II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE
of 28 June 1990
on the right of residence

(90/364/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 3 (c) of the Treaty provides that the activities of the Community shall include, as provided in the Treaty, the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8a of the Treaty provides that the internal market must be established by 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas national provisions on the right of nationals of the Member States to reside in a Member State other than their own must be harmonized to ensure such freedom of movement;

Whereas beneficiaries of the right of residence must not become an unreasonable burden on the public finances of the host Member State;

Whereas this right can only be genuinely exercised if it is also granted to members of the family;

Whereas the beneficiaries of this Directive should be covered by administrative arrangements similar to those laid down in particular in Directive 68/360/EEC (4) and Directive 64/221/EEC (5);

Whereas the Treaty does not provide, for the action concerned, powers other than those of Article 235,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall grant the right of residence to nationals of Member States who do not enjoy this right under other provisions of Community law and to members of their families as defined in paragraph 2, provided that they themselves and the members of their families are covered by sickness insurance in respect of all risks in the host Member State and have sufficient resources to avoid becoming a burden on the social assistance system of the host Member State during their period of residence.

The resources referred to in the first subparagraph shall be deemed sufficient where they are higher than the level of resources below which the host Member State may grant social assistance to its nationals, taking into account the personal circumstances of the applicant and, where appropriate, the personal circumstances of persons admitted pursuant to paragraph 2.

Where the second subparagraph cannot be applied in a Member State, the resources of the applicant shall be deemed sufficient if they are higher than the level of the minimum social security pension paid by the host Member State.

(1) OJ No C 191, 28. 7. 1989, p. 5; and OJ No C 26, 3. 2. 1990, p. 22.
(2) Opinion delivered on 13 June 1990 (not yet published in the Official Journal).
(3) OJ No C 329, 30. 12. 1989, p. 25.
(4) OJ No L 257, 19. 10. 1968, p. 13.
(5) OJ No 56, 4. 4. 1964, p. 850/64.