

EUROPEAN COMMUNITIES
COMMISSION

**FREEDOM OF MOVEMENT
FOR WORKERS
WITHIN THE COMMUNITY**

Official texts

BRUSSELS 1975

**FREEDOM OF MOVEMENT
FOR WORKERS
WITHIN THE COMMUNITY**

CONTENTS

	Page
Council Decision of 15 October 1968 applying Articles 48 and 49 of the Treaty to the French overseas departments (68/359/EEC) ⁽¹⁾	5
Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community ⁽¹⁾	6
Council Directive No 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families ⁽¹⁾	16
Council Directive No 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health ⁽²⁾	20
Regulation (EEC) No 1251/70 of the Commission of 29 June 1970 on the right of workers to remain in the territory of a Member State after having been employed in that State ⁽³⁾	23
Council Directive No 72/194/EEC of 18 May 1972 extending to workers exercising the right to remain in the territory of a Member State after having been employed in that State the scope of the Directive of 25 February 1964 on 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 ⁽⁴⁾	26

⁽¹⁾ OJ No L 257, 19.10.1968 (OJ Special Edition, 1968(II), p. 474 et seq.).

⁽²⁾ OJ No 56, 4.4.1964 (OJ Special Edition, 1963/1964, p. 117 et seq.).

⁽³⁾ OJ No L 142, 30.6.1970 (OJ Special Edition, 1970(II), p. 402 et seq.).

⁽⁴⁾ OJ No L 121, 26.5.1972 (OJ Special Edition, 1972(II), p. 474).

COUNCIL DECISION

of 15 October 1968

applying Articles 48 and 49 of the Treaty to the French overseas departments

(68/359/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 227 (2) thereof;

Having regard to the proposal from the Commission;

Whereas the second subparagraph of Article 227 (2) provides that the Council shall determine the conditions under which the provisions of the Treaty other than those contained in the first subparagraph of paragraph 2 of that Article, and in particular the provisions of Articles 48 and 49 of the Treaty, are to apply to the French overseas departments;

Whereas freedom of movement for workers is likely to promote the economic and social development of those departments;

Article 1

Articles 48 and 49 of the Treaty establishing the European Economic Community and the measures taken in implementation of those Articles shall apply to the French overseas departments.

Article 2

This Decision shall be published in the *Official Journal of the European Communities*, under 'Legislation I'. It shall enter into force on the twentieth day following its publication.

Done at Luxembourg, 15 October 1968.

For the Council

The President

G. SEDATI

REGULATION (EEC) No 1612/68 OF THE COUNCIL
of 15 October 1968
on freedom of movement for workers within the Community

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;

Having regard to the Opinion of the European Parliament¹;

Having regard to the Opinion of the Economic and Social Committee²;

Whereas freedom of movement for workers should be secured within the Community by the end of the transitional period at the latest; whereas the attainment of this objective entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment, as well as the right of such workers to move freely within the Community in order to pursue activities as employed persons subject to any limitations justified on grounds of public policy, public security or public health;

Whereas by reason in particular of the early establishment of the customs union and in order to ensure the simultaneous completion of the principal foundations of the Community, provisions should be adopted to enable the objectives laid down in Articles 48 and 49 of the Treaty in the field of freedom of movement to be achieved and to perfect measures adopted successively under Regulation No 15³ on the first steps for attainment of freedom of movement and under Council Regulation No 38/54/EEC⁴ of 25 March 1964 on freedom of movement for workers within the Community;

Whereas freedom of movement constitutes a fundamental right of workers and their families; whereas mobility of labour within the Community must be one of the means by which the worker is guaranteed the possibility of improving his living and working conditions and promoting his social advancement, while helping to satisfy the requirements of the economies of the Member States; whereas the right of all workers in the Member States to pursue the activity of their choice within the Community should be affirmed;

Whereas such right must be enjoyed without discrimination by permanent, seasonal and frontier workers and by those who pursue their activities for the purpose of providing services;

Whereas the right of freedom of movement, in order that it may be exercised, by objective standards, in freedom and dignity, requires that equality of treatment shall be ensured in fact and in law in respect of all matters relating to the actual pursuit of activities as employed persons and to eligibility for housing, and also that obstacles to the mobility of workers shall be eliminated, in particular as regards the worker's right to be joined by his family and the conditions for the integration of that family into the host country;

Whereas the principle of non-discrimination between Community workers entails that all nationals of Member States have the same priority as regards employment as is enjoyed by national workers;

Whereas it is necessary to strengthen the machinery for vacancy clearance, in particular by developing direct co-operation between the central employment services and also between the regional services, as well as by increasing and co-ordinating the exchange of information in order to ensure in a general way a clearer picture of the labour market; whereas workers wishing to move should also be regularly informed of living and working conditions; whereas, furthermore, measures should be provided for the case where a Member State undergoes or foresees disturbances on its labour market which may seriously threaten the standard of living and level of employment in a region or an industry; whereas for

¹ OJ No 268, 6.11.1967, p. 9.

² OJ No 298, 7.12.1967, p. 10.

³ OJ No 57, 26.8.1961, p. 1073/61.

⁴ OJ No 62, 17.4.1964, p. 965/64.

this purpose the exchange of information, aimed at discouraging workers from moving to such a region or industry, constitutes the method to be applied in the first place but, where necessary, it should be possible to strengthen the results of such exchange of information by temporarily suspending the above-mentioned machinery, any such decision to be taken at Community level;

Whereas close links exist between freedom of movement for workers, employment and vocational training, particularly where the latter aims at putting workers in a position to take up offers of employment from other regions of the Community; whereas such links make it necessary that the problems arising in this connection should no longer be studied in isolation but viewed as inter-dependent, account also being taken of the problems of employment at the regional level; and whereas it is therefore necessary to direct the efforts of Member States toward coordinating their employment policies at Community level;

Whereas the Council, by its Decision of 15 October 1968¹ made Articles 48 and 49 of the Treaty and also the measures taken in implementation thereof applicable to the French overseas departments;

HAS ADOPTED THIS REGULATION:

PART I

EMPLOYMENT AND WORKERS' FAMILIES

TITLE I

Eligibility for employment

Article 1

1. Any national of a Member State, shall, irrespective of his place of residence, have the right to take up an activity as an employed person, and to pursue such activity, within the territory of another Member State in accordance with the provisions laid down by law, regulation or administrative action governing the employment of nationals of that State.

