

**Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents**

(2001/C 240 E/13)

COM(2001) 127 final — 2001/0074(CNS)

*(Submitted by the Commission on 13 March 2001)*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(3) and (4) 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:

- (1) With a view to the progressive establishment of an area of freedom, security and justice, the Treaty establishing the European Community provides both for the adoption of measures aimed at ensuring the free movement of persons, in conjunction with flanking measures relating to external border controls, asylum and immigration, and for the adoption of measures relating to asylum, immigration and safeguarding the rights of third-country nationals.
- (2) Article 63(3) of the Treaty provides that the Council is to adopt measures on immigration policy. Article 63(3)(a) provides, in particular, that the Council is to adopt measures relating to the conditions of residence, and standards on procedures for the issue by Member States of long-term residence permits.
- (3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, stated that the legal status of third-country nationals should be approximated to that of Member States' nationals and that a person who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by citizens of the European Union.
- (4) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (5) The integration of third-country nationals who are long-term residents in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Community declared by Articles 2 and 3(1)(k) of the Treaty.

(6) The chief criterion for acquiring the status of long-term resident should be the duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country. Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis.

(7) To acquire long-term resident status, third-country nationals should prove that they have adequate resources and sickness insurance cover, to avoid becoming a burden for the Member State. The level of such resources should not be disproportionate and should be set uniformly for all the Member States. A further condition for acquiring the status is that third-country nationals should not constitute an actual threat to public order and domestic security.

(8) A set of rules governing the procedures for the examination of applications for long-term resident status should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair in order to offer appropriate legal certainty to those concerned.

(9) The acquisition of long-term resident status should be certified by residence permits enabling those concerned to prove their legal status easily and immediately. Such residence permits should also satisfy high-level technical standards, notably as regards protection against falsification and counterfeiting, in order to avoid abuses in the Member State in which the status is acquired and in Member States in which the right of residence is exercised.

(10) In order to constitute a genuine instrument for the integration of long-term residents into the society in which they live, long-term resident status should ensure equality of treatment with citizens of the Member State in a wide range of economic and social matters.

(11) Long-term residents should enjoy maximum protection against expulsion. This protection is based on Community law relating to free movement of persons and criteria determined by the decisions of the European Court of Human Rights. Protection against expulsion entails provision in the applicable procedures for effective judicial redress procedures.

- (12) Harmonisation of the terms for acquisition of long-term resident status promotes mutual confidence between Member States. Certain Member States issue permits with permanent or unlimited validity on conditions that are more favourable than those provided for by this Directive. The possibility of applying more favourable national provisions is not excluded by the Treaty. However, for the purposes of this Directive, it should be provided that permits issued on more favourable and unharmonised terms do not confer the right to reside in other Member States.
- (13) Establishing the conditions subject to which the right to reside in another Member State may be acquired by third-country nationals who are long-term residents contributes to the effective attainment of an internal market as an area in which the free movement of persons is ensured. It could also constitute a major factor of mobility, notably on the Union's employment market.
- (14) It should be provided that the right of residence in another Member State may be exercised in order to work in an employed or self-employed capacity, to study or even to settle without exercising any form of economic activity. Family members should be able to settle in that other Member State with long-term residents in order to preserve family unity and to avoid hindering the exercise of the long-term resident's right of residence. The right of residence should be exercised on terms similar to those enjoyed by citizens of the Union when they exercise their right to free movement.
- (15) The Member State in which a long-term resident intends to exercise his right of residence should be able to check that the person concerned meets the conditions for residing in its territory. It should also be able to check that the person concerned does not constitute an actual threat to public order, domestic security or public health.
- (16) A set of rules governing the procedures for examination of applications by long-term residents for a residence permits in another Member States should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned. They should not constitute a means of hindering the exercise of the right of residence.
- (17) To avoid rendering the right of residence nugatory, long-term residents should enjoy in the second Member State the rights they enjoy in the Member State in which they acquired the status. Exceptions from this principle should be provided for as regards social security benefits to ensure that the persons concerned do not become a burden on the Member State in which they exercise the right of residence. The rights enjoyed by the persons concerned in the second Member State should be similar to those enjoyed by citizens of the Union when they exercise their right of free movement.
- (18) It should be provided that after a transitional period long-term residents may elect to settle definitively in the Member State in which they have exercised their right of residence in order to enjoy full rights there, including the right to social security benefits. In the interests both of the persons concerned and of the first and second Member States, this transitional period should not be excessively long and at the end of the transitional period the long-term residents should be able to apply for long-term resident status in the second Member State, entailing withdrawal of long-term resident status in the Member State in which they originally acquired it.
- (19) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed action, namely the determination of terms for granting and withdrawing long-term resident status and the rights pertaining thereto and terms for the exercise of rights of residence by long-term residents in other Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved by the Community. This Directive confines itself to the minimum required to achieve those objectives and does not go beyond what is necessary for that purpose,

