

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 675 final - SYN 199 SYN 200

Brussels, 22 December 1989

Amended Proposal for a  
COUNCIL DIRECTIVE

on the right of residence for students

SYN 199

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Amended Proposal for a  
COUNCIL DIRECTIVE

on the right of residence for employees and self-employed persons  
who have ceased their occupational activity

SYN 200

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Amended proposal for a  
COUNCIL DIRECTIVE

on the right of residence

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(presented by the Commission, pursuant to Article 149, paragraph 3,  
of the EEC Treaty)

EXPLANATORY MEMORANDUM

On 26 June 1989 the Commission presented three proposals for Directives on the right of residence for students, on the right of residence for employees and self-employed persons who have ceased their occupational activity, and on the right of residence.<sup>1</sup> On 13 December, the European Parliament adopted three legislative resolutions embodying its opinion on the three proposals, and proposing amendments. The attached amended proposals incorporate the amendments that the Commission accepted during the discussions in Parliament, which relate to the conditions governing the right of residence, the references to the provisions governing the rights of migrant workers, and some drafting improvements. However, the Commission has not accepted the amendments that would have upset the balance of the proposal concerned, nor those that would have conferred upon those concerned by the Directives rights more extensive than migrant workers at present enjoy.

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<sup>1</sup> OJ C 191, 28 July 1989; COM(89)278 final.

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE  
ON THE RIGHT OF RESIDENCE FOR STUDENTS



Original proposal  
COM(89)275 final

Amended proposal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, in particular the second paragraph of Article 7 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 Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market is to comprise an area without internal frontiers in which the freedom of movement for persons is ensured;

Whereas, as the Court of Justice has ruled, Articles 128 and 7 of the EEC Treaty prohibit any discrimination between nationals of the Member States as regards access to vocational and professional training in the Community;

Whereas equal access to vocational and professional training presupposes being present on the territory of the Member State where the training is given and consequently implies the need to lay down rules ensuring equal treatment;

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, in particular the second paragraph of Article 7 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 Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market is to comprise an area without internal frontiers in which the freedom of movement for persons is ensured;

Whereas, as the Court of Justice has ruled, Articles 128 and 7 of the EEC Treaty prohibit any discrimination between nationals of the Member States as regards access to vocational and professional training in the Community;

Whereas equal access to vocational and professional training presupposes being present on the territory of the Member State where the training is given and consequently implies the need to lay down rules ensuring equal treatment;

Whereas the right of residence for students forms part of a set of related decisions designed to promote vocational training and to bring about the freedom of establishment;

whereas disparities between the Member States as to student-related measures can be lessened by action in connection with the social dimension of the internal market, though, pending this, such disparities must not act as an impediment to freedom of movement or to right of residence for Community citizens;

Whereas students are only rarely beneficiaires of social assistance; whereas, however, the costs of social assistance granted in the host Member State to a student who has no legal connection with that Member State other than the mere fact that he or she has gone there to undergo vocational or professional training, should not be borne by that State but by the Member State from which he or she comes;

Whereas it is necessary for the Member States to adopt the administrative measures to facilitate residence without discrimination;

Whereas the exercise of the right of residence becomes a genuine possibility only if it is granted to the spouse and dependent children;

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular in Regulation (EEC) No 1612/68 of the Council <sup>(1)</sup>, Directive 68/360/EEC of the Council <sup>(2)</sup>, and Directive 64/221/EEC of the Council <sup>(3)</sup>;

Whereas this Directive does not apply to students who enjoy the right of residence by virtue of the fact that they are or have been effectively engaged in economic activities or are members of the family of a migrant worker,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. Member States shall adopt the necessary measures to facilitate exercise of the right of residence to ensure access to vocational training without discrimination. Accordingly, they shall recognize the right of residence of any student who is a national of a Member State and who does not enjoy this right under another Community measure, and of the student's spouse and dependent children, provided the student is enrolled in an educational establishment for the purpose of following vocational or professional training courses there and that they are covered by a sickness insurance scheme.

2. Nationals of Member States who plan to follow vocational training courses and members of their family shall be entitled to become members of the sickness insurance scheme of the host country under the same conditions as nationals.

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

<sup>(2)</sup> OJ No L 257, 19. 10. 1968, p. 13.

<sup>(3)</sup> OJ No 56, 4. 4. 1964, p. 850/64.

