

# COMMISSION OF THE EUROPEAN COMMUNITIES

REVISED VERSION

COM(88) 815 final - SYN 185

Brussels, 29 March 1989

Proposal for a  
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 1612/68 on freedom of movement  
for workers within the Community

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Proposal for a  
COUNCIL DIRECTIVE

amending Directive 68/360/EEC on the abolition of restrictions on  
movement and residence within the Community for workers  
of Member States and their families

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(presented by the Commission)

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Revision of Regulation (EEC) 1612/68 and Directive EEC/68/360 on freedom of movement for workers

EXPLANATORY MEMORANDUM

I. GENERAL CONSIDERATIONS

1. Existing instruments concerned with freedom of movement for workers

Freedom of movement for workers within the Community is covered by several pieces of secondary legislation:

- Council Regulation 1612/68<sup>1</sup> on freedom of movement for workers within the Community and Council Regulation (EEC) 312/76 amending Article 8(2);
- Directive 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families<sup>2</sup>;
- Council Directive 64/221/EEC on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health<sup>3</sup>;

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<sup>1</sup>O.J. L 257, 19.10.1968.

<sup>2</sup>O.J. L 39, 14.2.1976.

<sup>3</sup>O.J. L 56, 4.4.1964.

- Commission Regulation (EEC) 1251/70 on the right of workers to remain in the territory of a Member State after having been employed in that State <sup>4</sup>;
- Council Directive 72/194 (EEC) extending to workers exercising the right to remain in the territory of a Member State the scope of Directive 64/221 <sup>5</sup>;
- Council Directive 77/486/EEC on the education of the children of migrant workers <sup>6</sup>.

## 2. Reasons for the proposed revision

Twenty years have passed since the adoption of Regulation (EEC) 1612/68 on freedom of movement for workers and Directive 68/360/EEC on the right of residence of workers. There are a number of reasons for amending these two instruments:

- experience in implementing these instruments which has revealed a number of legal loopholes as regards the protection of migrant workers and their families;
- economic and social changes, in particular the contraction of the labour market, which mean that workers are in greater need of protection;
- the large number of rulings by the Court of Justice in this field which should be formally embodied in Community legislation;
- the political will of the Member States to increase the protection of migrant workers and their families, to which the Commission must respond:  
thus

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<sup>4</sup>O.J. L 142, 30.6.1970.

<sup>5</sup>O.J. L 121, 26.5.1972.

<sup>6</sup>O.J. L 199, 6.8.1977.

- \* among the aims of the White Paper on the completion of the internal market by the end of 1992, adopted by the European Council of Milan on 28 and 29 June 1985, is the removal of the remaining obstacles to the freedom of movement of persons;
  - \* in the Resolution of 16 July 1985<sup>7</sup> setting out "Guidelines for a Community migration policy", the Council called on the Commission to take initiatives aimed at putting into effect the actions referred to in the Resolution which include as a priority "improving current legislation (on free movement of workers).... while examining whether it is necessary to amend or add to it...";
- finally and above all, Article 8a EEC introduced by the Single European Act<sup>8</sup>, which gives the pledge that an internal market will be established by the end of 1992, which it defines as "an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty". The idea of an "area without frontiers" shows the commitment of the Community not to restrict the internal market to the purely economic sphere but to move towards a "People's Europe".

The declaration on Article 8a, annexed to the Final Act of the Conference of Representatives of the Governments of the Member States, expressed the "firm political will to take (...) the decisions necessary to implement the Commission's programme described in the White Paper on the Internal Market".

### 3. The legal basis for the proposed revision under the Single Act

Article 49 of the EEC Treaty as amended by the Single Act constitutes the legal basis for regulations and directives on freedom of movement; it states that the Council shall act "by a qualified majority on a proposal from the Commission, in cooperation with the European Parliament and after consulting the Economic and Social Committee".

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<sup>7</sup> O.J. C 186, 26.7.1985.

<sup>8</sup> O.J. L 169, 29.6.1986.

