

EUROPEAN PARLIAMENT

Working Documents

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DOCUMENT 1-506/80

Report

drawn up on behalf of the Legal Affairs Committee

**on the action taken by the Commission of the European Communities
on the opinion delivered by the European Parliament on the proposal
for a Directive (Doc. 1-324/79) on a/right of residence for nationals of
Member States in the territory of another Member State**

Rapporteur: Mr M. FERRI

At its meeting of 16 October 1980 the Bureau authorized the Legal Affairs Committee, at its own request, to submit to the European Parliament a motion for a resolution on the action taken by the Commission of the European Communities on the opinion delivered by the European Parliament on the proposal for a directive (Doc. 1-324/79) on a right of residence for nationals of Member States in the territory of another Member State.

This report was adopted unanimously by the Legal Affairs Committee at its meeting of 2 October 1980.

Present: Mr Ferri, chairman and rapporteur; Mrs Cinciari Rodano, Mr Dalziel, Mr D'Angelosante, Mr Gonella, Mr Irmer, Mr Janssen Van Raay, Mrs Macciocchi, Mr Malangré, Mr Pelikan, Mr Price, Mr Brout, Mr Ryan, Mr Sieglerschmidt, Mr Tyrrell and Mrs Vayssade.

The explanatory statement will be delivered orally.

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The Legal Affairs Committee hereby submits to the European Parliament the following motion for a resolution:

MOTION FOR A RESOLUTION

on the action taken by the Commission of the European Communities' on the opinion delivered by the European Parliament on the proposal for a directive (Doc. 1-324/79) on a right of residence for nationals of Member States in the territory of another Member State

The European Parliament,

- having regard to the debate¹ on the proposal for a directive on a right of residence for nationals of Member States in the territory of another Member State (Doc. 1-324/79), in the course of which the Commission representative stated in absolutely unequivocal terms that the Commission of the European Communities had (with one exception) accepted the amendments proposed by the Legal Affairs Committee and adopted by the European Parliament²,
- having regard to the written statement³ in which the Commission announced that it had 'agreed' to Parliament's amendment of its proposal for a directive,
- noting that, despite the foregoing, the Commission had not incorporated two important amendments adopted by Parliament on the proposal for a directive, viz. that concerning Article 1 (on the definition of the concept of 'members of the family'), and that concerning the addition to the proposal for a directive of a proposal for a Council recommendation on refugees and stateless persons,
- regarding as absolutely spurious the reasons adduced by the Commission in the 'explanations' accompanying the amended proposal to justify its refusal to act in accordance with its undertaking,
- regarding, in particular, as intolerable the fact that the Commission sets itself up as the sole interpreter and guardian of Community construction⁴ and the sole depository of knowledge needed to understand its 'present state',

¹ Debates of the European Parliament, No. 1-255, April 1980, p. 105 et seq.

² Debates of the European Parliament No. 1-255, April 1980, p. 130 (reprinted in Annex III to this motion for a resolution, p. 37)

³ Debates of the European Parliament No. 1-256, May 1980, p. 29

⁴ cf. the 'explanations' accompanying the amended proposal, COM(80) 358 fin., p. 2 (reprinted in Annex I to this motion for a resolution, p. 7)

- regarding as equally unacceptable the Commission's belated second thoughts on the legal basis of the proposal for a Council recommendation - a change of heart that has no basis in any fact which was not already known to the Commission at the time it made its oral and written statements during the April and May 1980 part-sessions,
 - having regard to the report of the Legal Affairs Committee (Doc. 1-506/80),
1. Finds that the Commission has failed in its institutional duties towards Parliament and that it has badly performed the task, conferred upon it by the Treaty, of participating 'in the shaping of measures taken by the Assembly' (cf. Article 155 of the EEC Treaty);
 2. Is of the opinion, therefore, that, in the circumstances, the Commission has not observed the rules of conduct imposed upon it by its relationship of trust with Parliament, a relationship which is a fundamental condition of the functioning of the Community system;
 3. Categorically calls upon the Commission to respect from now on the principles of loyalty and trust which are inherent in relations between institutions;
 4. Instructs its President to forward this motion for a resolution to the Commission of the European Communities.

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (80) 358 final

Brussels, 27th June 1980

ENGLISH TRANSLATION DIVISION
EUROPEAN PARLIAMENT
LUXEMBOURG

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE
ON A RIGHT OF RESIDENCE FOR NATIONALS OF MEMBER STATES
IN THE TERRITORY OF ANOTHER MEMBER STATE

(presented by the Commission to the Council
pursuant to the second paragraph of article 149 of the EEC Treaty)

COM (80) 358 final

Explanations

The amendments to the proposal for a directive set out below take account of the different suggestions made by the Economic and Social Committee (1) and the Parliament (2).

Preamble and considerations

Article 9 of the proposal for a directive tends the scope of directive 64/221/EEC which coordinates the special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security and public health to persons benefiting from the proposal for a directive. For this reason, it is necessary to base this directive also on article 56 62 of the EEC Treaty. However, so as to make it quite clear that this choice is made only for that purpose, this is expressly stated, as the Parliament proposed, in both the preamble and the considerations.

(1) Opinion of 26 March 1980, O.J. No.

(2) Resolution of 17 April 1980, O.J. No. C 117 of May 12, 1980, P. 48

(3) O.J. No. 56 of 4 April 1964, Page 850/64

Articles

Article 1

Paragraph 2 (1): The original proposal provided that the restriction on movement and residence were abolished not only for nationals from Member States but also for the members of their family. This paragraph could have been interpreted as requiring that the members of the family resided like the national under the same roof. The Parliament wanted the right of residence to be given to members of the family who resided in the same host State as the national, whether they resided with him or not. The Commission feels that that proposal is justified and has included it in its amendments.

Paragraph 2 (2): The European Parliament proposed to extend the notion of member of the family to "any person whom the holder of the right of residence has an obligation to support or who is in practice dependent on the holder." In distinction to the original proposal, according to which Member States shall only favour the admission of these "other members of family", these persons would acquire a permanent right of residence. The Parliament justified this extension of the circle of beneficiaries by the fact that families could be split up simply by the change of domicile of one of its members to another Community country.

The Commission understands very well the Parliament's attitude to this question, but it estimates that, given the present state of development of the Community, it is more useful to maintain for the moment the notion of family within narrower bounds. However, should subsequent experience prove satisfactory - and the Commission has no doubt that it will - it would be possible to complete Community law in this sense. For this reason, the Commission is unable to follow the Parliament's view on this question now.

Articles 4 and 10 (new)

- a) So as to avoid population migrations being undertaken with the sole aim of obtaining the most favorable social benefits, the Commission proposed to tie the acquisition of the right of residence to the furnishing by citizens requesting that right of proof of sufficient resources to provide for their subsistence.

This condition was criticised by the Economic and Social Committee, and particularly by the Parliament. While recognising the fears expressed by the Member States, the Parliament was of the opinion that such a condition could introduce social discrimination. Differences in social assistance regulations should be compensated in other ways. The Parliament regarded this directive as being aimed at gaining substantial progress towards complete freedom of movement for the citizens of Europe. For this reason the Parliament has stressed the necessity of removing these conditions in the proposal by a majority.

The Commission unreservedly shares the Parliament's approach on this. It does not however think that the introduction of unrestricted freedom of movement will lead to the population migrations that it is feared will emerge. For different reasons the mobility of European citizens is much less than that of citizens from other States. In view of the fears expressed by Member States the Commission believes that it is unable to follow the suggestions of Parliament immediately. It remains convinced that the favourable consequences Member States fear will not emerge and that this finding remains the best argument for proving the Commission proposes to the Council

- to retain in principle at the present stage the requirement of proof of sufficient resources (article 4 para. 4 (1)),
- to examine this issue after five years so as to see, on the basis of experience, whether this requirement is still necessary and amend the relevant provisions if appropriate (new article 10),
- to remove now the requirement for students over 18 years of age (article 4 paragraph 2 (2)).

