Free movement of persons: right of residence (direct. 90/364/EEC, 90/365/EEC, 93/96/EC, 64 /221/EEC)

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PURPOSE : to propose guidelines on Directive 64/221/EEC on special measures concerning the movement and residence of Union citizens which are justified on the grounds of public policy, public security and public health. CONTENT : this directive dates from 1964. Over the years, its provisions have been extensively interpreted in judgements from the European Court of Justice. Developments in European integration have changed the context in which the directive falls to be interpreted. The Communication looks at some of the main difficulties and offers guidance. The following specific problems are addressed: - entry and residence, particularly undue delay in examining residence permit applications. - expulsion and other measures: the role played by previous convictions in assessing the threat to public order or public security without any individual assessment. - general prevention: where all persons belonging to a certain group are considered to constitute a threat to public order or public security without any individual assessment. - defects in informing the person concerned of the measure taken or the grounds and/or the consequences of such a measure. - the storage of personal data collected about the persons concerned e.g. in the Schengen Information System or in national systems. - regarding the position of specific groups, the expulsion of second-generation migrants or long-term residents - the position of those third country national family members of Union citizens, who are beneficiaries of Community law. - the position of third-country nationals who did not benefit from the protection of Community law at the time when the measure was taken, but have later become beneficiaries, either as Union citizens or as their family members. The Communication offers the following guidelines: - the personal, fundamental right to free movement combined with the principle of proportionality should guide national authorities when they take any decision concerning measures on the grounds of public policy, public security or public health. - any measure on these grounds should be strongly motivated by a genuine and sufficiently serious threat to one of the fundamental interests of society and be in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms. - emphasis is put on the overall evaluation of personal circumstances (family, social and cultural), on a case-by-case basis, avoiding the use of grounds of general prevention; previous criminal convictions are only part of this evaluation and do not, alone, justify any measures taken on grounds of public policy, or public security. - special attention should be attached to securing the rights, including the protection of family life, of non-national long-term residents and minors who are Union citizens and the most vulnerable group of beneficiaries - third-country national family members of Union citizens, irrespective of their country of origin.