#### 4. Objectives of the proposed revision

The revision is concerned essentially with:

- extending the categories of persons protected by Community law, to cover all descendants and relatives in the ascending line of the worker and his spouse and to cover dependent collaterals;
- strengthening the rule of equal treatment for nationals of the host State and other Community nationals (thus enshrining the principle of equivalence of situations);
- strengthening the right of residence of workers and the families of workers who are unemployed or who have accepted short-term employment in another Member State, as well as the right of residence of workers and their families where the worker retains a link with the territory of a Member State by reason of the place where a contractual tie has been established or the place where it has produced its effects.

Section II below gives more information on the scope of the proposed revision.

II. EXAMINATION OF THE PROPOSED AMENDMENTS TO REGULATION 1612/68  
AND DIRECTIVE 68/360

I. AMENDMENT OF REGULATION (EEC) 1612/68

1. Territorial scope of application

Article 1 of Regulation 1612/68 provides for freedom to take up an activity as an employed person "within the territory of another Member State".

The Court of Justice has ruled on several occasions that the applicability of Community law on freedom of movement for workers is in no way determined by the place where the activity is pursued<sup>9</sup>; this may be outside Community territory, without preventing it from being subject to Community legislation, as long as the working relationship retains a sufficiently close link with this territory.

A link of this type may be constituted by the fact that the worker was recruited by a firm in another Member State, was covered by the social security system of that State and continued to work, exclusively or partly, for that firm during his secondment or stay in a non-Community country or in one or more other Member States.

It is proposed to add Article 9a in order to include persons working outside the Community or seconded to another Member State insofar as their working relationship maintains a sufficiently close link with the territory of a Member State.

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<sup>9</sup> - Judgment handed down on 12.12.1974 in Case 36/74, Walrave and Koch v. Fédération Cycliste, ECR 1974, p. 405.  
 - Judgment handed down on 31.3.1977 in Case 87/76, Bozzone v. Office de Sécurité Sociale d'outre-mer, Brussels, ECR 1977, p. 687.  
 - Judgment handed down on 11.7.1980 in Case 150/79, Commission EC v. Kingdom of Belgium, ECR 1980, p. 2621.  
 - Judgment handed down on 12.7.1984 in Case 237/83, Prodest v. Caisse primaire d'assurance maladie de Paris, ECR 1984, p. 3153.

## 2. Persons covered

At present, the Regulation gives the following persons, irrespective of their nationality, the right to take up residence with a migrant worker employed in a Member State: the spouse, their descendants who are under the age of 21 years or are dependent, and dependent relatives in the ascending line (Article 10(1)).

As regards other members of the family, the Member States are only required to "facilitate" their admission if dependent on the migrant worker or living under his roof in the country whence he comes (Article 10(2)).

In view of endeavours to complete the internal market, defined in Article 8a EEC as an "area without internal frontiers", which demonstrates the will of the Community not to restrict this market to the purely economic sphere but to move towards a "People's Europe", both for those who are working and those who are not, it is essential to extend the right of installation with the migrant worker to all descendants and relatives in the ascending line of the worker and the spouse without any conditions whatsoever. It is also proposed to extend this right to collaterals if they are dependent on the worker or the spouse or living under their roof in the country whence they come (Article 10 a)b)c)).

For the same reasons the rights conferred by Articles 11 and 12 (as amended, see below) should be extended to all members of the family referred to in the new Article 10(1). It is imperative that the People's Europe should not neglect spouses of workers exercising the right of free movement, especially wives who do not have the nationality of a Member State.

At present, a non-Community spouse does not retain the rights conferred by Articles 10 and 11 if the Community worker dies or the marriage is dissolved.

The addition of a second subparagraph will remedy this loophole effectively and prevent serious social and moral consequences for the non-Community widow and divorced wife as well as for any other members of the family depending exclusively on her.

Moreover, such an amendment takes account of developments in case law in the field of the rights of the spouse and the unmarried partner of the Community worker. However, such case law, although favourable to members of the worker's family, is limited by Articles 10 and 11 currently in force<sup>10</sup>. Hence the need for the amendment.

