

REGIONAL DEVELOPMENTS TOWARDS FREEDOM OF MOVEMENT : THE O.E.C.D.

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A. DEVELOPMENTS UNDER THE O.E.E.C.

Article 8 of the Convention for European Economic Co-operation, the constitutional instrument of the O.E.E.C., dealt with the subject of free movement of persons in these terms :

« The Contracting Parties will make the fullest and most effective use of their available manpower.

They will endeavour to provide full employment for their own people and they may have recourse to manpower available in the territory of any other Contracting Party. In the latter case they will, in mutual agreement, take the necessary measures to facilitate the movement of workers and to ensure their establishment in conditions satisfactory from the economic and social point of view.

Generally, the Contracting Parties will co-operate in the progressive reduction of obstacles to the free movement of persons¹. »

Efforts towards greater freedom of movement of labour in Europe was pioneered by the O.E.E.C. in the Council Decision of 30 October, 1953², on the employment of nationals of the member States, which was designed to facilitate the issue and renewal of migrant workers' labour permits. How-

¹ The Convention for European Economic Co-operation is found in *European Yearbook*, vol. 1, 1955, p. 231; 43, *A.J.I.L.*, (1949), Supplement, p. 94.

² O.E.E.C. Doc [C(53)251 (Final)]. For a description of the measures taken in this Decision see, Council of Europe, Consultative Assembly, 16th Ordinary Session, (Third Part), 3rd-7th November 1964, *Documents*, Doc. 1792, pp. 5-6. Besides the Council Decision of 30 October 1953, the Council took further action in subsequent years to facilitate the free movement of workers, but not directly touching upon travel documents, and such actions are therefore outside the range of this analysis. The O.E.E.C. was the forerunner of the international organizations in Europe to concern itself with the free movement of labour see, LEWIN, K., « The Free Movement of Workers », 2 *C.M.L. Rev.*, 1964-5, pp. 300-324.

ever, this Decision was not really concerned with travel documents. The initial Decision on travel documents came in connection with tourism. During 1955, the Tourism Committee of the O.E.E.C. prepared a report on Tourism in Europe³, wherein it observed the suppression of the passport requirement for tourist nationals of : a) The Scandinavian countries in the Scandinavian Passport Union⁴; b) Belgium, Luxembourg and the Netherlands for travel in Benelux⁵; c) Belgium, France, Luxembourg and Switzerland visiting any of the other countries; and d) Ireland and the United Kingdom on a reciprocal basis⁶. Note was also taken of the French-British Agreement of May 1955 whereby passports were no longer required by their nationals for trips to France or the United Kingdom of less than 24 hours from 17 June - 30 September if these travellers possessed a valid identity card⁷.

These achievements impressed and encouraged the Tourism Committee which voiced the opinion « that the final goal, the pure and simple abolition of passports is not merely a utopian aim ». A progressive spirit permeated the Tourism Committee's report which also reflected itself in the Council's Recommendation (based on the report) announced on 29 September 1955 concerning facilities to be granted in the matter of visas and passports⁸.

Governments of member States were invited to take appropriate measures to simplify, as far as possible, the formalities required for the delivery of passports to their nationals, and to reduce the fees charged for the granting of passports to as low a level as was feasible, by considering the costs of their issue and distribution. A request was made for an extended use of the collective passport, provided for in the Arrangement on Collective Passports concluded by the Brussels Treaty Powers, to all categories of nationals of the O.E.E.C. member countries who were travelling in groups, irrespective of their age or the purpose of their journey⁹.

³ *Tourism in Europe*, O.E.E.C., Paris, 1956, Doc. TOU(55)12.

⁴ Based on the Scandinavian Agreement and Protocol of 14 July 1952 found in United Nations, *Treaty Series*, vol. 198, p. 37.

⁵ On the Benelux travel agreement see TURACK, D.C., « Freedom of Movement and the Travel Document in Benelux », *I.C.L.Q.*, p. 191 (1968).

⁶ The Agreement is not formal. The operation of the Agreement is discussed in Council of Europe, Consultative Assembly, Fifth Session, Third Part, 15th-26th September 1953, *Documents*, Doc. 201, pp. 1086-1087. See also, U.K. Statutory Instruments, 1952, Part I, No 636, p. 116.

⁷ The United Kingdom concluded similar excursion agreements with the Netherlands and Belgium.

⁸ O.E.E.C. Doc [C(55)149 (Final)]. This *Recommendation* by the O.E.E.C. was endorsed and retained by the O.E.C.D. when the former Organization was reconstituted as the latter Organization, O.E.C.D. Doc [C(61)41], pp. 341 *et seq.* Certain reservations and interpretations are appended to the *Recommendation* which does not apply to all Member States.

⁹ A specimen of the collective passport used by the Brussels Treaty Powers was annexed to the *Recommendation* so that Member States would use a similar document.

On 20 December 1955, the O.E.E.C. Council adopted a Recommendation on the movement and employment of foreign manpower¹⁰. In this recommendation, the Council endeavoured to assist the nationals of its Members, who were employed in, or who were intending to migrate to take up employment in, another member State. These « workers », their wives, and children under 18 years of age who normally resided with the workers, were recommended to receive a passport or other travel document having an initial validity of at least five years. Council prescribed that these passports or other travel documents be issued or renewed free of charge or at a charge not exceeding the administrative cost of their issue or renewal. Member States were asked to simplify to the greatest extent the formalities required for the delivery of these documents, on original issue or renewal, and when specific documents were required as prerequisites for issuing or renewing the travel documents, such documents should be given gratis.

During the Council meeting, on 13 January 1956, a Resolution¹¹ was adopted requesting the member States to report to the Organization on the measures taken to implement the Council's Recommendation of 29 September 1955. At the same time, the Tourism Committee was instructed to study these replies along with Recommendation N° 84 of the Council of Europe¹² on the simplification of frontier formalities, and to report to the Council on their study by 30 June 1956. On 29 February 1956, the Council further instructed the Tourism Committee to make specific proposals in its report, to alleviate problems associated with the crossing of frontiers between member States. It was hoped that the report would be made in time for Council action to benefit the 1956 tourist traffic. The Tourism Committee made its Report on June 20¹³, and on July 27 the Council adopted a Recommendation concerning the simplification of formalities required in the matter of passports for crossing frontiers¹⁴.