Amended Proposal for a Council Directive
on a right of residence for nationals of Member States
in the territory of another Member State¹⁾

Original Version

New Proposal*)

The Council of the European Communities,

- unchanged

HAVING regard to the Treaty establishing the European Economic Community, and in particular Articles 56 (2) and 235 thereof;

- HAVING regard to the Treaty establishing the European Economic Community, and in particular Articles 235 and 56(2) thereof;

HAVING regard to the proposal from the Commission;

- unchanged

HAVING regard to the Opinion of the European Parliament;

HAVING regard to the Opinion of the Economic and Social Committee;

1) O.J. N° C 207 of August 17th, 1979, p. 14

*) The modifications of the original version are underlined.

In the Commission's view, these provisions reflect the wishes of the Parliament, with which the Commission fully agrees, the interests of the Member States. They will enable the necessary experience to be made within a reasonable time, on the basis of which the Community rules can be tested in practice. One social group is however excluded from the need to provide proof of sufficient resources, namely young people in the course of their training, whose residence in the host state is by its nature temporary and serves only a very specific purpose.

- b) It did not seem appropriate for the Commission to fix for each Member State the minimum sum of resources regarded as sufficient to ensure the subsistence of those seeking residence as a condition of the granting of the right. This will be within the competence of each Member State, according to its social legislation, when the directive is transposed into its national law. Consequently, a more precise formulation of this notion cannot be made. However, it is necessary to ensure on transposition of this directive into national law, that nationals of other Member States do not suffer less favourable treatment than nationals of the host state. This is a permanent interest of the Community. For this reason it is provided in article 4 para. 2 (3) that it is not permitted to require of citizens seeking residence, proof of a minimum of resources for subsistence which is superior to that required of the State's own nationals.

Recommendation of the Council

The Parliament invited the Council to adopt at the issue of the directive a recommendation concerning the adoption by the Member States of a system of treatment for stateless persons and refugees from third countries resident in the Community which was as favourable as that applied to nationals of Member States. In the Commission's opinion this suggestion could be realized by the adoption of a declaration by the representatives of Member States, when the directive is adopted by the Council, giving expression to Parliament's wishes, as was done in the Declaration of the Representatives of Governments of Member States in Council on 24 March 1964 (1), in which a similar resolution appears.

(1) O.J. 78/1225 of 22nd May 1964

Original Version

New Proposal

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;

- unchanged

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 occupation activity;

- unchanged

WHEREAS however freedom of movement of persons is by virtue of Article 30 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;

- unchanged

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

- unchanged

Original Version

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;

New Proposal

- Whereas Directive 64/221/EEC (1), which is based on Article 56(2) of the EEC Treaty, coordinated special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health;

- unchanged

(1) OJ N° 56 of 4 April, 1964, p. 850/64

WHEREAS, therefore, for the sole purpose of extending the application of those provisions, this Directive should also be based on Article 56(2) of the EEC Treaty;

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⁽¹⁾, Regulation (EEC) No 1251/70⁽²⁾, Directive 73/148/EEC⁽³⁾ or Directive 75/34/EEC⁽⁴⁾.

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

Article 1

-- unchanged

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 also reside on the territory of the host Member State.

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

- a) unchanged

(1) OJ No L 257, 19 October 1968

(2) OJ No L 142, 30 June 1970

(3) OJ No L 172, 28 June 1973

(4) OJ No L 14, 20 January 1975

Original version

New Proposal

b) the dependent relatives in the ascending line and those of their spouse

- b) unchanged

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.

- unchanged

Article 2

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.

— 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.

/17 words deleted/

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.

- 2. Member States shall, acting in accordance with their laws and administrative regulations, 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

- unchanged

Original Version

New Proposal

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. - unchanged

Article 3

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. - unchanged

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. - unchanged

Article 4

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. - unchanged

Original Version

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(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.

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). /49 words deleted/. This provision shall not apply to citizens who are 18 years old or more and are studying in the host country.

Member States may not require such resources to be greater than the minimum subsistence level applicable under their law in respect of their own nationals.

- unchanged

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 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 appears 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.

- unchanged

- unchanged

Original Version

New Proposal

Article 6

Article 6

For the issue of the residence permit, - unchanged
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.

Original Version

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.

New Proposal

Article 7

- unchanged

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 or passports to nationals. These provisions shall also apply to documents and certificates required for the issue and renewal of such residence documents.

- unchanged

- unchanged

Original Version

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.

New Proposal

Article 9

- unchanged

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

- unchanged

Article 10 (new)

Within six years of the notifications of this Directive the Commission shall submit to the Council a report on the application of the condition to dispose of sufficient resources as provided for in article 4 § 2. If appropriate, the Commission shall submit to the Council proposals to terminate the application of that condition.

Original Version

New Proposal

Article 10

Article 11 (new)

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

- unchanged

2. After notifications 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.

- unchanged

Article 11

Article 12 (new)

This directive is addressed to the Member States.

- unchanged

12. 5. 80

Official Journal of the European Communities

No C 117/47

Thursday, 17 April 1980

22. Right of residence for nationals of Member States in another Member State (vote)

The next item was the vote on the motion for a resolution contained in the Gonella report (Doc. 1-40/80).

Before considering the motion for a resolution proper, Parliament voted on the amendments to the proposal for a directive.

On Article 4 (2), two amendments had been tabled:

- No 3 by Mr Tyrrell, on behalf of the European Democratic Group seeking to reinstate the Commission's text,
- No 5 by Mr Tyrrell seeking to add a new subparagraph.

On Article 6 Mr Tyrell had tabled on behalf of the European Democratic Group amendment No 2 seeking to reinstate the Commission's text. These three amendments were interrelated.

Mr Ferri, deputizing for the rapporteur, spoke.

Amendment No 3 was rejected.

Amendment Nos 5 and 2 consequently fell.

After Article 11, Mr Tyrrell had tabled on behalf of the European Democratic Group amendment No 4 seeking to delete the entire 'Council recommendation'.

The deputy rapporteur spoke.

Amendment No 4 was rejected.

Parliament then voted on the motion for a resolution proper and first adopted the preamble.

After the preamble, Mr Megahy, Mr Lomas, Mr Seal, Mr Rogers and Mrs Castle had tabled amendment No 1 seeking to replace the remainder of the motion by a new text.

The deputy rapporteur spoke.

Amendment No 1 was rejected.

Parliament adopted paragraphs 1 to 11.

Mrs Macciocchi gave an explanation of vote.

Parliament adopted the following resolution:

Thursday, 17 April 1980

RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive on a right of residence for nationals of Member States in the territory of another Member State

The European Parliament,

- having regard to the proposal from the Commission to the Council ⁽¹⁾,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 1-324/79),
 - having regard to the report by the Legal Affairs Committee (Doc. 1-40/80),
1. Welcomes the fact that the Commission has taken the first step towards implementing Parliament's resolution ⁽²⁾ on 'the granting of special rights to citizens of the European Community in implementation of the decision of the Paris Summit of December 1974 (point 11 of the final communiqué)';
 2. Notes that the proposal for a Directive introduces a new dimension to previous legislation on freedom of movement and the right of establishment since it extends these rights to all citizens of the Community, independently of the pursuit of an economic activity;
 3. Welcomes the fact that this will represent the first step towards the creation of a 'European citizenship';
 4. Believes that the definition of 'members of the family' of the person to whom this right is granted is too restrictive, excluding from the proposal for a Directive family relationships which ought to be protected;
 5. Notes that the Commission has based its definition of 'members of the family' on the provisions already in force for workers and self-employed persons;
 6. Asks the Commission, therefore, to adopt the proposed amendment to paragraphs 2 and 3 of Article 1, and then to submit a proposal amending all the existing Community legislation on freedom of movement and the right of establishment, in order to bring the definition of members of the family into line with that contained in the proposed amendment, and to prevent discrimination between those who do not pursue an economic activity and workers;
 7. Requests that the proposal should not grant Member States the power to make the exercise of the right of residence subject to proof that the applicant has sufficient resources;
 8. Believes that such a condition would make the granting of the right of residence dependent upon socially discriminatory procedures, which would be contrary to the aims of the Treaties, and that, where appropriate, other measures must therefore be taken to resolve any difficulties that might arise from the differences in the levels of national assistance to which those without means are entitled;
 9. Considers it desirable that the Member States be urged to extend Community rules concerning the right of residence, freedom of movement and right of establishment to cover stateless persons and refugees who, born in a non-member State, are resident in a State of the European Community;

⁽¹⁾ OJ No C 207, 17. 8. 1979, p. 4.

