


# Procedure file

Basic information		
CNS - Consultation procedure Directive	<a href="#">1995/0199(CNS)</a>	Procedure lapsed or withdrawn
Free movement of persons: right of third-country nationals to travel the Community		
Subject 7.10 Free movement and integration of third-country nationals		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Civil Liberties and Internal Affairs		06/09/1995
		PPE <a href="#">LINZER Milan</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>JURI</b> Legal Affairs, Citizens' Rights		28/11/1995
		PSE <a href="#">MARTIN David</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">1970</a>	26/11/1996
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">1933</a>	04/06/1996
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">1929</a>	28/05/1996
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">1886</a>	23/11/1995

Key events			
09/10/1995	Committee referral announced in Parliament		
23/11/1995	Debate in Council	<a href="#">1886</a>	
28/05/1996	Debate in Council	<a href="#">1929</a>	Summary
04/06/1996	Debate in Council	<a href="#">1933</a>	Summary
26/06/1996	Vote in committee		Summary
26/06/1996	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0218/1996</a>	
16/07/1996	Debate in Parliament		Summary
16/07/1996	Decision by Parliament	COM(1995)0346	Summary

23/10/1996	Decision by Parliament	T4-0518/1996	Summary
26/11/1996	Debate in Council	<a href="#">1970</a>	Summary
20/03/1997	Modified legislative proposal published	COM(1997)0106	Summary
11/12/2001	End of procedure in Parliament		
11/12/2001	Additional information		Summary

### Technical information

Procedure reference	1995/0199(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC before Amsterdam E 100
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	LIBE/4/07147

### Documentation gateway

Legislative proposal	<a href="#">COM(1995)0346</a> <a href="#">OJ C 306 17.11.1995, p. 0005</a>	12/07/1995	EC	Summary
Committee of the Regions: opinion	<a href="#">CDR0023/1996</a> <a href="#">OJ C 129 02.05.1996, p. 0046</a>	17/01/1996	CofR	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0252/1996</a> <a href="#">OJ C 153 28.05.1996, p. 0038</a>	28/02/1996	ESC	Summary
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0218/1996</a> <a href="#">OJ C 211 22.07.1996, p. 0003</a>	26/06/1996	EP	
Text adopted by Parliament, 1st reading/single reading	T4-0518/1996 <a href="#">OJ C 347 18.11.1996, p. 0050-0062</a>	23/10/1996	EP	Summary
Modified legislative proposal	COM(1997)0106	20/03/1997	EC	Summary

### Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Free movement of persons: right of third-country nationals to travel the Community

1) OBJECTIVE: To grant third-country nationals, who are legally present in the territory of a Member State, the right to cross the internal borders of the European Union and to travel or stay in the territory of a Member State for a short period of time. 2) SUBSTANCE: 1. Member States shall grant third-country nationals the right to travel within the European Union provided: \* they hold a residence permit which has been issued by another Member State; \* or have entered the territory of the Union for a stay of short duration: \* and are subject to the need for a visa by all Member States (summary 4.6b); \* or are exempted from the need for a visa by one, several or all Member States (summary 4.6b). 2. In addition, the right to travel is dependent on the possession of a valid travel document and sufficient means of subsistence. 3. Holders of resident permits: \* holders of residence permits may travel in the territory of other Member States for a maximum uninterrupted period of 3 months; \* procedure for the notification by each Member State of a list of the residence permits which it issues and on the basis of which the right to travel may be exercised. This list is published by the Commission in the Official Journal of the European Communities; \* the Member State having issued a person with a residence permit is responsible for the presence of that person in the territory of the European Union. 4. Holders of visas which are valid throughout the European Union and are mutually recognized for the crossing of the EU's external borders: \* holders of this type of visa may travel in the territory of Member States for the period of stay authorized by the visa; \* holders of this same visa, which is only required by several Member States, may travel in the territory of all the Member States for the period of stay authorized by the visa; \* any Member State can give authorization for the period of stay of a third-country national in its territory to be extended beyond the

3-month period. 5. Third-country nationals who are exempt from the need for a visa: \* third-country nationals who are exempted from the need for a visa by all Member States are authorized to travel for a maximum duration of three months during a period of six months commencing on the date of first entry; \* third-country nationals who are not subject to the need for a visa by certain Member States only have the right to travel for a maximum duration of three months, during a six-month period, in the territory of Member States which do not require them to hold a visa. 6. General provisions relating to the readmission and expulsion of third-country nationals. 7. Any Member State can require persons exercising the right to travel to report their presence on its territory. Source: European Commission - Info92 - 10/95 ?