Lastly, the personal scope is extended by the insertion of a new Article 12a. The latter is justified by analogy with the new Article 9a. It is imperative that the revised rights arising from Title III (Articles 10 to 12) be conferred upon members of the family of a worker temporarily seconded outside the Community.

### 3. Material scope: strengthening the protection provided

#### a. Enshrinement of the principle of the equivalence of situations

Experience with the application of Regulation 1612/68 has revealed difficulties encountered by migrant workers in establishing their entitlement to certain social or tax advantages since laws, regulations or administrative provisions make such entitlement dependent on facts or events occurring on national territory.

For example some tax allowances for dependent children are only granted if the children are actually being brought up on the national territory; or social security contributions and life assurance premiums are not deductible from taxable income from employment unless they are paid on the territory of the host State.

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<sup>10</sup> - Judgment handed down on 13.2.1985 in Case 267/83, Diatta v. Land Berlin, ECR 1985, p. 1567.

- Judgment handed down on 17.4.1986 in Case 59/85, Dutch State v. A.F. Reed; ERC 1986, p. 1296.

The Court of Justice in Case 15/69 (Ugliola), equated, on the basis of the principle of equality of treatment instituted by Article 48 EEC, military service in the country of origin with military service in the State of employment, in order to enable Community workers to enjoy the same protection as national workers as regards conditions of employment.

It is essential to incorporate these rulings by the Court in Regulation 1612/68 making it possible to invoke the equivalence of situations so as to remove all obstacles to the freedom of movement of workers deriving from the fact that national laws have not been harmonized. Such is the object of the new Article 7(5).

The method of equating situations is widely used in Regulations 1408/71 and 574/72 on the social security of migrant workers (cf. the principle of adding together periods of insurance, employment and residence for the purposes of qualifying for or calculating social security benefits and rulings of the Court <sup>11</sup>).

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<sup>11</sup> - Judgment handed down on 7.7.1988 in Case 143/88, Stanton and S.A. Belge d'assurance l'Etoile 1905 v. INASTI, Brussels, ECR 1988, not yet published.

- Judgment handed down on 7.7.1988 in connected Cases 154 and 155/87 INASTI v. M. Wolf and others; ECR 1988, not yet published.

- b. In Article 5, which provides for equal treatment between nationals of the host State and other Community nationals with regard to assistance in seeking work, it is proposed to include aid to promote mobility both within a Member State and between Member States or between Member States and non-member countries in order to consolidate the protection of the migrant worker and the right to equal treatment.
- c. The expression "vocational schools" used in Article 7(3) should be replaced by "vocational training", a wider term which corresponds more closely to the Court's rulings <sup>12</sup>.
- d. In Article 8, the limitations on rights linked to freedom of movement for workers must be interpreted restrictively; it should consequently be specified that exclusion from certain trade union activities involving participation in the management of bodies governed by public law or from holding an office governed by public law is authorized only insofar as such activities are connected with the exercise of official authority.
- e. Article 9(1), which lays down equal treatment for all rights and benefits in matters of housing should explicitly cover loans and grants. More precisely, the experience gained over twenty years of free movement shows that lending houses and local authorities are sometimes reluctant to give loans or grants to migrant workers during their first years of residence in the host State.

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<sup>12</sup> - Judgment handed down on 13.2.1985 in Case 293/83, Gravier v. Ville de Liège, ECR 1985, p. 606.

- Judgment handed down on 2.2.1988 in Case 24/86, V. Blaizot and others v. Universités de Liège, Catholique de Louvain, Libre de Bruxelles and Facultés universitaires Notre-Dame de la Paix à Namur, ECR not yet published.
- Judgment handed down on 21.6.1988 in Case 39/86, Lair v. Universität Hannover, ECR 1988, not yet published.
- Judgment handed down on 21.6.1988 in Case 197/86, S.M. Brown v. The Secretary of State for Scotland, ECR 1988, not yet published.

