II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on the easing of controls and formalities applicable to nationals of the Member States when crossing intra-Community borders

COM(84) 749 final

(Submitted by the Commission to the Council on 23 January 1985)

(85/C 47/06)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas it is vitally necessary that the Community should respond to the expectations of the peoples of Europe by adopting measures to enhance and promote its ideal and image in the minds of its inhabitants;

Whereas, on 23 June 1981, the representatives of the Governments of the Member States of the European Communities, meeting within the Council, adopted a resolution considering that the establishment of a passport of uniform design is likely to facilitate the movement of nationals of the Member States;

Whereas, on 7 June 1984, the Council and the representatives of the Governments of the Member States of the European Communities, meeting within the Council, adopted a resolution on the easing of border controls on persons;

Whereas at its meeting in Fontainebleau on 25 and 26 June 1984 the European Council, concerned about this subject, decided in particular to set itself the goal of abolishing all police and customs formalities at intra-Community borders for the movement of persons, and requested the Council and the Member States to reach a result on the matter before the end of the first half of 1985;

Whereas any measure in the direction of bringing into effect a Europe of the people corresponds to a real need expressed in particular by the European Parliament on numerous occasions;

Whereas Article 3 (c) of the Treaty stipulates that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons; whereas agreements already exist between certain Member States in the field of abolition of border controls;

Whereas in spite of the limits which remain in existence for tax-free allowances for travellers, the amount of these allowances and the degree of integration already realized in the Community no longer justify that controls on goods carried by travellers which take place at borders within the Community should be of the same nature or the same intensity as those carried out at borders with third countries;

Whereas the establishment of a rule of free passage for Member State nationals with the possibility, where necessary and in addition to spot checks, of more stringent controls of a temporary nature in specific and exceptional cases, in particular for security reasons, does not preclude the protection of the legitimate interests of the Member States with regard to internal security matters;

Whereas police and customs controls at intra-Community borders should be at the same level, and as low a level as possible, whatever the mode of transport used;

Whereas the total abolition of the controls and formalities in question requires the achievement, in parallel, of certain basic preconditions, such as the harmonization of legislation concerning foreigners and of policy matters connected with issuing visas, the strengthening of cooperation in matters of public security, or further fiscal harmonization; whereas in
the interim period until the controls and formalities in question have been completely eliminated, it is possible to carry out a policy of progressive elimination, by, at the same time, ensuring closer cooperation between the competent authorities of the Member States and an intensification of controls on persons at the Community's external frontiers;

Whereas the Commission and the Member States must collaborate closely in the introduction of measures to facilitate the realization of the objectives sought by this Directive and, in a second stage, in seeking means of enabling the controls relating to the movement of persons to be concentrated at the external frontiers of the Community, so that all controls or formalities concerning both persons and goods carried by persons should then be abolished at intra-Community borders,

HAS ADOPTED THIS DIRECTIVE:

TITLE I
General

Article 1
This Directive lays down the conditions for easing the controls and formalities to which nationals of the Member States may be subjected at intra-Community borders.

Article 2
1. The facilities provided for in this Directive apply to Member State nationals crossing an intra-Community border who comply with the provisions concerning both the movement of persons and the movement of goods and in particular as regards the value or quantities of goods admitted free of taxes.

2. Within the meaning of this Directive and except where otherwise specified, controls and formalities mean all the controls and formalities applicable to the intra-Community movement of persons and goods carried by them, excluding any carriage of a commercial nature.

Article 3
Member States shall take the measures necessary for the controls and formalities applicable to Member State nationals fulfilling the conditions referred to in Article 2 (1) and presenting themselves at the border between two Member States to be operated according to the principle of free passage, whatever the mode of transport used.

Article 4
This Directive shall not prevent Member States from:

— carrying out spot checks on Member State nationals fulfilling the conditions referred to in Article 2 (1), in so far as such spot checks, to be carried out either at the border crossing point or within a frontier zone of 15 kilometers from the border, measured as the crow flies, shall affect only a minimal proportion of persons for each border crossing point between one Member State and another;

— carrying out controls of a temporary nature in exceptional and specific cases, in particular for security purposes.

