

COUNCIL DIRECTIVE

of 21 May 1973

on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services

(73/148/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (2) and Article 63 (2) thereof;

Having regard to the General Programmes for the abolition of restrictions on freedom of establishment and freedom to provide services ⁽¹⁾, and in particular Title II thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽²⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽³⁾;

Whereas freedom of movement of persons as provided for in the Treaty and the General Programmes for the abolition of restrictions on freedom of establishment and on freedom to provide services entails the abolition of restrictions on movement and residence within the Community for nationals of Member States wishing to establish themselves or to provide services within the territory of another Member State;

Whereas freedom of establishment can be fully attained only if a right of permanent residence is granted to the persons who are to enjoy freedom of establishment; whereas freedom to provide services entails that persons providing and receiving services should have the right of residence for the time during which the services are being provided;

Whereas Council Directive of 25 February 1964 ⁽⁴⁾ on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services laid down the rules applicable in this area to activities as self-employed persons;

Whereas Council Directive of 15 October 1968 ⁽⁵⁾ on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families, which replaced the Directive of 25 March 1964 ⁽⁶⁾ bearing the same title, has in the meantime amended the rules applicable to employed persons;

Whereas the provisions concerning movement and residence within the Community of self-employed persons and their families should likewise be improved;

Whereas the coordination of special measures concerning the movement and residence of foreign nationals, justified on grounds of public policy, public security or public health, is already the subject of the Council Directive of 25 February 1964 ⁽⁷⁾;

AS ADOPTED THIS DIRECTIVE:

Article 1

1. The Member States shall, acting as provided in this Directive, abolish restrictions on the movement and residence of:

⁽¹⁾ OJ No 2, 15. 1. 1962, p. 32/62 and 36/62.

⁽²⁾ OJ No C 19, 28. 2. 1972, p. 5.

⁽³⁾ OJ No C 67, 24. 6. 1972, p. 7.

⁽⁴⁾ OJ No 56, 4. 4. 1964, p. 845/64.

⁽⁵⁾ OJ No L 257, 19. 10. 1968, p. 13.

⁽⁶⁾ OJ No 62, 17. 4. 1964, p. 981/64.

⁽⁷⁾ OJ No 56, 4. 4. 1964, p. 850/64.

- (a) nationals of a Member State who are established or who wish to establish themselves in another Member State in order to pursue activities as self-employed persons, or who wish to provide services in that State;
 - (b) nationals of Member States wishing to go to another Member State as recipients of services;
 - (c) the spouse and the children under twenty-one years of age of such nationals, irrespective of their nationality;
 - (d) the relatives in the ascending and descending lines of such nationals and of the spouse of such nationals, which relatives are dependent on them, irrespective of their nationality.
2. Member States shall favour the admission of any other member of the family of a national referred to in paragraph 1 (a) or (b) or of the spouse of that national, which member is dependent on that national or spouse of that national or who in the country of origin was living under the same roof.

Article 2

1. Member States shall grant the persons referred to in Article 1 the right to leave their territory. 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 their 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 persons referred to in Article 1 any exit visa or any equivalent requirement.

Article 3

1. Member States shall grant to the persons referred to in Article 1 right to enter their territory merely on production of a valid identity card or passport.
2. No entry visa or equivalent requirement may be demanded save in respect of members of the family

who do have the nationality of a Member State. Member States shall afford to such persons every facility for obtaining any necessary visas.

Article 4

1. Each Member State shall grant the right of permanent residence to nationals of other Member States who establish themselves within its territory in order to pursue activities as self-employed persons, when the restrictions on these activities have been abolished pursuant to the Treaty.

As proof of the right of residence, a document entitled 'Residence Permit for a National of a Member State of the European Communities' shall be issued. This document shall be valid for not less than five years from the date of issue and shall be automatically renewable.

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

A valid residence permit may not be withdrawn from a national referred to in Article 1 (1) (a) solely on the grounds that he is no longer in employment because he is temporarily incapable of work as a result of illness or accident.

Any national of a Member State who is not specified in the first subparagraph but who is authorized under the laws of another Member State to pursue an activity within its territory shall be granted a right of abode for a period not less than that of the authorization granted for the pursuit of the activity in question.

However, any national referred to in subparagraph 1 and to whom the provisions of the preceding subparagraph apply as a result of a change of employment shall retain his residence permit until the date on which it expires.

2. The right of residence for persons providing and receiving services shall be of equal duration with the period during which the services are provided.

Where such period exceeds three months, the Member State in the territory of which the services are performed shall issue a right of abode as proof of the right of residence.

Where the period does not exceed three months, the identity card or passport with which the person concerned entered the territory shall be sufficient to

cover his stay. The Member State may, however, require the person concerned to report his presence in the territory.

3. 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 national on whom he is dependent.

Article 5

The right of residence shall be effective throughout the territory of the Member State concerned.

Article 6

An applicant for a residence permit or right of abode shall not be required by a Member State to produce anything other than the following, namely:

- (a) the identity card or passport with which he or she entered its territory;
- (b) proof that he or she comes within one of the classes of person referred to in Articles 1 and 4.

Article 7

1. The residence documents granted to nationals of a Member State 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. These provisions shall also apply to documents and certificates required for the issue and renewal of such residence documents.

2. The visas referred to in Article 3 (2) shall be free of charge.

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

Article 8

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

Article 9

1. Member States shall, within six 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 with regard to establishment and the provision of services of the formalities and procedure for issuing such documents as are still necessary for the movement and residence of persons referred to in Article 1.

Article 10

1. The Council Directive of 25 February 1964 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services shall remain applicable until this Directive is implemented by the Member States.

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

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 21 May 1973.

For the Council
The President
E. GLINNE