2. He shall, in particular, have the right to take up available employment in the territory of another Member State with the same priority as nationals of that State.

Article 2

Any national of a Member State and any employer pursuing an activity in the territory of a Member

State may exchange their applications for and offers of employment, and may conclude and perform contracts of employment in accordance with the provisions in force laid down by law, regulation or administrative action, without any discrimination resulting therefrom.

Article 3

1. Under this Regulation, provisions laid down by law, regulation or administrative action or administrative practices of a Member State shall not apply:

- where they limit application for and offers of employment, or the right of foreign nationals to take up and pursue employment or subject these to conditions not applicable in respect of their own nationals; or
- where, though applicable irrespective of nationality, their exclusive or principal aim or effect is to keep nationals of other Member States away from the employment offered.

This provision shall not apply to conditions relating to linguistic knowledge required by reason of the nature of the post to be filled.

2. There shall be included in particular among the provisions or practices of a Member State referred to in the first subparagraph of paragraph 1 those which:

- (a) prescribe a special recruitment procedure for foreign nationals;
- (b) limit or restrict the advertising of vacancies in the press or through any other medium or subject it to conditions other than those applicable in respect of employers pursuing their activities in the territory of that Member State;
- (c) subject eligibility for employment to conditions of registration with employment offices or impede recruitment of individual workers, where persons who do not reside in the territory of that State are concerned.

Article 4

1. Provisions laid down by law, regulation or administrative action of the Member States which restrict by number or percentage the employment of foreign nationals in any undertaking, branch of activity or region, or at a national level, shall not apply to nationals of the other Member States.

2. When in a Member State the granting of any benefit to undertakings is subject to a minimum percentage of national workers being employed, nationals of the other Member States shall be counted as national workers, subject to the provisions of the Council Directive of 15 October 1963.²

¹ OJ No L 257, 19.10.1968, p. 1.

² OJ No 159, 2.11.1963, p. 2661/63.

Article 5

A national of a Member State who seeks employment in the territory of another Member State shall receive the same assistance there as that afforded by the employment offices in that State to their own nationals seeking employment.

Article 6

1. The engagement and recruitment of a national of one Member State for a post in another Member State shall not depend on medical, vocational or other criteria which are discriminatory on grounds of nationality by comparison with those applied to nationals of the other Member State who wish to pursue the same activity.

2. Nevertheless, a national who holds an offer in his name from an employer in a Member State other than that of which he is a national may have to undergo a vocational test, if the employer expressly requests this when making his offer of employment.

TITLE II

Employment and equality of treatment

Article 7

1. A worker who is a national of a Member State may not, in the territory of another Member State, be treated differently from national workers by reason of his nationality in respect of any conditions of employment and work, in particular as regards remuneration, dismissal, and should he become unemployed, reinstatement or re-employment;

2. He shall enjoy the same social and tax advantages as national workers.

3. He shall also, by virtue of the same right and under the same conditions as national workers, have access to training in vocational schools and retraining centres.

4. Any clause of a collective or individual agreement or of any other collective regulation concerning eligibility for employment, employment, remuneration and other conditions of work or dismissal shall be null and void in so far as it lays down or authorises discriminatory conditions in respect of workers who are nationals of the other Member States.

Article 8

1. A worker who is a national of a Member State and who is employed in the territory of another Member State shall enjoy equality of treatment as regards membership of trade unions and the exercise

of rights attaching thereto, including the right to vote; he may be excluded from taking part in the management of bodies governed by public law and from holding an office governed by public law. Furthermore, he shall have the right of eligibility for workers' representative bodies in the undertaking. The provisions of this Article shall not affect laws or regulations in certain Member States which grant more extensive rights to workers coming from the other Member States.

2. This Article shall be reviewed by the Council on the basis of a proposal from the Commission which shall be submitted within not more than two years.

Article 9

1. A worker who is a national of a Member State and who is employed in the territory of another Member State shall enjoy all the rights and benefits accorded to national workers in matters of housing, including ownership of the housing he needs.

2. Such worker may, with the same right as nationals, put his name down on the housing lists in the region in which he is employed, where such lists exist; he shall enjoy the resultant benefits and priorities.

If his family has remained in the country whence he came, they shall be considered for this purpose as residing in the said region, where national workers benefit from a similar presumption.

TITLE III

Workers' families

Article 10

1. The following shall, irrespective of their nationality, have the right to install themselves with a worker who is a national of one Member State and who is employed in the territory of another Member State:

- (a) his spouse and their descendants who are under the age of 21 years or are dependants;
- (b) dependent relatives in the ascending line of the worker and his spouse.

2. Member States shall facilitate the admission of any member of the family not coming within the provisions of paragraph 1 if dependent on the worker referred to above or living under his roof in the country whence he comes.

3. For the purposes of paragraphs 1 and 2, the worker must have available for his family housing considered as normal for national workers in the region where he is employed; this provision, however

must not give rise to discrimination between national workers and workers from the other Member States.

Article 11

Where a national of a Member State is pursuing an activity as an employed or self-employed person in the territory of another Member State, his spouse and those of the children who are under the age of 21 years or dependent on him shall have the right to take up any activity as an employed person throughout the territory of that same State, even if they are not nationals of any Member State.

Article 12

The children of a national of a Member State who is or has been employed in the territory of another Member State shall be admitted to that State's general educational, apprenticeship and vocational training courses under the same conditions as the nationals of that State, if such children are residing in its territory.

Member States shall encourage all efforts to enable such children to attend these courses under the best possible conditions.

PART II

CLEARANCE OF VACANCIES AND APPLICATIONS FOR EMPLOYMENT

TITLE I

Co-operation between the Member States and with the Commission

Article 13

1. The Member States or the Commission shall instigate or together undertake any study of employment or unemployment which they consider necessary for securing freedom of movement for workers within the Community.

The central employment services of the Member States shall co-operate closely with each other and with the Commission with a view to acting jointly as regards the clearing of vacancies and applications for employment within the Community and the resultant placing of workers in employment.

2. To this end the Member States shall designate specialist services which shall be entrusted with organising work in the fields referred to above and co-operating with each other and with the departments of the Commission.

The Member States shall notify the Commission of any change in the designation of such services; the

Commission shall publish details thereof for information in the *Official Journal of the European Communities*.

Article 14

1. The Member States shall send to the Commission information on problems arising in connection with the freedom of movement and employment of workers and particulars of the state and development of employment by region and by branch of activity.