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The Committee notes that the proposal is pursuant to the objectives set out in Article 7a of the EC Treaty. The Committee endorses the Commission proposal to eliminate obstacles to the free movement of third-country nationals by applying the same criteria at internal borders as at external borders. Reference is made in particular to the recently approved Regulation specifying the third countries whose nationals must be in possession of a visa (the "visa" Regulation), and to the "external borders" Convention (as yet unapproved). Together, these instruments introduce two principles: a) equivalence between residence permits issued by a Member State and visas; b) mutual recognition of the visa, whereby visas are issued according to harmonized criteria and are valid throughout the EU. The Committee also makes specific comments on the following points: - the concept of "sufficient means of subsistence" and the related implementing provisions; - the status of third-country nationals who are resident in EEA countries; - the provisions concerning public order. In conclusion, the Committee endorses the proposal subject to certain specific comments. The Committee thinks that the Directive should be approved separately from the one on the elimination of checks at internal borders, as the right to travel can be exercised whether or not checks are retained. Moreover, the existence of the Schengen Agreement allows both these possibilities to co-exist within the Community. The Committee also thinks that the proposal can be adopted without waiting for approval of the flanking measures on the crossing of external borders, and that the part which does not relate to these measures (i.e. concerning third-country nationals lawfully resident in a Member State) can enter into force immediately. The Committee therefore asks the Council to approve the proposal forthwith, so as to put an end to a serious shortcoming in the EU's internal market and guarantee an incontrovertible right, namely the right to travel.?

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The aim of the current proposal was to give concrete expression to the objective of Article 7a of the EC Treaty, namely to create an area without internal borders in which the free movement of goods, services, capital and persons was guaranteed, by creating such an area in the domain of the free movement of persons, which was the only domain in which the objective had still to be fully realised. Parliament had yet to deliver an opinion on the matter. Having concluded its debate, the Council asked the Permanent Representatives Committee to continue its examination of the proposal.

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Following the discussion held by the Internal Market Council on 28 May, and in response to a request made at that time by the French delegation in particular, the Council examined a number of issues that had been raised by the proposal for a directive put forward by the Commission on 24 August 1995. In this connection, the Council noted the statements made by several delegations, which indicated among other things that as well as pursuing the objective of providing freedom of movement for persons within the Community the proposals concerned important issues such as immigration and homeland security. It had been recognised that these aspects, along with accompanying measures designed to achieve the effective abolition of internal border checks, came under the provisions of the third pillar. One of the delegations repeated that it was opposed in principle to the approach being adopted by the Commission, though this did not rule out some element of cooperation in this area between the Member States within the framework of the third pillar. The Commission for its part indicated that it would keep its proposals as they were until Parliament had given its opinion, which was expected in July. In conclusion, the President asked the Permanent Representatives Committee to continue with its work of examining the proposals concerned with a view to the discussions being resumed within the Council (Internal Market/Justice and Home Affairs).

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## Free movement of persons: right of third-country nationals to travel the Community

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The committee adopted the draft report by Mr Milan LINZER by 14 votes to 7 with 2 abstentions. The report emphasized the fact that the right of third-country nationals legally present in a Member State (i.e. residents in possession of a resident's permit in a Member State, persons in possession of a visa from a Member State for a short stay or persons exempted from the need for a visa) to travel in the Community was essential to the very concept of an internal market. The rapporteur considered that the proposal integrated a range of important accompanying measures for abolishing controls at internal borders and welcomed the fact that the Commission had chosen to have it adopted under the 1st pillar. However, the rapporteur felt that, even if it were not adopted, this would not negate the purpose of Article 7A. In this respect, one of the amendments adopted emphasized, in line with the preceding report, that the free movement of persons cannot be made dependent on accompanying measures. In addition, the 20 amendments proposed in the report do not substantially alter the Commission proposal, even though it states that: - a "short stay" should not exceed six months; - whilst Member States may require third-country nationals exercising the right to travel in their territory to report their presence, they may not require them to register if their stay is for less than one month; - persons having the right to travel must leave a Member State's territory without delay if they no longer fulfil the conditions laid down by the directive. The report also introduces some amendments to the Annex laying down a readmission procedure among Member States. This stipulates the conditions for readmission, by a Member State, of third-country nationals who are unlawfully resident in the territory of another Member State. The rapporteur called in particular for Member States to undertake to adhere to the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms and not to expel to another Member State persons who should be afforded protection in their State on the basis of the Convention.?