Whereas students are only rarely beneficiaires of social assistance; whereas, however, the costs of social assistance granted in the host Member State to a student who has no legal connection with that Member State other than the mere fact that he or she has gone there to undergo vocational or professional training, should not be borne by that State but by the Member State from which he or she comes;

Whereas it is necessary for the Member States to adopt the administrative measures to facilitate residence without discrimination;

Whereas the exercise of the right of residence becomes a genuine possibility only if it is granted to the spouse and dependent children;

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular in Regulation (EEC) No 1612/68 of the Council <sup>(1)</sup>, Directive 68/360/EEC of the Council <sup>(2)</sup>, and Directive 64/221/EEC of the Council <sup>(3)</sup>;

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2. Nationals of Member States who plan to follow vocational training courses and members of their family shall be entitled to become members of the sickness insurance scheme of the host country under the same conditions as nationals.

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

<sup>(2)</sup> OJ No L 257, 19. 10. 1968, p. 13.

<sup>(3)</sup> OJ No 56, 4. 4. 1964, p. 850/64.

3. Where the social security system of the host Member State has to intervene on behalf of a student referred to in paragraph 1, the benefit shall be granted in accordance with the rules of that State. At the request of the host Member State, the Member State of origin shall reimburse the amount of benefit granted. For the purposes of this Directive, 'Member State of origin' shall mean that State in which the student had his or her principal residence before seeking the right of residence in a Member State on the basis of this Directive.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence permit' whose validity may be limited to the duration of the course of studies in question. The residence permit shall be renewed annually, subject to the third subparagraph. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence permit with the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions laid down in Article 1 (1).

Where a Member State has sought reimbursement of social assistance costs under Article 1 (3), the residence permit may be renewed only with the prior agreement of the Member State of origin.

2. Articles 2, 3, 9 and 10 of Directive 68/360/EEC, Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to beneficiaries of this Directive.

3. Where the social security system of the host Member State has to intervene on behalf of a student referred to in paragraph 1, the benefit shall be granted in accordance with the rules of that State. At the request of the host Member State, the Member State of origin shall reimburse the amount of benefit granted. For the purposes of this Directive, 'Member State of origin' shall mean that State in which the student had his or her principal residence before seeking the right of residence in a Member State on the basis of this Directive.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence permit' whose validity may be limited to

the actual duration of the course of studies in question.

The residence permit shall be renewed annually, subject to the third subparagraph. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence permit with the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions laid down in Article 1 (1).

Where a Member State has sought reimbursement of social assistance costs under Article 1 (3), the residence permit may be renewed only with the prior agreement of the Member State of origin.

2. Articles 2, 3, 9 and 10 of Directive 68/360/EEC, Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to beneficiaries of this Directive.

The beneficiaries of this Directive shall enjoy all the rights deriving from Regulation (EEC) No. 1612/68, Directives 68/360/EEC and 64/221 EEC and the legal provisions amending them.

Article 3

Before the end of the second year following the entry into force of this Directive, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive which it shall submit to the Council and the European Parliament.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1990. They shall immediately communicate the measures taken to the Commission.

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

Article 4

This Directive is addressed to the Member States.

Article 4

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1990. They shall immediately communicate the measures taken to the Commission.

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

Article 5

This Directive is addressed to the Member States.

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE  
ON THE RIGHT OF RESIDENCE FOR EMPLOYEES AND SELF-EMPLOYED PERSONS  
WHO HAVE CEASED THEIR OCCUPATIONAL ACTIVITY

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Original proposal  
COM(89)275 final

Amended proposal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, in particular Articles 49 and 54 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 Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market comprises an area without internal frontiers in which freedom of movement for persons is ensured;

Whereas Articles 48 and 52 of the EEC Treaty provide for freedom of movement for workers and self-employed persons, which implies the right of residence in the Member State in which they pursue their occupational activity; whereas this right of residence should be granted not only during the active part of their working life, but also during the non-active part, even if they have not exercised their right to freedom of movement during the first part of their working life;

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, in particular Articles 49 and 54 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 Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market comprises an area without internal frontiers in which freedom of movement for persons is ensured;

Whereas Articles 48 and 52 of the EEC Treaty provide for freedom of movement for workers and self-employed persons, which implies the right of residence in the Member State in which they pursue their occupational activity; whereas this right of residence should be granted not only during the active part of their working life, but also during the non-active part, even if they have not exercised their right to freedom of movement during the first part of their working life;

Whereas pursuant to Article 10 of Regulation (EEC) No 1408/71 of the Council (\*), as amended by Regulation (EEC) No 1390/81 (\*\*), recipients of invalidity, or old age cash benefits or pensions for accidents at work or occupational diseases are entitled to continue to receive these benefits and pensions even if they reside in the territory of a Member State other than that in which the institution responsible for payment is situated;