2. In co-operation with the Technical Committee, the Commission shall determine the manner in which the information referred to in paragraph 1 shall be drawn up and the intervals at which it shall be communicated. To assess the state of their labour markets, the Member States shall use uniform criteria established by the Commission in accordance with the results of the work of the Technical Committee carried out in pursuance of Article 33 (d), after having obtained the Opinion of the Advisory Committee.

3. In accordance with the procedure laid down by the Commission in agreement with the Technical Committee, the specialist service of each Member State shall send to the specialist services of the other Member States and to the European Co-ordination Office such information concerning living and working conditions and the state of the labour market as is likely to be of guidance to workers from the other Member States. Such information shall be brought up to date regularly.

The specialist services of the other Member States shall ensure that wide publicity is given to such information, in particular by circulating it among the appropriate employment services and by all suitable means of communication for informing the workers concerned.

TITLE II

Machinery for vacancy clearance

Article 15

1. At least once a month the specialist service of each Member State shall send to the specialist services of the other Member States and to the European Co-ordination Office a return showing by occupation and by region:

- (a) vacancies unfilled or unlikely to be filled by manpower from the national labour market;
- (b) applicants for employment who have declared themselves actually ready and able to accept employment in another country.

The specialist service of each Member State shall forward such information to the appropriate employment services and agencies.

2. The returns referred to in paragraph 1 shall be circulated according to a uniform system to be established by the European Co-ordination Office in collaboration with the Technical Committee, within eighteen months following the entry into force of this Regulation.

Article 16

1. Any vacancy communicated to the employment services of a Member State which cannot be filled from the national labour market and which, on the basis of the returns referred to in Article 15, can be cleared within the Community, shall be notified to the competent employment services of the Member State which has indicated that it has manpower available in the same occupation.

2. Such services shall forward to the services of the first Member State the details of suitable applications. For a period of 18 days from receipt of the communication of the vacancy to the services of the second Member State, such applications shall be submitted to employers with the same priority as that granted to national workers over nationals of non-Member States. During the above-mentioned period, vacancies shall be notified to non-Member States only if the Member State having such vacancies considers that for the occupations corresponding to such vacancies there are insufficient workers available who are nationals of the Member States.

3. The provisions of paragraph 1 shall not apply to vacancies offered to workers who are nationals of non-Member States where:

- (a) such an offer is made to a named worker and is of a special nature in view of:
 - (i) the requirement of specialist qualifications or the confidential nature of the post offered or previous occupational ties;
 - (ii) the existence of family ties either between the employer and the worker asked for, or between the latter and a worker who has been employed regularly for at least a year in the undertaking.

Items (i) and (ii) shall be applied in accordance with the provisions set out in the Annex;

- (b) such vacancies are for the recruitment of homogeneous groups of seasonal workers of whom at least one named member has been offered a vacancy;
- (c) such vacancies are offered by employers to workers resident in regions adjacent to either side of the frontier between a Member State and a non-Member State;

- (d) vacancies are offered expressly to workers from non-Member States by the employer for reasons connected with the smooth running of the undertaking, where the employment services, having intervened for the purposes of securing the employment of national workers or workers from the other Member States of the Community, are of the opinion that such reasons are justified.

Article 17

1. The provisions of Article 16 shall be implemented by the specialist services. However, in so far as they have been authorised by the central services and in so far as the organisation of the employment services of a Member State and the placing techniques employed make it possible:

- (a) the regional employment services of the Member States shall:
 - (i) on the basis of the returns referred to in Article 15, on which appropriate action will be taken, directly bring together and clear vacancies and applications for employment;
 - (ii) establish direct relations for clearance:
 - of vacancies offered to a named worker;
 - of individual applications for employment sent either to a specific employment service or to an employer pursuing his activity within the area covered by such a service;
 - where the clearing operations concern seasonal workers who must be recruited as quickly as possible;
- (b) the services territorially responsible for the border regions of two or more Member States shall regularly exchange data relating to vacancies and applications for employment outstanding in their area and, acting in accordance with their arrangements with the other employment services of their countries, shall directly bring together and clear vacancies and applications for employment;
- (c) official employment services which specialise in certain occupations or specific categories of persons shall cooperate directly with each other.

2. The Member States concerned shall forward to the Commission the list, drawn up by common accord, of services referred to in paragraph 1; the Commission shall publish such list, and any amendment thereto, in the *Official Journal of the European Communities*.

Article 18

Adoption of recruiting procedures as applied by the implementing bodies provided for under agreements concluded between two or more Member States shall not be obligatory.

TITLE III

Measures for controlling the balance of the labour market

Article 19

1. Twice a year, on the basis of a report from the Commission drawn up from information supplied by the Member States, the latter and the Commission shall together analyse:

- the results of Community arrangements for vacancy clearance;
- the number of placings of nationals of non-Member States;
- the foreseeable developments in the state of the labour market and, as far as possible, the movements of manpower within the Community.

2. The Member States shall examine with the Commission all the possibilities of giving priority to nationals of Member States when filling employment vacancies in order to achieve a balance between vacancies and applications for employment within the Community. They shall adopt all measures necessary for this purpose.

Article 20

1. When a Member State undergoes or foresees disturbances on its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation, that State shall inform the Commission and the other Member States thereof and shall supply them with all relevant particulars.

2. The Member States and the Commission shall take all suitable measures to inform Community workers so that they shall not apply for employment in that region or occupation.

3. Without prejudice to the application of the Treaty and of the Protocols annexed thereto, the Member State referred to in paragraph 1 may request the Commission to state that, in order to restore to normal the situation in that region or occupation, the operation of the clearance machinery provided for in Articles 15, 16 and 17 should be partially or totally suspended.

The Commission shall decide on the suspension as such and on the duration thereof not later than two weeks after receiving such request. Any Member State may, within a strict time limit of two weeks, request the Council to annul or amend any such decision. The Council shall act on any such request within two weeks.

4. Where such suspension does take place, the employment services of the other Member States

which have indicated that they have workers available shall not take any action to fill vacancies notified directly to them by employers in the Member States referred to in paragraph 1.

TITLE IV

European Co-ordination Office

Article 21

The European Office for Co-ordinating the Clearance of Vacancies and Applications for Employment, established within the Commission (called in this Regulation the 'European Co-ordination Office'), shall have the general task of promoting vacancy clearance at Community level. It shall be responsible in particular for all the technical duties in this field which, under the provisions of this Regulation, are assigned to the Commission, and especially for assisting the national employment services.

