

# **Portability of student financial support**

***An inventory in 23 European countries***

Main report

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## Executive summary

This report reflects an inventory of the current practices with regard to the portability of student financial support within the European Union. The major issue relates to the extent to which students can use national financial support for study abroad. Can we discern common patterns in the opportunities and limitations in this area?

Based on the descriptions of the current national systems of student support (as described in detail in the background report for this study: *Student financial support, an inventory in 24 European countries*) we can conclude that systems of direct support may be most attractive to claims from foreign students.

This study also confirms the expectation that the opportunities for using national support for study abroad are much stronger for short-term study visits than for full-degree study abroad. In addition, indirect support is more easy to be used for study abroad than direct support. Concerning indirect support, parents generally only have to prove that their children study at a recognised tertiary education institution, regardless where. However, the portability of direct support (grants and loans) is generally subject to much stricter requirements and available for only a limited range of programs or hosting countries.

The experiences with the current portability policies are predominantly satisfactory but not optimal. Though many countries can live with the current situation, they often would like to provide more facilities for the growing demands of internationalisation. However, the decisions of the European Court of Justice, that broaden the eligibility of students for financial support in other EU-countries as well as the concept of EU-citizenship, make governments reluctant about the next steps to be taken. Particularly, if it is decided in the Bidar case that foreign students may claim maintenance support abroad, some governments fear for a development towards a situation of 'student finance tourism' at the expense of countries with well developed systems of direct student aid.

Altogether, the relationships between internationalisation, mobility and student financing appear to be complex where the interests of students, national governments and the EU authorities may conflict. This calls for a stronger co-ordinated political approach in this area. Although a situation of similar national support systems allowing full portability is considered idle – the differences between the current national systems are too large– one has to think in more practical terms and find ways in which the responsibilities between the home and hosting countries become clearer. For example, one could apply a basic rule that says that the financial responsibility lies with the home state unless there is a firm socio-economic link with the hosting country. The socio-economic link could be expressed through a residency requirement. Such arrangements would reduce the national financial risks of opening up the portability of student aid. In addition, the EU itself could develop a system of grants (and loans) that compensate cost-differences between countries, maybe organised as a part of the current Erasmus grants system.

If the EU is serious about the intentions to promote student mobility and internationalisation, a stronger co-ordinated and co-operative policy approach of the issues discussed in this report are needed. Putting these issues on the EU-agenda and the underlying report on current practices in the portability of student support form first steps in this complex policy area.

# Preface

This study has been commissioned by the Dutch Ministry of Education, Culture and Science (OCW) with the aim of making an inventory of the current practices in the portability of student financial support around Europe, particularly within the EU. The Dutch Ministry of Education, Culture and Science is ambitious in facilitating the international mobility of (Dutch) students but thinks that the recent decisions of the European Court of Justice (ECJ) in this area may have a limiting effect on member states' intentions to expand the portability of student support. Because the ECJ uses a strict application of the principle of non-discrimination, this may open up national systems of student support for unintended groups of student, implying a financial risk, particularly for countries with a relatively generous student financing system. Therefore some member states may act hesitant in expanding the opportunities to use student support for study abroad. That situation has been the major motivation for the Dutch government to put portability of student financial support on the agenda of the Dutch EU-presidency in the fall of 2004.

This report can be viewed as a background report to stimulate the debate on the diversity of student support across the many European countries and what the opportunities and limitations are with respect to the portability of this support for study abroad. As such, this report primarily focuses on the current state of affairs with regard to the portability of student support in the various EU-countries (plus Norway). We distinguish between study abroad in the framework of a program being followed in the home country and study abroad where the full degree program is being followed in another country.

The outcomes of this study are presented at the European conference 10-12 October 2004 in Noordwijk (the Netherlands) and aim to trigger the debate and further co-operation among the EU-member states in the area of student financial support. Whereas internationalisation and student mobility seem to be priorities in many countries, facilitating mobility with flexible financial assistance structures needs to gain more attention. This report shows that Europe still faces great challenges as regards the co-ordination of a complex policy area.

The report heavily relies on the information provided by the national experts and representatives from all the European countries involved in the study. These contacts are all listed in the back of this report). The author owes them many thanks and it must be stressed that their co-operative and accuracy is appreciated very much. Though it was intended to include all current 25 EU-Member States and Norway in this study, day to day practice showed that it was impossible to report on all countries. As a result, the analysis only includes 23 countries. For Cyprus, Greece, Hungary, Luxembourg and Spain no information on the portability of student support was made available. However, for Belgium we have two case studies, being the Dutch and French speaking communities and also for the UK we have two case studies: England/Wales and Scotland.

Attached to this document, there is a report providing an overview of the current student support mechanisms in Europe. That report is limited to 24

countries because no information was made available for Cyprus, Greece, Luxembourg and Spain.

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# Introduction

## Background of the report

Portability of student support for study abroad is a topic that receives increasing attention in Europe and has been put on the political agenda under the Dutch EU-presidency in the second half of 2004.

One of the major drivers of this development is the increased internationalisation of higher education, partly expressed through the growth in the number of students that undertake (part of) their studies abroad. Many governments become more active in this area, for example through stimulation of student mobility, the establishment of international study programs, recruiting foreign students and opening up opportunities to use student support for study abroad. But also do individual (EU) citizens more often claim student support in other EU-countries than their home country because they, or their families, have particular relations with the country where they claim student support, like for example being employed in the hosting country.

This latter development has become clear now a number of such cases have been brought to the attention of the European Court of Justice (ECJ), for example the cases Raulin, Bernini, Meeusen, Grzelczyk, Ninni-Orache, Collins and currently the Bidar-case. The ECJ has proven to take a very liberal view in these situations emphasising equal rights and equal opportunities for nationals and other EU-citizens. As a result, the criteria to be entitled to student support in other EU-member states have been considerably stretched.

All of this leads to a tension between the aims of national governments who want to open up financial opportunities for their own students who want to study abroad and the decisions of the European Court of Justice that stretch the equal opportunities principle to broader groups of students. The liberal approach of the ECJ, which is based on the good argument of non-discrimination, may prevent EU-member states to make their own systems of student support more flexible that would accommodate increasing internationalisation. In practice, if an EU-member state decides to expand the portability of student support to other EU-countries, they will be confronted with larger groups of eligible students, generating uncertainty and financial risks. It maybe therefore that governments are much more restrictive in their portability policies as they would like to be. All in all, it seems that systems of student support do not keep up with the internationalisation of higher education.

The Dutch government took the initiative to put these issues at the European political agenda, because it already has the ambition to substantially expand the portability of student support for some years. The proposals have been favourably discussed in parliament, as for example reflected in the policy paper *Studeren zonder grenzen* (2002). Furthermore, several studies were conducted in this field, such as one that explored the actual practices of the portability of student support

(Vossensteyn, 2000a), the juridical issues in this area (Mortelmans en Van Ooik, 2003) and the financial risks attached to widen the possibilities for portability of student support (Vossensteyn, 2000b). However, the ambitions have not yet been materialised because the decisions of the ECJ may imply substantial financial risks.

Within the framework of the Bologna Follow Up process, the *Working Group on Student Support and the Portability of Grants and Loans* was established. This working group requested CHEPS to study the current practices on the portability of student support, resulting in the underlying report. As such, this report aims at providing background information on the current national policies and experiences with regard to the issue of portability of student support in the EU-countries, including the accession countries, being Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, as well as in Norway.