Whereas pursuant to Article 10 of Regulation (EEC) No 1408/71 of the Council (\*), as amended by Regulation (EEC) No 1390/81 (\*\*), recipients of invalidity, or old age cash benefits or pensions for accidents at work or occupational diseases are entitled to continue to receive these benefits and pensions even if they reside in the territory of a Member State other than that in which the institution responsible for payment is situated;

Whereas action on the social dimension of the Internal Market will serve to reduce the disparities existing between Member States in levels of pensions and benefits but in the interim such disparities cannot be allowed to pose a barrier to the free movement and right of residence of retired Community citizens;

Whereas this directive is the first step towards securing the right of residence anywhere in the Community for all retired Member States' nationals;

Whereas the exercise of this right becomes a genuine possibility only if it is also granted to members of the family;

Whereas the exercise of this right becomes a genuine possibility only if it is also granted to members of the family;

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular by Regulation (EEC) No 1612/68 of the Council (\*), Directive 68/360/EEC of the Council (\*) and Directive 64/221/EEC of the Council (\*);

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular by Regulation (EEC) No 1612/68 of the Council (\*), Directive 68/360/EEC of the Council (\*) and Directive 64/221/EEC of the Council (\*);

HAS ADOPTED THIS DIRECTIVE:

HAS ADOPTED THIS DIRECTIVE:

(\*) OJ No L 149, 5. 7. 1971, p. 2.

(\*\*) OJ No L 143, 29. 5. 1981, p. 1.

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

(\*) OJ No L 257, 19. 10. 1968, p. 13.

(\*) OJ No 56, 4. 4. 1964, p. 850/64.

(\*) OJ No L 149, 5. 7. 1971, p. 2.

(\*\*) OJ No L 143, 29. 5. 1981, p. 1.

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

(\*) OJ No L 257, 19. 10. 1968, p. 13.

(\*) OJ No 56, 4. 4. 1964, p. 850/64.



Article 1

Member States shall grant the right of residence to nationals of Member States who have pursued an activity in the Community as an employee or self-employed person, and to members of their family as defined in Article 10 (1) of Regulation (EEC) No 1612/68, provided that they are recipients of an invalidity pension, or old age benefits, or of a pension in respect of an industrial accident or disease, and are covered by a sickness insurance scheme.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence permit' whose validity may be limited to five years and is renewable. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence permit of the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions laid down in Article 1.

2. Articles 2, 3, 6 (1) (a) and (2), 9 and 10 of Directive 68/360/EEC, Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to the beneficiaries of this Directive.

Article 1

Member States shall grant the right of residence to nationals of Member States who have pursued an activity in the Community as an employee or self-employed person, and to members of their family as defined in Article 10 (1) of Regulation (EEC) No 1612/68, provided that they are recipients of an invalidity pension, or old age benefits, or of a pension in respect of an industrial accident or disease,

or  
are entitled to survivor's benefits  
and are covered by a sickness  
insurance scheme, or have  
other adequate resources on which to  
live. Pensions or other measures  
shall be deemed to be adequate if they  
ensure that those entitled to  
residence do not become a burden to  
the social security scheme of the host  
country during their residence there.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence permit' whose validity may be limited to five years and is renewable. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence permit of the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions laid down in Article 1.

2. Articles 2, 3, 6 (1) (a) and (2), 9 and 10 of Directive 68/360/EEC, Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to the beneficiaries of this Directive.

The beneficiaries of this  
Directive shall enjoy all the  
rights deriving from Regulation  
(EEC) No 1612/68, Directives  
68/360/EEC and 64/221 EEC and the  
legal provisions amending them.

Article 3

Before the end of the second year following the entry into force of this Directive, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive which it shall submit to the Council and the European Parliament.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1990. They shall immediately communicate the measures taken to the Commission and the other Member States.

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

Article 4

This Directive is addressed to the Member States.

Article 4

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1990. They shall immediately communicate the measures taken to the Commission and the other Member States.

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

Article 5

This Directive is addressed to the Member States.