## Free movement of persons: right of third-country nationals to travel the Community

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Parliament approved the referral back to committee of the report by Mr Milan LINZER (PPE, A) under Rule 129(1) of its Rules of Procedure.

## Free movement of persons: right of third-country nationals to travel the Community

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In adopting the report by Mr Milan LINZER (PPE, A), Parliament approved with amendments the Commission proposal for a Council Directive on the right of third-country nationals to travel in the Community. Parliament insisted that the right of third-country nationals legally present in the territory of a Member State to travel in the Community is essential to the implementation of the very concept of an internal market. It also emphasized, in line with the preceding report, that the free movement of persons cannot be made dependent on accompanying measures. Moreover, without substantially modifying the Commission's proposal, Parliament stipulated that: - the maximum duration of stay for a short time may not exceed six months; - whilst Member States may require third-country nationals exercising the right to travel in their territory to report their presence, they may not require them to register if their stay is for less than one month. However, the Member State may require them to register with the person providing accommodation if the latter offers accommodation on a commercial basis to a number of persons simultaneously; - persons having the right to travel must leave a Member State's territory without delay if they no longer fulfil the conditions laid down by the Directive. Parliament also introduced some amendments to the Annex laying down a readmission procedure among Member States. This stipulates the conditions for readmission, by a Member State, of third-country nationals who are unlawfully resident in the territory of another Member State. The EP proposed that the Member States should undertake to adhere to the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms and not expel to another Member State persons who should be afforded protection in their State on the basis of the Convention. The plenary also rejected a provision contained in the original proposal which provided that Member States could require third-country nationals holding a valid residence permit to be in possession of sufficient means of subsistence covering both the period of their intended stay or transit and their return to the Member State which issued the residence permit. ?

## Free movement of persons: right of third-country nationals to travel the Community

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The Council took note of the announcement by Mr MONTI that following the opinions submitted by Parliament the Commission proposed to make certain amendments to its proposals for a directive concerning the abolition of checks at internal borders and the right of third-country nationals to travel within the Community. However, the Commission did not intend to amend its proposal on the abolition of restrictions to the right of travel and residence within the Community of workers and their families, and on the abolition of restrictions to the right of travel and residence within the Community of nationals of Member States as far as the establishment and provision of services was concerned.

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In its amended proposal for a Council directive, the Commission incorporates two types of amendments adopted by Parliament: (a) those aiming to usefully supplement the arrangements laid down in the proposals by: - inserting a new recital providing for equality of treatment regarding declaration of their presence in a Member State as between beneficiaries of the right to travel and citizens of the Union, - including among the categories excluded from the scope of the directive persons exercising lucrative or non-lucrative activities, - limiting the residence permit to 6 months, - imposing a clear obligation on beneficiaries of the right to travel, namely to leave the Member State should they no longer satisfy the conditions enabling them to reside temporarily in that state; (b) those aiming to confirm the Community basis for the two proposals by: - inserting a reference to Article 3(d) of the EC Treaty, thus more closely integrating the proposals into the framework of the internal market, - inserting the date of 31 December 1992 alongside the reference to Article 7a of the EC Treaty in the first recital of the proposal. Finally, the Commission accepts Parliament's amendment to the effect that Member States must undertake to adhere to the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms and not to expel to another Member State persons who should be afforded protection in their state on the basis of that Convention. ?

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The Directorates General or responsible departments have asked for this proposal to be withdrawn. The reasons are indicated as follows: A) for objective reasons (change of de facto situation, objectives already achieved by other means, etc) B) because the Commission has now adopted another approach : - the proposal is replaced implicitly, - a new proposal is in preparation, - no planned replacement.?