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.