- f. Article 10(3), under which the worker is required to have housing considered as normal available for his family, has been rescinded. This clause was intended to be temporary, owing to the situation of the housing stock in 1964<sup>13</sup>; the current situation no longer warrants such a provision.
- g. Article 11 which confers the right to employment on non-Community members of the family of an EEC worker has been extended. More precisely, the members of the family of a national of a Member State who do not have the nationality of a Member State should have an individual right to employment and residence even in the event of the death of the Community spouse or the dissolution of the marriage provided that they have a tie to the employment market of a Member State. Failing this, they may constantly be in danger of forfeiting their rights to employment and residence.
- h. Equal treatment for members of the family has been covered in Article 12

Equal treatment as regards social rights granted to workers in Article 7(2) has been extended by the Court of Justice<sup>14</sup> to members of the family who have exercised their right to install themselves with the worker as recognized in Article 10(1) in order to promote integration of the family in the host State and to avoid negative effects on freedom of movement.

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<sup>13</sup> Regulation No 38/64.

<sup>14</sup> - Judgment handed down on 30.9.1975 in Case 32/75, A. Cristini v. SNCF, France, ECR 1975, p. 1085.

- Judgment handed down on 16.12.1976 in Case 63/76, V. Inzirillo v. Caisse d'allocations familiales de l'Arrondissement de Lyon, ECR 1976, p. 2057.

- Judgment handed down on 6.6.1985 in Case 157/84, M. Frascogna v. Caisse de dépôts et consignations, Bordeaux, ECR 1985, p. 1744.

- Judgment handed down on 20.6.1985 in Case 94/84, ONEM v. M.J. Deak, ECR 1985, p. 1881.

- Judgment handed down on 9.7.1987 in Case 256/86, M. Frascogna v. Caisse de dépôts et consignations, ECR 1987, not yet published.

These rulings should be explicitly included in Title III of Regulation 1612/68: the new article 12 provides for equal treatment in respect of social advantages for members of the worker's family. Furthermore, the same article incorporates the rulings of the Court concerning university courses and equal treatment as regards administrative practices and fees<sup>15</sup>.

- i. Lastly, the Commission considers that, as regards its practical application, the Regulation in its present version is limited to allowing the beneficiaries of the Community provisions to assert their rights through the courts, where appropriate, after recourse to other competent authorities. With a view to improving control of its application, the Commission proposes that it be stipulated that the authorities of the Member States must not only ensure compliance by all natural or legal, private or public persons with the principle of equal treatment but must also curb any discriminatory action committed at that level against the beneficiaries of the right of freedom of movement for workers (Article 43(1)).

## II. AMENDMENT OF DIRECTIVE 68/360/EEC

The revision of Directive 68/360 essentially reflects three aims which are in fact connected:

- to strengthen the implementation of the right of nationals of one Member State to enter the territory of another Member State and to reside there for the purposes stated by the Treaty, particularly with regard to workers seeking employment throughout the Community;
- to reflect in the field covered by the Directive the amendments proposed to Regulation 1612/68;

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<sup>15</sup>Cases 293/83 and 24/86; see footnote 12.

- to eliminate the administrative complexities still attendant upon the issue of residence permits, as the Commission proposed in its "White Paper" to which the declaration concerning Article 8a of the Treaty appended to the Final Act of the Representatives of the Governments of the Member States explicitly refers.

1. Strengthening the implementation of the right of residence

1. In the spirit of the "People's Europe" and in line with the adoption of a Community passport and a Community driving licence, the residence document will, under the terms of Article 4(2), be called a "European Communities Residence Card". It should be noted in this connection that some language versions of the Directive currently in force use the term "residence permit" rather than "residence card", which is inconsistent with the "declaratory" effect which it entails. The versions in question have been adapted accordingly.
2. Article 6(1) states that the residence card must be valid for at least five years and be automatically renewable. In order to make the residence situation of the migrant worker and his family more secure, it is proposed to stipulate that it shall be automatically renewed for periods of ten years.
3. Article 6(2) provides that the card shall remain valid if there are breaks in residence not exceeding six consecutive months or absence on military service. For obvious social reasons, absences for medical reasons, maternity or study should also be included.
4. Article 6(3), first subparagraph provides for a temporary residence card when a worker is employed for a period of more than three months and less than one year. This rule cannot be contested. In times of high unemployment, however, it is more and more often the case that a worker looking for employment in a Community State of which he is not a national has to accept contracts of employment for periods of less than one year.