¹⁰ O.E.E.C. Doc. [C(55)295 (Final)]. The O.E.E.C. Council reviewed this *Recommendation* and approved it on the following subsequent occasions : on 16 April 1957, O.E.E.C. Docs. [C(57)37 (Final)] and [C(57)79]; on 3 October 1958, O.E.E.C. Doc. [C(58)196 (Final)]; on 29 January 1960, O.E.E.C. Doc. [C(59)272 (Final)] and [C(59)273 (Final)]; on 6 May 1960, O.E.E.C. Doc. [C(60)65 (Final)] and on 8 July 1960, O.E.E.C. Doc. [C(60)113 (Final)]. The *Recommendation* was also kept in force following the reconstitution of the O.E.E.C. to the O.E.C.D., in the O.E.C.D. Council *Decision* of 30 September 1961; see *Acts of the O.E.E.C. Remaining in Force after its Reconstitution*, O.E.C.D. Doc. [C(61)41], pp. 304 *et seq.* The *Recommendation* has reservations and interpretations attached to it and is not applicable to all Member States.

¹¹ O.E.E.C. Doc. [C(56)75].

¹² Council of Europe, Consultative Assembly, 7th Session, Second Part, 14-27 October 1955, *Official Report of Debates*, p. 742.

¹³ O.E.E.C. Doc. [C(56)131].

¹⁴ O.E.E.C. Doc. [C(56)131 (Final)]. Certain reservations and interpretations are appended to the Recommendation. The Act does not apply to Canada or the United States.

In the first section of the Recommendation on travel documents, the member States were asked to consider the issuance of passports having a validity of five years. Further consideration was invited on the reduction of fees charged for the issue of passports to the lowest possible level. As the Tourism Committee intended to create a specimen identity card suitable for international travel, the member Governments already granting identity cards were asked to consider their possible standardization of such documents.

Section two of the Recommendation deals with aspects of facilitation in border crossing. Therein, Council proposed that each member Government admit the nationals of other member countries to its territory when such persons presented an official document that established their identity and nationality. The document would, of course, have to be recognized by the issuing authorities for the purpose of allowing the holder to re-enter. It was realized that acceptance and implementation of the proposals would take considerable time before they became operative. Therefore, the Council suggested that until such measures were effected, member States should continue to seek possible agreement with other member countries, or take unilateral action to admit the tourist nationals of member countries to their territory on presentation of their identity cards. In addition, the O.E.E.C. invited its Members to reduce to a minimum, the frontier formalities touching travel documents of tourists from member countries, and in particular, those from neighbouring member countries.

The Council also instructed the Tourism Committee to submit a report to it by 31 March 1957 on steps taken by member States or that were contemplated, in implementing the provisions contained in section one of the Recommendation, and to draw up a standard specimen of an identity card suitable for international travel¹⁵.

Council received the Tourism Committee report and on 16 April 1957, rendered a Decision on the Establishment of a standard identity card by member countries¹⁶. Member countries already issuing identity cards were asked to take steps to ensure that from 1 January 1959, the printed text of national identity cards contained the following particulars in this order : surname, first names, date and place of birth, nationality, domicile, special particularities, height, signature of bearer, date of issue, place issued and a photo of specific dimensions. Further particulars could be added in accordance with each State's policy. The Council recognized that its Decision might be impractical in the

¹⁵ The Tourism Committee made its Report on « Identity Cards » in O.E.E.C. Doc. [C(57)56].

¹⁶ O.E.E.C. Doc. [C(57)56 (Final)]. The Decision did not apply to the Netherlands and the United Kingdom as these countries did not issue identity cards. The Decision was retained following the reconstitution, but was not applicable to Canada or the United States, see O.E.C.D. Doc. [C(61)41], pp. 362 *et seq.*

instance were member States recently introduced a new model of identity card. To cover this contingency, the Council decided that member countries which had recently introduced a new model of identity card would not be obliged to conform as regards the particulars to be listed in the identity cards until their current stock of identity cards was exhausted, but in any event, such member countries were to conform as from 1 January 1960.

The Tourism Committee was also asked by the Council : a) to convene a group of financial experts to study what steps could be taken to reconcile the use of identity cards by tourists with the exchange control practice of some member countries concerning the inscription on the tourists' identity document of foreign exchange allocations; b) to convene a meeting of experts to consider the reduction to a minimum of frontier controls of tourist identity documents and whether a simplified form of control could be adopted for young people travelling abroad; and c) to report on the progress of bilateral agreements for the use of identity cards for international tourism.

In connection with c) above, the Tourism Committee reported¹⁷ on the conclusion of the following bilateral agreements whereby : Austrians could travel to Germany or Switzerland, and *vice versa* with an expired passport, out of date within the last five years¹⁸; Frenchmen and Germans resident in their own country could visit the Netherlands without possessing a passport¹⁹; and, Frenchmen could enter and leave Austria and Italy without a passport on a reciprocal basis²⁰. Nationals of Germany, Belgium, Luxembourg, France and Switzerland, resident in their own country, could visit any of the other countries in the group without a passport²¹.

As most of the member States of the Council of Europe were also Members of the O.E.E.C., the signing at Paris on 13 December 1957 of the European

¹⁷ *Tourism in Europe*, O.E.E.C. (Paris, November 1957), p. 8.

¹⁸ See for example the Austria-Federal Republic of Germany Agreement of 31 May 1957, *Gemeinsames Ministerialblatt*, 3 July 1957, p. 245. The Agreement entered into force on 8 June, 1957.

¹⁹ The Netherlands-France Agreement of 21 May 1957 is found in United Nations, *Treaty Series*, vol. 299, p. 43. The Netherlands nationals, according to the Tourism Committee, required a national passport since they had no national identity card. The situation was changed in 1957 when the Netherlands Government introduced a « tourist card » to assist their nationals in travel.