⁽²⁾ OJ No C 299, 12. 12. 1977, p. 25.

Thursday, 17 April 1980

10. Approves the Commission's proposal with these reservations and subject to the following amendments;

11. Requests the Commission to incorporate the following amendments in its proposal, pursuant to Article 149, second paragraph, of the EEC Treaty:

TEXT PROPOSED BY THE COMMISSION OF
THE EUROPEAN COMMUNITIES (*)

TEXT AMENDED BY THE EUROPEAN PARLIAMENT

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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 Treaty establishing the European Economic Community, and in particular Articles 235 and 56 (2) thereof,

Remainder of preamble and first four recitals unchanged

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 ⁽²⁾, which is based on Article 56 (2) of the EEC Treaty, 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;

unchanged

Whereas, therefore, for the sole purpose of extending the application of those provisions, this Directive should also be based on Article 56 (2) of the EEC Treaty,

HAS ADOPTED THIS DIRECTIVE:

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

1. unchanged

(*) For complete text, see OJ No C 207, 17. 8. 1979, p. 14.

⁽¹⁾ OJ No 56, 4. 4. 1964, p. 850/64.

⁽²⁾ OJ No L 257, 19. 10. 1968.

Thursday, 17 April 1980

TEXT PROPOSED BY THE COMMISSION OF
THE EUROPEAN COMMUNITIES

TEXT AMENDED BY THE EUROPEAN PARLIAMENT

(EEC) No 1251/70 ⁽¹⁾, Directive 73/148/EEC ⁽²⁾ or Directive 75/34/EEC ⁽³⁾.

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.*

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 also reside 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;
- (c) any person whom the holder of the right of residence has an obligation to support or who is in practice dependent on the holder.

3. delete

Articles 2 and 3 unchanged

Article 4

Article 4

Paragraph 1 unchanged

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(2) (a). 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.*

2. delete

⁽¹⁾ OJ No L 142, 30. 6. 1970.

⁽²⁾ OJ No L 172, 28. 6. 1973.

⁽³⁾ OJ No L 14, 20. 1. 1975.

Thursday, 17 April 1980

TEXT PROPOSED BY THE COMMISSION OF
THE EUROPEAN COMMUNITIES

TEXT AMENDED BY THE EUROPEAN PARLIAMENT

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 (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.

3. unchanged

Article 5 unchanged

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 6

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

- by the applicant:
 - the document under cover of which he entered their territory,
- by the members of the family:
 - the document under cover of which they entered the territory,
 - a document issued by the competent authority of the State of origin or the State whence they came proving their family relationship,
 - 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.

Articles 7 to 11 unchanged

'Council recommendation

The Council of the European Communities recommends that Member States give to stateless persons and persons having refugee status who were born in a non-member State and who are already resident in a State of the European Community the same treatment as that laid down by the rules on the right of residence, freedom of movement and right of establishment for nationals of Member States'.

Debate

13. *Directive on a right of residence for nationals of Member States in another Member State*

President. — The next item is the report (Doc. 1-40/80) by Mr Gonella, on behalf of the Legal Affairs Committee, on the

proposal from the Commission of the European Communities to the Council (Doc. 1-324/79) for a directive on a right of residence for nationals of Member States in the territory of another Member State.

I call Mr Gonella.

Mr Gonella, rapporteur. — (*I*) Mr President, I am deeply grateful to the Legal Affairs Committee for having entrusted me with presenting to Parliament a report on the proposal from the Commission of the European Communities to the Council for a directive on a right of residence for nationals of Member States in the territory of another Member State. This is a subject very different from those we have just been debating, which aroused indignation and protest at these attacks on freedom, to which indignation and protest I fully subscribe.

We cannot, however, confine ourselves to a purely general defence of human rights. What is important is to see what positive action the European Community can take through regulations and directives to encourage respect for human rights. This leads us on to another and certainly no less important issue, which concerns the development and improvement of the Community structure. We believe, in fact, that we have here a significant development, that this proposal provides the impetus for the transformation of the

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European Community from a common market in goods, which constitutes such a large part of our activity, to a real community of citizens, of men.

We all know, indeed it is a commonplace, being one of the basic principles of our social and European heritage, that freedom of movement within the Community and, therefore, by extension, the right to choose one's own place of residence, is a principle which has been enshrined in the Treaty establishing the European Community.

That much is now beyond dispute. What we are seeking now is to draw inferences from this principle. I need hardly remind you, but for the sake of good order I shall mention it anyway, that Article 3 (c) of the EEC Treaty accords freedom of movement to all citizens pursuing an activity and naturally that means an activity of an economic nature. We now wish to take a further step and herein lies the importance of these decisions: We wish to guarantee freedom of movement, the right to choose one's own place of residence independently of the pursuit of an economic activity. My report could well have ended at this point because this is where the difference lies, this is the radical innovation.

Title III of Part 2 of the Treaty deals with the free movement of two categories of persons. Specifically, Articles 48 to 51 cover the free movement of workers, defined as wage-earning, and Articles 52 to 58 cover self-employed persons. There is no point in my repeating here that which can be found in the written report concerning the numerous Community provisions that have lately facilitated the free movement and establishment of persons. We maintain — I believe without exaggeration, given the Legal Affairs Committee's unanimous verdict — that the proposal adds a new dimension to existing legislation in that the citizen is not considered here solely as an economic agent, a concept that we do not in any case accept. We believe that we will strengthen in this way the feeling of all citizens of belonging to a Community, not just a Community of things, as they might often feel from our agreements and our debates, but more — what is really fundamental — a Community of persons. It is a step towards the creation of a European citizenship, which, though it may be some time in coming, is certainly our end objective.

I should now like to give a very brief summary of the proposal. As I have said, its basic principle is that the right of residence should not be dependent on the pursuit of an economic activity as it is at present. The aim then is to remove all restrictions on citizens and on the members of their families, and at the same time to broaden the definition of 'members of the family'. The right of citizens to leave their own territory is thus recognized. Under the terms of this provision, they have the right to leave their own territory simply on production of an identity card or passport that must be valid for not less than five years — in order to minim-

ize the problems affecting any person having to move about — without an exit permit being required. This too is an innovation. At the same time as recognizing the right to leave, the right of entry without a permit is also recognized; an obvious relaxation, one might say a technicality and a formality, but underlying this formality there is undoubtedly a movement towards European Union. On a practical level, provision is made for the issue of a residence permit for a National of a Member State, which would not be dependent on the pursuit of an economic activity. Allowance is made for breaks in residence not exceeding twelve months, essentially for military service and on medical grounds. A list is given of the documents required concerned with proof of family relationship. It is made clear that these extended rights must cover all the territories of the Member States of the Community; that the residence permit must be issued free of charge — again with a view to facilitating the process of unification; that derogation from the directive is allowed only on grounds of public security and public health, and, finally, that the measures necessary to comply with the directive must be brought into force within 12 months and not put off indefinitely.

You might legitimately ask: What is the legal basis for all this? The proposal tries to demonstrate that the legal basis is Article 56 (2), in which reference is made to the coordination of provisions — a solution that has often been suggested. However, we reject this as a basis because we are not in any way dealing with a case of coordination. If anything, this could be a reference to Article 9. In our view, Article 235 provides the proper basis for this development in Community relations. This Article is of enormous interest and value, not solely from a philosophical and legal standpoint, but also because it leads the way to much more significant progress on a legislative level by affirming that if action by the Community should prove necessary to attain one of the objectives of the Community, appropriate measures can be taken even if the Treaty has not provided the necessary powers. One could therefore accept this provision with appropriate guarantees and safeguards, such as a unanimous decision of the Council after prior consultation of Parliament — as in this case.

Given that we need to refer to Article 235 rather than Article 56 (2), the Legal Affairs Committee has put forward an amendment, to the first indent seeking to replace this indent by the following recital: 'Having regard to the Treaty establishing the European Economic Community, and in particular Article 235, and having regard to Article 9 of this Directive, based on Article 56 (2)'. We have tried in Article 1 to define more clearly the meaning of family relationships, what is meant by 'residing in the territory' — does it mean residing in the territory or residing with? We have also attempted to clarify the concept of family relationships: who is a relative in the ascending line, in the descending line, and so on. The age of majority has been laid down as 18 to conform with most of the

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national legislations of the Member States. In Article 2 we have proposed the addition of the words 'irrespective of their nationality'. Here we based ourselves almost word for word on Directive 73/148/EEC.