It shall summarise the information referred to in Articles 14 and 15 and the data arising out of the studies and research carried out pursuant to Article 13, so as to bring to light any useful facts about foreseeable developments on the Community labour market; such facts shall be communicated to the specialist services of the Member States and to the Advisory and Technical Committees.

Article 22

1. The European Co-ordination Office shall be responsible, in particular, for:

- (a) co-ordinating the practical measures necessary for vacancy clearance at Community level and for analysing the resulting movements of workers;
- (b) contributing to such objectives by implementing, in co-operation with the Technical Committee, joint methods of action at administrative and technical levels;
- (c) carrying out, where a special need arises, and in agreement with the specialist services, the bringing together of vacancies and applications for employment for clearance by these specialist services.

2. It shall communicate to the specialist services vacancies and applications for employment sent directly to the Commission, and shall be informed of the action taken thereon.

Article 23

The Commission may, in agreement with the competent authority of each Member State, and in accordance with the conditions and procedures which it shall determine on the basis of the Opinion of the Technical Committee, organise visits and assignments for officials of other Member States, and also advanced programmes for specialist personnel.

PART III

COMMITTEES FOR ENSURING CLOSE CO-OPERATION BETWEEN THE MEMBER STATES IN MATTERS CONCERNING THE FREEDOM OF MOVEMENT OF WORKERS AND THEIR EMPLOYMENT

TITLE I

The Advisory Committee

Article 24

The Advisory Committee shall be responsible for assisting the Commission in the examination of any questions arising from the application of the Treaty and measures taken in pursuance thereof, in matters concerning the freedom of movement of workers and their employment.

Article 25

The Advisory Committee shall be responsible in particular for:

- (a) examining problems concerning freedom of movement and employment within the framework of national manpower policies, with a view to co-ordinating the employment policies of the Member States at Community level, thus contributing to the development of the economies and to an improved balance of the labour market;
- (b) making a general study of the effects of implementing this Regulation and any supplementary measures;
- (c) submitting to the Commission any reasoned proposals for revising this Regulation;
- (d) delivering, either at the request of the Commission or on its own initiative, reasoned opinions on general questions or on questions of principle, in particular on exchange of information concerning developments in the labour market, on the movement of workers between Member States, on programmes or measures to develop vocational guidance and vocational training which are likely to increase the possibilities of freedom of movement and employment, and on all forms of assistance to workers and their families, including social assistance and the housing of workers.

Article 26

1. The Advisory Committee shall be composed of six members for each Member State, two of whom shall represent the government, two the trade unions and two the employers' associations.
2. For each of the categories referred to in paragraph 1, one alternate member shall be appointed by each Member State.

3. The term of office of the members and their alternates shall be two years. Their appointments shall be renewable.

On expiry of their term of office, the members and their alternates shall remain in office until replaced or until their appointments are renewed.

Article 27

The members of the Advisory Committee and their alternates shall be appointed by the Council which shall endeavour, when selecting representatives of trade unions and employers' associations, to achieve adequate representation on the Committee of the various economic sectors concerned.

The list of members and their alternates shall be published by the Council for information in the *Official Journal of the European Communities*.

Article 28

The Advisory Committee shall be chaired by a member of the Commission or his alternate. The Chairman shall not vote. The Committee shall meet at least twice a year. It shall be convened by its Chairman, either on his own initiative, or at the request of at least one third of the members. Secretarial services shall be provided for the Committee by the Commission.

Article 29

The chairman may invite individuals or representatives of bodies with wide experience in the field of employment or movement of workers to take part in meetings as observers or as experts. The Chairman may be assisted by expert advisers.

Article 30

1. An opinion delivered by the Committee shall not be valid unless two-thirds of the members are present.
2. Opinions shall state the reasons on which they are based; they shall be delivered by an absolute majority of the votes validly cast; they shall be accompanied by a written statement of the views expressed by the minority, when the latter so requests.

Article 31

The Advisory Committee shall establish its working methods by rules of procedure which shall enter into force after the Council, having received an opinion from the Commission, has given its approval. The entry into force of any amendment that the Committee decides to make thereto shall be subject to the same procedure.

TITLE II

The Technical Committee

Article 32

The Technical Committee shall be responsible for assisting the Commission to prepare, promote and follow up all technical work and measures for giving effect to this Regulation and any supplementary measures.

Article 33

The Technical Committee shall be responsible in particular for:

- (a) promoting and advancing co-operation between the public authorities concerned in the Member States on all technical questions relating to freedom of movement of workers and their employment;
- (b) formulating procedures for the organisation of the joint activities of the public authorities concerned;
- (c) facilitating the gathering of information likely to be of use to the Commission and for the studies and research provided for in this Regulation, and encouraging exchange of information and experience between the administrative bodies concerned;
- (d) investigating at a technical level the harmonisation of the criteria by which Member States assess the state of their labour markets.

Article 34

1. The Technical Committee shall be composed of representatives of the Governments of the Member States. Each Government shall appoint as member of the Technical Committee one of the members who represent it on the Advisory Committee.
2. Each government shall appoint an alternate from among its other representatives—members or alternates—on the Advisory Committee.

Article 35

The Technical Committee shall be chaired by a member of the Commission or his representative. The Chairman shall not vote. The Chairman and the members of the Committee may be assisted by expert advisers.

Secretarial services shall be provided for the Committee by the Commission.

Article 36

The proposals and opinions formulated by the Technical Committee shall be submitted to the

Commission, and the Advisory Committee shall be informed thereof. Any such proposals and opinions shall be accompanied by a written statement of the views expressed by the various members of the Technical Committee, when the latter so request.

Article 37

The Technical Committee shall establish its working methods by rules of procedure which shall enter into force after the Council, having received an opinion from the Commission, has given its approval. The entry into force of any amendment which the Committee decides to make thereto shall be subject to the same procedure.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

TITLE I

Transitional provisions

Article 38

Until the adoption by the Commission of the uniform system referred to in Article 15 (2), the European Co-ordination Office shall propose any measures likely to be of use in drawing up and circulating the returns referred to in Article 15 (1).

Article 39

The rules of procedure of the Advisory Committee and the Technical Committee in force at the time of entry into force of this Regulation shall continue to apply.