### **Research questions**

This study partly concerns an update of a similar type of research conducted in 2000, which compared portability practices in the 15 EU-countries and Norway (Vossensteyn, 2000a). The current study elaborates on those previous findings but also extends the group of countries with the 10 EU-accession countries. The study will be clustered around the following six major research questions:

#### *1. What kinds of student financial support are offered in the countries studied?*

This question particularly addresses what types of student support are available in the countries. This to get a general impression of the financial arrangements available to students, and of the criteria which make students eligible for public support. Student support can generally be subdivided into direct support and indirect support. Direct support consists of arrangements directly available to students, like grants, scholarships, loans and support in kind such as meals and travel support. Indirect support addresses all kinds of subsidies available to the parents of students (or other relatives), including family allowances and tax benefits. The criteria to be eligible for student support often include nationality, age, study progress, residency and parental or family income. The country descriptions will be based on brief descriptions of the arrangements available, the allowances awarded (minimum and maximum amounts), the criteria used, and the proportions of students eligible.

#### *2. What student support arrangements in their home countries can students use if they study abroad?*

With this question we would like to make an inventory of the public financial support facilities that are available to “national” students if they want to conduct their studies in another country. So what parts of national student support are portable in case of study abroad, or what additional arrangements are available for study abroad. We can make a distinction between what is available for a short

period of study abroad within the framework of studies conducted at a higher education institution in the home country and what is available if students conduct their entire study (or major part of it) abroad.

*3. What are the limitations to the portability of the support abroad?*

This part of the study focuses on the limitations to the portability of student support. If students can take (particular types of) student support for study abroad, are there any restrictions related to that? One can for example think of limitations in terms of the countries to which support can be taken, or the type of study programs for which it can be used. In addition, there may be residency requirements before one can take student support abroad, or one has to prove residency in the hosting country.

*4. What are the experiences with these arrangements?*

A logical further step is to collect information on the actual experiences with the portability arrangements. What is the impression of experts on the working of the current portability arrangements. Are national students served in the way their governments want them to be served on this issue? Is there a need for extended portability policies? Do the current policies reckon with ECJ-jurisprudence and do countries feel limited by that in their operation?

*5. Do the countries have actual intentions to expand the arrangements for the portability of student support?*

A further question is whether the individual states under consideration have any further ambitions with respect to the portability of student support. Do they want to expand the portability of support for their students or are they satisfied with the current situation and why? If they want to expand portability opportunities, in what direction would that have to take place? Would that be a matter of national policy, or more a joint effort with more EU (accession) countries? What would be an ideal situation and what will be the likely situation?

*6. What kind of student support arrangements are available to EU-employees and their children in the countries studied?*

This final question takes a changing perspective, being the position of incoming mobile students. It particularly relates to the position of EU-employees and their families with regard to the availability of student support (as one element in the social security arrangements) from the hosting country.

The European Court of Justice has determined that one can be declared as an EU-employee if one is doing (or has done) "real and actual labour". We are very interested in what way the classification of "real and actual labour" has been translated into tangible criteria for declaring someone an "EU-employee".

To make the above mentioned questions more concrete, we can think of the following. If an EU-citizen has a job in another member country, then what are the criteria this person has to meet for being regarded as an EU-employee in the

hosting country? For example, what is the minimum number of hours one is required to work or to have worked in a certain period to be officially recognised as an employee eligible to social facilities in the hosting country. For example, in the Netherlands one is regarded as an EU-employee who is eligible for student financial support (for her/himself or for her/his children) if s/he works for at least 32 hours per month. Finally, it is also interesting to know whether the eligibility for student support can be extended when the EU-employee loses or quits his job?

In this report, we only concentrate on the issues relating to the portability of student support. The descriptions of the current systems of student support are given in the related report, called: *Student financial support, an inventory in 24 European countries*.

### Research method

As the aims of the project are primarily to make an inventory of current practices in the area of the portability of student support, the research method is relatively straightforward. It is a combination of desk research and survey research, combining information from literature, internet and country experts in the field.

The main way of collecting the information required for the project was sending out a questionnaire among country experts in the area of student support, mostly people at ministries of education. Except for general descriptions on the national systems of student support, the required information about the portability of student support is so specific that it often cannot be found in official documentations. The questionnaire developed covered all research questions formulated in the previous section and was first sent to the members of the *Bologna Follow-up Group* representing the countries included in this study.

All contacts were sent the complete questionnaire. However, where available the questionnaires we accompanied with information on the national student support system which is readily available in the CHEPS Higher Education Monitor.<sup>1</sup> In some cases we also included country reports on the portability of student support from the study completed in 2000. These may have made the task of the country experts easier.

In order to understand all the information given in response to the questionnaire, there has been contact between the researcher and the national experts, including other experts from the CHEPS Higher Education Policy Network.

The national descriptions on the general system of student support were also written on the basis of information on the official national government websites.

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<sup>1</sup> The CHEPS Higher Education Monitor is an ongoing project that keeps track of statistical developments as well as policy developments in the area of higher education in a number of Western European countries (see: [http://www.utwente.nl/cheps/higher\\_education\\_monitor/index.html](http://www.utwente.nl/cheps/higher_education_monitor/index.html)).

**Structure of the report**

In this report, we will present the national policies with regard to the portability of student financial support. Before reporting the national practices in chapters 1 to 23, we will first provide a brief comparative overview of the student financial support available in the countries studied. That will be done in tabular form. In the final chapter (Chapter 24) the major outcomes of the country studies will be drawn together by providing a comparative analysis and reflection. As such, the major similarities and differences in the portability policies of the various countries with respect to student support will be presented in way that is as simple and structured as possible. The report will be concluded with a tabular comparative overview of the major issues concerning the portability of student support in the 23 countries studied.

# Student support, a brief comparative overview

Table 1: Direct student support

Country	Grants			Loans	
	<i>Basic</i>	<i>Means-tested</i>	<i>Merit-based</i>	<i>Unconditional</i>	<i>Means/merit</i>
<b>Austria</b>	No	Yes	Yes (limited)	Yes (limited)	No
<b>Belgium – NL</b>	No	Yes	No	Yes (limited)	Yes (limited)
<b>Belgium – FR</b>	No	Yes	No	Yes (limited)	No
<b>Czech Republic</b>	No	Yes	Yes	Yes (limited)	No
<b>Denmark</b>	Yes	No	No	Yes (high)	No
<b>Estonia</b>	No	Yes	Yes	Yes (high)	No
<b>Finland</b>	Yes	Yes (limited)	No	Yes (high)	No
<b>France</b>	No	Yes	Yes (limited)	Yes (Limited)	No
<b>Germany</b>	No	Yes	Yes (limited)	Yes (limited)	Yes (limited)
<b>Hungary</b>	No	Yes (limited)	Yes	Yes (limited)	No
<b>Ireland</b>	No	Yes	No	No	No
<b>Italy</b>	No	Yes	Yes	No	Yes
<b>Latvia</b>	No	Yes	No	Yes	No
<b>Lithuania</b>	No	Yes	Yes	Yes (tuition)	Maintenance
<b>Malta</b>	Yes	No	No	Yes	No
<b>Netherlands</b>	Yes	Yes	No	Yes	No
<b>Norway</b>	Yes	Yes (limited)	No	Yes	No
<b>Poland</b>	No	Yes	Yes	No	Yes
<b>Portugal</b>	No	Yes	Yes (limited)	No	No
<b>Slovakia</b>	No	Yes	Yes	No	Yes
<b>Slovenia</b>	No	Yes	Yes	No (abolished)	No
<b>Sweden</b>	Yes	Yes (limited)	No	Yes	No
<b>UK – England/Wales</b>	No	Yes	No	Yes	Yes (limited)
<b>UK – Scotland</b>	No	Yes	No	Yes (limited)	Yes



Table 2: Indirect student support, support in kind, performance requirements and tuition

