

COMMISSION DECISION

of 8 June 1988

setting up a prior communication and consultation procedure on migration policies in relation to non-member countries

(88/384/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 118 thereof,

Whereas the foreign populations in the Community and the changes which have taken place in their composition are important demographic factors, more especially by virtue of the permanent nature of their presence, the reuniting of families and the fact of their high birth rate ;

Whereas there are problems linked with their integration into the workforce and society and, more particularly, those encountered in the education, training and employment of the second generation ;

Whereas it is important to ensure that the migration policies of Member States in relation to non-member countries take into account both common policies and the actions taken at Community level, particularly within the framework of Community labour market policy, in order not to jeopardize the results ; whereas it is necessary to facilitate the exchange of information and views in these areas with a view to adopting common propositions, and it is therefore important to organize a consultation procedure ensuring the participation of all Member States ;

Whereas, moreover, the Council in its resolution of 9 February 1976⁽¹⁾ concerning an action programme in favour of migrant workers and members of their families and in its resolution of 27 June 1980⁽²⁾ concerning orientation towards a Community labour market policy, underlined the importance of undertaking appropriate consultation on migration policies in relation to non-member countries, and whereas integration of the Community labour market should be favoured in the framework of free movement of the labour force within the Community, in particular by appropriate consultation on these policies, in accordance with the conclusions which the Council adopted on 22 November 1979 on this subject ; whereas its resolution of 16 July 1985⁽³⁾ on guidelines for a Community policy on migration reaffirmed the need for such consultation ;

Whereas, moreover, the final communiqué of the Conference of Heads of State or of Government of 9 and

10 December 1974 in Paris recommends, in point 10, the stage-by-stage harmonization of legislation concerning foreigners ; whereas the European Council on 25 and 26 June 1984 adopted conclusions on social policy ; whereas in a declaration annexed to the Final Act of the Single European Act⁽⁴⁾, the Intergovernmental Conference expressed the will of the Member States to cooperate 'without prejudice to the powers of the Community, in particular as regards the entry, movement and residence of nationals of third countries' ;

Whereas in its resolution of 9 June 1983⁽⁵⁾ concerning, *inter alia*, the passport union and the suppression of individual controls at Community frontiers, the European Parliament urged the Council and the Commission to make further proposals particularly with a view to harmonization of visa policies and legislation concerning foreigners ;

Whereas the role of the Commission, in view of the powers conferred on it by the Treaty, is to promote cooperation between Member States in the field of social policy, in particular in the different areas mentioned above, and to organize appropriate consultations to this end ;

Whereas, to this end, the Commission adopted Decision 85/381/EEC⁽⁶⁾ setting up a prior communication and consultation procedure on migration policies in relation to non-member countries ;

Whereas in its judgment of 9 July 1987 handed down in joined cases 281, 283, 284, 285 and 287/85 (Federal Republic of Germany, French Republic, Kingdom of the Netherlands, Kingdom of Denmark, United Kingdom *v* Commission), the Court of Justice ruled that cooperation between Member States in the social field, provided for in the first paragraph of Article 118 of the Treaty, extends to migration policies in relation to non-member countries in that the power to arrange consultation granted to the Commission under the second paragraph of Article 118 authorizes it to adopt rules of a binding nature ;

Whereas this Decision reproduces the content of Decision 85/381/EEC with the amendments dictated by the abovementioned judgement of 9 July 1987,

⁽¹⁾ OJ No C 34, 14. 2. 1976, p. 2.

⁽²⁾ OJ No C 168, 8. 7. 1980, p. 1.

⁽³⁾ OJ No C 186, 26. 7. 1985, p. 3.

⁽⁴⁾ OJ No L 169, 29. 6. 1987, p. 26.

⁽⁵⁾ OJ No C 184, 11. 7. 1983, p. 112.

⁽⁶⁾ OJ No L 217, 14. 8. 1985, p. 25.

HAS ADOPTED THIS DECISION :

Article 1

1. The Member States shall give the Commission and the other Member States in good time, and at the latest at the moment they are made public, advance information of :

- draft measures which they intend to take with regard to third country workers and members of their families, in the areas of entry, residence and employment, including illegal entry, residence and employment, as well as the realization of equality of treatment in living and working conditions, wages and economic rights, the promotion of integration into the workforce and society, and the voluntary return of such persons to their countries of origin,
- draft agreements relating to the abovementioned matters, as well as draft cooperation agreements which they intend to negotiate or renegotiate with third countries, when these agreements involve provisions relating to the abovementioned matters,
- draft agreements relating to conditions of residence and employment of their nationals working in third countries and members of their families, which they intend to negotiate or renegotiate with those countries.

2. Member States shall communicate to the Commission and to the other Member States, in the areas mentioned in paragraph 1, the texts of provisions laid down by law, regulation or administrative action already in force, and also the texts of agreements made with third countries.

Article 2

1. If, within the space of two weeks from the date of receipt of the documents mentioned in Article 1, a Member State so requests, or if the Commission so decides on its own initiative, the Commission shall proceed with the consultation with the Member States on those documents within six weeks of their receipt.

The Commission shall proceed with this consultation immediately, if a Member State requests it to do so as a matter of urgency.

2. The Commission may at any time, at the request of a Member State or on its own initiative, arrange a consultation on the draft provisions and agreements referred to in Article 1, except in the case of questions upon which

consultation has already taken place and concerning which no new developments have arisen.

Article 3

The objectives of the consultation procedure provided for in Article 2 (1) shall be, *inter alia* :

- (a) to facilitate the mutual exchange of information and the identification of problems of common interest and, in relation to those problems, to facilitate the adoption of a common policy by the Member States particularly as regards international instruments relating to migration ;
- (b) to examine the possibility of measures, which might be taken by the Community or Member States in the fields referred to in Article 1, aimed at achieving progress towards the harmonization of national legislation on foreigners, promoting the inclusion of a maximum of common provisions in bilateral agreements, and improving the protection of Community nationals working and living in third countries.

Article 4

1. Consultation shall be arranged by the Commission. Meetings shall be chaired by the Commission, which shall also provide the Secretariat.

2. The consultation procedure established by this Decision shall not affect the responsibilities of committees already in existence, in particular those of the Advisory and Technical Committee, as determined by Council Regulation (EEC) No 1612/68 (1).

3. Member States shall take all necessary steps to ensure the proper functioning of the consultation procedure, and in particular, where necessary, to safeguard the confidential nature of the information which will be made available to them in that connection.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 8 June 1988.

For the Commission

Manuel MARÍN

Vice-President

(1) OJ No L 257, 19. 10. 1968, p. 2.