HAS ADOPTED THIS DIRECTIVE:

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1*

##### **Subject matter**

This Directive determines:

- (a) the terms for conferring and withdrawing long-term resident status granted by a Member State in relation to third-country nationals legally residing in its territory, and the rights pertaining thereto; and
- (b) the terms on which third-country nationals enjoying long-term resident status have the right of residence in Member States other than the one which conferred that status on them.

## Article 2

### Definitions

For the purposes of this Directive:

- (a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty;
- (b) 'long-term resident' means any third-country national who has long-term resident status as provided for by Article 8;
- (c) 'first Member State' means the Member State which granted a third-country national long-term resident status;
- (d) 'second Member State' means any Member State other than the one which for the first time granted a third-country national long-term resident status and in which that long-term resident exercises the right of residence;
- (e) 'family members' means the applicant's spouse or unmarried partner, minor children and relatives in the ascending line and adult dependant children admitted to the Member State concerned and residing there in accordance with Council Directive .../.../EC on the right to family reunification<sup>(1)</sup>. The family members of citizens of the Union are defined by the Community legislation relating to free movement of persons in accordance with Article 4 of that Directive;
- (f) 'refugee' means any third-country national enjoying refugee status within the meaning of the Geneva Convention on the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967;
- (g) 'long-term resident's EC residence permit' means a residence permit issued by the Member State concerned upon the acquisition of long-term resident status.

## Article 3

### Scope

1. This Directive applies to third-country nationals residing legally in the territory of a Member State.
2. This Directive does not apply to third-country nationals who:
  - (a) are authorised to reside in a Member State on the basis of temporary protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;
  - (b) are authorised to reside in a Member State on the basis of a subsidiary form of protection in accordance with international obligations, national legislation or the practice of the Member States or have applied for authorisation to

reside on that basis and are awaiting a decision on their status;

- (c) have applied for recognition as refugees and whose application has not yet given rise to a final decision;
- (d) reside in order to pursue studies, with the exception of studies for a doctorate, or vocational training, or as au pair or seasonal worker, or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services;
- (e) enjoy a legal status governed by the Vienna Convention on diplomatic relations of 1961, the Vienna Convention on Consular Relations of 1963, the Convention of 1969 on Special Missions or the Vienna Convention on the Representation of States in their Relations with International Organisations of a Universal Character of 1975.

3. Third-country nationals who are members of the family of citizens of the Union who have exercised their right to free movement of persons may not acquire long-term resident status in the citizen of the Union's host Member State until they have obtained the right of permanent residence in that Member State within the meaning of the legislation on the free movement of persons.

4. This Directive shall apply without prejudice to more favourable provisions of:

- (a) bilateral and multilateral agreements between the Community or the Community and its Member States, on the one hand, and third countries, on the other;
- (b) the European Convention on Establishment of 13 December 1955, the European Social Charter of 18 October 1961 and the European Convention on the Legal Status of Migrant Workers of 24 November 1977.

5. This Directive shall apply without prejudice to the obligations imposed by Article 33 of the Geneva Convention of 28 July 1951 on the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

## Article 4

### Non-discrimination clause

The Member States shall give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

<sup>(1)</sup> OJ L ... (COM(2000) 624 final, 10.10.2000).

