

Differences and similarities between the EU and non-EU citizens

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Abstract

Initially, the European Union had a purely economic connotation, as his intent was the free movement of factors of production, in order to create a competitive internal market and achieving a rational distribution of resources. For this reason, the individual was seen simply as a worker and for this purpose the first aspects that are disciplined within the EU are those contained in this sphere.

In the Treaty of Rome, which established the European Economic Community (EEC), the freedom of free movement was reserved for only a few special categories of workers, who were active subjects economically, since what resulted essential at the time was the creation of an internal market.

Later the Maastricht Treaty, on one side marks the transition from the EEC to the EU, on the other presents for the first time the "European citizenship", making the free movement an autonomous right of every citizen belonging to a Member State. In this way the free movement is exercised not only for the economic purposes of the Treaties. In December 2000 the Charter of Fundamental Rights or the Charter of Nice was compiled and signed, which defines that the EU seeks to promote a balanced development and ensures free movement of persons, goods, services and capital, and also the freedom of residence. Main objective of this manuscript is an analysis of the differences and similarities between the EU and non-EU citizens.

Keywords: similarities, differences, EU, non-EU citizens.

Introduction

The notion of free movement for European citizens was born with the signing of the Schengen Agreement in 1985 and the subsequent Schengen Convention of 1990, which took off border controls between the participating countries. The measures adopted by Member States in the context of Schengen cooperation provide for the abolition of control of persons at the internal borders; a series of joint norms that apply to persons who cross the external borders of the Member States of the EU; harmonization of the conditions of entry and the granting of visas for short term stay; strengthening of cooperation between the police; strengthening of judicial cooperation through a system of faster extradition and a stream of execution of court decisions, as well as the creation of an Information System Schengen (SIS), which allows national authorities to control the internal borders and to have an information beyond the individuals or objects.

Regarding the Charter of Fundamental Rights of the EU, it classifies in an original way the fundamental rights of the EU, in six separate categories, and to each category

dedicates a special chapter. The Lisbon Treaty obliges the implementation of the Charter and puts it in the same level of Treaties, through modification of Article 6, but did not make that part of the treaty, resolving in this way many problems that have appeared and difficulties setting its legal value.

With the evolution of the integration process, the focus is shifting to the individual citizen, as the right of free movement constitutes one of the innovations derived directly from European citizenship. This integration process leads to two basic points:

- Consecration of free movement within the Charter of Fundamental Rights as a right of the individual;
- Codification of the EU *acquis* in this field through Directive 38/2004.

To promote its objectives, the activities of the European Community supported the "*elimination, between Member States, of obstacles in relation to the free movement of persons*". For a long time, the treatment of non- EU citizens, was considered in a separate sector, where the powers of the Member States belonged to himself, because it didn't matched with the aims and the objectives of the common market. In the late 70s the major dimensions of the migration phenomenon have made possible for the community institutions to coordinate the activities of the Member States, in order to improve the treatment of non-EU workers and also, integrate them and their families to the host country.

Discipline of migratory phenomena, although formally remain within the competence of the Member States, began to become part of the community policy areas. After the changes brought in the Treaty of Rome by the Single European Act, which aimed at the repeal of the Internal Control border in order to establish the common market, it became necessary strengthening the external border controls and policy coordination in the field of visas Asylum and immigration.

The concept of a non EU citizen coincides with the concept of a foreigner referred to Convention implementing the Schengen Agreement of 1990. Referring to Article 1 of the Convention precisely in question, considered "*Foreign*" *who is not a citizen of one of the Member States of the European Union, and as a result, also a stateless persons*.

However, in Community law, is foreign also a citizen of the EU in comparison with the host Member State, other than that of origin; and a national of a Member State's legislation with respect to another Member State which discriminates him due to his nationality. For this reason, it is necessary to distinguish when talking to a person considered "foreign" if talking to a community foreigner or a non community one.

With the concept of "citizen", in the framework of the community, we mean a community member placed in a certain territory of one of the Member States; "Foreigner", in contrast, is defined in a negative sense, as a non - citizen, excluded from the community. The difference between these "two categories" of persons is not significantly reduced, considering the novelties brought by the Lisbon Treaty.

While respecting the right of non-discrimination emerges also the principle of equality. This means respecting the rights and freedoms of citizens that move for several reasons, in the same way as citizens of the host country, by providing them with the same opportunities and facilities as for local citizens. Measures with regard to public order or public security that have the effect of restricting the residence of a national of another Member State must be based exclusively on the personal conduct of the individual.

The existence of previous criminal damages charged to the foreigner cannot justify

the automatic adoption of such measures, because in this way violated the rights of non-discrimination.

The power that is given to Member States to restrict the free movement of persons for reasons of public order, public security and public health, to exclude certain sectors of economic or certain professions, from the application of this principle, in terms of access to employment. It aims to enable states to refuse the entry or stay in their territory of persons whose entry or residence in these territories would pose a risk to public safety, public order or public health.

The entry and residence of non-EU citizens has been prerogative of the sovereignty of the Member States, which laid themselves terms and conditions for the exercise of this right.

Conclusions

Nowadays, free movement regime for non-EU citizens in the EU is a combination of rules established in the framework of the Schengen Agreement and the rules established by each Member State, depending on the reasons and the stay.

When a community citizen transferred or lives in another state of the EU, different from the State of origin, his family members, of whatever nationality, have the right to accompany him or join him, due to the directive 38/2004.

This right is recognized also to those family members who do not live in one of the Member States, and despite the typology of visa used to cross the border of a member state of the EU.

The right to family reunification gains importance in Community law only where the persons accompanying their family reside in another member state for a period longer than three months.

Family reunification in the long-term positions, for more than three months, is regulated according the provisions of the Directive 38/2004, as regards EU citizens.

On the other hand, family reunion of non-EU citizens always been subject to internal provisions of the Member States of destination, and only lately by the dispositions contained in the Directive 86/2003.

In this prospective, it turns out that the family composed by the EU citizens is much more protected, precisely because the right of family reunification is exercised in fulfillment of another fundamental right, that of free movement, a fundamental right guaranteed and highly respected in the EU.

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