²⁰ The France-Italy Agreement of 28 February 1957 is found in United Nations, *Treaty Series*, vol. 291, p. 191.

²¹ See for example, the Federal Republic of Germany-Luxembourg Agreement of 25 July 1956, *GMBL*, 25 July 1956, p. 357; the Federal Republic of Germany-Switzerland Agreement of 21 July 1956, *GMBL*, 1 August 1956, p. 356; the Federal Republic of Germany-France Agreement of 8 December 1956, *GMBL*, 8 December 1956, p. 592, and the Federal Republic of Germany-Belgium Agreement of 26 July 1956, United Nations, *Treaty Series*, vol. 249, p. 187, extended by Agreement of 11 March 1957, United Nations, *Treaty Series*, vol. 272, p. 310.

Agreement on Regulations governing the movement of persons between member States of the Council of Europe²² was significant as a contribution to the abolition of the passport requirement.

Further bilateral agreements for the suppression of passports between O.E.E.C. member States were concluded in 1958 and 1959. These included the France-Netherlands Agreement of 15 March 1958²³; the Netherlands-Switzerland Agreement of 29 March 1958²⁴; the Federal Republic of Germany-Netherlands Agreement of 9 April 1958²⁵; the Netherlands-Austria Agreement of 30 May 1958²⁶ modified on 13 June 1959²⁷, the France-Belgium Agreement of 3 September 1958²⁸; and the Italy-Luxembourg and Austria-Belgium Agreements²⁹. In addition, the Greek Government dispensed with the passport requirements for nationals of Austria, Belgium, France, Germany, Italy and Luxembourg on visiting Greece³⁰. In 1960, Italy and Switzerland reached an Agreement³¹ to reciprocally accept an identity card in lieu of a passport when presented by the other Party's nationals for entry to their territories.

To ensure the successful operation of the passport abolition agreements other bilateral agreements were concluded on the topic of acceptance of persons. For example, in the Netherlands-Federal Republic of Germany Agreement³² to facilitate the acceptance of persons at the frontier, found in the Exchange of Notes of 19 September and 10 October 1958, Germany agreed to accept German nationals, without any formalities or intervention of its diplomatic missions, whom the Netherlands wished to deport if it was proved or the presumption established that such persons had German nationality. German nationality could be established by a number of documents including a passport (*Reisepass*) of the Federal Republic or a federal identity document (*Bundespersonalausweis*) which are valid or expired within the last ten years. The

²² *European Treaty Series*, No 25; United Nations, *Treaty Series*, vol. 315, p. 139; The Agreement has been ratified by 10 of the O.E.C.D. Member States.

²³ United Nations, *Treaty Series*, vol. 437, p. 362.

²⁴ United Nations, *Treaty Series*, vol. 330, p. 101.

²⁵ United Nations, *Treaty Series*, vol. 335, p. 237. The performance of this Agreement between both countries on 10 October 1958 to facilitate the acceptance of persons at the frontier, United Nations, *Treaty Series*, vol. 486, p. 345.

²⁶ United Nations, *Treaty Series*, vol. 458, p. 147.

²⁷ United Nations, *Treaty Series*, vol. 458, p. 158.

²⁸ United Nations, *Treaty Series*, vol. 314, p. 326.

²⁹ *Tourism in Europe*, O.E.E.C., Paris, December 1959, p. 14.

³⁰ *Ibid.*

³¹ *Tourism in Europe*, O.E.E.C., Paris, September 1960, p. 17.

³² United Nations, *Treaty Series*, vol. 486, p. 345. The Agreement applied provisionally as from 21 October 1958 and entered into force on a permanent basis on 19 August 1959. Similar agreements were concluded between Austria and the Federal Republic of Germany on 19 July 1961, United Nations, *Treaty Series*, vol. 414, p. 211; Austria and France on 30 November 1962, United Nations, *Treaty Series*, vol. 463, p. 173; and Austria and Italy on 22 April 1963, United Nations, *Treaty Series*, vol. 491, p. 53.

individual was to be accepted back on the presentation of such document.

Under the same conditions and tests, the Netherlands Government agreed to accept back its nationals that Germany wished to deport. The Netherlands certificates of nationality (*Bewijs van Nederlanderschap*) or national passport, valid or expired within the previous ten years, could be used to establish Netherlands nationality. The deportee had to be accepted by the Netherlands on presentation of either document. This agreement did not affect the obligations of the Parties under their agreements of extradition and conveyance in transit of extradited persons.

Although the O.E.E.C. Council Decision of 20 December 1955 resulted in a greater freedom of mobility in manpower, the families of workers who left their country to take up employment in other member countries of the O.E.E.C. did not enjoy a corresponding freedom of mobility so that many families suffered hardship through separation. To remedy this situation, the Council responded on 29 January 1960 by adopting a Recommendation concerning the regulations and administrative practices governing the movement and employment of families of workers nationals of member countries³³.

Member States are urged to assist the wife and children under 18 years of age of a foreign worker, who is a national of a member State, if they normally reside with the worker, by examining the possibility of giving them passports or other travel documents having an initial validity of at least five years when they either accompany or join the head of their family employed abroad. No charge, or a charge only to meet administrative costs, was proposed for the issue and renewal of passports and other travel documents. A call was made for maximum simplification of formalities required for the delivery of passports to these persons. Somewhat related to this last proposal was a request to member States, when acting as the country of emigration, to issue gratis any documents necessary for the granting of passports to such persons.

Before looking to the efforts of the Organization after its reconstitution, it is worth noting that the O.E.E.C. Council made a Recommendation concerning regulations and administrative practices relating to the movement and employment of refugees³⁴. This Recommendation only deals with travel documents indirectly through the Council's cognizance of the Convention relating to the Status of Refugees of 28 July 1951³⁵, and in particular to Article 28 of the Convention, and Articles 5 and 6 of the Schedule to the Convention, which pertain to travel documents for refugees. In this Recommendation, member countries were asked to grant their officially recognized

³³ O.E.E.C. Doc. [C(59)272 (Final)]. The Council also noted a number of reservations to this Recommendation. This Recommendation was retained following the Organization's reconstitution.