Country	Family allowance	Tax credits	Support in kind	Performance requirements	Tuition (per year)	
					EU	Non-EU
<b>Austria</b>	Yes (middle)	Yes (low)	Substantial	Yes	€727	€1452
<b>Belgium – NL</b>	Yes (middle)	Yes (low)	Low	Some	Up to €505	Variable
<b>Belgium – FR</b>	Yes (middle)	Yes (low)	Low	Some	Up to €726	to €1984
<b>Czech Republic</b>	Yes (low)	Yes (middle)	Middle	-	No	Moderate
<b>Denmark</b>	No	No	Low	Some	No	No
<b>Estonia</b>	Yes (high)	Yes (low)	Middle	Yes	No (fulltime)	to €5100
<b>Finland</b>	No	No	High	Some	No	No
<b>France</b>	Yes (middle)	Yes (middle)	Yes (low)	Yes	Variable	Variable
<b>Germany</b>	Yes (high)	Yes (high)	Middle	Some	No (regular)	No
<b>Hungary</b>	No	Yes (low)	Substantial	Some	Up to €300	to €6000
<b>Ireland</b>	No	Yes (low)	Low	Some	€750	Variable
<b>Italy</b>	No	Yes (middle)	Middle	Some	+/- €1000	Variable
<b>Latvia</b>	No	Yes	Substantial	No	Variable	Variable
<b>Lithuania</b>	Yes (limited)	Yes (tuition)	Middle	No	€320	Variable
<b>Malta</b>	No	No	Low	No	€25	Variable
<b>Netherlands</b>	No	Yes (little)	Middle	Yes	€1505	Variable
<b>Norway</b>	No	No	Middle	Some	No	No
<b>Poland</b>	No	Yes (low)	Middle	Yes	No (regular)	Variable
<b>Portugal</b>	No	Yes (low)	High	No	€464-€852	€464-€852
<b>Slovakia</b>	Yes	Yes	Middle	Yes	No	Variable
<b>Slovenia</b>	Yes (limited)	Yes (limited)	Middle	Some	No (fulltime)	To €3000
<b>Sweden</b>	No	No	No	Yes	No	No
<b>UK – England/Wales</b>	No	Yes (limited)	Middle	No	€1689	To €33000
<b>UK – Scotland</b>	No	No	Middle	No	Deferred payment	Variable

Notes: In Germany students exceeding the nominal duration may have to pay €500 per semester on tuition.

In Hungary, the Non-EU fees also apply to self-financed students.

In Ireland the fees are related to registration, examination and service costs.

In Italy these fees relate to bachelor students. Master students often pay 50% more.

In Malta these fees relate to bachelor students. Tuition for master students vary from €4985 and €6980.

In Poland the fees for part-time students vary between €175 and €1000.

Slovakian students exceeding the nominal duration have to pay fees up to 50% of the public subsidy per student.

# 1 Austria

## 1.1 Portability of student support and its limitations

There are two ways in which direct student support can be awarded for study abroad. First through extension of eligibility for study grants for the period of study abroad, with no longer than four semesters. Second, through additional supportive measures such as grants for study abroad, including travel cost allowance and subsidies for language courses. In order to be eligible, students need to meet the following conditions:

- the general conditions for study grants,
- one diploma exam, or one doctoral exam, or, unless such major exams are not required, four semesters of credit counting toward completion of one's studies,
- studies at the foreign university must be (recognised) as post-secondary educational institution.
- minimum of three months (grant offered for a maximum of 20 months).

The grant for study abroad amounts to a maximum of €582 per month. The exact determination of the monthly amount depends on an ordinance by the Federal Minister of Education, Science and Culture and is based on the costs of living and studying in the respective country. For example between €73 and €146 per month in Eastern-European countries, between €116 and €276 in Germany, France, Italy or the Netherlands, up to €429 in the UK and €487 in the U.S.A. and in Japan €472 to €582.

In addition to the study grants, the ministry offers subsidies for ad-hoc language courses in preparation for study abroad. These subsidies may cover part of the costs for a language course, or result in the extension of the grant for one's study abroad by an additional month. Furthermore, also a travel cost allowance may be granted for travelling to the respective university site abroad. There is no legal title to any of such supportive measures.

The authority for study grants will decide on eligibility of grants and supportive measures. Those students receiving assistance for study abroad will have to provide proof of academic advancement to the authority for study grants after completion of one's study abroad, otherwise they will have to repay the money granted.

This all applies to study periods of 20 months at maximum. Study programs entirely conducted abroad can not be supported through study grants with a few exceptions. First, the entire period of studies in South Tyrol is financed for Austrians. Second, there is a special promotion program for studies at non-Austrian Universities close to the Austrian border and non-Austrian Open Universities in the scope of the private economy administration, where study grants are awarded. There is no legal title to such a measure.

The portability for short-term study abroad is limited to a number of countries which include all the countries that signed the “European Convention on Continuation of Payment of Grants to Students Abroad” of 1969. These are Bosnia and Herzegovina, Germany, Finland, France, Great Britain and Northern Ireland, Iceland, Croatia, Liechtenstein, Luxemburg, Malta, Yugoslavia, the former Yugoslav Republic of Macedonia, the Netherlands, Sweden, Switzerland, Spain, Slovenia, Cyprus. Denmark has not yet ratified the Convention. The Convention does not apply to grants for full study abroad. The conditions for transferring a grant abroad for a short term and a long term study stay abroad are:

- the starting of the study program in the home country,
- the execution of the study at a recognized foreign educational institution, and
- the recognition of the courses and exams in the home country.

The indirect support like family allowances and tax reductions for study abroad is possible if the parents have their place of residence in Austria. The same regulations for family allowances and tax reductions apply for studying in Austria and for studying abroad.

## **1.2 Experiences with the portability of student support and intentions for expansion**

Austria has already developed policies for implementing the measures of the EU Action Plan for Mobility, with a time table for implementing the individual steps. Competent institutions for implementing the measures are the Ministry of Education, Science and Culture, the Universities and Universities of the Applied Sciences, the national agencies for Socrates and Leonardo da Vinci, and further institutions in the field of higher education. The following measures in the field of student support serve as examples:

- grants for language courses and travel cost allowances for studies abroad
- special promotion programs for studies at non-Austrian universities close to the Austrian border and non-Austrian open universities
- child care subsidies for studying parents during a study or a practical training abroad
- increase of the number of students receiving a study grant by a raise in the budget of approximately 40 % in the year 2002.

Austria does not support full study abroad, with the exception of studies in South Tyrol and studies at non-Austrian universities close to the Austrian border and non-Austrian open universities. The reason is that as many students as possible should gain additional experience through studies abroad. But no real decisions have been taken yet in this direction. But there are scholarships for Austrian graduates to enter post-graduate programs abroad (master and doctoral programs).

The outcomes of national questionnaires among returned mobile students indicate that most of the Austrian students are satisfied with the support for study abroad. There are few students demanding support for a complete study program abroad.

Austria has the point of view that subsidising and promoting study abroad can only be arranged in a reasonable way if the issues are handled in co-operation with the other member countries of the European Union and the Bologna member states. Such a solution would require basic decisions regarding general education policy and how that impacts on funding and the promotion of mobility.

The Austrian government recognises that on a political level (EU Parliament, Council), and according to the European Convention on Continuation of Payments of Grants to Students Abroad (Agreement of the Council of Europe), the home country should be responsible for student support. As such, financial obstacles for student mobility should be countered by national strategies such as, for example, continued payment of national grants in case of study abroad.