Finally, we have included in Article 2 a provision annexed to the European Convention on Human Rights - which, as far as we are concerned, is beyond discussion - which has also been included in previous directives dealing with this matter. The last Article to which amendments have been proposed is Article 4, dealing with resources. Clearly there must be some degree of coordination between the social security provisions of certain Member States. In some of these, national assistance is granted automatically in cases of persons who are without their own means of subsistence. This provision does not prevent Member States from applying more liberal rules in respect of proof of resources. I should like to say, finally, that since a recommendation was called for we have added such a recommendation as a footnote to the document. It reads: 'The Council of the European Communities recommends that Member States give to stateless persons and persons having refugee status who were born in a non-member state and who are already resident in a state of the European Community the same treatment as that laid down by the rules on the right of residence, freedom of movement and right of establishment for nationals of Member States.'

I have to say that the Legal Affairs Committee gave their unanimous approval, apart from a few abstentions, to all of these amendments. For this reason I particularly commend our report to Parliament. Were it not for the fact that my time is up and that it is now late in the day I should have liked to have gone on to emphasize the fundamental significance of what we are discussing. Our electorate is asking us what progress we are making towards European Union. Well, although this represents only a small step, it is nevertheless a step towards a more structured European Union and towards a more meaningful recognition of human rights.

(Applause)

President. — I call Mr Davignon.

Mr Davignon, Member of the Commission. — (F) I feel it would be a good thing for the Commission to make its position clear before the Members of Parliament speak so that they can react to what we say and we can then perhaps reply.

Mr Gonella has clearly and accurately underlined the importance of this directive. Parliament and the public often speak of the need to produce practical proof that the existence of the Community results in additional rights for its citizens. This is the aim of this proposal.

First, the legal basis: there are two ways of approaching the question of these rights. It can be said that there should be legal innovation and the establishment of new fundamental rights for the citizens as a result of the existence of the Community. This would be the beginning of the creation of a Europe of citizens, it would be the beginning of the establishment of a European political union. That is one of the questions we shall have to examine in the months to come.

But it can also be said that we are not going to await this major debate before giving the citizens additional rights as the law now stands. This is the choice which the Commission has made and which has been supported by the Legal Affairs Committee. I say this, because it limits our freedom of action in this field.

What we are concerned with is the effect of workers' freedom of establishment and freedom of movement and of the right of establishment of the employed and self-employed in the Community and rights extended to their families and dependents. It is therefore logical that the Legal Affairs Committee should choose to make a recommendation to the Council on problems connected with stateless persons, wherever they may come from. Parliament recommends to the Council that the Member States should voluntarily make provisions for these persons, which would not be connected with the legal basis provided by Article 235, within the context of workers' right of establishment and freedom of movement.

My second comment concerns the effectiveness of the action we want to take. And here the Commission faces a dilemma. This proposal aims at obtaining the Council's agreement (its unanimous agreement, since we are applying Article 235) on provisions over which it is clear the Member States have some reservations. That is why we stated in Article 4 of the Commission's initial proposal that the right of residence of the persons covered by the directive might be restricted by Member States in the sense that those wishing to settle in a Member State must have sufficient resources. Parliament's Legal Affairs Committee decided that this was not a good way of tackling the problem, because there was a risk that a distinction would be made between various categories of citizens, which must be avoided.

I should like to make it quite clear from the outset that I more than sympathize with Parliament's position on this: it is easier to say to people that there are no restrictions, and that obviates the danger that Member States will use this provision to deprive the existing right of residence of any meaning it has.

But I also know the attitude of the Member States. I would not say that they are looking for an excuse not to approve the right of residence, but they are showing us that we must use all our persuasive powers to get them to take this decision. Some Member States are afraid there would be major movements of population.

Davignon

I do not share this view. I do not feel that this rule on the right of residence will culminate in major population movements, because I believe that everyone for good reason feels better at home. On the other hand, the situation will be simplified.

I would ask the rapporteur to understand our position. In the case of students under 18 we agree with Parliament's position: it is easy not to create additional legal provisions for them, and we therefore agree to amend our proposal accordingly. On the other hand, where other people are concerned, we would like to keep the text as it is, with these two comments which we would pass on to the Council with the modified version of our directive, since we otherwise accept the other amendments, to which I will refer at the end of the debate so that our position is completely clear.

Firstly, we must define exactly what the notion of sufficient resources means, so that a mockery is not made of this provision in two ways: by allowing the Member States to assess at any given moment what measures should be taken and thus taking away with the left hand what they have given with the right or, on the other hand, fixing the level of resources required in such a way that two categories of citizens are in fact created in the Community, which would not be acceptable.

Otherwise, this would be a temporary provision applicable for an initial period of 5 years, after which we would know what movement of population had resulted from these rules. It seems to us that the Member States have no reason to feel concerned, as they do at present, and we would remove this measure after the 5-year period.

Why have we made this proposal? Because it seems to me important, for the Commission and for Parliament, that we should be open and bold in our proposals while ensuring they are effective, because if we propose something which cannot be put into practice, we may be pleasing ourselves, but not the citizens of Europe, to whom we are trying to give additional rights.

Those, then, are the comments I wanted to make at the beginning of this debate. I will speak again briefly, if I may, at the end of the debate on the amendments which have been tabled.

President. — I call Mr Janssen van Raay to speak on behalf of the European People's Party (C-D Group).

Mr Janssen van Raay. — (NL) Mr President, on behalf of my group I should like to say that we endorse the Gonella report. Mr Gonella won his spurs years ago in the movement for European citizenship, because that is what we are in fact talking about. We all regard this right of residence for citizens of the

European Community in each other's territory as a very important contribution to European citizenship, because it shows all the citizens of the Member States, all our fellow-citizens, that the European Community is not just an economic Community, that we are concerned with a new form within these nine, shortly ten, countries of the European Community. We wholeheartedly support this, just as we shall support any measure leading to this goal.

That is the first point. One of the most difficult aspects which the Legal Affairs Committee discussed and to which Mr Davignon has referred at some length, is the question of providing proof of sufficient resources. We can well understand the concern of the governments: they are afraid this freedom may be abused, particularly in view of the social security systems in the various countries of our Community. This concept is so general that two members of my group on the Legal Affairs Committee voted against the amendment seeking to remove the requirement of proof. In contrast, I would appeal on behalf of the vast majority of my group to the inventiveness of the Commission to find another way of preventing such abuse rather than evidence of resources.

Why, then, did the vast majority of my group decide not to support Mr Sieglerschmidt's amendment? There are two important reasons for this: firstly, if we intend to set up frontiers for each other's citizens, we do not want at the same time to introduce bureaucracy, and as far as we can see, this measure would inevitably result in that. The second major objection, one also raised by the Legal Affairs Committee, is that an element of arbitrariness might slip in here, because there can be no doubt that the aliens police in our various countries will be made responsible for interpreting these provisions and checking the validity of the evidence provided. Arbitrariness is a possibility, I would not say a certainty.

And at the very moment when we are seeking to open up the Europe of the Nine, soon to be the Europe of ten and even more Member States, for its citizens, we must oppose bureaucracy and the possibility of the police acting in an arbitrary manner. This resulted in our rejecting by a large majority the amendment tabled by Mr Sieglerschmidt, but I repeat, Mr Davignon, we well understand your concern. There is, of course, absolutely no point, because that would be throwing away the baby with the bath water, in our introducing a freedom, with every good intention, which becomes an impossibility because of large-scale abuse. We feel that other ways must be found, that the Commission must try to find out whether the Council would be willing to accept these provisions, in the light of the two factors I have just mentioned. If we had to choose between no right of residence and a right of residence subject to proof of sufficient resources, then we would, of course, agree to such proof. That goes without saying. We should not therefore see this matter in such clear-cut terms as I have put it. Hence my

van Raay

appeal, on behalf of my group, to the Commission to be as inventive as possible, in close consultation with the Council, to prevent the freedom of European citizens from being restricted by bureaucracy and arbitrary decisions.

(Applause)

President. — I call Mr Tyrrell to speak on behalf of the European Democratic Group.