Frequently the employment is not in itself temporary in nature, but is rendered thus by economic reasons put forward by the employer (unfilled order book, worries about social security costs, etc.), who may renew the contract if business is good when the initial contract expires. In other cases, the worker himself concludes several temporary contracts while awaiting employment of unlimited duration.

In practice, therefore, a worker may accumulate several temporary residence cards for a period of less than or equal to one year; these cards are issued on the basis either of contracts of employment for less than a year, renewed regularly, or by temporary contracts with a succession of employers. Even if these temporary residence cards added up to years of residence and employment on the territory in question, the worker, under the Directive, would not have the right to an automatically renewable five-year EC residence card.

This shortcoming in the Directive means that the worker cannot plan his life in his country of employment as regards housing, vocational or language training, bringing his family into the host country and the various social and cultural networks which make a process of integration possible. It also means that additional burdens are placed upon him on both the administrative and private level.

An insertion has been made in Article 6(3) enabling the worker to receive a five-year residence card, automatically renewable for ten years if the total duration of periods of employment covered by different contracts, each for less than one year, exceeds one year, and on condition that his residence in the country continues for at least 18 months. This condition is introduced so as to eliminate the need to aggregate short periods of employment interspersed by long periods of time.

5. At present, a worker who has been issued a temporary residence card in accordance with the first subparagraph of Article 6(3) may not, under Community rules, remain in the host State after his card expires, even if he is entitled to unemployment benefit under the legislation of this State (possibly under Regulation (EEC) 1408/71). This also applies to a worker

who has accepted employment for less than three months in the host State and is entitled to unemployment benefit under the legislation of that State.

The new Article 6(4) aims to give such workers the right to stay until their entitlement to unemployment benefit has expired.

This improvement implies that Article 4(3), first indent, listing the documents to be presented for the issue of a residence card to the worker, should also be amended by adding under (b) a certificate of entitlement to unemployment benefit in the host State, for the workers referred to in Article 6(4).

6. Article 7(2) of Directive 68/360 introduces a restriction on the right of residence in cases where the worker has been involuntarily unemployed for more than a year at the time of expiry of his first 5-year residence card. The national authority "may", on the occasion of this "first" renewal, limit the further validity of the residence card to twelve months.

Consequently, at the end of this second period, the national authorities are free, since the Directive is silent on this matter, to order the worker to leave or to renew the card for a duration left to their discretion. In practice, the expiry of entitlement to unemployment benefit and the resulting switch to public assistance are major reasons for expelling the worker from the country.

This weak spot in the implementation of the right of residence recognized by the Treaty runs counter to the concept of integration which goes hand in hand with it, thus placing the worker in a difficult social and legal position because of the links which have been formed during six years in the host State and creating all sorts of difficulties connected with leaving the country (removal expenses, leases on accommodation, loans, education of children, exclusion from the rights provided for in Title II of the first part of Regulation 1612/68), not to mention the fact that, while the host State may request the worker to leave the country, the same worker has the right to return immediately to look for employment.

Consequently, Article 7(2) should be repealed and a stipulation concerning the automatic renewal of the residence card upon expiry on the terms set out in Article 6 should be added to Article 7(1). Moreover, maternity should be included among the conditions of incapacity for work.

## 2. Consequences of the revision of Regulation 1612/68

1. The amendment of Article 10 of the regulation makes it necessary to amend Article 4(3), second indent (e), concerning checks by the authorities in the host State to ensure that members of the family are dependent on the worker or live under his roof in the country of origin.
2. Article 4(4) is repealed in view of the fact that non-Community members of the family of a national of a Member State are covered by Article 4(4) and Article 1 of the Directive and the personal scope of the directive extends to those covered by Article 11 of the Regulation.
3. In Article 6(2), secondment within the meaning of Article 9a of the Regulation has been added to justified interruptions of residence.