However, in practice, the European Court of Justice attempts to overcome obstacles to mobility by putting EU/EEC citizens and citizens of the host country on an equal footing. Such equalisation would include government compensation payments in order to guarantee minimum subsistence for students. Both approaches to provide financial support to students would be feasible in principle. But using both approaches could lead to problems of having two kinds of mobility measures, especially in those countries with a well organised financial support system that may attract citizens from other countries as well for claiming student support.

It must also be recognised that, judging the current state of affairs of the EU, educational policy does not constitute a common Union objective. This raises the question as to whether national funding of education would reach its limits with respect to mobility of the workforce. The development of European systems for promoting study abroad requires answers to the following questions:

- What would future financial aid for students be like if foreign students would have to be integrated into the system of support of the hosting country? (the ECJ view)
- What would future financial aid for students be like if mobility will only be promoted through the home country? (the Agreement of the Council of Europe view)

If we assume that students would only receive support from the host country and not from their home countries, than it can be expected that countries with well developed student support systems would attract most students. In that case the following questions arise:

- What kind of joint measures would be necessary to avoid imbalance of mobility?
- Would it be imaginable to develop a system of financial compensation according to the example of the Nordic countries?
- How to overcome current differences in the ways of supporting student mobility, in terms of structure, grants, loans, amounts, and conditions?
- Would it be reasonable to create comparable systems of student support within the European academic territory in order to avoid double support and imbalanced mobility?
- Will subsidising study abroad become a task of the European Union?

- How will all of this relate to the funding of national higher education institutions?

It can be read from these considerations that providing student support for study abroad provides a case where the tension between policies and interests at the national and EU-level become crystal clear and may lead to difficult decisions to be taken.

### 1.3 Student support for EU-employees

According to article 4, section 1 of the Student Support Act, citizens of countries party to the Agreement on Creating the European Economic Area (EEA), are treated equally as Austrian citizens to the extent defined by the agreement. According to this agreement, study grants can be awarded to foreign students in Austria and the EEA only if these students are children of migrant workers.

Being a citizen of a member state of the EEA alone does not entitle a student in Austria to receive a study grant. These migrant workers or self-employed persons also have to be residents of Austria and work in Austria. If these criteria are met, they and their children are treated equally as Austrian citizens.

If citizens of an EEA member state who live (and work) in Austria also pursue a study program at an Austrian university, they must have worked in Austria before they started studying. Only then they can be eligible for a study grant. It is essential that the applicants for a study grant originally entered Austria with the intention to work and not to study. Following the most recent decision of the European Court of Justice (*Ninni-Orasche vs. Austria*), only work which is “real and genuine” is recognized as such, disregarding work which can be considered trivial, minor or inessential. This is to be examined on the basis of objective criteria. The term “employee” in accordance with the article 48 EC treaty is not to be narrowly interpreted based on the decisions of the ECJ. This term is to define according to objective criteria which characterize the employment relationship in light of the rights and duties of the person concerned. It is an essential characteristic of the employment relationship that during a specific period of time a person renders a performance by order of somebody else for which she/he receives a money consideration. When evaluating these preconditions of objective criteria must be applied and it is necessary to have a look at all aspects of the legal issue at hand which concern the professional activities and the employment relation at hand.

EU-employees and their children receive the same student support facilities for study abroad as Austrian students if they would receive a study grant in Austria.

The most recent decision by the ECJ calls for continuity between professional training and prior employment only if a migrant worker has terminated his/her contract of labour voluntarily. Employees who quitted their job may be eligible for student support if there is a continuity between professional training and prior employment. If an employee is being fired then you have not to check the continuity between professional training and prior employment. However, possible misuse based on objective facts which could prove that an employee intends to

work briefly in a member state only in order to become eligible for a grant is not covered by the provisions of the community law.

In examining whether the termination of work was a voluntary or an involuntary, one has to consider such aspects as:

- the normal procedure in a given business sector,
- the chances of finding a permanent job in a given business sector,
- the intention of offering a non-permanent job, or
- the option of extending the contract of labour.

## **2 Belgium, Dutch speaking community**

### **2.1 Portability of student support and its limitations**

As for the portability of student support, The Flemish Community makes a distinction between horizontal and vertical mobility. In the case of horizontal mobility (i.e. a short-term foreign study visit in the framework of a study followed at a Flemish higher education institution), one can take student support abroad because s/he remains enrolled in a Flemish higher education institution.

But in the case of vertical mobility (i.e. following a whole study program – bachelor or master – abroad) student support is only portable if the program followed is officially recognised by the receiving government and if no equivalent program is available in the Flemish Community (the equivalency condition). The only exception to this rule is that one can use Flemish support for all (recognised) programs in the Netherlands.

Portability of student support for study abroad is only available for students with the Belgian nationality or EU-citizens whose parents work (or have worked) in Belgium. Of course, students also have to meet the regular eligibility criteria for receiving student support.

All studying children are calculated to the family for taxation purposes. That implies that indirect support is also available for study abroad. Only when the child leaves parental home on a permanent basis and takes his/her main residence somewhere else, this is being regarded a breaking with the family in fiscal terms. Then the tax facilities and family allowances will be cancelled.

### **2.2 Experiences with the portability of student support and intentions for expansion**

Because the portability of student support so far is rather limited, the Flemish authorities have the impression that the facilities are also used to a very limited extent.

The new Decree for higher education which becomes valid as from July 2004 it is envisaged to also expand the opportunities for the portability of student support. With respect to horizontal (short-term) mobility the arrangements remain as they are. However, with respect to vertical (long-term) mobility it is envisaged to make student support portable for study in all of the countries that signed the Bologna resolution. However, outside the “European higher education area” the equivalency condition remains in place.

It has to be acknowledged that all other conditions that have to be met before one is eligible for student support for study in the Flemish Community also apply if one would like to use study grants for study abroad. This means that the nationality, pedagogic and financial conditions have to be met as well. Compared to the previous system, this implies that the portability of student support will be expanded to non-Belgian citizens with a permanent residence permit in Belgium

or candidate-refugees whose request for asylum has been regarded liable. However, these groups have to meet the requirement of holding a Flemish secondary or higher education diploma.

Another development is that the authority of the "Study Grant Service" (*Dienst Studietoelagen*) will be extended with also executing the European student support and mobility programs.

### **2.3 Student support for EU-employees**

Both under the current system as well as under the new student support arrangement (from July 2004 onwards) children from EU-employees may claim student support in the Flemish Communities. This does not include any additional requirements compared to Belgian students, except for the fact that the employer should provide proof of employing (or having employed) the parent in question.

EU-employees and their children can use student support facilities for study outside Belgium under the same conditions as Belgian students can, but only if the EU-employee in question is also entitled to student support in Flanders. These employees can extend this eligibility if they lose or quit their job. The condition for eligibility is that they work, or have worked, in Flanders. The criterion of what is regarded as work is not further specified. It is sufficient if a parent is working or has worked in Belgium, even if it was for only a limited number of hours.



## **3 Belgium, French speaking community**

### **3.1 Portability of student support and its limitations**

The general rule is that study grants cannot be taken for study abroad if the program in question has an equivalent program in Belgium. If there is not an equivalent program, then the grants can be used for study abroad as long as the student also meets the general other criteria concerning nationality, age, family income, study progress, etc. (see the background report on student financial assistance).

There are also other types of grants for study abroad in the framework of bilateral or multilateral international agreements, such as with countries like Germany, France, Bulgaria, Egypt, Finland, the US and a number of other countries. Such grants are offered by the country receiving the student, and vary in terms of conditions and amounts from country to country.

In addition there are some grants available for specialisation or research abroad, partly administered by the Ministry of Foreign Affairs.