## CHAPTER II

**LONG-TERM RESIDENT STATUS IN A MEMBER STATE***Article 5***Duration of residence**

1. Member States shall grant long-term resident status to third-country nationals who have resided legally and continuously for five years in the territory of the Member State concerned.
2. For the purposes of calculating the period of legal and continuous residence referred to in paragraph 1:
  - (a) periods of residence in the territory of the Member State as asylum-seeker or as beneficiary of temporary protection shall be taken into account solely if the third-country national is a refugee;
  - (b) periods of residence for study purposes, with the exception of study towards a doctorate, shall be taken into account as to half only.
3. Periods of absence from the territory of the Member State concerned shall not interrupt the period of legal and continuous residence referred to in paragraph 1 and shall be included for the purposes of calculating that period where they are:
  - (a) shorter than six consecutive months; or
  - (b) related to the discharge of military obligations, detachment for employment purposes, including the provision of cross-border services, studies, with the exception of study for a doctorate, or research, serious illness, pregnancy or maternity; or
  - (c) related to residence in a second Member State as member of the family of a long-term resident exercising the right of residence under this Directive or of a citizen of the Union exercising the right to free movement of persons.
4. Uninterrupted periods of residence of at least two years in the Member State concerned by a family member of a citizen of the Union, who as family member resided in a third State and within a period of three years returned to the Member State concerned, shall be taken into account in the calculation of the period of residence referred to in paragraph 1.

*Article 6***Conditions as to resources and sickness insurance**

1. Member States shall ask third-country nationals to provide evidence that they have, for themselves and for dependent family members:
  - (a) stable resources corresponding to the level of resources below which social assistance may be granted in the

Member State concerned. Where this provision cannot be applied, the resources shall be considered to be adequate where they are equal to the level of the minimum social security pension paid by the Member State concerned. The criterion of stability of resources shall be evaluated by reference to the nature and regularity of the resources enjoyed prior to the application for long-term residence status.

- (b) sickness insurance covering all risks in the Member State concerned.
2. The conditions in paragraph 1 shall not apply to:
    - (a) refugees;
    - (b) third-country nationals born in the territory of a Member State.

*Article 7***Public policy and domestic security**

1. Member States may refuse to grant long-term resident status where the personal conduct of the person concerned constitutes an actual threat to public order or domestic security.
2. Criminal convictions shall not in themselves automatically warrant the refusal referred to in paragraph 1. Such refusal may not be founded on economic considerations.

*Article 8***Acquisition of status**

1. To acquire long-term resident status, the third-country national concerned shall lodge an application with the competent authorities of the Member State in which he resides. The application shall be accompanied by documentary evidence that he meets the conditions set out in Articles 5 and 6.
2. The competent national authorities shall examine the application within six months after it is lodged. If the application is not accompanied by all the documentary evidence that the applicant meets the conditions provided for by Articles 5 and 6, the competent national authorities shall inform the third country national concerned and allow additional time. In this event the six-month period shall be suspended and shall run again from the time when the additional documentary evidence is provided.
3. If the conditions provided for by Articles 5 and 6 are met, and the person does not represent a threat within the meaning of Article 7, the Member State concerned shall grant the third-country national concerned long-term resident status. This status shall be permanent, subject to Article 10.

*Article 9***Long-term resident's EC residence permit**

1. Member States shall issue a long-term resident's EC residence permit to long-term residents. The permit shall be valid for ten years; it shall be automatically renewable on expiry.

2. A long-term resident's EC residence permit may be issued in the form of a sticker or of a separate document. It shall be issued in accordance with the rules and standard model in by Council Regulation (EC) No .../... (laying down a uniform model for the residence permit for third-country nationals). Under the heading 'type of permit', the Member States shall enter 'long-term resident-EC'.

3. A long-term resident's EC residence permit shall be issued free of charge or against payment of a sum not exceeding the charges required of nationals for the issuance of identity cards.

