might be included among the offences referred to in Article 2.

2. The short-term residence permit shall be issued if:

- (a) the authority responsible for the investigation or prosecution rules favourably on the criteria listed in paragraph 1;
- (b) **there are no objections on the grounds of** the protection of public order and national security.

3. The short-term residence permit shall be valid for six months. It shall be renewed for periods of six months if the conditions set out in paragraph 2 continue to be satisfied.

4. **When Member States grant a short term permit to a person identified as a victim of one of the offences referred to under article 2(b) and (c) with member of his/her family or persons treated as members of his/her family, they shall take this element into account when examining the possibility of granting them a residence permit on humanitarian grounds.**

1. The authority responsible for the investigation or prosecution shall **establish** the following matters, at the latest ten days after the expiry of the 30-day reflection period:

- (a) whether the **cooperation** of the victim **with the authority responsible for the investigation or prosecution is relevant**;
- (b) whether the victim has shown a clear intention to cooperate substantiated, for example, by an initial, material declaration to the authorities responsible for the investigation or prosecution, or the lodging of a complaint, or any other act provided for by the Member State's legislation;
- (c) whether the victim has severed all relations with those suspected of acts that might be included among the offences referred to in Article 2.

2. The short-term residence permit shall be issued if:

- (a) the authority responsible for the investigation or prosecution rules favourably on the criteria listed in paragraph 1;
- (b) **issuing it does not stand in contradiction to** the protection of public order and national security.

The fact that the victim does not have or no longer has identity papers or is in the possession of false identity papers shall not prevent the issue of a short-term residence permit.

3. The short-term residence permit shall be valid for six months. It shall be renewed for periods of six months if the conditions set out in paragraph 2 continue to be satisfied.

4. **When granting a residence permit, the Member States shall consider granting family members or persons treated as family members accompanying the victim a residence permit limited to this period.**

4a. **The decision taken by the authority responsible for the investigation or prosecution pursuant to paragraph 1 shall be duly substantiated. Provision shall be made for appeal to the competent authority against this decision.**

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 41

Article 12

The Member States shall authorise the holders of a short-term residence permit to have access to the labour market, vocational training and education.

The Member States shall authorise the holders of a short-term residence permit to have access to the labour market, vocational training, **language courses** and education.

Amendment 30

Article 15, paragraph 1a (new)

Member States shall ensure that their legal system provides for measures against traffickers which enable victims to secure recognition of the offence committed/harm suffered and/or compensation for it.

Amendment 31

Article 15a (new)

Article 15a**Availability of the victim**

The Member States shall ensure that the victim is actually available to the authority responsible for the investigation or prosecution throughout the proceedings.

Amendment 32

Article 16, paragraph 1

1. The short-term residence permit shall not be renewed if the conditions of Article 10(2) cease to be satisfied, if a judicial decision has terminated the proceedings or, if relevant, the beneficiary does not take part in the rehabilitation programme referred to in Article 15.

1. The short-term residence permit shall not be renewed if the conditions of Article 10(2) cease to be satisfied, if a judicial decision has terminated the proceedings, **concluding the prosecution of the traffickers or smugglers**, or, if relevant, the beneficiary does not take part in the rehabilitation programme referred to in Article 15.

Amendment 42

Article 16, paragraph 2

2. When the short-term residence permit expires ordinary aliens law shall apply. If victims submit an application for another type of residence permit, Member States shall take account of their cooperation when considering their applications.

2. When the short-term residence permit expires ordinary aliens law shall apply. **Member States shall ensure that victims have the opportunity to apply for protection under the asylum procedure in accordance with the conditions applicable in the Member State.** If victims submit an application for another type of residence permit, Member States shall take account of their cooperation **in both the judicial procedure and the integration programme** when considering their applications.

Amendment 34

Article 16, paragraph 2a (new)

2a. Provision shall be made for appeal to the competent authority against a decision not to renew a short-term residence permit on the grounds that the conditions laid down in Article 10(2) are no longer fulfilled.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENTAmendment 36
Article 17, point (c)

(c) for reasons relating to the protection of public order and national security.

(c) for reasons relating to the protection of public order and national security. ***The fact that the victim does not have or no longer has identity papers or is in the possession of false identity papers shall not be regarded as one of the above reasons.***Amendment 37
*Article 17, paragraph 1a (new)****The withdrawal of a residence permit shall be duly substantiated.***Amendment 38
*Article 17, paragraph 1b (new)****Provision shall be made for appeal to the competent court against a decision to withdraw a residence permit.***Amendment 39
Article 20

1. No later than **30 June 2007**, the commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and propose amendments that are necessary. The Member States shall send the Commission any information relevant to the preparation of this report.

2. After presenting the report referred to in paragraph 1, the Commission shall report to the European Parliament and the Council at least every **three years** on the application of this Directive in the Member States.

1. No later than **30 June 2005**, the commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and propose amendments that are necessary. The Member States shall send the Commission any information relevant to the preparation of this report.

2. After presenting the report referred to in paragraph 1, the Commission shall report to the European Parliament and the Council at least every **two years** on the application of this Directive in the Member States.

P5_TA(2002)0592

Legislative and work programme for 2003**European Parliament resolution on the Commission's legislative and work programme for 2003***The European Parliament,*

- having regard to Rule 57 of its Rules of Procedure,
- having regard to the Commission's legislative and work programme (COM(2002) 590),
- having regard to the presentation by the Commission of that programme on 20 November 2002 and the ensuing debate in the presence of the Council,