Basic information

1999/2157(COS) COS - Procedure on a strategy paper (historic) Free movement of persons: right of residence (direct. 90/364/EEC, 90/365/EEC, 93/96/EC, 64/221/EEC) **Subject** 2.20.01 Freedom of movement, right of residence, identity checks	Procedure completed

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	BOUMEDIENE-THIERY Alima (V/ALE)	29/07/1999

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	WALLIS Diana (ELDR)	13/10/1999
EMPL Employment and Social Affairs	SCHMID Herman (GUE/NGL)	22/11/1999
CULT Culture, Youth, Education, Media and Sport	MARTENS Maria (PPE-DE)	19/10/1999
PETI Petitions	MAYER Hans-Peter (PPE-DE)	25/11/1999

Council of the European Union

Key events

Date	Event	Reference	Summary
17/03/1999	Non-legislative basic document published	COM(1999)0127	Summary
07/10/1999	Committee referral announced in Parliament		
13/07/2000	Vote in committee		Summary
13/07/2000	Committee report tabled for plenary	A5-0207/2000	
06/09/2000	Decision by Parliament	T5-0367/2000	Summary

06/09/2000	Debate in Parliament		
06/09/2000	End of procedure in Parliament		
07/05/2001	Final act published in Official Journal		

Technical information	
Procedure reference	1999/2157(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/4/10845

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0207/2000 OJ C 135 07.05.2001, p. 0012	13/07/2000	
Text adopted by Parliament, single reading		T5-0367/2000 OJ C 135 07.05.2001, p. 0083-0189	06/09/2000	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(1999)0127	17/03/1999	Summary
Supplementary non-legislative basic document	COM(1999)0372	19/07/1999	Summary
Follow-up document	COM(2003)0101	05/03/2003	Summary

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

1999/2157(COS) - 17/03/1999 - Non-legislative basic document

PURPOSE : to provide an assessment of the implementation of the three Directives on the right of residence of students, retired persons and other persons not engaged in an economic activity. CONTENT : this report has been produced by the Commission in fulfilment of its obligation to report to the European Parliament and the Council on the application of the three Directives (90/364, 90/365, and 93/96) aimed at extending the the right of residence to all Community nationals, even if they have sickness insurance and sufficient resources to avoid becoming a burden on the social assistance system of the host Member State. It should be noted that the three Directives also apply in the European Economic Area and that the EFTA Surveillance Authority is in the process of drawing up a report on the application of the Directives in Norway, Iceland and Liechtenstein. The

Commission report on the implementation of the above mentioned Directives contains four sections : 1) a brief summary of the content of the Directives; 2) an examination of their transposition into national law from the point of view of both the deadlines involved and the content of the national measures adopted; 3) an analysis of the practical application of the Directives based on information provided by the players involved: the citizens of the Union and the authorities responsible for residence matters; 4) an assessment of the application of the Directives on the right of residence, with an outline of areas for future discussion and action to ensure that the right of residence works better in the future. This report aims to provide an assessment of the implementation of the aforementioned Directives. The first part of the assessment focuses on the transposition of the Directives: - with regard to the content of the transposition measures, the Commission was obliged to commence infringement proceedings against fourteen Member States for incorrect transposition, an abnormally high dispute rate in view of the measures concerned. Most of the proceedings were terminated, some more quickly than others, after the Member States amended their legislation. However, the Commission was obliged to refer to the proceedings against two Member States to the Court of Justice in 1998. The second part of the assessment of the implementation of the Directive deals with the experiences of the players involved, i.e. the citizens and administrations in the Member States: - the complaints received by the Commission and petitions to the European Parliament provide valuable information about the difficulties encountered by citizens arising from the application of the Directives. These difficulties include uncertainty with regard to the procedures to be followed, the length and complexity of the steps required to obtain a residence permit, and difficulty in meeting the conditions with regard to sickness insurance and resources. Furthermore, the Commission has drawn up preliminary conclusions in the following four areas from its assessment ofthe implementation of the Directives: - step up the effort to inform citizens; - continue to ensure strict compliance with existing Community law; - make Community legislation on freedom of movement of persons clearer and restructure it around the notion of Union citizenship; - begin discussions on substantive changes to existing legislation.