Article 40

Until the entry into force of the measures to be taken by Member States in pursuance of the Council Directive of 15 October 1968¹ and where, under the measures taken by the Member States in pursuance of the Council Directive of 25 March 1964² the work permit provided for in Article 22 of Regulation No 38/64/EEC is necessary to determine the period of validity and extension of the residence permit, written confirmation of engagement from the employer or a certificate of employment stating the period of employment may be substituted for such work permit. Any written confirmation by the employer or certificate of employment showing that the worker has been engaged for an indefinite period shall have the same effect as that of a permanent work permit.

¹ OJ No L 257, 19.10.1968, p. 13.

² OJ No 62, 17.4.1964, p. 981/64.

Article 41

If, by reason of the abolition of the work permit, a Member State can no longer compile certain statistics on the employment of foreign nationals, such Member State may, for statistical purposes, retain the work permit in respect of nationals of the other Member States until new statistical methods are introduced, but no later than 31 December 1969. The work permit must be issued automatically and must be valid until the actual abolition of work permits in such Member State.

TITLE II

Final provisions

Article 42

1. This Regulation shall not affect the provisions of the Treaty establishing the European Coal and Steel Community which relate to workers with recognised qualifications in coalmining or steelmaking, nor those of the Treaty establishing the European Atomic Energy Community which deal with eligibility for skilled employment in the field of nuclear energy, nor any measures taken in pursuance of those Treaties.

Nevertheless, this Regulation shall apply to categories of workers referred to in the first subparagraph and to members of their families in so far as their legal position is not governed by the above-mentioned Treaties or measures.

2. This Regulation shall not affect measures taken in accordance with Article 51 of the Treaty.

3. This Regulation shall not affect the obligations of Member States arising out of:

- special relations or future agreements with certain non-European countries or territories, based on institutional ties existing at the time of the entry into force of this Regulation; or
- agreements in existence at the time of the entry into force of this Regulation with certain non-European countries or territories, based on institutional ties between them.

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

Done at Luxembourg, 15 October 1968.

Workers from such countries or territories who, in accordance with this provision, are pursuing activities as employed persons in the territory of one of those Member States may not invoke the benefit of the provisions of this Regulation in the territory of the other Member States.

Article 43

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.

Article 44

The Commission shall adopt measures pursuant to this Regulation for its implementation. To this end it shall act in close co-operation with the central public authorities of the Member States.

Article 45

The Commission shall submit to the Council proposals aimed at abolishing, in accordance with the conditions of the Treaty, restrictions on eligibility for employment of workers who are nationals of Member States, where the absence of mutual recognition of diplomas, certificates or other evidence of formal qualifications may prevent freedom of movement for workers.

Article 46

The administrative expenditure of the Committees referred to in Part III shall be included in the budget of the European Communities in the section relating to the Commission.

Article 47

This Regulation shall apply to the territories of the Member States and to their nationals, without prejudice to Articles 2, 3, 10 and 11.

Article 48

Regulation No 38/64/EEC shall cease to have effect when this Regulation enters into force.

For the Council

The President

G. SEDATI

ANNEX

For the purposes of Article 16 (3) (a):

- (1) The expression 'specialist' indicates a high or uncommon qualification referring to a type of work or a trade requiring specific technical knowledge; it shall refer in particular to foremen in the case of seasonal workers recruited in groups.
 - (2) The expression 'confidential nature of the post' refers to employment which in the host country customarily involves special relations of trust between the employer and the worker.
 - (3) The expression 'previous occupational ties' applies when an employer applies for the engagement in the territory of a Member State of a worker whom he has already employed in that same territory for at least twelve months during the last four years.
 - (4) The expression 'family ties' means ties of marriage or relationship to the second degree between an employer and a worker, and ties of relationship to the first degree between two workers.
-

COUNCIL DIRECTIVE

of 15 October 1968

on the abolition of restrictions on movement and residence within the Community for
workers of Member States and their families

(68/360/EEC)

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;

Having regard to the Opinion of the European Parliament¹;

Having regard to the Opinion of the Economic and Social Committee²;

Whereas Council Regulation (EEC) No 1612/68³ fixed the provisions governing freedom of movement for workers within the Community; whereas, consequently, measures should be adopted for the abolition of restrictions which still exist concerning movement and residence within the Community, which conform to the rights and privileges accorded by the said Regulation to nationals of any Member State who move in order to pursue activities as employed persons and to members of their families;

Whereas the rules applicable to residence should, as far as possible, bring the position of workers from other Member States and members of their families into line with that of nationals;

Whereas the co-ordination of special measures relating to the movement and residence of foreign nationals, justified on grounds of public policy, public security or public health, is the subject of the Council Directive of 25 February 1964,⁴ adopted in application of Article 56 (2) of the Treaty;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall, acting as provided in this Directive, abolish restrictions on the movement and

residence of nationals of the said States and of members of their families to whom Regulation (EEC) No 1612/68 applies.

Article 2

1. Member States shall grant the nationals referred to in Article 1 the right to leave their territory in order to take up activities as employed persons and to pursue such activities in the territory of another Member State. Such right shall be exercised simply on production of a valid identity card or passport. Members of the family shall enjoy the same right as the national on whom they are dependent.

2. Member States shall, acting in accordance with their laws, issue to such nationals, or renew, an identity card or passport, which shall state in particular the holder's nationality.

3. The passport must be valid at least for all Member States and for countries through which the holder must pass when travelling between Member States. Where a passport is the only document on which the holder may lawfully leave the country, its period of validity shall be not less than five years.

4. Member States may not demand from the nationals referred to in Article 1 any exit visa or any equivalent document.

Article 3

1. Member States shall allow the persons referred to in Article 1 to enter their territory simply on production of a valid identity card or passport.

2. No entry visa or equivalent document may be demanded save from members of the family who are not nationals of a Member State. Member States shall accord to such persons every facility for obtaining any necessary visas.

Article 4

1. Member States shall grant the right of residence in their territory to the persons referred to in

¹ OJ No 268, 6.11.1967, p. 10.

² OJ No 298, 7.12.1967, p. 10.

³ OJ No L 257, 19.10.1968, p. 2.

⁴ OJ No 56, 4.4.1964, p. 850/64.

Article 1 who are able to produce the documents listed in paragraph 3.

2. As proof of the right of residence, a document entitled 'Residence Permit for a National of a Member State of the EEC' shall be issued. This document must include a statement that it has been issued pursuant to Regulation (EEC) No 1612/68 and to the measures taken by the Member States for the implementation of the present Directive. The text of such statement is given in the Annex to this Directive.

