COUNCIL DIRECTIVE
of 28 June 1990
on the right of residence for students

(90/366/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, as the Court of Justice has ruled, 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 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, assistance granted to students, as established by the case law of the Court of Justice, does not fall within the scope of the Treaty within the meaning of Article 7 thereof;

Whereas it is necessary for the Member States to adopt administrative measures to facilitate residence without discrimination;

Whereas the right of residence can only be genuinely exercised if it is 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 Directive 68/360/EEC (4) and Directive 64/221/EEC (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;

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall, in order to facilitate access to vocational training, grant the right of residence to any student who is a national of a Member State and who does not enjoy this right under other provisions of Community law, and to 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 they are covered by stickness 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 EEC', 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.

(1) OJ No C 191, 28. 7. 1989, p. 2; and OJ No C 26, 3. 2. 1990, p. 15.
(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.