There are also additional scholarships for specialisation courses or for research. The selection of the candidates that may receive such scholarships is based on the grades of the students, or on their professional experience if this can be of interest for the French speaking community.

The loans for students from large families are tied to the same conditions as the general student grants. So they can only be used for study abroad if one meets the general criteria and follows a foreign study program that cannot be found in Belgium.

Foreign students from other EU-member states are eligible for student financial support if they live in Belgium and one of their parents is employed in Belgium (the French speaking community).

## 4 Czech Republic

### 4.1 Portability of student support and its limitations

The students studying abroad have the same status as the domestic students and have the same rights and advantages concerning social benefits (e.g. health insurance, tax deductibility etc.). The scholarships are mainly awarded to students of public HEIs, namely when their stay is realised under an agreement of a HEI, academic exchange program, bilateral agreement, etc. There are no additional (extra) student support facilities in case of full study abroad.

The support for studies abroad provided is oriented mainly at students of public higher education institutions. It is usually connected to an international academic program, bilateral and intergovernmental agreements and/or agreements of higher education institutions on their direct bilateral or multilateral international co-operation. The scholarships can also be awarded to free-movers on the basis that the hosting university accepts the applicant and the sending university recognises his/her studies when he/she returns.

The particular programs which are co-financed from national sources – e.g. Erasmus, have limitations given by the rules of the program. There is also a scheme developed by the Ministry of Education (within the Programs of Development) which supports outgoing students if there is a bilateral agreement between two faculties/universities or on the basis of free movers as described above. This program does not have any geographical and discipline regulations. Except the bilateral intergovernmental agreements the selection of candidates is the responsibility of a sending university.

There is no student support for full study abroad, except for getting a grant from a foundation. For those who do not realise the whole program abroad a combination of above mentioned possibilities is an opportunity.

The only exception are the *Visegrad* scholarships at post master level (including PhD programs and research projects or other post graduate courses), where the candidate does not have to be a student of a domestic (V4 country) university. These grants are awarded for 1 year with a possibility of repetition. However, the number is limited and there discipline-oriented are priorities, not absolute but respected.

### 4.2 Experiences with the portability of student support and intentions for expansion

The Czech government thinks that arrangements in the area of portability of student support could possibly be improved, however, it is connected with more money in the HE system. For the moment the Czech Ministry / government has been trying to improve conditions but there is financial limitation for public expenditure.

Students are limited in studying abroad because the Czech Republic lacks a scheme to support studies abroad for the whole study program. The EU-regulations through the ECJ cases did not impact on the Czech Republic so far.

There lacks a scheme to support full studies abroad without the student being also enrolled at a Czech public higher education institution. In private higher education such possibilities are limited as well. The private sector is young and developing. With the exception of Erasmus program the state subsidy is not given to private HEIs. The Ministry does not have information if there are any schemes developed.

## 5 Denmark

### 5.1 Portability of student support and its limitations

Concerning short-term study abroad, the Danish state educational support (SU) can be awarded in the form of grants and loans for a study period abroad in all countries and programs if the Danish educational home institution accepts the study period abroad as part of the current Danish study program. This means that credits must be awarded for the study period in question. Where a study period abroad of 12 months is only given 6 months' credits in the Danish study program, the state educational support can only be awarded for 6 months.

Foreign citizens who are entitled to receive the state educational support for study programs in Denmark may also receive the state educational support for study periods abroad.

There are no supplementary grants for tuition fees during study periods abroad. The rules governing the student workload required during a study period abroad are the same as apply to the Danish study program. There are no additional residency requirements for short-term studies abroad. Same requirements as for studies in Denmark.

With regard to long-term study abroad, support (by grants and loans) can be granted for all study programs in all countries. But some special conditions have to be met before SU-support can be taken abroad. In principle, one must be a Danish citizen. The only exception concerns EU citizens, who may obtain support for studies abroad on equal terms with Danes in accordance with community law. Furthermore, if you apply for the SU grant for an education abroad you must have been a resident in Denmark for a period of at least 2 consecutive years within the last 10 years prior to the reception of the application. This new rule is applicable for all applications received after July 1, 2002.

Regulations further distinguish between portability to Nordic countries or to other countries. With regard to studies in the Nordic countries, the study program must meet the same conditions for recognition as a comparable study in Denmark. And the acquired qualifications must be usable in Denmark. The support can be granted for youth education, as well as higher education. The support is granted for the prescribed duration of the study, but if needed, another 12 months can be obtained.

The conditions are slightly different for studies outside the Nordic countries. In those cases, support is granted for a maximum of 4 years, i.e. support can be granted for study programs of up to 4 years duration or for the last 4 years of a longer program. In very specific cases, support is granted for more than 4 years, if a long-lasting program with the same occupational aim is not provided in Denmark, and if the qualifications obtained meet a special labour market need in Denmark. The support is granted for higher education only. The education must

provide the student with qualifications that can be used directly in Denmark without additional courses. The study program must furthermore meet the conditions for recognition of Danish study programs.

There are some further (general) points that have to be taken into account if one would like to use Danish student support for full studies abroad:

- The study program in question must be of a minimum duration of one year, be full-time and unpaid.
- It is possible to obtain an extra grant towards tuition fee for a very small number of educations, such as Hotel and Tourism educations on post graduate level, plus educations containing equal parts of economics and language studies - and only such combinations, that are not offered in Denmark.
- The study program as well as the educational institution must be officially recognized in the country in question.
- One may receive support for the International Baccalaureate all over the world.
- It is not possible to get support for open university, language courses for foreign students, any foundation courses at all, unless they are strictly compulsory for the following studies, non degree courses, distance education and the first year of the American Bachelor unless most of the subjects relate directly to the chosen/wanted major.
- The support is to be paid into Danish Bank accounts only.
- The grant is taxable. Normally students pay tax in Denmark. If one is liable to pay tax in another country, one may apply for an exemption from taxation in Denmark.
- Twice a year - when receiving support for study abroad – one is obliged to supply SU with documentation proving that one is pursuing the study according to schedule.
- When studying outside the Nordic countries one is entitled to support for the prescribed duration of the study only. If one is delayed because of failing exams, one cannot have the support extended beyond the prescribed duration of the study. But if the delay is due to illness or childbirth, than it is possible to obtain extension of the support period.

## **5.2 Experiences with the portability of student support and intentions for expansion**

Student support is granted for both short-term and long-term study periods abroad. In 2002 4,415 students received a student grant for long-term studies abroad – The most popular countries were Great Britain (1,808), Norway (481) and USA (386). Grants and loans to cover living expenses are offered for studies abroad as well as for studies in Denmark. No additional grants or loans are offered to cover tuition fees.

The Danish educational system is based on the notion of self-sufficiency. This has resulted in a focus on study in Denmark rather than internationally until the late 1980's. But in the early 1990's, access to student support for long-term studies abroad was liberalised.

The Danish system of student support in general has not been affected by the ECJ, although some rulings of the ECJ have led to minor adjustments. As a result, the Danish Students Grants and Loans Agency awaits the ECJ ruling in the Bidar-case without any predetermined plans to change the current student support system. However, there is a continuing development of exchange programs and partnerships between educational institutions in an EU context.

### 5.3 Student support for EU-employees

In general, the Danish Students Grants and Loans Agency follows the jurisprudence of the ECJ. In order to be treated as (a child of) an EU-employee according to EU law, one must fall within one of the following groups:

1. One is a child of citizens from an EU/EEA country and if
  - One's parents are or have been employees in Denmark or
  - One's parents have or have had their own business in Denmark according to the EU rules on rights to establish and exchange services.
  - One must have come to Denmark in connection with their parents' business in Denmark and still live here. Furthermore, it is a condition that one has been supported financially by one's parents until applying for SU.
2. One is an employee from another EU/EEA country and has started a study that qualifies one for his/her occupation. It is a condition that the education must be related to one's former work in Denmark both in content and in time. However, if one has become involuntarily unemployed, such a connection in content is not necessary (if one is forced into retraining).