*Article 10***Withdrawal of status**

1. Member States shall withdraw long-term resident status in the following cases:

- (a) absence from the territory for a period of two consecutive years. Member States may provide for derogations in the event of absence related to the discharge of military obligations, detachment for employment purposes, studies or research, serious illness, pregnancy or maternity;
- (b) detection of fraudulent acquisition of long-term resident status;
- (c) acquisition of long-term resident status in another Member State as provided by Article 27;
- (d) adoption of an expulsion measure under the conditions provided for in Article 13.

2. Absences related to the exercise of the right of residence in a second Member State shall not entail withdrawal of long-term resident status.

3. Member States may provide that prolonged absences exceeding two years or related to reasons not referred to in paragraph 1 shall not entail withdrawal of long-term resident status.

4. The expiry of a long-term resident's EC residence permit shall in no case entail withdrawal of long-term resident status.

5. Member States shall issue to the person concerned a residence permit other than a long-term resident's EC residence permit if:

(a) long-term resident status is withdrawn pursuant to paragraph 1(a) or (b); or

(b) an expulsion measure cannot be executed against a long-term resident.

*Article 11***Procedural guarantees**

1. Reasons shall be given for any decision rejecting an application for long-term resident status or withdrawing that status. It shall be notified in writing to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

2. A third-country national whose application for long-term resident status is rejected may subsequently lodge another application if changes in his personal circumstances so justify.

3. Where an application for long-term resident status is rejected or that status is withdrawn or the residence permit is not renewed, the person concerned shall have the right to apply to the courts of the Member State concerned.

*Article 12***Equal treatment**

1. Long-term residents shall enjoy equal treatment with nationals as regards:

- (a) access to employment and self-employed activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration;
- (b) education and vocational training, including study grants;
- (c) recognition of diplomas, certificates and other qualifications issued by a competent authority;
- (d) social protection, including social security and health-care;
- (e) social assistance;
- (f) social and tax benefits;
- (g) access to goods and services and the supply of goods and services made available to the public, including housing;
- (h) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations;

(i) free access to the entire territory of the Member State concerned.

2. Member States may extend the benefit of equal treatment to matters not referred to in paragraph 1.

#### Article 13

##### Protection against expulsion

1. Member States may take a decision to expel a long-term resident solely where his personal conduct constitutes an actual and sufficiently serious threat to public order or domestic security that affects a fundamental interest of society.

2. Personal conduct shall not be considered a sufficiently serious threat if the Member State does not take severe enforcement measures against its own nationals who commit the same type of offence.

3. Criminal convictions shall not in themselves automatically warrant an expulsion decision. Such a decision may not be founded on economic considerations.

4. Before taking a decision to expel a long-term resident, Member States shall have regard to the following factors:

- (a) the duration of residence in their territory;
- (b) the age of the person concerned;
- (c) the consequences for the person concerned and family members;
- (d) links with the country of residence or the absence of links with the country of origin.

5. Where an expulsion decision has been adopted, a judicial redress procedure shall be available to the long-term resident in the Member State concerned. Member States shall provide that such procedures may have suspensory effect.

6. Legal aid shall be given to long-term residents lacking adequate resources, on the same terms as apply to nationals of the State where they reside.

7. Emergency expulsion procedures shall be prohibited against long-term residents.

#### Article 14

##### More favourable national provisions

Member States may issue residence permits of permanent or unlimited validity on terms that are more favourable than those laid down by this Directive. Such residence permits shall not confer the right of residence in the other Member States as provided by Chapter III of this Directive.

#### CHAPTER III

##### RIGHT OF RESIDENCE IN THE OTHER MEMBER STATES

#### Article 15

##### Principle

1. A long-term resident may exercise the right of residence in the territory of Member States other than the one which granted him the status, for a period exceeding three months, as provided by this Chapter.

2. This Chapter does not concern the residence of long-term residents in the territory of the Member States:

- (a) as employed workers posted by a service provider for the purposes of cross-border provision of services; or
- (b) as providers of cross-border services.

