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COUNCIL DIRECTIVE

of 15 October 1968

on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families

(68/360/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 49 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament¹;

Having regard to the Opinion of the Economic and Social Committee²;

Whereas Council Regulation (EEC) No 1612/68³ fixed the provisions governing freedom of movement for workers within the Community; whereas, consequently, measures should be adopted for the abolition of restrictions which still exist concerning movement and residence within the Community, which conform to the rights and privileges accorded by the said Regulation to nationals of any Member State who move in order to pursue activities as employed persons and to members of their families;

Whereas the rules applicable to residence should, as far as possible, bring the position of workers from other Member States and members of their families into line with that of nationals;

Whereas the co-ordination of special measures relating to the movement and residence of foreign nationals, justified on grounds of public policy, public security or public health, is the subject of the Council Directive of 25 February 1964,⁴ adopted in application of Article 56 (2) of the Treaty;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall, acting as provided in this Directive, abolish restrictions on the movement and

residence of nationals of the said States and of members of their families to whom Regulation (EEC) No 1612/68 applies.

Article 2

1. Member States shall grant the nationals referred to in Article 1 the right to leave their territory in order to take up activities as employed persons and to pursue such activities in the territory of another Member State. Such right shall be exercised simply on production of a valid identity card or passport. Members of the family shall enjoy the same right as the national on whom they are dependent.

2. Member States shall, acting in accordance with their laws, issue to such nationals, or renew, an identity card or passport, which shall state in particular the holder's nationality.

3. The passport must be valid at least for all Member States and for countries through which the holder must pass when travelling between Member States. Where a passport is the only document on which the holder may lawfully leave the country, its period of validity shall be not less than five years.

4. Member States may not demand from the nationals referred to in Article 1 any exit visa or any equivalent document.

Article 3

1. Member States shall allow the persons referred to in Article 1 to enter their territory simply on production of a valid identity card or passport.

2. No entry visa or equivalent document may be demanded save from members of the family who are not nationals of a Member State. Member States shall accord to such persons every facility for obtaining any necessary visas.

Article 4

1. Member States shall grant the right of residence in their territory to the persons referred to in

¹ OJ No 268, 6.11.1967, p. 10.

² OJ No 298, 7.12.1967, p. 10.

³ OJ No L 257, 19.10.1968, p. 2.

⁴ OJ No 56, 4.4.1964, p. 850/64.

Article 1 who are able to produce the documents listed in paragraph 3.

2. As proof of the right of residence, a document entitled 'Residence Permit for a National of a Member State of the EEC' shall be issued. This document must include a statement that it has been issued pursuant to Regulation (EEC) No 1612/68 and to the measures taken by the Member States for the implementation of the present Directive. The text of such statement is given in the Annex to this Directive.

3. For the issue of a Residence Permit for a National of a Member State of the EEC, Member States may require only the production of the following documents;

— by the worker:

- (a) the document with which he entered their territory;
- (b) a confirmation of engagement from the employer or a certificate of employment;

— by the members of the worker's family:

- (c) the document with which they entered the territory;
- (d) a document issued by the competent authority of the State of origin or the State whence they came, proving their relationship;
- (e) in the cases referred to in Article 10 (1) and (2) of Regulation (EEC) No 1612/68, a document issued by the competent authority of the State of origin or the State whence they came, testifying that they are dependent on the worker or that they live under his roof in such country.

4. A member of the family who is not a national of a Member State shall be issued with a residence document which shall have the same validity as that issued to the worker on whom he is dependent.

Article 5

Completion of the formalities for obtaining a residence permit shall not hinder the immediate beginning of employment under a contract concluded by the applicants.

Article 6

1. The residence permit:

- (a) must be valid throughout the territory of the Member State which issued it;
- (b) must be valid for at least five years from the date of issue and be automatically renewable.

2. Breaks in residence not exceeding six consecutive months and absence on military service shall not affect the validity of a residence permit.

3. Where a worker is employed for a period exceeding three months but not exceeding a year in the service of an employer in the host State or in the employ of a person providing services, the host Member State shall issue him a temporary residence permit, the validity of which may be limited to the expected period of the employment.