3. For the issue of a Residence Permit for a National of a Member State of the EEC, Member States may require only the production of the following documents;

— by the worker:

- (a) the document with which he entered their territory;
- (b) a confirmation of engagement from the employer or a certificate of employment;

— by the members of the worker's family:

- (c) the document with which they entered the territory;
- (d) a document issued by the competent authority of the State of origin or the State whence they came, proving their relationship;
- (e) in the cases referred to in Article 10 (1) and (2) of Regulation (EEC) No 1612/68, a document issued by the competent authority of the State of origin or the State whence they came, testifying that they are dependent on the worker or that they live under his roof in such country.

4. A member of the family who is not a national of a Member State shall be issued with a residence document which shall have the same validity as that issued to the worker on whom he is dependent.

Article 5

Completion of the formalities for obtaining a residence permit shall not hinder the immediate beginning of employment under a contract concluded by the applicants.

Article 6

1. The residence permit:

- (a) must be valid throughout the territory of the Member State which issued it;
- (b) must be valid for at least five years from the date of issue and be automatically renewable.

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

3. Where a worker is employed for a period exceeding three months but not exceeding a year in the service of an employer in the host State or in the employ of a person providing services, the host Member State shall issue him a temporary residence permit, the validity of which may be limited to the expected period of the employment.

Subject to the provisions of Article 8 (1) (c), a temporary residence permit shall be issued also to a seasonal worker employed for a period of more than three months. The period of employment must be shown in the documents referred to in paragraph 4 (3) (b).

Article 7

1. A valid residence permit may not be withdrawn from a worker solely on the grounds that he is no longer in employment, either because he is temporarily incapable of work as a result of illness or accident, or because he is involuntarily unemployed, this being duly confirmed by the competent employment office.

2. When the residence permit is renewed for the first time, the period of residence may be restricted, but not to less than twelve months, where the worker has been involuntarily unemployed in the Member State for more than twelve consecutive months.

Article 8

1. Member States shall, without issuing a residence permit, recognise the right of residence in their territory of:

(a) a worker pursuing an activity as an employed person, where the activity is not expected to last for more than three months. The document with which the person concerned entered the territory and a statement by the employer on the expected duration of the employment shall be sufficient to cover his stay; a statement by the employer shall not, however, be required in the case of workers coming within the provisions of the Council Directive of 25 February 1964¹ on the attainment of freedom of establishment and freedom to provide services in respect of the activities of intermediaries in commerce, industry and small craft industries.

(b) a worker who, while having his residence in the territory of a Member State to which he returns as a rule, each day or at least once a week, is employed in the territory of another Member State. The competent authority of the State where he is employed may issue such worker with a special permit valid for five years and automatically renewable;

(c) a seasonal worker who holds a contract of employment stamped by the competent authority of the Member State on whose territory he has come to pursue his activity.

2. In all cases referred to in paragraph 1, the competent authorities of the host Member State may require the worker to report his presence in the territory.

Article 9

1. The residence documents granted to nationals of a Member State of the EEC referred to in 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.

2. The visa referred to in Article 3 (2) and the stamp referred to in Article 8 (1) (c) shall be free of charge.

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

¹ OJ No 56, 4.4.1964, p. 869/64.

Article 10

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

Article 11

1. This Directive shall not affect the provisions of the Treaty establishing the European Coal and Steel Community which relate to workers with recognised skills in coal mining and steel making, or the provisions of the Treaty establishing the European Atomic Energy Community which deal with the right to take up skilled employment in the field of nuclear energy, or any measures taken in implementation of those Treaties.

2. Nevertheless, this Directive shall apply to the categories of workers referred to in paragraph 1, and to members of their families, in so far as their legal position is not governed by the above-mentioned Treaties or measures.

Article 12

1. Member States shall, within nine months of notification of this Directive, bring into force the measures necessary to comply with its provisions and shall forthwith inform the Commission thereof.

2. They shall notify the Commission of amendments made to provisions imposed by law, regulation or administrative action for the simplification of the formalities and procedure for issuing such documents as are still necessary for the entry, exit and residence of workers and members of their families.

Article 13

1. The Council Directive of 25 March 1964² on the abolition of restrictions on movement and on residence within the Community of workers and their families shall continue to have effect until this Directive is implemented by the Member States.

² OJ No 62, 17.4.1964, p. 981/64.

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

Article 14

This Directive is addressed to the Member States.

Done at Luxembourg, 15 October 1968.

For the Council

The President

G. SEDATI

ANNEX

Text of the statement referred to in Article 4 (2):

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

In accordance with the provisions of the above-mentioned Regulation, the holder of this permit has the right to take up and pursue an activity as an employed person in¹ territory under the same conditions as¹ workers.²

¹ Belgian, German, French, Italian, Luxembourg, Netherlands, according to the country issuing the permit.

COUNCIL DIRECTIVE

of 25 February 1964

on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health

(64/221/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 56 (2) thereof;

Having regard to Council Regulation No 15 of 16 August 1961¹ on initial measures to bring about free movement of workers within the Community, and in particular Article 47 thereof;

Having regard to Council Directive of 16 August 1961² on administrative procedures and practices governing the entry into and employment and residence in a Member State of workers and their families from other Member States of the Community;

Having regard to the General Programmes³ for the abolition of restrictions on freedom of establishment and on freedom to provide services, and in particular Title II of each such programme;

Having regard to the Council Directive of 25 February 1964⁴ on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament⁵;

Having regard to the Opinion of the Economic and Social Committee⁶;

Whereas co-ordination of provisions laid down by law, regulation or administrative action which provide for special treatment for foreign nationals on grounds of public policy, public security or public health should in the first place deal with the conditions for entry and residence of nationals of Member States moving within the Community either in order to pursue activities as employed or self-employed persons, or as recipients of services;

Whereas such co-ordination presupposes in particular an approximation of the procedures followed in each Member State when invoking grounds of public policy, public security or public health in matters connected with the movement or residence of foreign nationals;

Whereas, in each Member State, nationals of other Member States should have adequate legal remedies available to them in respect of the decisions of the administration in such matters;

Whereas it would be of little practical use to compile a list of diseases and disabilities which might endanger public health, public policy or public security and it would be difficult to make such a list exhaustive; whereas it is sufficient to classify such diseases and disabilities in groups;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The provisions of this Directive shall apply to any national of a Member State who resides in or travels to another Member State of the Community, either in order to pursue an activity as an employed or self-employed person, or as a recipient of services.