Article 9(1) stipulates that residence cards 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".

Because Regulation 1612/68 may be applied to family members who are not nationals of a Member State, this article should refer to "all persons enjoying the rights conferred by this Directive". At the same time, it would be advisable to mention not only "residence cards" but also "supporting documents", which often give rise to appreciable costs.

## 3. Elimination of administrative complexities

1. Article 5, as amended, contains a new requirement: the formalities connected with obtaining or renewing the residence card must be completed as quickly as possible.

This new provision would be the counterpart of Article 5(1) of Directive 64/221/EEC laying down the same requirement for speed when taking a decision as regards residence on grounds of public order, public security or public health.

2. In view of Article 3, the new Article 9(4) specifies that "presentation of the residence card may not be demanded at frontiers".

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community**

*COM(88) 815 final — SYN 185*

*(Submitted by the Commission to the Council of 11 January 1989)*

(89/C 100/06)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, under the terms of Article 8a of the Treaty, the Community is to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992 and the internal market is to comprise an area without internal frontiers in which the free movement of persons is ensured in accordance with the provisions of the Treaty;

Whereas it is important to prevent the situation of workers of the Member States who move for reasons of employment and that of members of their families from deteriorating, more especially in view of the fact that the provisions currently in force no longer fully meet the requirements of a society undergoing important changes;

Whereas there is an imperative need to adapt the provisions of Council Regulation (EEC) No 1612/68<sup>(1)</sup>, as amended by Regulation (EEC) No 312/76<sup>(2)</sup>, to the new socio-economic context and to consolidate the accumulated rulings of the Court of Justice of the European Communities by incorporation the principles enunciated by the Court into the legislation of the Community;

Whereas, in view of the prospective completion of the internal market and in order to ensure that the effective exercise of the fundamental right of free movement is as complete as possible, it is important that any obstacles to

the mobility of workers which still exist on the level of individual rights, in particular those taking the form of limitations placed by the condition of territoriality on the application of equal treatment and the restrictions imposed by the provisions currently in force on the right of family reunification, should be removed;

Whereas in its Resolution of 16 July 1985<sup>(3)</sup> on guidelines for a Community migration policy, the Council recognized that in the field of the Community rules relating to the free movement of workers, priority must be assigned to improving the application of the rules, in particular by making such amendments or additions to them as may be deemed necessary;

Whereas control by the Member States over the application of the principle of equal treatment should be strengthened,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1612/68 is hereby amended as follows:

1. The following paragraph is added to Article 5:

'He shall also receive the aid to promote mobility and recruitment available to nationals travelling either within the country or to other Member or non-Member States to take up an activity as an employed person.'

2. In Article 7(3), the second part of the sentence after 'national workers' is replaced by the following:

'have access to vocational training, readaptation and retraining'.

<sup>(1)</sup> OJ No L 257, 19. 10. 1968, p. 2.

<sup>(2)</sup> OJ No L 39, 14. 2. 1976, p. 2.

<sup>(3)</sup> OJ No C 186, 26. 7. 1985, p. 3.

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## 3. The following paragraph is added to Article 7:

'5. A Member State whose laws, regulations or administrative provisions attribute legal effect or make social or tax advantages subject to the occurrence of certain facts or events shall, where necessary, take into account the said facts or events which occurred in any other Member State as if they had occurred on the national territory.'

## 4. In the first paragraph of Article 8, the following is added after the words 'holding an office governed by public law':

'in so far as the activities in question are connected with the exercise of official authority'.

## 5. The following is added to Article 9 (1): 'and loans and grants'.

## 6. A new Article 9a is inserted:

*'Article 9a:*

— The provisions of Title II shall apply to any national of a Member State who is sent by his employer, exercising an activity in the territory of a Member State, to perform his contractual duties either in another Member State or outside the territory of the Community.'