Mr Tyrrell. — Mr President, this proposal is an important landmark on the way to the creation of a genuine Community of peoples. Nothing could do more to make the Community a reality for its citizens than the right to move freely about it and reside where they choose within it. Such rights will emphasize that each citizen has a legitimate and personal interest in the prosperity, security and well-being of all other Member States. For this reason my group welcomes the purposes of the proposal and I personally support Mr Gonella's amendment for the redefining of the word 'family' to include all dependants. For the same reason I share the hope that the right of residence would be recognized, irrespective of proof of means of support.

However, the necessary conditions have first to be fulfilled. This Parliament in its law-making capacity must act responsibly having regard to what is practicable. And I ask my good friend Mr Janssen van Raay, whether in this respect he has not allowed his heart to overrule his head, because no alternative practicable steps have in fact emerged. We must not get carried away at this stage by impracticable, idealistic visions. Before requirement of proof of means of support can be made redundant, there must be considerable progress towards the convergence of social security structures. The Commission says in its proposal 'an examination of the laws of Member States has shown that in some of them persons who do not have their own means of subsistence are automatically granted social security'. This is an understatement. In at least one Member State, that is the United Kingdom, there is a legal duty on local authorities to provide accommodation, free of charge if necessary, for homeless persons and this imposes a very heavy financial burden on the inhabitants of the boroughs at the principal places of entry to the United Kingdom. It would be irresponsible of the United Kingdom or other states similarly placed to take on this burden for a limitless number of persons who have not the minimal means of support that the proposal requires. At the present time the requirement, as suggested by the Commission, is therefore, in my view, essential.

However, I welcomed Mr Davignon's suggestion that there should be a review after five years to see if it

could then be abolished. Moreover, the restriction should be as narrow as possible and I agree that different considerations apply to students. Many of us recall that in our student days we were able to live for limited periods at less than subsistence level through the hospitality of other students, not arranged in advance, and through unarranged casual work. Students should be encouraged to travel widely in the Community and they should be exempted. That exemption should apply to those over 18 as well as under 18. I do not know if the Commissioner was mistranslated when I heard it said that his suggestion referred to those students who were under 18.

I turn now to the recommendation relating to refugees, another wonderful idea, but impracticable. It would not help the refugees. Each country will say we will take, for example, 10 000 refugees from Vietnam, but if, on arrival in the European Community, all those 90 000 refugees were to be able to say they would all settle in Holland, then the Community would have to say that we cannot take as many as 90 000. So it would not help them. Furthermore, in the United Kingdom and maybe in other Member States as well, we have the problem of the definition of 'national'. The proposal refers to 'nationals'. Now, not all British nationals are nationals within the meaning of Community law. This is a grave injustice to about one million people who have full rights of citizenship within the United Kingdom but do not have rights of citizenship in the Community. It is a standing reproach to the Community and it is a problem which must be tackled and it must be overcome. But this directive is not the place to do it, because it would mean an amendment to the Treaty of Accession, where the word 'national' was defined in the way which I have described. It would be adding insult to injury to these one million people in the United Kingdom who have full civic rights in the United Kingdom, if we were to say to them, you may not have rights of residence throughout the Community, but refugees from South America and South Asia, and so on, may. So for these reasons and because we consider that the 1951 Convention on Refugees, to which all nine Member States are signatories, gives refugees adequate protection, we cannot support that recommendation.

For these reasons I move the three amendments standing in the name of my group and the additional amendment standing on my own behalf and, if those amendments are accepted — and they are acceptable, as I understand it, to the Commission — this report will have the support of the overwhelming majority of this House, excluding, I think, only the British Labour members, whose reactionary approach to this existing exciting directive is a matter of deep regret, although not, I fear, unexpected.

President. — I call Mr Berkhouver to speak on behalf of the Liberal and Democratic Group.

Mr Berkhouwer. — (NL) Mr President, the European Community has been in existence and operation since 1958, for 22 years in other words. And the wonderful thing is that all this time the citizens of one Member State have been regarded as foreigners in the other Member State. Is it really any wonder that it has taken more than 20 years for us to be foreigners in each other's countries and thus subject to the national provisions of legislation on aliens?

In the United Kingdom, so dear to my heart, we used to have to report to the immigration officer, as if we were immigrants. Happily that is now a thing of the past. I was once asked on arriving in England what the purpose of my visit was. My answer to those officials on British soil was always that I was working on having them pensioned off as quickly as possible. This situation has now fortunately changed, in that we no longer need to report to the immigration officer: we can enter the United Kingdom with the Community passport. So progress has been made in this respect.

I am glad that an Italian veteran has introduced us to this subject matter. He will know the history of ancient Rome as well as I do. He will recall that Emperor Caracalla, who was said to be mad, did do one thing which was certainly not mad. In the year 212 he declared all inhabitants of the then Roman Empire to be Roman citizens. And we, who have had our Community for 22 years, are still not European citizens of the European Community. I have long been pleading for Europe to be brought somewhat closer to the citizens. So what we are now doing here is very close to my heart.

With this directive we may now be on the right path, on the way to a Europe of the citizens. Last time we were discussing a European passport. This time we have talked about a European stamp. So there are really signs that we are bringing European citizens closer together. Of course, we must also have a Euro-time, a Euro-driving licence, and a Euro-coinage. People have no idea what countervailing duties at frontiers are for. They will not understand anything about the Community until they can travel throughout the Community using one kind of money, as can be done in the United States with the dollar and in Russia with the rouble. I always say the Americans have dollars, the Russians have roubles, and all we have are troubles. But there must come a time when we can use one kind of money throughout the Community rather than six or seven kinds.

I also have some difficulty as regards the legal basis. Why must Article 235 be brought up again? After all, Article 3 of the Treaty says that we want to bring the citizens closer together. Why cannot we refer to that? Article 235 is always being quoted, in and out of season, and Article 56 has little to do with this subject either, I find. And why is the directive again the chosen form? All nine States will again be embroidering away with their own legislation. Would it not have

been better to adopt a European regulation? That is the way it should be, and that's it. Binding on all citizens. Not through the national administrations with their bureaucratic nonsense again. Because we shall not be spared this. It is all very well to say that we must prevent bureaucracy, but we cannot avoid it in this way. And we shall, of course, again have to face the question of sufficient resources.

Article 1 says that the Member States will abolish the restrictions. Article 2 says that the Member States will grant the persons referred to in Article 1 the right to leave their territory. Just imagine that after spending some time in France or Britain I should not be able to leave. That makes you laugh. It is rather ridiculous. The Commission is proposing a directive which states that the Member State in which I have spent some time will grant me the right to leave again. Just imagine the French police saying, after I have spent three weeks in Paris: you must not leave Paris. I have every respect for the Commission, but this is preposterous. And then it says in Article 5 that citizens must show that they have sufficient resources. And it also says that the right of residence is dependent on the issue of a document, a resident's card for citizens of Member States. So I shall have to queue up again for a resident's card. But what is my position as long as I do not have it? What is the situation then? I arrive in Paris and say I want to stay there for three months. Here I am. Please let me in. But I do not yet have a card.

All I am trying to say, Mr President, is that legally this is all still rather shaky. The directive could be improved. The structure could be improved, but in any case I have set my heart on this matter.

I have just one more comment to make. You can enter my country with an identity card. So can the French. They have a *carte d'identité*. With that they can travel from Paris to Amsterdam. But I cannot go from my country to Germany without a passport. And for that passport I have to pay 50 guilders. Now I may be able to afford that from my salary as a Member of the European Parliament, but I recently attended a meeting of 1 500 German and Dutch children in the Eastern part of my country, and next year the Dutch children would like to go to Germany. But some of them come from families with two or three children, and they will have to pay 50 guilders per child if the children want to cross the frontier into Germany. Papers we need to enter the various Member States still vary considerably from one country to another, so I cannot go to Germany without a passport, while our French cousins have the right to go to the Western part of our country from Paris or Alsace with a simple *carte d'identité*, perhaps to get a personal glimpse of the pollution of the Rhine.

President. — I call Mr Gillot to speak on behalf of the Group of European Progressive Democrats.

Mr Gillot. — (F) Mr President, the Group of European Progressive Democrats is happy to see the Commission proposing a directive which is not confined to the free movement of workers but concerns all the citizens of the Member States of the Community.