Whether labour of the EU-employee is considered as "real and actual labour" is being assessed case by case.

No differences between Danish citizens and EU-employees and their children for using student support for study in Denmark. If the student complies with EU-regulations he/she is eligible for support on the same conditions as Danish students for studies in Denmark as well as abroad (e.g. home country). However, foreign citizens have to apply through separate application forms.

Generally, foreign citizens have to meet one or more of the following conditions in order to be eligible for Danish student support for study in Denmark (or abroad):

- One came to Denmark before the age of 20 years, and one has lived in Denmark with one's parents permanently.
- One has continuously lived in Denmark for at least two years before applying to SU. At the same time one should have had at least a part-time job or worked as a trainee immediately before starting education. If one is not working or has been out of work just before applying for the SU, one can still receive the SU if the periods out of work do not exceed three months.
- One has continuously lived in Denmark for at least two years before applying to SU, and has been married to a Danish citizen that entire time.
- One receives or has received financial aid from the Danish government because of having a residence permit as a refugee or for other reasons, such as having a residence permit immediately following upon a refusal of

asylum. Or one is reunified family of a person who has residence permit in Denmark for one of the above reasons –“refugee etc”.

- One has been family reunified and falls within the Act of integration of foreigners in Denmark (Act of integration).
- One is a German citizen belonging to the Danish minority in “Sydslesvig” and being able to document ones affiliation with Denmark.
- One has a special affiliation with Denmark like being married to a Danish citizen for less than two years or having children with a Danish citizen counts, but it is not decisive.

On top of the conditions mentioned above, citizens from EU- and EEA-countries (Iceland, Liechtenstein and Norway) can also be eligible to the SU if one meets one of the following conditions:

- Having continuously lived in Denmark for at least two years prior to applying to SU. At the same time one has had at least a part-time job or traineeship before starting studies.
- Instead of a paid job one have cared for ones children less than 12 years of age.
- Having been unemployed or having participated in adult vocational training for at maximum one of the two years one must have stayed in Denmark.
- One has been ill and is still employed.

Employees who lose a job are entitled to support in Denmark as well as abroad. Employees who quit a job are only entitled to support if the education is related to the former work in Denmark in content and time. Students receiving a grant are entitled to a grant while they finish their studies.

## **6 Estonia**

### **6.1 Portability of student support and its limitations**

State grants for shorter- and long term studies abroad range from €700 to €16000 per year. For 2004, 300 students are planned to be financed via such grants. There are several merit-based criteria related to the grants, which mostly combine the relevance of the curriculum being followed and the expected time needed, the average grades obtained so far, and in case of PhD and Master-level students, the subject of research.

State grants for studies abroad as referred to above, cover all costs (EU Erasmus grants tend to cover approximately 60% of the costs). Some interuniversity contracts and private foundation grants provide for 100% of costs as well. Study loans are provided to a student of any Estonian higher education institution during his/her studies abroad. The tax benefit scheme is applicable as well for these purposes.

Some specially targeted state grants and interuniversity exchange programs enable to study abroad long-term.

### **6.2 Experiences with the portability of student support and intentions for expansion**

Students who have succeeded to study abroad tend to be rather satisfied. Limitations and problems arise from the limited financial capacity of students and their families to cover all costs related to study abroad, even for those who receive ERASMUS grants.

Estonia is considering a national policy to target some areas of studies, either underdeveloped or of high importance, to become a subject of recruiting students for expanded options of long-term studies abroad. Further, the investment into ERASMUS-students is likely to increase in the coming years now Estonia is an EU-member state.



## **7 Finland**

### **7.1 Portability of student support**

Student financial aid is available for studies abroad. Studies must correspond to Finnish studies that would be covered by student financial aid. There are no differences in regulations for short term and long term studies abroad. Studies must last at least eight weeks. To qualify, a student must be Finnish citizen, have been resident in Finland at least two years. An amendment to the Student financial Aid Act, which will come into force on 1 August 2004, will introduce a more flexible definition of the entitlement for students who have been living abroad temporarily before they start their studies in Finland. Student financial aid is granted for studies abroad to a Finnish citizen who has been a registered resident in Finland under the Home Municipality Act (201/1994) for a minimum of two years during the five years preceding the studies and whose stay abroad can be considered temporary.

In addition, there is extra support available for study abroad. Government guarantee for student loans (360 €/month) and housing supplement (180 €/month) are bigger for studies abroad. Every year around 9300 students get financial aid for studies abroad.

### **7.2 Experiences with the portability of student support and intentions for expansion**

The Finnish Ministry of Education feels that the current policy regarding the portability for study abroad is working quite well. Finland has had this policy since 1972. The issues being discussed in the Bidar case do not form any problems for the Finnish situation because at present all EU-students who meet the residency requirement can already claim student support in Finland. There is no plan to expand portability of student support.

### **7.3 Student support for EU-employees**

The provisions concerning Finnish citizens are also applied to a person who is entitled to student financial aid under European Community legislation or under an agreement concluded by the European Community and its member states with another party. The provision is also applicable to a person who has come to Finland to work and who starts to study in a field closely related to the work he or she is doing in Finland or who has stayed in Finland after having become unemployed through no fault of his or her own. There are no statutory conditions related to the work that have to be met before one is called an EU-employee. An EU-employee is a person who has moved from another EU country to Finland in

order to work there. Student financial aid may also be granted to a member of such a person's family on the same grounds as to a Finnish citizen.

A person who is not a citizen of Finland may be granted study aid if he or she has lived in Finland for a minimum of two years for purposes other than studying and whose residence in Finland may be considered permanent. This provision is also applied to citizens from other EU countries unless otherwise provided in EU regulations. By virtue of this section it is also possible to pass a Decree providing that student financial aid may also be granted after a shorter residence in Finland. Under the Decree in force, student financial aid may be granted after a residence of less than two years to refugees or asylum seekers who have been granted a residence permit because of danger to their persons; to a member of their family; to persons who, for reasons of their origin, may be considered to have special ties with Finland; or to persons who have moved to Finland before the age of 18 and whose parents or adoptive parents reside permanently in Finland.

EU citizens have a right of residence and mobility guaranteed by the Founding Treaty and therefore need no separate residency permit, which makes certain conditions on employment. In other words, there is no statutory condition on employment (such as a given number of weekly hours) for a worker coming from an EU country.

The entitlement of aliens to student financial aid will be specified in an Act amending the Student Financial Aid Act to be promulgated on 1 August 2004, which will make it conditional to permanent or continuing residence in Finland. A foreigner permanently residing in Finland whose residency in the country is due to a reason other than studies may be granted student financial aid, if:

- He or she has a continuous or permanent residence permit in accordance of Section 33 of the Aliens Act (301/2004);
- He or she is a European Union citizen referred to in Sections 153 and 154 of the Aliens Act or corresponding or a family member whose residence permit has been registered under Section 159 of the Aliens Act; or
- He or she is a citizen of a Nordic country referred to in Section 157 of the Aliens Act who has registered his or her residence based on a co-Nordic notification of change of residence.

## 8 France

### 8.1 Portability of student support

Regular study grants that are provided on the basis of social criteria can also be used for study abroad in one of the member-countries of the European Council. The condition is that national citizens in the hosting country can also receive national student support at the receiving institution for the particular program in question. Normally such grants can be taken abroad if the study conducted is related to the study commenced at a French university.