## 7. Article 10 (1) is replaced by the following:

*'Article 10*

The following shall, even if they are not nationals of a Member State, have the right to install themselves with the national of a Member State who is employed in the territory of a Member State:

- (a) the spouse and their descendants;
- (b) relatives in the ascending line of the worker or the spouse;
- (c) any other member of the family dependent on or living under the roof of the worker or the spouse in the country whence they come.'

## 8. Article 11 is replaced by the following:

*'Article 11*

The members of the family of a worker referred to in Article 10 pursuing an activity as an employed or self-employed person in the territory of a Member State who do not have the nationality of a Member State shall have the right to take up any activity as an employed person throughout the territory of that same State, and to perform that activity in accordance with the provisions laid down by law, regulation or administrative action governing the employment of nationals of that State.

The death of the worker on whom the members of the family are dependent or the dissolution of the marriage shall not affect that right.'

## 9. Article 12 is replaced by the following:

*'Article 12*

The members of the family of a worker referred to in Article 10 who are resident in the territory of the Member State in which the worker is or has been employed shall enjoy the same social advantages as the nationals of that State; they shall also be admitted to general educational, apprenticeship and vocational training courses of university or non-university level on the same terms as the nationals of that State.

Member States shall encourage all efforts to enable such persons to attend these courses under the best possible conditions and shall take action to simplify the formalities so that the costs of opening a personal file are similar to those for nationals of the State.'

## 10. A new Article 12a is inserted:

*'Article 12a*

The provisions of Title III shall also apply to the members of the family of a national worker who is seconded as described in Article 9a.'

## 11. Article 43 is replaced by the following:

*'Article 43*

1. Member States shall take such measures as are necessary to ensure the application by all natural and legal persons of the principle of equal treatment in the fields covered by this Regulation and to curb any infringement of that principle.

2. Member States shall, for information purposes, communicate to the Commission the texts of agreements, conventions or arrangements concluded between them in the manpower field between the date of their being signed and that of their entry into force.'

## 12. In Article 47, reference to Articles 5 and 9a is inserted between the references to Articles 3 and 10.

*Article 2*

This Regulation shall enter into force on . . . .

This Regulation shall be binding in its entirety and directly applicable in all Member States.

**Proposal for a Council Regulation (EEC) amending Directive 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families**

*COM(88) 815 final — SYN 185*

*(Submitted by the Commission to Council on 11 January 1989)*

(89/C 100/07)

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,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 68/360/EEC<sup>(1)</sup> of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families as last amended by the Act of Accession of Spain and Portugal, lays down the circumstances in which these restrictions are abolished or alleviated for persons covered by Council Regulation (EEC) No 1612/68<sup>(2)</sup>, as last amended by Regulation (EEC) No .../...;

Whereas Council Regulation (EEC) No .../... amended Regulation (EEC) No 1612/68 to extend the personal scope of the latter, whereas the need has consequently emerged to adapt the provisions of Directive 68/360/EEC in line with those amendments, both as regards workers and members of their families who are nationals of a Member State and as regards members of their families who are not nationals of a Member State;

Whereas the procedures linked to the issue of residence cards and related documents have in many cases proved too long and the costs very high and these difficulties constitute an objective obstacle to the organization of the daily lives of those concerned and a constraint on their integration into the host country;

Whereas, from the point of view of stability of residence, account should be taken of the new conditions obtaining on the employment market, particularly as regards the increase in precarious and intermittent employment;

Whereas in the context of the People's Europe, the feeling of belonging to a European people should be promoted by entitling the residence card 'European Communities Residence Card',

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 68/360/EEC is hereby amended as follows:

1. In Article 4 (2), the first sentence is replaced by the following:

'As proof of the right of residence, a document entitled "European Communities Residence Card" shall be issued.'

2. In Article 4 (3), the beginning of the sentence is replaced by the following:

'For the issue of a European Communities Residence Card ...'

3. The following is added to Article 4 (3), first indent, point (b):

'in the cases referred to in Article 6 (4), a certificate proving the worker's entitlement to unemployment benefit issued in the host State';

4. Article 4 (3), second indent, point (e) is replaced by the following:

'(e) For the members of the family as referred to in Article 10 (1) (c) of Regulation (EEC) No 1612/68 a document issued by the competent authority of the State whence they came or of the State of origin certifying that they are dependent on the worker or the spouse or that they live under his roof or that of the spouse in that country.'