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

1999/2157(COS) - 06/09/2000 - Text adopted by Parliament, single reading

In approving the report drafted by Mrs Alima BOUMEDIENE-THIERY (Greens/EFA, F), the European Parliament adopted the resolution on the report from the Commission on the implementation of Directives 90/364/EEC, 90/365/EEC and 93/96/EEC (right of residence) and on the communication from the Commission on the special measures concerning the movement and residence of citizens of the Union which are justified on grounds of public policy, public security or public health. In relation to the movement and residence of students, the Parliament calls on the Member States to: - ensure, with regard to their national right of residence of students, that their national administrations strictly apply the current provisions of Directive 93/96 (enrolement at institution, statement of adequate means, health insurance) to the exclusion of all other conditions; - limit in so far as possible the formalities relating to the renewal of residence permits; - ensure that all students are able to apply for a work permit in the country in which they are studying in order to finance their studies; - not to make financial assistace to students subject to nationality conditions. With regard to the movement and residence of retired people, the European Parliament calls on the Commission to simplify the procedures for providing evidence of adequate means and to take account of impact on the validity of residence permits of the increasingly common practice of living alternately in the host country of origin in the course of a single year. As far as the movement and residence of migrant workers are concerned, the Member States are called upon to facilitate to the maximum the granting and renewal of residence permits for migrant workers, particularly temporary, part-time or seasonal workers, by granting them a five-year residence permit if they have held jobs for more than 12 months during a period of a residence in the host country exceeding 18 months. Moreover, the Parliament calls on host Member States to allow unemployed workers to extend their right of residence for the period during which they are entitled to draw unemployment benefit in the country concerned and to renew their residence permit automatically for periods of at least six months while they are genuinely seeking employment. Furthermore, family reunification must be simplified and facilitated.

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

1999/2157(COS) - 05/03/2003 - Follow-up document

PURPOSE : to present he second Commission report in the implementation of Directives 90/364, 90/365 and 93/96 (right of residence). CONTENT : this is the second report on the implementation of the three Directives on the right of residence of Union citizens and their family members, of whatever nationality, who are not economically active in the host Member State, covering the period 1999-2002. First of all, a series of judgements given by the Court of Justice have established or confirmed a number of very important principles for implementation of the three Directives, in particular: - students do not have to prove that they have sufficient resources of a given amount; a mere statement to that effect is enough; - Member States may not restrict the permissible forms of evidence of sufficient resources or sickness insurance, nor require certain documents to be delivered or countersigned by the authority of another Member State; - beneficiaries of the three Directives are covered by the principle of non-discrimination and are entitled to non-contributory social assistance benefits such as minimum subsistence, except if expressly provided otherwise; - where beneficiaries of the three Directives apply for social assistance in the host Member State, that State may not automatically terminate their right of residence but must show solidarity when they face temporary difficulties; - irregular entry or failure to hold the valid visa required by Community law do not provide the Member States with grounds for refusing to issue a residence card to third-country nationals who are members of the family of a Union citizen within the meaning of Community law; - Article 18 of the EC Treaty, which sanctions the freedom of movement and residence of Union citizens, has direct effect, but the limitations and conditions remain applicable; - the provisions concerning free movement of persons must be interpreted in the light of the requirement of respect for family life provided for by Article 8 of the European Convention on Human Rights (ECHR); consequently, a parent, irrespective of nationality, who has custody of children enjoying the right of residence in the host country under Article 12 of Regulation 1612/68 also has the right of residence on this basis, even if the parents have meanwhile divorced or the parent who has Union citizen status is no longer a migrant worker in the host Member State. The report states that 12 years after the adoption of the three Directives on the right of residence of those who are not economically active and a few years after their transposal into national law, their application is basically satisfactory, as the declining number of complaints received by the Commission shows. But there are still individual cases of incorrect application. They are due mainly to misinterpretation and to administrative practices based on such misinterpretations by national administrative authorities, in particular the immigration police, who are often

short of personnel with training in Community law to implement the relevant provisions with the flexibility that the spirit of the Directives requires. The Commission is available to provide both national authorities and Union citizens with the assistance and information they need. Any Union citizen can, by simple letter, ask the Commission to intervene if he has problems connected with application of the Directives. Intervention by the Commission has the advantage of being free for the citizen and effective because of the importance attached to it by the national authorities. But, in the absence of direct contact with the national authorities involved in an individual case and the constraints imposed by infringement proceedings, intervention by the Commission takes time, whereas the situation might need a rapid solution. However, there are systems such as the "SOLVIT" network to help Union citizens find a rapid solution to a specific problem, or the citizens' advice service to provide useful information. Lastly, the Commission proposal of 29 June 2001 for a new Council and Parliament Directive on the right of residence, which will replace the various legal instruments currently in force, if the Council and the European parliament adopt it, demonstrates the Commission's political will to solve the problems resulting from the three Directives: - by extending the right of residence without condition or formality from three to six months; - for stays of more than six months, by replacing the residence card by a registration and proof of sufficient resources and health-care insurance by a simple declaration, as is currently the case for students with regard to sufficient resources; and - by introducing a permanent residence right acquired after four years' residence in the host Member State, which abolishes the conditions for the right of residence and means that beneficiaries are permanently treated in the same way as nationals for social security purposes.

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

1999/2157(COS) - 19/07/1999 - Supplementary non-legislative basic document

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.