This proposal is an appreciable step forward, no doubt about that. We agree with the rapporteur when he warns against discriminating between workers and others who are not carrying on an economic activity. We also feel that the right of residence should be extended to the family of a national of a Member State in the broad sense. But is it necessary, as the report proposes, to exclude the possibility of Member States making the right of residence subject to proof of sufficient resources? We would very much like to see this, but for the moment it seems scarcely possible, because in several Member States people without resources of their own automatically receive social benefits. Given this fact, it is not hard to imagine the influx of unemployed workers into certain countries if this proposal was maintained. The first essential is the harmonization of Member States' legislation on social assistance. But until that is done, the Commission's proposal seems to us the only acceptable one.

Similarly, valid though it may be, the generous idea put forward by the Legal Affairs Committee that stateless persons and refugees from third countries residing in a Community country should be accorded the same facilities as Community nationals seems to us too ambitious as the legislation and jurisprudence of the Member States now stand.

To summarize, if the rapporteur's proposals are accepted, there is a danger that the Member States will be induced to invoke public order, health and security as, preventing an excessive influx of foreigners and then the outcome would be exactly the opposite of what the rapporteur wants. For this reason my group will support the proposal for a directive submitted by the Commission.

President. — I call Mr Bøgh to speak on behalf of the Group for the Technical Coordination and Defence of Independent Groups and Members.

Mr Bøgh. — (DK) Mr President, we smaller Member States have good reason to prick up our ears whenever a proposal is introduced on the basis of Article 235 of the Treaty of Rome, which essentially bypasses all other articles. This is true here too, in respect of this proposal to remove the Member States' right to documentary evidence that people coming from other Community countries, including refugees and stateless persons and their families, have means of subsistence before issuing them with residence permits.

The intention is ostensibly to remove the last obstacles to a humane and idealistic aliens policy, but, on closer examination, this reform may have the opposite effect. It would force us in Denmark to reduce the quality of our social services and to compromise our principles. In the nature of things the destitute will always gravitate towards those societies offering the highest social security payments.

Denmark, being a small country with limited resources, could not afford to support all the people who would be drawn there by its generous social security arrangements. The report recognizes this problem, stating that where appropriate other measures must therefore be taken to resolve any difficulties that might arise from the differences in the levels of national assistance to which those without means are entitled. The 'other measures' can of course only mean reducing the levels of assistance in the most advanced social systems.

As a result of the economic crisis, we in Denmark are in the middle of a political debate on the desirability of maintaining the high level of social services we have always aimed at. We want this debate and the resulting decisions to remain an internal Danish political matter. We must at all costs avoid a situation where pressure from without might be used as an argument by those political parties who are most keen to cut back our traditionally generous social policy. That is my first reason for opposing this proposal. My second is that the implementation of this proposal would erect a barrier between us in Denmark and our fellow Scandinavians. At the moment the situation is that immigration control for the whole Nordic area takes place at the Dano-German border. If this border ceases to operate as it did in the past, Norway and Sweden will be forced to set up their own checks on travellers arriving from Denmark.

We would thus, for the sake of an abstract concept, the 'European person', be forced to break our genuine historic and cultural connection with our fellow Scandinavian neighbours, and to undermine the social system we are proud of; that is why we reject this proposal.

President. — I call Mr Sieglerschmidt.

Mr Sieglerschmidt. — (D) Mr President, with my two minutes I should firstly like to thank the rapporteur and secondly to say that my group always sings with at least three voices and thus achieves speaking times which are completely unreasonable, thirdly to lend emphatic support to the amendments suggested by the Legal Affairs Committee and fourthly to call on the Commission, as Mr Janssen van Raay has done, to adopt a different course in this matter. We are not unaware of the difficulties, but there must be other ways, for example by giving Member States affected

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by such phenomena the opportunity of defending themselves against excessive numbers of foreign nationals by some other means. Fifthly, I should like to say that I find the British amendment, which will be explained in a moment, particularly interesting because we have from the same source an amendment opposing the immigration policy of the present British Government. It is evidently supposed to be more difficult for Europeans.

Finally, I would call on the Commission to do everything possible when this directive is discussed to make the existing right of residence in the Member States sufficiently known and so enable Member States' authorities responsible for aliens and the Courts at lower levels to apply the provisions of Community law governing the freedom of movement.

Mr President, in saying this, I am referring not only to other countries but to my own as well. I will conclude by emphasizing once again that this is a first step on the path which will take us by means of a European passport — not simply this rather questionable form we are talking about now — from citizenship of our Member States to European citizenship.

(Applause)

President. — I call Mr Megahy.

Mr Megahy. — I will be brief, Mr President. As the Socialist Group did not find time to settle its position on this matter I have no doubt that the view put forward by Mr Sieglerschmidt is the one that would ultimately have prevailed. However had they listened to my oratory, perhaps they would have accepted my amendment. As it stands it expresses a different view from that put forward in this report and stresses that the political justification of this would be as a step towards European Union. It is argued in the documents before us that the first direct elections have created an opportunity of moving towards that goal. What I am suggesting in the amendment that I put forward is that the conditions in the Community at the moment are such as not to justify such a move towards what is called a Community of citizens. I feel that if such a community is to come about, it must, be based on a common bond, a feeling of citizenship amongst the members of the Community. If I look and if Mr Tyrrell looks at the United Kingdom at the present time, it is clear that there is a vast disenchantment with the EEC and no great desire and no great wish at this moment to move towards such a union. For these, and for the many other reasons which time does not allow me to explain, Mr President, we are suggesting that a certain period of time should elapse and that the propitious time to consider this move would be after the second direct elections when it will be possible to decide whether the EEC can continue in its present

form. If it can that may well be the time to contemplate a further move.

President. — I call Mr Ferri.

Mr Ferri, chairman of the Legal Affairs Committee. — *(I)* Mr President, I have asked to speak not only as the third speaker for the Socialist Group but also as chairman of the Legal Affairs Committee, which unanimously adopted, with one abstention, Mr Gonella's superbly drafted and presented report.

During the debate I have heard various speakers expressing anxiety and advocating prudence and caution. It has been said that this directive could have serious consequences. It has been suggested, for example, that the high level of social security benefits, in certain countries could be compromised by a hypothetical massive influx from other countries of people in financial difficulties or of the unemployed. And so people tend either to reject this directive outright, arguing that it is premature — I should like to know when would be the right time to introduce these provisions — or to revert to the original text proposed by the Commission which — if Commissioner Davignon will forgive me for saying so — would in effect be to rob this important directive of any real significance. We should be left simply with a token, a symbol, the importance of which I should be the last to deny. If we were to reinstate in Article 4 the power of each state to make right of residence dependent on evidence of sufficient resources we should be doing nothing to alter the present situation. In fact, Mr Davignon, we already have a situation where any citizen of a Member State can leave his own country — after all, under a democracy everyone is free to do so without a visa — and can easily obtain a residence permit provided he can show evidence of resources and can also show that he is not in financial difficulties.

So, what are we trying to do with this directive that is new? We are trying to establish as a right something that is already embodied in national legislations and is part of the democratic system of the individual Member States. By giving them the problem of ascertaining sufficient resources we are allowing them — Mr Janssen Van Raay put it very well in committee — to extend bureaucracy to such an extent as to effectively render any right of residence of citizens of the Member States meaningless, and to force on them such a tangle of red tape and police investigations as to create a situation worse than we have at present.

Mr President, I ask Parliament to be bold. The Legal Affairs Committee, by its very nature, cannot be suspected of indulging in dreams and fantasies. Many people here have said: 'You have done well, but you have been too idealistic, you see the world as other than it really is.' We believe that we have kept our feet firmly on the ground, that we have approached the

Ferri

matter as a committee which, as I say, does not go in for dreams and fantasies. By introducing these amendments to the Commission's proposal for a directive we have tried to give it real meaning and to comply with both the letter and the spirit of the Treaties by taking a modest but important step on the road to European Union, a first step in the creation of a true European citizenship. Mr Davignon, I appreciated your sincerity and your realism when you said to us: 'I have a great deal of sympathy for what you are doing, but I must tell you that, even if Parliament were to adopt the amended text proposed by the Legal Affairs Committee, the Commission would not be able to go along with you because we know that there is already among some of the Member States in the Council considerable resistance to our own cautious text. Who knows how many more would oppose it if we agreed to change it in line with the recommendations of the Legal Affairs Committee and Parliament'.