³⁴ O.E.E.C. Doc. [C(58)196 (Final)]. This Recommendation was retained following the Organization's reconstitution.

refugees who were proceeding to take up long-term employment in another member State, a right to return within at least two years, dating from the time of their departure. The Council also encouraged bilateral agreements among member States to deal with this subject. For example, on 15 February 1957, Belgium and France signed an Agreement³⁶ in Paris on the movement of refugees. On a reciprocal basis, each country agreed to allow the refugees legally resident in Belgium and France to travel between their countries if the refugees held a valid refugee travel document issued by the Belgian or French authorities in accordance with the provisions of the Geneva Convention of 28 July 1951. The refugee travel document had to bear the following notation : « The holder of this travel document is exempted from visa obligations in respect of three-month sojourns in Belgium or France, under the Agreement concluded on 15 February 1957. » No visa was required.

Each Government undertook to readmit refugees to whom it issued a travel document, at the simple request of the other State, unless the latter authorized the refugees concerned to settle in its territory. Both Governments reserved the right to refuse entry or sojourn to persons whom it deemed to be undesirable. The Agreement could be suspended by either Government for reasons of public order and security which if exercised, had to be notified immediately to the other Party through diplomatic channels.

On 14 December 1960, the Convention on the Organization for Economic Co-operation and Development and Protocols³⁷ signed at Paris, reconstituted the O.E.E.C. to form the new Organization for Economic Co-operation and Development (O.E.C.D.).

B. DEVELOPMENTS UNDER THE O.E.C.D.

Article 15 of the O.E.C.D. Convention required the decisions, recommendations and resolutions of the O.E.E.C. to be approved by the O.E.C.D. Council in order to be effective after the Convention entered into force. The O.E.C.D. Council approved a Report³⁸ on 13 December 1960, which had been

³⁵ United Nations, *Treaty Series*, vol. 189, p. 150.

³⁶ United Nations, *Treaty Series*, vol. 267, p. 3. A similar agreement was concluded between the Netherlands and France on the same day, United Nations, *Treaty Series*, vol. 286, p. 243. See also the Belgium-Netherlands and Belgium-Luxembourg Agreements of 1955 to improve the condition and facilitate the movement of refugees settled in their territories, United Nations, *Treaty Series*, vol. 211, pp. 49 and 57, respectively. These last-mentioned Agreements were denounced in 1961 as part of a more liberal program in Benelux.

³⁷ The Convention and Protocols are found in *European Yearbook*, vol. VIII, 1960, p. 259.

³⁸ *European Yearbook*, vol. VIII, 1960, pp. 275 *et seq.*

prepared by a Preparatory Committee specifically constituted to gather the former Organization's Recommendations, Resolutions and Decisions for retention following reconstitution. An examination of this Report indicates that most of the O.E.C.D. member States have accepted the O.E.E.C. Council's views in respect of travel documents as already outlined.

The Tourism Committee continued its operations in the new Organization, and in 1962 reported that Spain was prepared to accept French nationals possessing a tourist card. French policy thwarted the gesture by requiring its citizens to possess a passport for travel to Spain. It was reported further that Turkey and the Federal Republic of Germany reached an understanding whereby Germans could enter Turkey with an identity card or an expired passport not more than 5 years out of date³⁹. In the following year, the Tourism Committee announced that Turkey extended the same conditions of entry to its territory to nationals from Austria, Belgium, France, Italy, Luxemburg and the Netherlands⁴⁰. Also, the 1963 report mentions the conclusion of agreements to enable West German, Austrian, French and Swiss tourists to enter Denmark, Norway and Sweden with an identity card in lieu of a passport⁴¹.

In August 1964, Spain and the Federal Republic of Germany concluded an agreement to permit German tourists to enter Spain with a national identity card. The following year, the Franco-British Agreement abolishing the passport for travel between their countries or United Kingdom citizens and French nationals, was renewed, as it had been yearly since 1955 (the excursion period was increased over the years from 24 hours to 60 hours). Ireland also allowed nationals from the Benelux countries, France and the Federal Republic of Germany to enter its territory for 60 hours if they possessed an identity card⁴².

On 20 July 1965, the O.E.C.D. Council adopted a Recommendation concerning administrative formalities relating to international tourism⁴³, which repealed the previous Recommendations of the O.E.E.C. Council dated 29 September 1955 and 27 July 1956, that had been retained on reconstitution, and invited the Governments of member States to consider modifying their practices so as to bring them into conformity with provisions contained in an Annex to the Recommendation. With respect to passports, the Annex proposes that member countries take appropriate measures to admit temporary visitors to its territory, who are nationals of other member countries situated in the

³⁹ *Tourism in O.E.C.D. Member Countries*, O.E.C.D., Paris, 1962, p. 16.

⁴⁰ *Ibid.*, 1963, p. 20.

⁴¹ *Ibid.*

⁴² *Ibid.*, 1965, p. 30.

⁴³ O.E.C.D. Doc. [C(65)84]. This Recommendation did not apply to Canada.

same geographical region, upon their presentation of an official document, either a national identity card or tourist card, which indicates their identity and nationality, and is valid for return to the country issuing the document. The term *temporary visitor* is defined in the Annex as any person without distinction as to race, sex, language or religion, who enters a member country other than the country where he normally resides and remains there a maximum of three months for legitimate non-immigrant purposes and does not take up any gainful occupation during his stay in the country visited ⁴⁴.

Member States were asked to decentralize the places of issue of individual passports and to eliminate the requirement of individuals presenting certain documents ⁴⁵ as a prerequisite to the issue of a passport. It was suggested that a child under the age of 16 years should not require a separate passport provided the child entered in the company of a parent or legal guardian who held a passport containing particulars of the child. Individual passports should be issued with an initial validity of five years and renewable for a similar period. Council thought that the passport should be valid for an unlimited number of journeys to all member countries unless an exception was justified in which case the territorial limitation should be clearly set out. Documents required by national authorities for passport renewal should be limited to those absolutely necessary for ascertaining the correctness of the data mentioned in the passport. Fees for issuing or renewing passports should only reflect the cost of the operation as a maximum. Member States were also asked to consider the standardization of passports as recommended by the 1963 United Nations Conference on International Travel and Tourism although Council recognized the impossibility of such a change in countries which issued passports by using electronic devices. Finally, the Council condemned the practice of some States in retaining or impounding the temporary visitor's travel document.

