Proposal for a Council Directive on a right of residence for nationals of Member States in the territory of another Member State

(Submitted by the Commission to the Council on 31 July 1979)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 56 (2) and 235 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 the Member States, in signing the Treaty establishing the European Economic Community, have declared themselves 'determined to lay the foundations of an ever closer union among the peoples of Europe'; whereas to this end they have provided for the removal in the Member States of obstacles to the free movement of persons;

Whereas, to achieve this objective, the Treaty has provided for powers to take action to ensure freedom of movement for workers and self-employed persons; whereas, however, no provision has been made for powers to take action with regard to freedom of movement for persons independently of the pursuit of an occupational activity;

Whereas, however, freedom of movement of persons is, by virtue of Article 3 (c) of the Treaty, one of the foundations of the Community and can be fully attained only if a right of permanent residence is granted to those Community nationals in whom such right does not already vest under the Community law in force, and to the members of their family;

Whereas the exercise of this right may, however, be made subject to economic conditions;

Whereas Directive 64/221/EEC (1) coordinated special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health;

Whereas Directive 64/221/EEC should also apply to nationals of Member States moving within the Community independently of the pursuit of an economic activity;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall, under the conditions laid down in this Directive, abolish restrictions on movement and residence in respect of nationals of another Member State who reside or wish to reside in their territory and who are not covered by the provisions of Directive 68/360/EEC (2), Regulation (EEC) No 1251/70 (3), Directive 73/148/EEC (4) or Directive 75/34/EEC (5).

2. They shall abolish these restrictions in respect of members of those nationals' families who do not personally come within the conditions laid down in Article 4 (2) and who reside with those nationals on the territory of the host Member State.

'Members of the family' of nationals of a Member State means:

(a) the spouse and relatives in the descending line who are either dependent or under 18 and their spouses;

(b) the dependent relatives in the ascending line and those of their spouse, irrespective of their nationality.

3. Member States shall favour the admission of any other member of the family of a national referred to in paragraph 1 or of the spouse of that national, when that member is dependent on them or was living under the same roof in the country of origin.

(1) OJ No L 56, 4. 4. 1964, p. 850/64.
(2) OJ No L 257, 19. 10. 1968.
Article 2

1. Member States shall grant the persons referred to in Article 1 the right to leave their territory. Such right shall be exercised simply on production of a valid identity card or passport. Members of the family shall enjoy the same right as the national on whom they are dependent.

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

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

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

Article 3

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

2. No entry visa or equivalent requirement may be demanded save in respect of members of the family who do not have the nationality of a Member State. Member States shall afford to such persons every facility for obtaining any necessary visas.

Article 4

1. Member States shall grant the right of permanent residence to citizens of another Member State referred to in Article 1 (1) who reside or wish to reside in their territory.

2. Nevertheless, the Member States may require those citizens to provide proof of sufficient resources to provide for their own needs and the dependent members of their family referred to in Article 1 (a) (2). Citizens of at least 18 years of age who are studying or wish to study in the host Member State may provide such proof by showing that their means of subsistence derive from a relative in the ascending line who does not live with them in the host country.

Member States may not require such resources to be greater than the minimum subsistence level defined under their law.

3. The Member States recognize a permanent right of residence for members of the family referred to in Article 1 (a) (2) of any one who possesses such right by virtue of the preceding paragraph. This provision applies even after the decease of the interested party.

Article 5

1. The right of residence shall be evidenced by issue of a document entitled 'Residence Permit for a National of a Member State of the European Community'. This document shall be valid for not less than five years from the date on which it is issued.

The residence permit shall be automatically renewable except at the end of the first period for which it is valid if it is proved that the condition referred to in Article 4 (2) is no longer satisfied. Nevertheless, this exception shall not apply to members of the family referred to in Article 1 in the event of the death of the national on whom they are dependent.

2. Breaks in residence not exceeding 12 consecutive months and absence on military service or civil service done instead of military service or absence on medical grounds shall not affect the validity of the residence permit.

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

Article 6

For the issue of the residence permit, Member States may require only the production of the following documents:

— by the applicant:

(a) the document under cover of which he entered their territory;

(b) documents proving that he has at his disposal the resources referred to in Article 4 (2);
— by the members of the family:

(c) the document under cover of which they entered the territory,

(d) a document issued by the competent authority of the State of origin or the State whence they came proving their family relationship,

(e) in the cases referred to in Article 1 (2) and (3), a document issued by the competent authority of the State of origin or the State whence they came, certifying that they are dependent on the relative or live with him in this country.

Article 7

The right of residence shall be effective throughout the territory of the Member State concerned.

Article 8

1. The residence documents granted to nationals of a Member State shall be issued and renewed free of charge or on payment of an amount not exceeding the dues and taxes charged for the issue of identity cards to nationals. These provisions shall also apply to documents and certificates required for the issue and renewal of such residence documents.

2. The visas referred to in Article 3 (2) shall be free of charge.

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

Article 9

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

2. Directive 64/221/EEC shall apply to the persons covered by this Directive.

Article 10

1. Member States shall, within 12 months of notification of this Directive, bring into force the measures necessary to comply with its provisions and shall forthwith inform the Commission thereof.

2. After notification of this Directive, Member States shall moreover inform the Commission, allowing sufficient time for it to submit its observations, of any subsequent draft laws, regulations or administrative provisions which they propose to adopt in the field covered by this Directive.

Article 11

This Directive is addressed to the Member States.