2. These provisions shall apply also to the spouse and to members of the family who come within the

¹ OJ No 57, 26.8.1961, p. 1073/61.

² OJ No 80, 13.12.1961, p. 1513/61.

³ OJ No 2, 15.1.1962, pp. 32/62 and 36/62.

⁴ OJ No 56, 4.4.1964, p. 850/64.

⁵ OJ No 134, 14.12.1962, p. 2861/62.

⁶ OJ No 56, 4.4.1964, p. 856/64.

provisions of the regulations and directives adopted in this field in pursuance of the Treaty.

Article 2

1. This Directive relates to all measures concerning entry into their territory, issue or renewal of residence permits, or expulsion from their territory, taken by Member States on grounds of public policy, public security or public health.
2. Such grounds shall not be invoked to service economic ends.

Article 3

1. Measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned.
2. Previous criminal convictions shall not in themselves constitute grounds for the taking of such measures.
3. Expiry of the identity card or passport used by the person concerned to enter the host country and to obtain a residence permit shall not justify expulsion from the territory.
4. The State which issued the identity card or passport shall allow the holder of such document to re-enter its territory without any formality even if the document is no longer valid or the nationality of the holder is in dispute.

Article 4

1. The only diseases or disabilities justifying refusal of entry into a territory or refusal to issue a first residence permit shall be those listed in the Annex to this Directive.
2. Diseases or disabilities occurring after a first residence permit has been issued shall not justify refusal to renew the residence permit or expulsion from the territory.
3. Member States shall not introduce new provisions or practices which are more restrictive than those in force at the date of notification of this Directive.

Article 5

1. A decision to grant or to refuse a first residence permit shall be taken as soon as possible and in any

event not later than six months from the date of application for the permit.

The person concerned shall be allowed to remain temporarily in the territory pending a decision either to grant or to refuse a residence permit.

2. The host country may, in cases where this is considered essential, request the Member State of origin of the applicant, and if need be other Member States, to provide information concerning any previous police record. Such enquiries shall not be made as a matter of routine. The Member State consulted shall give its reply within two months.

Article 6

The person concerned shall be informed of the grounds of public policy, public security, or public health upon which the decision taken in his case is based, unless this is contrary to the interests of the security of the State involved.

Article 7

The person concerned shall be officially notified of any decision to refuse the issue or renewal of a residence permit or to expel him from the territory. The period allowed for leaving the territory shall be stated in this notification. Save in cases of urgency, this period shall be not less than fifteen days if the person concerned has not yet been granted a residence permit and not less than one month in all other cases.

Article 8

The person concerned shall have the same legal remedies in respect of any decision concerning entry, or refusing the issue or renewal of a residence permit, or ordering expulsion from the territory, as are available to nationals of the State concerned in respect of acts of the administration.

Article 9

1. Where there is no right of appeal to a court of law, or where such appeal may be only in respect of the legal validity of the decision, or where the appeal cannot have suspensory effect, a decision refusing renewal of a residence permit or ordering the expulsion of the holder of a residence permit from the territory shall not be taken by the administrative authority, save in cases of urgency, until an opinion has been obtained from a competent authority of the host country before which the person concerned enjoys

such rights of defence and of assistance or representation as the domestic law of that country provides for.

This authority shall not be the same as that empowered to take the decision refusing renewal of the residence permit or ordering expulsion.

2. Any decision refusing the issue of a first residence permit or ordering expulsion of the person concerned before the issue of the permit shall, where that person so requests, be referred for consideration to the authority whose prior opinion is required under paragraph I. The person concerned shall then be entitled to submit his defence in person, except where this would be contrary to the interests of national security.

Article 10

1. Member States shall within six months of notification of this Directive put into force the measures

necessary to comply with its provisions and shall forthwith inform the Commission thereof.

2. Member States shall ensure that the texts of the main provisions of national law which they adopt in the field governed by this Directive are communicated to the Commission.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 25 February 1964.

For the Council

The President

H. FAYAT

ANNEX

A. Diseases which might endanger public health:

1. Diseases subject to quarantine listed in International Health Regulation No 2 of the World Health Organisation of 25 May 1951;
2. Tuberculosis of the respiratory system in an active state or showing a tendency to develop;
3. Syphilis;
4. Other infectious diseases or contagious parasitic diseases if they are the subject of provisions for the protection of nationals of the host country.

B. Diseases and disabilities which might threaten public policy or public security:

1. Drug addiction;
2. Profound mental disturbance; manifest conditions of psychotic disturbance with agitation, delirium, hallucinations or confusion.

REGULATION (EEC) No 1251/70 OF THE COMMISSION

of 29 June 1970

on the right of workers to remain in the territory of a Member State after having been employed in that State

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 48 (3) (d) thereof, and Article 2 of the Protocol on the Grand Duchy of Luxembourg;

Having regard to the Opinion of the European Parliament¹;

Whereas Council Regulation (EEC) No 1612/68² of 15 October 1968 and Council Directive No 68/360/EEC of 15 October 1968³ enabled freedom of movement for workers to be secured at the end of a series of measures to be achieved progressively; whereas the right of residence acquired by workers in active employment has as a corollary the right, granted by the Treaty to such workers, to remain in the territory of a Member State after having been employed in that State; whereas it is important to lay down the conditions for the exercise of such right;

Whereas the said Council Regulation and Council Directive contain the appropriate provisions concerning the right of workers to reside in the territory of a Member State for the purposes of employment; whereas the right to remain, referred to in Article 48 (3) (d) of the Treaty; is interpreted therefore as the right of the worker to maintain his residence in the territory of a Member State when he ceases to be employed there;

Whereas the mobility of labour in the Community requires that workers may be employed successively in several Member States without thereby being placed at a disadvantage;

Whereas it is important, in the first place, to guarantee to the worker residing in the territory of a Member State the right to remain in that territory when he ceases to be employed in that State because he has reached retirement age or by reason of permanent incapacity to work; whereas, however, it is equally important to ensure that right for the

worker who, after a period of employment and residence in the territory of a Member State, works as an employed person in the territory of another Member State, while still retaining his residence in the territory of the first State;