On the question of collective passports ⁴⁶, the Council encouraged their acceptance by member countries, particularly for short journeys within the same geographical region.

In 1966, further arrangements to suppress the passport requirement were

⁴⁴ This provision is not applicable to the United States of America or to Japan. However, it must be added that following World War II, the United States concluded arrangements with both Canada and Mexico whereby American nationals, on a reciprocal basis, could enter the neighbouring countries without possessing a passport — see United States reply in U.N. Doc E/CN.2/28, Part II, April 1948. Replies of Governments to the Secretary-General's enquiry.

⁴⁵ Namely, a certificate of good conduct, evidence of financial status, and in some cases, security or a guarantee for the applicant's repatriation.

⁴⁶ The collective passport introduced by the Brussels Treaty Powers in the Agreement of 28 February 1952 is suggested as a prototype. The provision on collective passports was not applicable to the United States or Japan.

announced. As of 15 February and 15 March, French and Swiss nationals, respectively, no longer required a valid passport for travel to Spain. In each case an identity card, or out-of-date passport (expired within the last five years), was acceptable as a suitable travel document⁴⁷.

C. THE UNITED KINGDOM BRITISH VISITOR'S PASSPORT AND VISITOR'S CARD

The United Kingdom, in its efforts to follow the recommendations of both the Council of Europe and the O.E.E.C. with respect to the simplification of frontier formalities, in general, and the suppression of the passport requirement, in particular, for travel between States belonging to these Organizations, devised two unique plans to reach these objectives, the introduction of a Visitor's Card and a British Visitor's Passport.

THE VISITOR'S CARD

Prior to investigating the agreements concluded for the use and acceptance of the Visitor's Card, a description of the document and procedure for its issuance is in order. The Visitor's Card⁴⁸, which is printed in England and published by the British Travel Association, is distributed free of charge to the various travel agencies situated in the countries with which the United Kingdom has concluded an agreement for the document's use. These travel agencies will provide the intended traveller with a Visitor's Card at the latter's request. In appearance, the Visitor's Card is a pink light cardboard consisting of four pages with text in black print. Details on the Visitor's Card appear in two languages, one of the official languages of the intended holder's country and in English. The English text always appears as the second language on the document.

On the first page of the Visitor's Card, we find the title of the document, the name of the country of issue, and a statement that the Republic of Ireland also accepts the document as valid. A notation relates that the document can be used for travel to the United Kingdom (Channel Islands and the Isle of Man) when accompanied by a national identity card, if the bearer is a national of a country which has concluded an agreement with the United Kingdom Government for the acceptance of identity cards in *lieu* of passports. Furthermore, the document is valid only for a visit of three months or less. It is stated that the Visitor's Card may not be used « by a person of any other nationality or by a stateless person or by a person whose identity card

⁴⁷ *Tourism in O.E.C.D. Member Countries*, O.E.C.D., Paris, 1966, p. 33.

⁴⁸ An example of the Visitor's Card is found in Annex 3 of the Belgium-United Kingdom Agreement of 1 April 1960, United Nations, *Treaty Series*, vol. 361, p. 135.

is issued by authorities other than those of his own country ». The reader is instructed to take careful note of conditions on page four.

The bearer completes page two by indicating his full name, nationality, serial number of his national identity card, and the names and ages of children under 16 years of age who are accompanying him. The conditions on page four indicate that the Visitor's Card is not valid for use by a person who intends to enter the United Kingdom for employment, paid or unpaid, or for a stay of more than three months. The card is intended to assist the entry of tourists and is not required by the holder of a passport. A holder of a Visitor's Card must present the document together with his national identity card to the Immigration Officer at the port of arrival. This official may grant the bearer permission to land according to any conditions which he may impose (such conditions are entered on page three of the document). In addition, the bearer must present the Visitor's Card to any police officer in the United Kingdom upon demand, and to the Immigration Officer on leaving the United Kingdom. Holders are informed furthermore, that each adult and unaccompanied child requires a separate Visitor's Card. Holders are required also to complete landing and embarkation cards.

The prototype of international agreement pertaining to the Visitor's Card is found in the United Kingdom-Luxembourg Exchange of Notes in London on 1 April 1960 constituting an Agreement⁴⁹ concerning arrangements to facilitate travel between the two countries. Under the Agreement, Luxembourg citizens could enter the United Kingdom, Channel Islands, Isle of Man and British overseas dependent territories⁵⁰ without a visa if they held a valid Luxembourg passport. Also, Luxembourg citizens could enter these areas for non-employment purposes and for a maximum stay of three months if they held a valid Luxembourg identity card and a British Visitor's Card. British subjects and British Protected Persons holding a valid « British Passport » could enter Luxembourg without a visa for a maximum stay of three months.

The British territories and Luxembourg could prevent the entry of undesirables or persons considered ineligible under the general policy of the respective Governments. Each Government agreed to take back at any time, persons who entered the territory of the other Government by virtue of this Agreement. Either Government could suspend operation of the Agreement in whole or in part for reasons of public order or public security which if exercised, had to be communicated immediately to the other Government through the diplomatic channel.

Similar exchanges of Notes constituting agreements took place between the

⁴⁹ United Nations, *Treaty Series*, vol. 374, p. 267. The Agreement came into force on 10 April 1960.

⁵⁰ A list of these territories is attached to the Agreement in Annex 1.