#### Article 16

##### Conditions

1. The exercise of the right of residence in a second Member State by a long-term resident shall be subject to compliance with the following conditions:

- (a) exercise of an economic activity in an employed or self-employed capacity; or
- (b) pursuit of studies or vocational training, and possession of adequate resources available to avoid becoming a burden on the second Member State during the period of residence and sickness insurance covering all risks in the second Member State; or
- (c) possession of adequate resources available to avoid becoming a burden on the second Member State during the period of residence and sickness insurance covering all risks in the second Member State.

2. Long-term residents exercising the right of residence in a second Member State as worker in an employed or self-employed capacity shall retain their status as workers if:

- (a) they sustain a temporary incapacity for work as a result of illness or accident;
- (b) they are unemployed and entitled to unemployment benefits; in this case, the status of worker shall be retained as long as such entitlement subsists;
- (c) they embark on vocational training. Unless they are in a state of involuntary unemployment, the retention of worker status depends on the existence of a relation between the previous occupational activity and the training concerned.

*Article 17***Checks on conditions for the exercise of the right of residence**

1. No later than three months after entering the territory of the second Member State, the long-term resident shall apply to the competent authorities of that Member State for a residence permit.

2. To check for compliance with the conditions provided for by Article 16(1)(a), the second Member State may ask the persons concerned to present with their application for a residence permit:

- (a) their long-term resident's permit and an identity document; and
- (b) evidence that they have an employment contract or a statement by the employer that they are hired, or that they exercise an economic activity in a self-employed capacity, or that they have the resources needed to exercise an economic activity in a self-employed capacity, together with a detailed description of that activity.

3. To check for compliance with the conditions provided for by Article 16(1)(b), the second Member State may ask the persons concerned to present with their application for a residence permit:

- (a) their long-term resident's permit and an identity document; and
- (b) evidence of enrolment in an accredited establishment in order to pursue studies or vocational training;
- (c) evidence that they have adequate resources and sickness insurance covering all risks in the second Member State.

4. To check for compliance with the conditions provided for by Article 16(1)(c), the second Member State may ask the persons concerned to present with their application for a residence permit:

- (a) their long-term resident's permit and an identity document; and
- (b) evidence that they have adequate resources and sickness insurance covering all risks in the second Member State.

*Article 18***Family members**

1. Members of the family, as already constituted in the first Member State, shall have the right to accompany or join a long-term resident who has exercised his right of residence in a second Member State. No later than three months after entering the territory of the second Member State, the family

members shall apply to the competent authorities of that Member State for a residence permit.

2. The second Member State may ask the family members concerned to present with their application for a residence permit:

- (a) their long-term resident's permit or residence permit and an identity document; and
- (b) evidence that they have resided as member of the family of the long-term resident in the first Member State; and
- (c) evidence that they have adequate resources and sickness insurance covering all risks in the Second Member State or that the long-term resident has such resources and insurance for them.

3. Where the family was not already constituted in the first Member State, Directive .../EC [on the right to family reunification] shall apply.

*Article 19***Public policy and domestic security**

1. Member States may refuse applications for residence from long-term residents or family members where the personal conduct of the person concerned constitutes an actual threat to public order or domestic security.

2. Criminal convictions shall not in themselves automatically warrant the refusal referred to in paragraph 1. Such a refusal may not be founded on economic considerations.

*Article 20***Public health**

1. The only diseases or infirmities that may justify a refusal to allow entry or the right of residence in the territory of a Member State shall be the quarantinable diseases referred to by the World Health Organisation's International Health Regulation No 2 of 25 May 1951 and such other infectious or contagious parasite-based diseases as are the subject of protective provisions in relation to nationals in the host country. Member States may not introduce new more restrictive provisions or practices.

2. Diseases or infirmities contracted after the first residence permit was issued shall not justify a refusal to renew the permit or expulsion from the territory.

3. A Member State may impose a medical examination, performed free of charge, for persons to whom this Directive applies, in order to certify that they do not suffer from any of the diseases referred to in paragraph 1. Such medical examinations may not be performed on a systematic basis.