TITLE II
Crossing of borders by road

Article 5
Where persons present themselves at the border between two Member States on board private vehicles, the principle of free passage referred to in Article 3 shall permit the said vehicle to cross the border at a reduced speed in order to enable the authorities responsible for the controls to carry out a simple visual check without requiring the vehicle to stop, except in specific cases.

Article 6
In order to facilitate the application of Article 5 by the competent authorities, Member State nationals fulfilling the conditions referred to in Article 2 (1) may present, in particular by affixing it to the windscreen of their vehicle, a disc measuring at least 8 centimetres in diameter bearing the letter E on a green background.

The use of this disc shall be equivalent to a declaration by the driver of the vehicle that all the persons transported in that vehicle are Member State nationals and comply with the conditions referred to in Article 2 (1).

Article 7
Member States shall make all necessary arrangements so that in the event of a vehicle being subjected to controls, the passage of the following vehicles is not hampered.
Article 8

Member States shall make all arrangements so that wherever technically possible there shall be only one checkpoint for the two adjacent Member States in each direction of traffic.

TITLE III

Border crossing at airports and ports

Article 9

1. Where persons present themselves at an airport or port on arrival in another Member State, the principle of free passage referred to in Article 3 shall allow them to cross the border without controls.

2. In order to facilitate the application of paragraph 1 the Member States shall, at airports and ports open to international passenger traffic and having a certain level of traffic, establish channels designated by green or red signs.

3. In cases where the controls on the movement of persons and those on the movement of goods carried by those persons do not take place simultaneously, the selection of a green channel as referred to in paragraph 2 shall be equivalent to a declaration by the person concerned that:
   — he is a Member State national, if the channel concerns the movement of persons,
   — he fulfils the conditions laid down in Article 2(1), if the channel concerns the movement of goods carried by those persons.

4. In cases where the controls referred to in paragraph 3 take place simultaneously, the selection of a green channel as referred to in paragraph 2 shall be equivalent to a declaration by the person concerned that he is a Member State national and fulfils the conditions laid down in Article 2 (1).

Article 10

Where there are no green or red channels as referred to in Article 9 (2), the mere presentation, shut, by the person concerned, at his own initiative, of his passport or national identity card issued by a Member State shall, in the absence of any other indication by the person concerned, be equivalent to a declaration that he is a Member State national and fulfils the conditions laid down in Article 2 (1).

TITLE IV

Border crossing on board international trains and coaches

Article 11

1. When private individuals cross a border between two Member States on board international trains or coaches, the principle of free passage referred to in Article 3 shall allow them to cross the said border without being controlled.

2. In order to facilitate the application of paragraph 1 by the competent authorities, the mere presentation, shut, by the person concerned, at his own initiative, of his passport or national identity card, issued by a Member State, shall, in the absence of any other indication by the person concerned, be equivalent to a declaration that he is a Member State national and fulfils the conditions laid down in Article 2 (1).

TITLE V

Final provisions

Article 12

This Directive shall not preclude the application of more favourable provisions for Member State nationals, in particular those laid down in the framework of frontier traffic or resulting from agreements between certain Member States.

Article 13

Member States shall provide the Commission with all information necessary to enable the latter to present a report to the Council every two years, the first no later than 1 July 1987, on the application of this Directive with a view to examining the means of achieving total abolition of all controls at intra-Community borders on Member State nationals fulfilling the conditions laid down in Article 2 (1).

Article 14

Member States shall, after consultation with the Commission, bring into force the provisions laid down by law, regulation or administrative action necessary to comply with this Directive by 1 July 1985 at the latest.

Each Member State shall send to the Commission the text of the provisions it adopts for the purpose of applying this Directive.

Article 15

This Directive is addressed to the Member States.