United Kingdom and other O.E.E.C. (O.E.C.D.) member States. These included : the agreement with the Netherlands⁵¹ in London on 1 April 1960 thereby enabling Netherlands nationals to enter the above-mentioned territories if they held a valid Netherlands Identity Card and a British Visitor's Card; the agreement with Belgium⁵² concluded in London on 1 April 1960 to enable Belgian nationals to enter the above-mentioned territories if they held a valid Belgian Identity Card⁵³ and a British Visitor's Card; the Agreement concluded with France⁵⁴ in Paris on 14 February 1961 to enable French nationals possessing their national identity card and a British Visitor's Card to enter the above-mentioned territories; the Agreement with Switzerland⁵⁵ concluded in Berne on 27 February 1961 to enable Swiss nationals holding a Swiss identity card and a British Visitor's Card, and Swiss children under 16 years of age in possession of a *laissez-passer* issued by the authorities of any Canton in the Swiss Confederation and a British Visitor's Card to enter any of the above-mentioned territories; and, the Agreement with the Federal Republic of Germany⁵⁶ concluded in Bonn on 20 June 1960 to permit a West German national possessing a valid federal identity card, *Personalausweis*, or a provisional identity card issued by the authorities of Land Berlin, *Behelfsmässiger Personalausweis*, or a certificate bearing the holder's photograph stating that the holder has been registered as a resident of Berlin and is German for children under 15 years of age who reside in West Berlin, and a British Visitor's Card to enter into the above mentioned territories.

Outside of O.E.E.C. membership, the United Kingdom concluded similar agreements to facilitate travel for Monegasque nationals⁵⁷ and Liechtenstein citizens⁵⁸ to enter the above-mentioned territories.

The Switzerland-United Kingdom Agreement of 27 February 1961 was superseded by the Parties in an Exchange of Notes in London on 27 August 1963

⁵¹ United Nations, *Treaty Series*, vol. 374, p. 277. The Agreement entered into force on 10 April 1960.

⁵² United Nations, *Treaty Series*, vol. 361, p. 135. The Agreement entered into force on 10 April 1960.

⁵³ An example of the Belgian Identity Card is found in Annex 2 of the Agreement.

⁵⁴ United Nations, *Treaty Series*, vol. 398, p. 267. The Agreement came into force on 15 March 1961.

⁵⁵ United Nations, *Treaty Series*, vol. 404, p. 167. The Agreement entered into force on 15 March 1961.

⁵⁶ United Nations, *Treaty Series*, vol. 385, p. 55. The Agreement entered into force on 7 July 1960.

⁵⁷ United Nations, *Treaty Series*, vol. 404, p. 11. The Agreement entered into force on 11 April 1961.

⁵⁸ United Nations, *Treaty Series*, vol. 404, p. 167. The Agreement entered into force on 15 March 1961. See also the Agreement found in United Nations, *Treaty Series*, vol. 486, p. 183.

constituting an Agreement⁵⁹ to facilitate travel between their countries. Under the new Agreement, Swiss nationals could enter the United Kingdom, the Channel Islands and the Isle of Man if they possessed (a) a valid Swiss passport, or, (b) a valid Swiss Identity Card⁶⁰ or a *laissez-passer*⁶¹ issued by the authorities of any Swiss Canton and were under 16 years of age, and a British Visitor's Card⁶². Swiss and British children under 16 years of age could enter the other Party's territory without any individual identity document if their names were included in a Swiss or British passport of one of their parents with whom they were travelling. A Swiss or British seaman could enter the other Party's territory during temporary shore leave while the ship on which he is serving is in port, or if he is joining his ship or transferring to another ship or passing in transit to join his ship in another country or for repatriation, if he possesses a valid Swiss seaman's identity document⁶³ denoting his Swiss nationality, or a valid British seaman's identity document⁶⁴ stating the holder to be a British nationality and issued by the United Kingdom authorities, or lastly, a valid seaman's Certificate of Nationality and Identity⁶⁵ indicating the holder's British nationality and issued by the authorities of the British territories⁶⁶. Entry into Switzerland was allowed also to holders of a valid British Passport bearing a notation of the holder's national status, and holders of a valid British Visitor's Passport which Switzerland recognized as a valid British passport.

Holders of the Swiss identity document or a Swiss *laissez-passer* and the British Visitor's Passport were eligible to enter the other Party's territory for a stay not to exceed three months and for non-employment purposes. When holders of any of these documents enter the other Party's territory and subsequently obtain leave to stay beyond three months, they are required to produce a valid Swiss passport or a British passport, as the case may be.

The authorities of the United Kingdom, its territories and Switzerland reserved the right to refuse entry or sojourn to any person it considered undesirable or ineligible under its policy concerning foreigners. Each Government bound itself to re-admit persons who entered the other Party's territory under the Agreement. Either Government could temporarily suspend the

⁵⁹ United Nations, *Treaty Series*, vol. 486, p. 183. The Agreement entered into force on 1 October 1963.

⁶⁰ Annex A.

⁶¹ Annex D.

⁶² Annex B.

⁶³ Annex C.

⁶⁴ Annexes J and K.

⁶⁵ Annex L.

⁶⁶ The territories are listed in Annex E. The United Kingdom could terminate the application of the Agreement to any of the territories listed in Annex E by giving Switzerland one month's written notice.

Agreement, in whole or in part, for reasons of public policy or national security by giving the other Party immediate notice through the diplomatic channel.

THE BRITISH VISITOR'S PASSPORT

On 15 March, 1961, the United Kingdom introduced a new travel document for use by United Kingdom citizens and British Protected Persons from its overseas territories.

To ensure that the new travel document, known as the « British Visitor's Passport », would be internationally accepted and recognized, the United Kingdom concluded a number of bilateral agreements. Before focusing our attention on these international agreements, it might be best to review some of the details surrounding the use of the document as well as its characteristics.

In the first place, a British Visitor's Passport cannot be held at the same time as a valid British Passport. Any person indebted to Her Majesty's Government in respect of any repatriation or similar relief is not entitled to hold a British Visitor's Passport, nor to have their name included in the document. Holders of the document can only be British subjects who are citizens of the United Kingdom or British Colonies and are resident in the United Kingdom, the Isle of Man or the Channel Islands, who would otherwise be entitled to hold a British passport. Whether the applicant for a British Visitor's Passport is a British subject and citizen of the United Kingdom or Colonies is not always apparent⁶⁷. Generally, the eligibility test would be : (a) by birth in the United Kingdom, the Isle of Man, the Channel Islands or in a British Colony; (b) by naturalisation in any of the places mentioned in (a); (c) for persons born legitimate abroad — by the father's birth in any of the places listed in (a); (d) by registration as a citizen of the United Kingdom and Colonies.