Mr Davignon, I believe that the Commission must show more fortitude on this issue, that it must exercise its political autonomy even before the Council. Let the Council, if it so chooses, take on its shoulders the responsibility of rejecting a directive based on a text amended by Parliament and adopted by the Commission. Then everyone will be politically responsible for their own actions. But let us not betray the people, let us not betray our own fellow citizens, let us not put ourselves in the position of having to tell them that we have issued a new directive on the right of residence, when a directive containing such limitations would in fact be a negation of that right.

In conclusion, I have to say that I do not believe that there is any likelihood of a mass migration from countries with lower living standards to other countries. We know very well that this will never happen, that such an idea flies in the face of economic and social reality. And so, to put this forward as a reason is simply an excuse on the part of a petty, narrow-minded bureaucracy, in the name of a fear that we have to overcome, to stand in the way of progress towards European Union. I appeal to you to give your support to the amended text of the Legal Affairs Committee, a text that the committee has itself endorsed.

(Applause)

President. — I call Mr Gonella.

Mr Gonella, *rapporteur*. — (I) Mr President, it really is very sad that such an important debate should have to be concluded during a single sitting and after such an essentially abstract discussion on a matter in which — as Mr Davignon rightly said — we have a tremendous responsibility.

However, I thank Mr Ferri for saying virtually what I wanted to say myself with such conviction and fer-

vous. Mr Davignon, we too are aware of the difficulties and possible effects of implementing this or that provision. In such a situation one needs more than just the courage of one's convictions, one must also have the will to accept the challenge that new problems present, along with all the attendant frustrations. There was once an Italian by the name of Caracalla — actually he was not an Italian but a Latin and therefore more courageous than the Italians — who conferred citizenship on all subjects of the Empire. No such boldness is called for in this case. All we are endeavouring to do is to draw up a set of provisions that in fact, we believe, would be compatible with the existing legislation in the other States, except for the few changes that will be necessary.

We are here to stimulate and guide progress in the legal domain along a path that will best serve the interests of the Community. There are two ways of obstructing progress: either by saying 'no', which achieves nothing, or by saying 'yes' with a few 'buts', which would in practice result in a set of bureaucratic provisions or in conditions that would make it better to have said 'no' in the first place. Neither option is acceptable to us. Much as we regret having to disagree with the arguments put forward by chairman of the committee, whose fair-mindedness we are bound to acknowledge, we shall take our courage in both hands and press for the text approved virtually unanimously by the committee.

I wish to thank everyone who has spoken in the debate for their kind remarks. I regret not having the time to go deeper into some of the issues raised. The road to any meaningful legislative unification of the European Community, if we have the will to pursue it, is bound to be strewn with obstacles.

(Applause)

President. — I call Mr Davignon.

Mr Davignon, *Member of the Commission*. — (F) Mr President, I should very briefly like to make a number of comments of a technical nature before broaching the political problem raised by the chairman of the Legal Affairs Committee and by Mr Gonella. I am not known for my timidity, and I should therefore like to say a word or two on this subject.

The Commission accepts the amendments proposed by the Legal Affairs Committee subject to what I shall be saying presently about Article 4. The Commission does not, of course, share Mr Megahy's view. I do not understand the logic of suggesting what amounts to doing nothing for people to improve their opinion of the Community. The Commission cannot adopt that course.

Davignon

I was rather surprised to hear Mr Bøgh say that the implementation of the directive on the right of residence would affect the agreements between the Nordic countries. This is not true, Mr Bøgh. The directive has nothing to do with matters relating to identity documents required for freedom of movement. The situation at the German-Danish frontier will remain, after the implementation of this directive, exactly the same as before. I hope that Mr Bøgh will take note of what I have said and that there will be no spreading of information which conflicts with the legal basis of the text. As the rapporteur and Mr Ferri have so rightly said, the directive concerns the citizen's right of residence, which is completely different from the right to cross a frontier. You can oppose this directive, Mr Bøgh, but not on such grounds, which are irrelevant to the content of the directive.

I now come to Article 4. I admired the eloquence of Mr Ferri and Mr Gonella. All of us here have long been fighting to give rights to the citizens. I thank all Members who have supported this proposal. I fully share Mr Sieglerschmidt's sentiment, and we shall be making known what action we take in favour of the citizens. A suggestion I should like to make is that all our information offices might conduct an information campaign, in which the Commission and Parliament might join forces. You perhaps did not understand what I said, Mr Tyrrell, but we agree to the amendment concerning young people under 18 who are students. On the subject of subsistence rights Mr Ferri says with great eloquence that if any controls whatsoever are maintained, the citizens will be given a promise, while the situation will remain as it is, and that would be a sham. I would draw his attention to two remarks I have made. I said that it would no longer be a possibility but a right for the citizen. We are going to consider, as Mr Janssen van Raay and Mr Sieglerschmidt have invited us to do, ways of avoiding the difficulty raised by differences in social provisions. It would be a corruption of the system, Mr Ferri, if people living in border areas decided to settle on the other side of the frontier because the social system there was better. This might result in real difficulties at times of crisis. We must also see what is valid in the arguments of our opponents. It is a genuine risk because social benefits and the conditions attached to them are not the same everywhere.

I therefore realize that the objective of the present text may not be achieved because the phrase 'sufficient resources' can be interpreted in such a way that the right of residence is refused. We will try to improve the proposal so that it represents real, rather than simply symbolic progress. I feel it will be possible by taking the various national laws as a basis. Since we are talking about a right, Mr Gonella, Mr Ferri, and not a possibility, the citizen will be able to apply to the Courts. We are doing away with arbitrariness, and the citizen must therefore be able to invoke provisions which are clearly worded and better worded than those that already exist. We entirely agree on that. We

will be looking into this and trying to draft a text such that the national of a Community country has the same rights as the citizen of the host country. The Commission will try to find wording which reflects what the rapporteur wants. I hope you will sympathize and take account of the difficulty encountered in trying to prevent this difficulty being used to spoil the system. As Mr Berkhout has said, 22 years after the establishment of the Community we cannot fool ourselves with symbols.

That, then, Mr President, was what I wanted to say with the same conviction as Mr Gonella, Mr Ferri and the other speakers. I undertake, on behalf of the Commission, to ensure that the text we shall be putting to the Council cannot be used in a way other than intended. We well understand the wishes of the Legal Affairs Committee and of the vast majority of Parliament, who will be voting on this text tomorrow. But if we are to succeed, faith is essential. I also undertake to keep the Legal Affairs Committee up-to-date on the course of the debate with the Council, so that when we may be able to come to another political agreement tomorrow and decide if we must be more radical in one direction or more provisional in another to ensure progress is made. And, I can assure you, the Commission will not be making this assessment on its own; it will be making it in agreement with the Council and Parliament. If it found that this right of residence was no more than a symbol and not a reality, the Commission — for this I also accept responsibility — would withdraw its proposal, because it does not want an pretence when the destiny of European citizens is at stake.

(Applause)

President. — I call Mr Bøgh for a personal comment.

Mr Bøgh. — (DK) Mr President, I can tell Mr Davignon that every week the Danish police arrest Turks at the border on their way to Sweden. This action is carried out by agreement with the Swedish authorities, because these people are without means. What he said is therefore incorrect.

President. — I call Mr Bonde on a point of order.

Mr Bonde. — (DK) Yes this is a point of order. I should like to defend my friend and colleague Jørgen Bøgh against the accusation that he is not telling the truth.

Is it not true, Mr Davignon, that, in the Commission's view the proposal, based on Article 230 means, among other things, that ...

President. — That is not a point of order. I cannot allow you to extend the debate.

I shall give Mr Davignon a chance to reply.

Mr Davignon, Member of the Commission. — (F) Mr President, I feel I should have a talk with Mr Bøgh in a moment because there has obviously been a misunderstanding or confusion over two types of document. I am in no way questioning Mr Bøgh's sincerity. I simply said that the Commission's proposal does nothing to change the present situation. I also said that even if the condition concerning sufficient resources was omitted, it would only allow a citizen of the Community to cross a frontier as long as he had the document required. It would not enable him to stay for longer than a certain period or to benefit from the various social laws.