Since 2001, students from disadvantaged socio-economic backgrounds may also be eligible for “mobility grants” (*bourses de mobilité*). In 2003/04, 5000 mobility grants were available at the amount of €389 per month. The grants can be given for at most 9 months per academic year. These are only meant for short-term study abroad and are administered by the universities themselves.

Finally, the regional authorities often have special programs in which they provide additional (complementary) support for students who study abroad already receiving EU-grants, such as from the Socrates, Erasmus or Leonardo programs.

### 8.2 Experiences with the portability of student support and intentions for expansion

In general, universities are rather satisfied with mobility grants they administer. They can now meet a substantial part of the demand for grants for (short-term) study abroad. In the preceding years, about 90% of the monthly grants have been allocated. Nevertheless, it is regretted that they cannot satisfy the demands of more students.

## 9 Germany

### 9.1 Portability of student support and its limitations

In principle, training assistance according to BAföG (that includes grants and loans) is provided for training completed in Germany. Training received in another country is supported if this entails a temporary period of residence abroad (for usually up to 2 semesters with a maximum of 5 semesters) within the framework of training carried out in Germany.

The only direct support available for long-term study abroad is BAföG. Since April 2001 BAföG assistance is also provided for training which is continued (and completed) in another Member-State of the EC after at least two semesters of training in Germany (like support for short term study abroad). This “long-term study support” is not restricted to disciplines, but students may also use it for study in other EC-Member States. However, support for long-term study abroad is available also outside the EC if there is a bi-national cooperation between a German and a foreign university which claims study stays in both countries for the study courses involved. Thus all in all, there in principle is no BAföG support for full study abroad with one exception: Students living near the frontier to a neighbouring country are eligible while attending a training facility located in this country and if the facility is attended daily.

There is no geographic limitation for short term study abroad. Nor is there any restriction to the disciplines eligible. Eligible are students with a permanent residence in Germany. Students can take the BAföG-support to every country they choose and follow courses in any discipline they choose. This is open for “free movers” and not tied to special exchange programs. In principle, study courses must be started for at least 1 year in Germany before support can be taken abroad. There are exceptions for countries with German mother-tongue (Austria and German-speaking parts of Switzerland) and for stays within bi-national programs of German universities cooperating with foreign partner universities if the mutual stay in both countries involved is obligatory.

In principle, the basic support while studying abroad is the same as for students in Germany (means tested, half as a grant and half as a loan). Extra grants (there is no loan part) are available for tuition fees up to €4,600 a year (if the student proves that he has unsuccessfully tried to get an exempt from the tuition fees in the host country) and for travel costs (for one trip to and from the host country each semester if situated in Europe or for only one trip to and from the host country if situated outside Europe).

Additionally, students at higher education institutions can apply for scholarships from the German Academic Exchange Service (DAAD) for study periods abroad (mainly scholarships for one year, one semester or for combined curricular and practical semesters). Such scholarships are awarded on the basis of merit (candidates must be among the top third of their class) and personal aptitude.

Students who do not receive BAföG assistance under the Federal Training Assistance Act are expected to contribute €400 from their own resources. Those who do receive BAföG grants have to cover their €400 contribution from their BAföG grant and can apply to the DAAD for an extra amount on top of the BAföG grant provided for studies abroad.

There is another grant (within a range from €30 up to €450 per month) for higher living costs outside the EC (not when studying in an EC-Member State) which depends on the concrete host country. The extra grants are not available for students who are exceptionally eligible for full studies abroad while living in Germany and daily attending a training facility in a neighbouring country. The family allowances and tax facilities are available also if the child studies abroad.

## 9.2 Experiences with the portability of student support and intentions for expansion

The experiences with the portability of student support substantially expanded in 2001 are comparatively young. So it may be a bit early for further conclusions. The federal government plans an evaluation until the end of 2004. Indeed the government feels limited by the ECJ decisions especially in the cases Meeusen, Grzelczyk and Ninni-Orache. Whereas the current national law is already rather generous in the question of portability of student support there are some claims for further expansion, especially for opening student support to full studies abroad. Decisions in this direction cannot be made without making sure that European law would not require unlimited equal treatment for all EU-citizens in this respect because this would overtax the financial power of the German student support system.

Under current residence regulations for students from member states, the Bidar case should in fact not cause any problems. It is not expected that the European Court of Justice will allow direct recourse to Articles 12 and 18 of the EC Treaty, which would have the consequence that maintenance allowance is granted without any preconditions to any EU citizen entering the hosting state for the purpose of undergoing training. However in that case, it should suffice that Article 7 of the future directive 2004/38/EC ("freedom of movement directive") links the right of residence in the territory of another member state for a period of more than three months to the condition that the individual concerned and his/her dependents have sufficient means of subsistence so as not to have to claim social benefits from the host member state during their stay. Only when the student has acquired the right of unlimited residence in a member state after five years can he/she claim student support. Only in special circumstances (length of studies, financial emergency, proportionality) the right to claim government support may be made earlier. This will be only in exceptional cases, cf. decision in the Grzelczyk case.

The main concern as to the influence of EU freedom of movement legislation on the national training assistance systems of the member states relates to the question of training assistance abroad. In the case of study abroad, it must be guaranteed that national student support legislation on the one hand and the impact of freedom of movement legislation at EU level do not block each other in their effects on international student mobility. The extensive jurisdiction of the ECJ

on freedom of movement and on the principle of equal treatment of EU citizens is tantamount to a challenge for most member states to stop developing their – so far generous – national law. In particular in the field of social law, and possibly restrict it drastically, member states may no longer be able to meet their obligations if the number of persons entitled to assistance increases while the volume of funding remains constant. It is therefore important that the EU regulations do not counteract the intentions of member states to open up the portability of student support for study abroad. The financial power of national systems should not be overtaxed through obligations under EU legislation vis-à-vis foreign students who do no longer reside in the respective country.

Thus it would, for example, not be possible to introduce student support for full studies abroad with the aim of increasing student mobility because of the unlimited obligation of equal treatment for all EU citizens residing in Germany. Under Article 24 of the freedom of movement directive in its current version, it would then be possible not only for children of migrant workers themselves living in Germany to receive student support for full studies abroad. The children of migrant workers who have never lived in Germany could then also receive student support for studies in their home country, provided that their parents are or were migrant workers in Germany. As, in addition, the European Court of Justice continually extends the concept of worker and, for example, also recognizes part-time and seasonal employment to establish the status as worker, the number of EU foreigners eligible to receive BAföG while studying in their home country because their parents are gainfully employed in Germany (even if only seasonally) would no longer be calculable.

In our view, mobility-increasing measures can therefore only be ensured if the principle that financial responsibility to provide student support for studies in another EU member state lies with the home state and not with the host member state is unconditionally applied within the EU. Extension of the freedom of movement legislation to include social benefits would lead to a "social benefits tourism" not desirable under EU legislation either, as well as to decisions for study locations not based on study-related criteria.

Further extension of portability will rather require a reliable compatibility with EU-regulation in the social field concerning the free movement of persons. An ideal situation would be if all European countries had comparable national support systems allowing full portability so that every state remains responsible for its own nationals even while studying abroad. The impact of EC Law must not overtax Member States by requiring full equal treatment of host students while offering full portability to the own nationals at the same time.

### **9.3 Student support for EU-employees**

According to the settled case-law of the ECJ the concept of worker, within the meaning of article 39 of the EC-Treaty (Lawrie-Blum, Case 344/87; Meeusen, Case 337/97, Levin, Case 53/83, Kempf, Case 139/85) implies that, for a certain period of time, a person performs services for and under the direction of another person in return for which he receives remuneration. The fact that the employment is of short duration cannot, in itself, exclude that employment from the scope of

article 39 EC. A minimum of 12 hours per week for about several months suffices for the status of an “EU-employee”.