Subject to the provisions of Article 8 (1) (c), a temporary residence permit shall be issued also to a seasonal worker employed for a period of more than three months. The period of employment must be shown in the documents referred to in paragraph 4 (3) (b).

Article 7

1. A valid residence permit may not be withdrawn from a worker solely on the grounds that he is no longer in employment, either because he is temporarily incapable of work as a result of illness or accident, or because he is involuntarily unemployed, this being duly confirmed by the competent employment office.

2. When the residence permit is renewed for the first time, the period of residence may be restricted, but not to less than twelve months, where the worker has been involuntarily unemployed in the Member State for more than twelve consecutive months.

Article 8

1. Member States shall, without issuing a residence permit, recognise the right of residence in their territory of:

(a) a worker pursuing an activity as an employed person, where the activity is not expected to last for more than three months. The document with which the person concerned entered the territory and a statement by the employer on the expected duration of the employment shall be sufficient to cover his stay; a statement by the employer shall not, however, be required in the case of workers coming within the provisions of the Council Directive of 25 February 1964¹ on the attainment of freedom of establishment and freedom to provide services in respect of the activities of intermediaries in commerce, industry and small craft industries.

(b) a worker who, while having his residence in the territory of a Member State to which he returns as a rule, each day or at least once a week, is employed in the territory of another Member State. The competent authority of the State where he is employed may issue such worker with a special permit valid for five years and automatically renewable;

(c) a seasonal worker who holds a contract of employment stamped by the competent authority of the Member State on whose territory he has come to pursue his activity.

2. In all cases referred to in paragraph 1, the competent authorities of the host Member State may require the worker to report his presence in the territory.

Article 9

1. The residence documents granted to nationals of a Member State of the EEC referred to in this Directive shall be issued and renewed free of charge or on payment of an amount not exceeding the dues and taxes charged for the issue of identity cards to nationals.

2. The visa referred to in Article 3 (2) and the stamp referred to in Article 8 (1) (c) shall be free of charge.

3. Member States shall take the necessary steps to simplify as much as possible the formalities and procedure for obtaining the documents mentioned in paragraph 1.

Article 10

Member States shall not derogate from the provisions of this Directive save on grounds of public policy, public security or public health.

Article 11

1. This Directive shall not affect the provisions of the Treaty establishing the European Coal and Steel Community which relate to workers with recognised skills in coal mining and steel making, or the provisions of the Treaty establishing the European Atomic Energy Community which deal with the right to take up skilled employment in the field of nuclear energy, or any measures taken in implementation of those Treaties.

2. Nevertheless, this Directive shall apply to the categories of workers referred to in paragraph 1, and to members of their families, in so far as their legal position is not governed by the above-mentioned Treaties or measures.

Article 12

1. Member States shall, within nine months of notification of this Directive, bring into force the measures necessary to comply with its provisions and shall forthwith inform the Commission thereof.

2. They shall notify the Commission of amendments made to provisions imposed by law, regulation or administrative action for the simplification of the formalities and procedure for issuing such documents as are still necessary for the entry, exit and residence of workers and members of their families.

Article 13

1. The Council Directive of 25 March 1964² on the abolition of restrictions on movement and on residence within the Community of workers and their families shall continue to have effect until this Directive is implemented by the Member States.

¹ OJ No 56, 4.4.1964, p. 869/64.

² OJ No 62, 17.4.1964, p. 981/64.

2. Residence permits issued pursuant to the Directive referred to in Paragraph 1 shall remain valid until the date on which they next expire.

Article 14

This Directive is addressed to the Member States.

Done at Luxembourg, 15 October 1968.

For the Council

The President

G. SEDATI

ANNEX

Text of the statement referred to in Article 4 (2):

'This permit is issued pursuant to Regulation (EEC) No 1612/68 of the Council of the European Communities of 15 October 1968 and to the measures taken in implementation of the Council Directive of 15 October 1968.

In accordance with the provisions of the above-mentioned Regulation, the holder of this permit has the right to take up and pursue an activity as an employed person in¹ territory under the same conditions as¹ workers.'

¹ Belgian, German, French, Italian, Luxembourg, Netherlands, according to the country issuing the permit.