*Article 21***Examination of applications and issuance of a residence permit**

1. The competent national authorities shall examine applications within three months after they are lodged. If an application is not accompanied by the documentary evidence listed in Article 17(2), (3) and (4) and Article 18(2), the competent national authorities shall inform the third-country national concerned and allow additional time. In this event the three-month period shall be suspended and shall run again from the time when the additional documentary evidence is provided.

2. If the conditions provided for in Articles 16 and 18(1) are met, then, subject to the provisions relating to public policy, domestic security and public health in Articles 19 and 20, the second Member State shall issue the long-term resident with a renewable residence permit. The period of validity of this permit shall correspond to the foreseeable duration of residence. The long-term resident shall inform the Member State which granted him long-term resident status.

3. The second Member State shall issue members of the long-term resident's family with renewable residence permits valid for the same period as the permit issued to the long-term resident.

4. Permits shall be issued free of charge or against payment of a sum not exceeding the charges required of nationals for the issuance of identity cards.

*Article 22***Procedural guarantees**

1. Reasons shall be given for any decision rejecting an application for a residence permit. It shall be notified in writing to the third-country national concerned. The notification shall specify the redress procedures available and the time within which he may act.

2. Where an application for a residence permit is rejected, or the permit is not renewed or is withdrawn, the person concerned shall have the right to apply to the courts of the Member State concerned.

*Article 23***Maintenance of status in the first Member State**

1. Long-term residents exercising their right of residence in a second Member State shall retain their long-term resident status in the first Member State for as long as they do not acquire that status in the second Member State.

2. Members of the family of a long-term resident exercising his right of residence who are not themselves long-term

residents shall retain the residence permits issued in the first Member State until they expire.

3. If the family members have not yet acquired an autonomous residence permit as provided for by Article 13 of Directive .../.../EC [on the right to family reunification], their period of legal residence in the second Member State shall be taken into account in the first Member State for the purposes of acquiring the autonomous residence permit.

*Article 24***Rights in the second Member State**

1. As soon as they have received the residence permit provided for by Article 21 in the second Member State, long-term residents shall in that Member State enjoy the rights enumerated in Article 12, with the exception of social assistance and study grants.

2. As soon as they have received the residence permit provided for by Article 21 in the second Member State, members of the family of the long-term resident shall in that Member State enjoy the rights listed in Article 12(1) and (2) of Directive .../.../EC [on the right to family reunification].

*Article 25***Withdrawal of residence permit**

1. During a five-year transitional period, the second Member State may take a decision to expel a long-term resident and/or family members:

- (a) on grounds of public policy or domestic security as defined in Article 19;
- (b) where the conditions provided for by Articles 16 and 18 are no longer met.

2. Expulsion decisions may not be accompanied by a permanent ban on residence.

*Article 26***Obligation to readmit**

1. If the residence permit is withdrawn by the second Member State, the first Member State shall immediately readmit the long-term resident and his family members.

2. The obligation to readmit referred to in paragraph 1 shall apply even if:

- (a) the long-term resident's EC residence permit has expired;
- (b) the family members' residence permit has expired.

*Article 27***Acquisition of long-term resident status in the second Member State**

1. After five years' legal residence in its territory, long-term residents who have exercised the right of residence in the territory of the second Member State may apply to that Member States' competent authorities for long-term resident status.

2. The second Member State shall grant long-term residents the status provided for by Article 8, subject to the provisions of Articles 6 and 7. The second Member State shall notify its decision to the first Member State, which shall withdraw the status from the persons concerned.

3. The procedure laid down in Article 8 shall apply to the presentation and examination of applications for long-term resident status in the second Member State. Article 9 shall apply for the issuance of the residence permit. Where the application is rejected, the procedural guarantees provided for by Article 11 shall apply.

## CHAPTER IV

**FINAL PROVISIONS***Article 28***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 30 at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 29***Report**

By 31 December 2005 at the latest, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose such amendments as may be necessary.

*Article 30***Transposition**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2003 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

*Article 31***Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*Article 32***Addressees**

This Directive is addressed to the Member States.

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