5. Article 4 (4) is deleted.

6. The following paragraph is added to Article 5:

'These formalities shall be completed as quickly as possible.'

7. Article 6 (1) (b) is replaced by the following:

'(b) must be valid for at least five years from the date of issue; it shall be automatically renewable for periods of 10 years.'

<sup>(1)</sup> OJ No L 257, 19. 10. 1968, p. 13.

<sup>(2)</sup> OJ No L 257, 19. 10. 1968, p. 2.

8. In Article 6 (2), the following words are inserted after 'military service':

'or for medical reasons, maternity or study, or in the event of secondment as described in Article 9 a of Regulation (EEC) No 1612/68,'.

9. In Article 6 (3), the following subparagraph is inserted after the first:

'However, when the worker has held several successive temporary jobs for a total period of not less than twelve months, within an uninterrupted residence period of eighteen months, the host Member State shall issue to him the residence card referred to in paragraph 1 on presentation of a confirmation of engagement or a certificate of employment even for a period of less than one year.'

10. In Article 6, the following is added:

'4. Where the worker has been employed for a period exceeding three months but not exceeding one year in the host State and has acquired an entitlement to unemployment benefit under the legislation of the said State, the residence card issued to him under the first subparagraph of paragraph 3 shall be automatically renewable until his entitlement to unemployment benefit has expired.

Where the worker has been employed for a period of less than three months in the host State and has acquired an entitlement to unemployment benefit under the legislation of the said State, the latter shall issue to him a residence card valid for three months which is automatically renewable until his entitlement to benefit has expired.'

11. In Article 7 (1), the words 'as a result of illness or accident' are replaced by the words 'as a result of illness, accident or maternity'.

12. In Article 7 (1), the following subparagraph is added:

'When the residence card expires during a period of incapacity for work, it shall be automatically renewed in accordance with Article 6.'

13. Article 7 (2) is deleted.

14. Article 9 (1) is replaced by the following:

'1. The residence documents and supporting documents granted to persons enjoying the rights conferred by 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.'

15. The following paragraph is added to Article 9:

'4. Presentation of the residence card may not be demanded on crossing frontiers.'

16. The wording of the statement contained in the Annex to the Directive and provided for in Article 4 (2) is replaced by the following:

'This card is issued pursuant to Council Regulation (EEC) No 1612/68 of 15 October 1968 and to the measures taken in implementation of Council Directive 68/360/EEC of 15 October 1968.

In accordance with the abovementioned Regulation, the holder of this card has the right to take up and pursue an activity as an employed person on ...<sup>(1)</sup> territory under the same conditions as ...<sup>(1)</sup> nationals.

(<sup>1</sup>) Nationality of State issuing the card.'

#### *Article 2*

Member States shall take the measures necessary to comply with this Directive within six months of its notification and shall forthwith inform the Commission thereof.

The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.

#### *Article 3*

This Directive is addressed to the Member States.

**Amendment to the proposal for a Council Directive amending Directive 79/373/EEC on the marketing of compound feedingstuffs (\*)**

*COM(89) 125 final*

*(Submitted by the Commission to the Council pursuant to Article 149 (3) of the EEC Treaty on 17 March 1989)*

*(89/C 100/08)*

On 1 June 1988 the aforementioned proposal was presented to the Council by the Commission. For the reasons given in the explanatory memorandum, the original proposal was amended as follows:

In Article 1 (3) of the proposal for a Directive, the following amendments are made to the text proposed for the new Article 5 of Directive 79/373/EEC:

1. In paragraph 1:

- (a) the word 'producer' in the first sentence is replaced by the word 'manufacturer';
- (b) point (k) is deleted.

2. In paragraph 3, the following point (k) is added:

- '(k) the date of manufacture, to be indicated in accordance with Article 5d (2)'.

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(\*) OJ No C 178, 7. 7. 1988, p. 4.