Although the bilateral agreements to be mentioned inform the other Party that :

« an applicant for a British Visitor's Passport will not be required by the United Kingdom authorities to produce documentary evidence of his identity and national status, but will be required to sign a declaration that he is a British subject, citizen of the United Kingdom and Colonies⁶⁸ »,

in fact, the applicant must produce certain documentary evidence to satisfy the issuing authorities. The applicant must first secure an application form

⁶⁷ See generally on this question, PARRY, C., *Nationality and Citizenship Laws of the Commonwealth and the Republic of Ireland*, 2 vols., London, 1957 and 1960.

⁶⁸ This serves notice to the other Party to the Agreement that a proper investigation of the holder's national status has not been made. The British Visitor's Passport bears a notation that it will not be accepted as conclusive evidence of the bearer's status. To have his national status and identity certified, the individual must apply for the ordinary British passport.

which is easily obtainable in a large number of Government offices scattered throughout the United Kingdom, the Channel Islands and the Isle of Man. On completing the application, the applicant must personally appear before the issuing officer, with his wife and children under the age of 16 years if he wishes them to be inscribed in the document, and produce one of the following documents for each of the persons to be so included : (a) a National Health Service Medical Card; (b) a Birth Certificate issued in the United Kingdom, Channel Islands, Isle of Man or by a United Kingdom authority abroad; (c) a Retirement Pensioner's Order Book. Two identical photographs of the applicant and two of his wife, if she is to be included in the document, must be submitted; one photograph is required of any children to be included.

The wife or children included in the holder's British Visitor's Passport cannot use the document for travel unaccompanied by the holder. Children, 8-16 years old, may hold a separate British Visitor's Passport, but any applicant under 21 years of age who is not married or is a member of Her Majesty's Forces, must have his legal guardian countersign the application. An applicant and his wife, if her name is included, must sign the travel document in the presence of the issuing officer. It has a validity of one year from the date of issue, is not renewable and is only intended for use during short visits abroad. Lastly, the document cannot be used by the leader of a party of young people travelling with a collective passport. Such a person must still possess a British passport.

The first bilateral agreement was concluded with Iceland in an Exchange of Notes at Reykjavik on 9 February 1961 constituting an Agreement⁶⁹ concerning the acceptance of the British Visitor's Passport for travel between the United Kingdom and Iceland. The United Kingdom indicated that since it did not issue identity cards to residents of the United Kingdom, it would introduce a simplified form of passport known as the British Visitor's Passport beginning 15 March 1961 which would be available to British subjects, citizens of the United Kingdom and Colonies.

Iceland agreed to accept the British Visitor's Passport as a valid passport and to allow its holder to enter Iceland for a maximum stay of three months for non-employment purposes. A holder of a British Visitor's Passport who enters Iceland and subsequently obtains permission to stay there longer than three months has to obtain a passport with the inscription « British Passport » on the cover (in other words, the ordinary passport), prior to the expiry of the three months. Iceland could refuse to allow entry to persons considered as undesirable as well as to persons ineligible under its general policy relating to entry and sojourn of foreigners. The United Kingdom agreed to take back at any time, persons who entered Iceland with a British Visitor's Passport.

⁶⁹ United Nations, *Treaty Series*, vol. 398, p. 259. The Agreement came into force on 15 March 1961.

Finally, Iceland can temporarily suspend operation of the Agreement, in whole or in part, for reasons of public policy or national security; if exercised, the United Kingdom has to be given immediate notice of the suspension through the diplomatic channel.

The United Kingdom concluded similar agreements with other member countries of the Council of Europe and the O.E.C.D., namely, France⁷⁰, Spain⁷¹, the Federal Republic of Germany⁷², Belgium⁷³, Luxembourg⁷⁴, the Netherlands⁷⁵, Portugal⁷⁶, Switzerland⁷⁷, Italy⁷⁸, Greece⁷⁹, Sweden⁸⁰,

⁷⁰ The Agreement is contained in the Exchange of Notes of 14 February 1961, and is found in United Nations, *Treaty Series*, vol. 398, p. 267. The Agreement entered into force on 15 March 1961 and also applies to Corsica.

⁷¹ The Agreement is contained in the Exchange of Notes of 15 February 1961, and is found in United Nations, *Treaty Series*, vol. 404, p. 75. The Agreement entered into force on 15 March 1961 and also applies to the Balearic and Canary Islands.

⁷² The Agreement is contained in the Exchange of Notes of 20 February 1961, and is found in United Nations, *Treaty Series*, vol. 398, p. 249. The Agreement came into force on 20 February 1961 and also applies to the Land Berlin.

⁷³ The Agreement is contained in the Exchange of Notes of 21 February 1961, and is found in United Nations, *Treaty Series*, vol. 398, p. 229. The Agreement entered into force on 15 March 1961.

⁷⁴ The Agreement is contained in the Exchange of Notes of 21 February 1961, and is found in United Nations, *Treaty Series*, vol. 398, p. 243. The Agreement came into force on 15 March 1961.

⁷⁵ The Agreement is contained in the Exchange of Notes of 21 February 1961, and is found in United Nations, *Treaty Series*, vol. 398, p. 235. The Agreement came into force on 15 March 1961.

⁷⁶ The Agreement is contained in the Exchange of Notes of 24 and 27 February 1961, and is found in United Nations, *Treaty Series*, vol. 404, p. 33. The Agreement came into force on 15 March 1961 and also applies to the Azores and Madeira.

⁷⁷ The Agreement is contained in the Exchange of Notes of 27 February 1961, and is found in United Nations, *Treaty Series*, vol. 404, p. 167. The Agreement entered into force on 15 March 1961. This Agreement was superseded by an Agreement found in United Nations, *Treaty Series*, vol. 486, p. 183, which was concluded on 27 August 1963 and in force on 1 October 1963.

