

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 93/96/EEC

of 29 October 1993

on the right of residence for students

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the second paragraph of Article 7 thereof,

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

In cooperation with 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, as the Court of Justice has held, Articles 128 and 7 of the Treaty prohibit any discrimination between nationals of the Member States as regards access to vocational training in the Community; whereas access by a national of one Member State to vocational training in another Member State implies, for that national, a right of residence in that other Member State;

Whereas, accordingly, in order to guarantee access to vocational training, the conditions likely to facilitate the

effective exercise of that right of residence should be laid down;

Whereas the right of residence for students forms part of a set of related measures designed to promote vocational training;

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

Whereas, in the present state of Community law, as established by the case law of the Court of Justice, assistance granted to students, does not fall within the scope of the Treaty within the meaning of Article 7 thereof;

Whereas the right of residence can only be genuinely exercised if it is also granted to the spouse and their dependent children;

Whereas the beneficiaries of this Directive should be covered by administrative arrangements similar to those laid down in particular in Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families ⁽⁴⁾ and Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health ⁽⁵⁾;

Whereas this Directive does not apply to students who enjoy the right of residence by virtue of the fact that they are or have been effectively engaged in economic activities or are members of the family of a migrant worker;

⁽¹⁾ OJ No C 166, 17. 6. 1993, p. 16.

⁽²⁾ OJ No C 255, 20. 9. 1993, p. 70 and
OJ No C 315, 22. 11. 1993.

⁽³⁾ OJ No C 304, 10. 11. 1993, p. 1.

⁽⁴⁾ OJ No L 257, 19. 10. 1968, p. 13. Directive as last amended
by the Act of Accession of 1985.

⁽⁵⁾ OJ No 56, 4. 4. 1964, p. 850/64.

Whereas, by its judgment of 7 July 1992 in Case C-295/90, the Court of Justice annulled Council Directive 90/366/EEC of 28 June 1990 on the right of residence for students⁽¹⁾, while maintaining the effects of the annulled Directive until the entry into force of a directive adopted on the appropriate legal basis;

Whereas the effects of Directive 90/366/EEC should be maintained during the period up to 31 December 1993, the date by which Member States are to have adopted the laws, regulations and administrative provisions necessary to comply with this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In order to lay down conditions to facilitate the exercise of the right of residence and with a view to guaranteeing access to vocational training in a non-discriminatory manner for a national of a Member State who has been accepted to attend a vocational training course in another Member State, the Member States shall recognize the right of residence for any student who is a national of a Member State and who does not enjoy that right under other provisions of Community law, and for the student's spouse and their dependent children, where the student assures the relevant national authority, by means of a declaration or by such alternative means as the student may choose that are at least equivalent, that he has sufficient resources to avoid becoming a burden on the social assistance system of the host Member State during their period of residence, provided that the student is enrolled in a recognized educational establishment for the principal purpose of following a vocational training course there and that he is covered by sickness insurance in respect of all risks in the host Member State.

Article 2

1. The right of residence shall be restricted to the duration of the course of studies in question.

The right of residence shall be evidenced by means of the issue of a document known as a 'residence permit for a national of a Member State of the Community', the validity of which may be limited to the duration of the course of studies or to one year where the course lasts longer; in the latter event it shall be renewable annually. Where a member of the family does not hold the nationality of a Member State, he or she shall be issued with a residence document of the same validity as that issued to the national on whom he or she depends.

For the purpose of issuing the residence permit or document, the Member State may require only that the applicant present a valid identity card or passport and provide proof that he or she meets the conditions laid down in Article 1.

2. Articles 2, 3 and 9 of Directive 68/360/EEC shall apply *mutatis mutandis* to the beneficiaries of this Directive.

The spouse and the dependent children of a national of a Member State entitled to the right of residence within the

territory of a Member State shall be entitled to take up any employed or self-employed activity anywhere within the territory of that Member State, even if they are not nationals of a Member State.

Member States shall not derogate from the provisions of this Directive save on grounds of public policy, public security or public health; in that event, Articles 2 to 9 of Directive 64/221/EEC shall apply.

Article 3

This Directive shall not establish any entitlement to the payment of maintenance grants by the host Member State on the part of students benefiting from the right of residence.

Article 4

The right of residence shall remain for as long as beneficiaries of that right fulfil the conditions laid down in Article 1.

Article 5

The Commission shall, not more than three years after the date of implementation of this Directive, and at three-yearly intervals thereafter, draw up a report on the application of this Directive and submit it to the European Parliament and the Council.

The Commission shall pay particular attention to any difficulties to which the implementation of Article 1 might give rise in the Member States; it shall, if appropriate, submit proposals to the Council with the aim of remedying such difficulties.

Article 6

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1993. They shall forthwith inform the Commission thereof.

For the period preceding that date, the effects of Directive 90/366/EEC shall be maintained.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such references shall be laid down by the Member States.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 29 October 1993.

For the Council

The President

R. URBAIN

⁽¹⁾ OJ No L 180, 13. 7. 1990, p. 30.