Whereas, to determine the conditions under which the right to remain arises, account should be taken of the reasons which have led to the termination of employment in the territory of the Member State concerned and, in particular, of the difference between retirement, the normal and foreseeable end of working life, and incapacity to work which leads to a premature and unforeseeable termination of activity; whereas special conditions must be laid down where termination of activity is the result of an accident at work or occupational disease, or where the worker's spouse is or was a national of the Member State concerned;

Whereas the worker who has reached the end of his working life should have sufficient time in which to decide where he wishes to establish his final residence;

Whereas the exercise by the worker of the right to remain entails that such right shall be extended to members of his family; whereas in the case of the death of the worker during his working life, maintenance of the right of residence of the members of his family must also be recognised and be the subject of special conditions;

Whereas persons to whom the right to remain applies must enjoy equality of treatment with national workers who have ceased their working lives;

HAS ADOPTED THIS REGULATION:

Article 1

The provisions of this Regulation shall apply to nationals of a Member State who have worked as employed persons in the territory of another Member State and to members of their families, as defined in Article 10 of Council Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community.

¹ OJ No C 65, 5.6.1970, p. 16.

² OJ No L 257, 19.10.1968, p. 2.

³ OJ No L 257, 19.10.1968, p. 13.

Article 2

1. The following shall have the right to remain permanently in the territory of a Member State:

- (a) a worker who, at the time of termination of his activity, has reached the age laid down by the law of that Member State for entitlement to an old-age pension and who has been employed in that State for at least the last twelve months and has resided there continuously for more than three years;
- (b) a worker who, having resided continuously in the territory of that State for more than two years, ceases to work there as an employed person as a result of permanent incapacity to work. If such incapacity is the result of an accident at work or an occupational disease entitling him to a pension for which an institution of that State is entirely or partially responsible, no condition shall be imposed as to length of residence;
- (c) a worker who, after three years' continuous employment and residence in the territory of that State, works as an employed person in the territory of another Member State, while retaining his residence in the territory of the first State, to which he returns, as a rule, each day or at least once a week.

Periods of employment completed in this way in the territory of the other Member State shall, for the purposes of entitlement to the rights referred to in subparagraphs (a) and (b), be considered as having been completed in the territory of the State of residence.

2. The conditions as to length of residence and employment laid down in paragraph 1 (a) and the condition as to length of residence laid down in paragraph 1 (b) shall not apply if the worker's spouse is a national of the Member State concerned or has lost the nationality of that State by marriage to that worker.

Article 3

1. The members of a worker's family referred to in Article 1 of this Regulation who are residing with him in the territory of a Member State shall be entitled to remain there permanently if the worker has acquired the right to remain in the territory of that State in accordance with Article 2, and to do so even after his death.

2. If, however, the worker dies during his working life and before having acquired the right to remain in the territory of the State concerned, members of his family shall be entitled to remain there permanently on condition that:

- the worker, on the date of his decease, had resided continuously in the territory of that Member State for at least 2 years; or
- his death resulted from an accident at work or an occupational disease; or
- the surviving spouse is a national of the State of residence or lost the nationality of that State by marriage to that worker.

Article 4

1. Continuity of residence as provided for in Articles 2 (1) and 3 (2) may be attested by any means of proof in use in the country of residence. It shall not be affected by temporary absences not exceeding a total of three months per year, nor by longer absences due to compliance with the obligations of military service.

2. Periods of involuntary unemployment, duly recorded by the competent employment office, and absences due to illness or accident shall be considered as periods of employment within the meaning of Article 2 (1).

Article 5

1. The person entitled to the right to remain shall be allowed to exercise it within two years from the time of becoming entitled to such right pursuant to Article 2 (1) (a) and (b) and Article 3. During such period he may leave the territory of the Member State without adversely affecting such right.

2. No formality shall be required on the part of the person concerned in respect of the exercise of the right to remain.

Article 6

1. Persons coming under the provisions of this Regulation shall be entitled to a residence permit which:

- (a) shall be issued and renewed free of charge or on payment of a sum not exceeding the dues and taxes payable by nationals for the issue or renewal identity documents;

- (b) must be valid throughout the territory of the Member State issuing it;
 - (c) must be valid for at least five years and be renewable automatically.
2. Periods of non-residence not exceeding six consecutive months shall not affect the validity of the residence permit.

Article 7

The right to equality of treatment, established by Council Regulation (EEC) No 1612/68, shall apply also to persons coming under the provisions of this Regulation.

Article 8

1. This Regulation shall not affect any provisions laid down by law, regulation or administrative action of one Member State which would be more favourable to nationals of other Member States.
2. Member States shall facilitate re-admission to their territories of workers who have left those

territories after having resided there permanently for a long period and having been employed there and who wish to return there when they have reached retirement age or are permanently incapacitated for work.

Article 9

1. The Commission may, taking account of developments in the demographic situation of the Grand Duchy of Luxembourg, lay down, at the request of that State, different conditions from those provided for in this Regulation, in respect of the exercise of the right to remain in Luxembourg territory.

2. Within two months after the request supplying all appropriate details has been put before it, the Commission shall take a decision, stating the reasons on which it is based.

It shall notify the Grand Duchy of Luxembourg of such decision and inform the other Member States thereof;

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

Done at Brussels, 29 June 1970.

For the Commission

The President

Jean REY

COUNCIL DIRECTIVE

of 18 May 1972

extending to workers exercising the right to remain in the territory of a Member State after having been employed in that State the scope of the Directive of 25 February 1964 on 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

(72/194/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THE FOLLOWING DIRECTIVE:

Article 1

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49 and 56 (2) thereof;

The Council Directive of 25 February 1964 on 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 shall apply to nationals of Member States and members of their families who pursuant to Regulation (EEC) No 1251/70, exercise the right to remain in the territory of a Member State.

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Article 2

Having regard to the Opinion of the Economic and Social Committee;

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

Whereas the Council Directive of 25 February 1964¹ coordinated special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health and whereas Commission Regulation (EEC) No 1251/70² of 29 June 1970 on the right of workers to remain in the territory of a Member State after having been employed in that State laid down conditions for the exercise of such right;

Article 3

This Directive is addressed to the Member States.

Whereas the Directive of 25 February 1964 should continue to apply to persons to whom that Regulation applies;

Done at Brussels, 18 May 1972.

For the Council

The President

M. MART

¹ OJ No 56, 4.4.1964, p. 850/64.

² OJ No L 142, 30.6.1970, p. 24.