⁷⁸ The Agreement is contained in the Exchange of Notes of 21 February and 6 March 1961, and is found in United Nations, *Treaty Series*, vol. 404, p. 3. The Agreement entered into force on 15 March 1961.

⁷⁹ The Agreement is contained in the Exchange of Notes of 6 April 1961, and is found in United Nations, *Treaty Series*, vol. 403, p. 267. The Agreement came into force on 1 May 1961.

⁸⁰ The Agreement is contained in the Exchange of Notes of 5 May 1961, and is found in United Nations, *Treaty Series*, vol. 404, p. 105. The Agreement entered into force on 1 June 1961. Holders of the British Visitor's Passport could only spend a maximum of three months in the Scandinavian Passport Union, that is, in the Nordic States being party to the Convention of 12 July 1957. Moreover, visits to these countries as a group could not exceed three months in any nine months' period.

Denmark⁸¹, Norway⁸², Turkey⁸³, Austria, Malta and Canada⁸⁴. It might also be mentioned that the United Kingdom made similar arrangements with Andorra, Monaco⁸⁵, Liechtenstein⁸⁶, San Marino⁸⁷ and Finland⁸⁸.

A study of these agreements reveals that the initial plan called for the issue of a uniform British Visitor's Passport from all the designated offices. A further Government decision indicates that as of 1 June 1961, the authorities of Jersey, Guernsey and the Isle of Man would issue a slightly modified version of the British Visitor's Passport issued by the authorities of Great Britain and Northern Ireland. In order to ensure international recognition and acceptance of the modified versions of the original travel document, the United Kingdom exchanged Notes constituting an Agreement to supplement the initial agreements⁸⁹.

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⁸¹ The Agreement is contained in the Exchange of Notes of 10 May 1961, and is found in United Nations, *Treaty Series*, vol. 414, p. 17. The Agreement went into force on 1 June 1961. See, n. 78.

⁸² The Agreement is contained in the Exchange of Notes of 6 and 10 May 1961, and is found in United Nations, *Treaty Series*, vol. 414, p. 9. The Agreement went into force on 1 June 1961. See, n. 78.

⁸³ The Agreement is contained in the Exchange of Notes of 28 June 1961, and is found in United Nations, *Treaty Series*, vol. 414, p. 93. The Agreement entered into force on 1 September 1961.

⁸⁴ The British Visitor's Passport must be valid for three months beyond the last date the holder will be in Canada.

⁸⁵ United Nations, *Treaty Series*, vol. 404, p. 11, and vol. 414, p. 432.

⁸⁶ *Ibid.*, vol. 403, p. 167, and vol. 414, p. 435.

⁸⁷ *Ibid.*, vol. 414, p. 45, and vol. 425, p. 378.

⁸⁸ *Ibid.*, p. 53, and vol. 420, p. 376.

⁸⁹ The United Kingdom and Belgium exchanged Notes on 23 May 1961, United Nations, *Treaty Series*, vol. 410, p. 367. The Agreement came into force on 23 May 1961 (A specimen of the British Visitor's Passport issued by the authorities in Jersey, Guernsey and the Isle of Man are contained in Annexes to the Agreement); the United Kingdom and Iceland exchanged Notes on 29 May 1961, United Nations, *Treaty Series*, vol. 414, p. 424. The Agreement came into force on 29 May 1961; the United Nations and Portugal exchanged Notes on 22 and 30 May 1961, United Nations, *Treaty Series*, vol. 420, p. 357. The Agreement came into force on 30 May 1961; the United Kingdom and Spain exchanged Notes on 3 June 1961, United Nations, *Treaty Series*, vol. 420, p. 361. The Agreement came into force on 3 June 1961; the United Kingdom and Switzerland exchanged Notes on 15 June 1961, United Nations, *Treaty Series*, vol. 414, p. 435. The Agreement came into force on 15 June 1961. (See also, United Nations, *Treaty Series*, vol. 486, p. 183); the United Kingdom and Luxembourg exchanged Notes on 15 May and 19 June 1961, United Nations, *Treaty Series*, vol. 414, p. 415. The Agreement came into force on 19 June 1961; the United Kingdom and the Federal Republic of Germany exchanged Notes on 9 and 24 June 1961, United Nations, *Treaty Series*, vol. 414, p. 419. The Agreement came into force on 24 June 1961; the United Kingdom and France exchanged Notes on 15 and 26 June 1961, United Nations, *Treaty Series*, vol. 420, p. 353. The Agreement came into force on 26 June 1961; the United Kingdom and Norway exchanged Notes on 14 and

The O.E.E.C., now the O.E.C.D., has made a considerable contribution to the objective of freedom of movement in Europe. A glance at the latest available O.E.C.D. report on the present status of passport abolition agreements⁹⁰ reflects the success of its programme. The O.E.C.D. assisted in whittling away the obstacles which have acted for so long as a fetter on personal mobility in Europe, and has influenced the development of passport control areas. The acceptability and recognition of the national identity card as a travel document has been a most significant achievement.

Development of the British Visitor's Card and British Visitor's Passport are worthwhile innovations which can profitably be studied by those countries which remain unconvinced that greater mobility will lead to an integrated Europe.

17 July 1961, United Nations, *Treaty Series*, vol. 420, p. 368. The Agreement came into force on 17 July 1961; the United Kingdom and Denmark exchanged Notes on 27 July 1961, United Nations, *Treaty Series*, vol. 420, p. 372. The Agreement came into force on 27 July 1961; the United Kingdom and Sweden exchanged Notes on 25 August 1961, United Nations, *Treaty Series*, vol. 425, p. 374. The Agreement came into force on 25 August 1961; the United Kingdom and Turkey exchanged Notes on 24 November 1961, United Nations, *Treaty Series*, vol. 425, p. 384. The Agreement came into force on 24 November 1961; the United Kingdom and Greece exchanged Notes on 15 May and 19 June 1961, United Nations, *Treaty Series*, vol. 414, p. 415. The Agreement entered into force on June 1961.

⁹⁰ *Tourism in O.E.C.D. Member Countries*, O.E.C.D., Paris, 1967, p. 49.