- 1 -

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE  
ON THE RIGHT OF RESIDENCE

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Original proposal  
COM(89)275 final

Amended proposal

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market comprises an area without internal frontiers in which freedom of movement for persons is ensured;

Whereas national provisions on the right of residence for European citizens in Member States other than the one of which they are nationals should be harmonized to ensure such freedom of movement;

Whereas, as the *ad hoc* Committee on a People's Europe indicated in its report to the European Council in Brussels on 29 and 30 March 1985, it is vital to avoid migration flows resulting solely from financial considerations based on the fact that the social security and social assistance systems have not been harmonized; whereas a European citizen wishing to reside in a country other than his own should not constitute an unreasonable burden on the public finances of the host country; whereas, therefore, at the present stage in the development of the Community, conditions should be laid down for the exercise of the right of residence;

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas Article 3c of the Treaty lays down that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a lays down that the internal market must be established by 31 December 1992; whereas the internal market comprises an area without internal frontiers in which freedom of movement for persons is ensured;

Whereas national provisions on the right of residence for European citizens in Member States other than the one of which they are nationals should be harmonized to ensure such freedom of movement;

Whereas, as the *ad hoc* Committee on a People's Europe indicated in its report to the European Council in Brussels on 29 and 30 March 1985, it is vital to avoid migration flows resulting solely from financial considerations based on the fact that the social security and social assistance systems have not been harmonized; whereas a European citizen wishing to reside in a country other than his own should not constitute an unreasonable burden on the public finances of the host country; whereas, therefore, at the present stage in the development of the Community, conditions should be laid down for the exercise of the right of residence;

Whereas the strengthening of the social dimension of the internal market will help to reduce the existing disparities between the social security systems in the Member States but these disparities must not stand in the way of freedom of movement and the right of residence of Community nationals;

Whereas this Directive is a first step towards a guaranteed right of residence throughout the Community for all citizens of the Member States;

Whereas the exercise of this right becomes a genuine possibility only if it is also granted to members of the family;

Whereas the exercise of this right becomes a genuine possibility only if it is also granted to members of the family;

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular in Regulation (EEC) No 1612/68 of the Council (1), Directive 68/360/EEC of the Council (2), and Directive 64/221/EEC of the Council (3),

Whereas the beneficiaries of this Directive should be covered by the same administrative arrangements as those laid down in particular in Regulation (EEC) No 1612/68 of the Council (1), Directive 68/360/EEC of the Council (2), and Directive 64/221/EEC of the Council (3),

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(1) OJ No L 257, 19. 10. 1968, p. 2.  
(2) OJ No L 257, 19. 10. 1968, p. 13.  
(3) OJ No 56, 4. 4. 1964, p. 850/64.

(1) OJ No L 257, 19. 10. 1968, p. 2.  
(2) OJ No L 257, 19. 10. 1968, p. 13.  
(3) OJ No 56, 4. 4. 1964, p. 850/64.

Article 1

Member States shall grant the right of residence to nationals of Member States who do not enjoy this right under other provisions of Community law, and to members of their families as defined in Article 10 (1) of Regulation (EEC) No 1612/68, provided that they and the members of their family are covered by sickness insurance and have sufficient resources to avoid becoming a burden on the social security system of the host Member State during their period of residence.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence permit', whose validity may be limited to five years and is renewable. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence permit with the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions referred to in Article 1.

2. Articles 2, 3, 6 (1) (a) and (2), 9 and 10 of Directive 68/360/EEC; Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to beneficiaries of this Directive.

Article 1

Member States shall grant the right of residence to nationals of Member States who do not enjoy this right under other provisions of Community law, and to members of their families as defined in Article 10 (1) of Regulation (EEC) No 1612/68, provided that they and the members of their family are covered by sickness insurance and have sufficient resources to avoid becoming a burden on the social security system of the host Member State during their period of residence.

Article 2

1. Right of residence shall be established by means of the issue of a document known as a 'European Communities residence card', whose validity may be limited to five years and is renewable. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence card with the same validity as that issued to the national on whom he or she depends.

The amount of means of support that the applicant shall be required to show shall not exceed the amount of the subsistence minimum in the host country, and the Member State issuing the residence permit shall fix no other requirement than that the income be stable and regular.

For the purpose of issuing the residence permit, the Member State may require only that the applicant present an identity document and provide proof that he or she meets the conditions referred to in Article 1.

2. Articles 2, 3, 6 (1) (a) and (2), 9 and 10 of Directive 68/360/EEC; Article 11 of Regulation (EEC) No 1612/68 and Articles 2 to 9 of Directive 64/221/EEC shall apply to beneficiaries of this Directive.

The beneficiaries of this Directive shall enjoy all the rights deriving from Regulation (EEC) No. 1612/68, Directives 68/360/EEC and 64/221 EEC and the legal provisions amending them.

Article 3

Before the end of the second year following the entry into force of this Directive, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive which it shall submit to the Council and the European Parliament.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Article 4

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

Article 5

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