I think it would be better for me to discuss this with Mr Bøgh. If he is not convinced, he can still say so when it comes to the voting on Thursday. I think I can persuade him, and his colleague, with the text to back me up. What they believe they see in the text — and I am not doubting their sincerity — does not correspond to the Commission's intentions.

President. — The debate is closed.

The motion for a resolution will be put to the vote at the next voting time.

Vote

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President. — We shall now consider the *motion for a resolution contained in the Gonella report (Doc. 1-40/80): Right of residence for nationals of Member States in another Member State.*

We shall vote first on the amendments to the proposal for a directive.

On Articles 4(2) and 6, Mr Tyrrell on behalf of the European Democratic Group has tabled three amendments:

- Amendment No 3 seeking to reinstate the Commission's text in Article 4(2);
- Amendment No 5 seeking to add the following new subparagraph after Article 4(2):

By way of derogation from the above provisions, citizens of at least 18 years of age who are studying or who wish to study in the host Member State shall not be required to provide proof of sufficient resources;

- Amendment No 2 seeking to reinstate the Commission's text in Article 6.

What is the rapporteur's position?

Mr Ferri, deputy rapporteur. — (I) Mr President, the opinion of the majority of the committee members, of the rapporteur, and of course myself, is against these amendments which Mr Tyrrell has tabled. The aim is to reintroduce the restriction which appeared in the Commission's text and which the Legal Affairs Committee wanted to exclude by a large majority. In his reply to the rapporteur and to me during the debate we had, Mr Davignon himself acknowledged that this decision by the Legal Affairs Committee was appropriate for the purposes of further development by the Commission in this sphere. I hope that this line will be followed by Parliament and that these amendments will be rejected.

President. — I put Amendment No 3 to the vote.

Amendment No 3 is rejected.

Amendments Nos 5 and 2 therefore fall.

After Article 11, Mr Tyrrell on behalf of the European Democratic Group has tabled Amendment No 4 seeking to delete the entire 'Council Recommendation'.

What is the rapporteur's position?

Mr Ferri, deputy rapporteur. — (I) I am against this amendment, too. This is a recommendation to the Council and its political and moral value is quite clear. I can see no reason for deleting it.

President. — I put Amendment No 4 to the vote.

Amendment No 4 is rejected.

We shall now consider the motion for a resolution.

(Parliament adopted the preamble)

After the preamble, Mr Megahy and others have tabled Amendment No 1 seeking to replace the text of the motion by the following:

- noting that both the Commission's proposals and the Legal Affairs Committee's report stress the proposed Directive as having important political significance in the move towards European union,
- having regard, however, to the declining support for the EEC in most Member countries and the very low esteem in which it is held in two Member countries,
- furthermore, taking account of the severe political and economic difficulties which the Community is now experiencing,
- noting also the fact that free movement of workers within the Community is not yet complete,
- taking into consideration the problems now being encountered in many Member States by the vast numbers of guest workers,

- bearing in mind the fairly imminent accession of three additional Member States,
- 1. Resolves that the time is not yet opportune for such a move towards a 'Community of Citizens';
- 2. Therefore requests the Commission to withdraw its proposals till a later date following the second direct elections in 1984

What is the rapporteur's position?

Mr Ferri, deputy rapporteur. — *(I)* The rapporteur is definitely against, Mr President. This is an amendment which would undo the whole directive and postpone it to some date in the future. It grieves me that such a text should be proposed by other Members of my own group for whom I have the greatest admiration but with whose opinion I radically disagree. I ask that the amendment be rejected.

(Laughter)

President. — I put Amendment No 1 to the vote.

Amendment No 1 is rejected.

(Parliament adopted paragraphs 1 to 11)

I call Mrs Macciocchi for an explanation of vote.

Mrs Macciocchi. — *(I)* I shall only speak for a minute in saying that I am quite convinced — as is the majority of the Members in this House — that our work in the Legal Affairs Committee will serve to reinforce every European's hope to be recognized as a citizen with full rights.

Article 4 is particularly severe on the notion of wealth, class and difference between Europeans — between those in the north and those in the south. We gave it a very critical going-over and I hope, considering what Mr Davignon had to say, that the Commission will bear this in mind at the earliest opportunity.

In order to avoid any misunderstanding as a result of what was said yesterday by Mr Borg, who is violently against Article 4, let me say that our group, in the persons of Mrs Bonino, Mr Pannella, Mr Capanna, Mrs Castellina, Mr Coppieters and myself, will be casting a favourable vote:

President. — I put to the vote the motion for a resolution as a whole.

The resolution is adopted.

M E M O R A N D U M

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Right of residence

- Proposal for a resolution adopted by the Legal Affairs Committee on 2 October 1980

1. The Legal Affairs Committee had submitted a proposal to Parliament on 21 September 1979 to amend the Proposal for a Directive on a right of residence for nationals of Member States in the territory of another Member State as follows:

- clarification of the scope of Article 56(2) of the EEC Treaty for the sole purpose of justifying the application of Council Directive 64/221/EEC to future holders of a right of residence (preamble, 5th and 7th recitals);
- extension of the scope of the directive to members of the family of holders of a right of residence who also reside in the territory of the host country but do not live under the same roof as the latter (Article 1(2)).
- abolition of the requirement as to proof of the existence of means of subsistence in the case of students aged over 18 who are studying in the host country (Article 4(2)).

The Commission has included these changes in its amended proposal.

2. The Legal Affairs Committee had proposed the abolition of the requirement as to proof of the existence of means of subsistence not only in the case of students aged over 18 but also in the case of all holders of a right of residence (Article 4(2)(b)).

The Commission rejected this amendment. In view of the difficulty of persuading the Council to agree to the proposed widening of the right of residence, and so as not to reduce the likelihood of a rapid implementation of this directive, the Commission considered that it was fairly unrealistic to demand the total abolition of the requirement in question immediately.

It was, consequently, unable entirely to agree with Parliament on this point but, given that it shared the same objectives, it would seek to persuade the Council to adopt this provision only for a transitional period of 6 years (new Article 10) to enable it to review its position in accordance with the wishes expressed by Parliament on the expiry of the period in question.

The Commission explained its position in this respect at a plenary sitting of Parliament.

3. The Legal Affairs Committee had also proposed the inclusion in the directive of a "Council recommendation" to the Member States that similar treatment be applied to refugees and stateless persons already resident in a Member State.

The Commission agreed to the substance of this proposal but was unable to incorporate it in its amended proposal for a directive, for the following reasons:

- the conditions of application laid down in Article 235 of the Treaty of Rome did not allow any extension of the scope of the directive to persons who were not nationals of a Member State of the Community;
- such a recommendation could not form part of a legislative text such as a directive.

However, the Commission regarded such a recommendation as the logical consequence of the right of residence.

It stressed this point in discussions with the Legal Affairs Committee, reiterated it at the plenary sitting and intended to bring it to the Council's attention once the directive had been adopted.

4. The Legal Affairs Committee had proposed a widening of the concept of the family within the meaning of the directive to include "any person whom the holder of the right of residence has an obligation to support or who is in practice dependent on the holder"¹ (paragraphs 2 and 3 of Article 1(2)).

¹OJ C 117, 12 May 1980, p. 50. (Resolution of Parliament).

When the amendments proposed by the Legal Affairs Committee were discussed at a plenary sitting on 15 April 1980, it seemed desirable to widen this concept and the Commission did not reserve its position in any way in this regard.

Between 15 April and 27 June, when the Commission submitted an amended proposal to the Council, the latter had begun to examine this proposal article by article.

The Commission, honouring the undertaking it had entered into, submitted and orally defended, without awaiting the despatch of the formal document, the amendment adopted by Parliament concerning the concept of members of the family.

Most of the Member States were opposed to this amendment in view, particularly, of the repercussions which it would have on Community legislation.

The Commission reserved the position it would adopt in the course of the Council's deliberation, but, since its amendment had been rejected, it did not consider it necessary to submit it a second time in its amended proposal.

The likelihood of this amendment being adopted by the Council is minimal in view of the fact that Article 235 of the Treaty of Rome requires unanimity within that body.

Since the Legal Affairs Committee did not deal with this matter before its meeting on 1 and 2 October, the Commission was unable to communicate these developments to it before that date.