In the light of that case law Germany has no other additional criteria for an EU-citizen to be called an “EU employee”. In our knowledge there are no further detailed instructions of the Länder (federal states) which administer the law on foreigners, such as what constitutes “a certain period of time” in the meaning of the required length of employment. According to the ECJ (Ninni-Orasche, Case C-413/01) the fact that a national of a Member State has worked for a temporary period of two and a half months in the territory of another Member State, of which he is not a national, can confer on him the status of a worker within the meaning of article 39 EC provided that the activity performed as an employed person is not purely marginal and ancillary.

In the field of assistance for university education, a national of a Member State other than the host Member State who has engaged in occupational activity in that host State and then undertaken there university studies leading to a professional qualification must be regarded as having retained his status as a worker entitled as such to benefit from article 7 (2) of Regulation Nr. 1618/68 provided that there is continuity between the previous occupational activity and the studies pursued (Lair, Case 39/86).

There are no differences between EU-employees and their children with respect to student support facilities.

According to German law (BAföG) EU-employees and their children are eligible to student support facilities to the same extent as Germans, including portability abroad.

In case an EU-employee loses his/her job involuntarily, s/he or his studying children remain entitled to student support. The students concerned are allowed to finish their studies with student support.

## **10 Ireland**

### **10.1 Portability of student support and its limitations**

Under the Free Fees Initiative, the Exchequer meets the tuition fees of eligible students who are attending approved third level colleges in the State only. However, the higher Education Grants Schemes provide maintenance grants to eligible students pursuing approved, full-time undergraduate courses of not less than two years pursued in a university or third level institution which is maintained or assisted by recurrent grants from public funds in other EU Member States.

There is a number of scholarships and fellowships awarded to students by foreign governments, primarily at postgraduate level. Students that study abroad may also use the tax relieve mechanism for the tuition they pay in case of study in another EU-country.

### **10.2 Experiences with the portability of student support and intentions for expansion**

There are no evaluations or reports with regard to student satisfaction in relation to portability of student supports. Eligible students can avail of higher education grants in respect of approved full-time undergraduate courses of a minimum duration of two years in other EU-Member States. There are no plans to extend the Schemes beyond the current provisions in respect of study abroad.

### **10.3 Student support for EU-employees**

Although students from other EU member states qualify under the free fees initiative, any individual from outside Ireland will not qualify for grants in Ireland unless they have been resident in the administrative area of a Local Authority in Ireland for a period prior to entering third level (in the 2003/2004 academic year, a student will have had to be resident within the administrative area of the local authority from 1 October, 2002).



# 11 Italy

## 11.1 Portability of student support and its limitations

Currently there is no national system of financial assistance for first level university students who study abroad, aside from the exchange programs financed by the European Union. Those eligible for exchange programs, beginning in the second year of studies, for programs ranging from three months to one year, and only once in their university careers, are students enrolled in degree courses in the universities, the fine arts academies, higher education institutes of artistic industries, schools for interpreters and higher education institutes of physical education.

In many cases Regions, regional student aid agencies and universities provide their students with supplements to grants (Erasmus, Socrates, etc.), which vary considerably in amount, to ensure a more complete coverage of maintenance costs for the period of study abroad. The amounts provided by the European Union, in fact, cover only mobility costs (transportation, linguistic preparation, supplementary expenses deriving from the higher cost of living in the host country) and do not actually guarantee equal opportunity for students from more disadvantaged economic backgrounds.

Grants and other forms of assistance are provided not only by international organisations but also by public and private entities (businesses, banks, foundations).

## **12 Latvia**

### **12.1 Portability of student support and its limitations**

For short-term study abroad the most widely used student support arrangement is Erasmus program grant. The students who undertake long-term studies abroad can use the loans mainly in the cases when the student takes a program that is not available in Latvia. There are no additional student support facilities available for study abroad.

After certain formalities have been carried out, portability is not impossible. The chosen program must be accredited. This applies both to support for short-term and long-term study abroad.

### **12.2 Experiences with the portability of student support and intentions for expansion**

The main limiting factor is the amount of available resources in the state budget for student support. Currently no expansion is being intended or planned.

## **13 Lithuania**

### **13.1 Portability of student support and its limitations**

Students, participating in international exchange programs or being mobile under international agreements, can apply to Lithuanian State Science and Studies Foundation for the state loans. The amount of the loan can be up to 36 MLS (4500 Lt, €1460). All students who have been successful in participating in the international exchange programs, also receive state scholarships, of which the amount depends the country concerned. In addition, they receive grants for travelling to the respective university site abroad. Tax reductions are available to them as well, as they can also use study loans given out by banks. The only limitations are the requirements stipulated by the banks. The interest on these loans are tax deductible for the students themselves.

Indirect support (tax reductions) is available for all students, also for study abroad. However, state scholarships and state loans from the Lithuanian State Science and Studies Foundation are only available for short-term study visits abroad by students participating in the international exchange programs or under international agreements. The amount of a state scholarship depends on the country and it's living standard concerned. Usually the scholarship's amount is too small to cover all living and study costs abroad. So often they apply to Lithuanian State Science and Studies Foundation for a state loan.

### **13.2 Experiences with the portability of student support and intentions for expansion**

Recently, a system of student support for study abroad was elaborated that is working now. This system has to satisfy the new situation and conditions after accession to the EU. Actually, there are important activities in the opposite direction now. As such, studies in Lithuanian HEIs are being made more attractive for foreign students at the moment.

It is intended to increase the number of agreements with other countries as regards international student exchange. The national budget for the Erasmus program of current year was increased several times considering EU expansion. The number of students that receive state scholarships and number of exchange study programs will increase also. There is a joint effort with other EU (accession) countries to extend the portability of student support by means of national policy.

# 14 Malta

## 14.1 Portability of student support and its limitations

Students conducting short-term study-visits abroad can use all stipends (grants) that are available to them by being enrolled in the University of Malta. Because only Maltese students can apply for Maltese stipends and scholarships, it is only Maltese students who can use the regular student support facilities for short-term study abroad.

Students who gain a Socrates - Erasmus exchange grant are entitled to receive additional scholarships that range between €200 and €500 per month while studying abroad. Students can also apply for short term scholarships in a variety of areas made public through the website of the Ministry of Foreign Affairs.

As regards long-term study abroad, students can apply for long term scholarships in a variety of areas made public on a yearly basis through the website of the Ministry of Foreign Affairs. These scholarships can amount up to LM12,000 (€29916) for studies abroad (after getting an initial degree in Malta). No additional support available.

Students can also apply for yearly scholarships made available through the Italian Embassy and the British High Commission Common Wealth Scholarships and the Chevening Scholarship.

The major limitations to the portability of funds from the Socrates Erasmus Program concern situations in which students would like to attend programs of institutions that are not included in the Bilateral Agreement for exchange and the that student must stay for a minimum period of 3 months so be awarded and Erasmus grant.

As regards the opportunities for long-term study abroad, the scholarships provided by government for these purposes are limited (in number) and highly competitive. They are restricted to fields of study and to the location of study. A lack of funding is seen as the major limiting factor in making student support widely portable in the case of (long-term) study abroad.

## 14.2 Experiences with the portability of student support and intentions for expansion

As regards the Socrates Erasmus Program, this program has been up and running since 2000 with little difficulty. The Government of Malta fully supports the European Commission's policy regarding student mobility and exchange. Students are satisfied with the opportunities offered under the Socrates Erasmus Program and the number of applicants and exchange students increases every year.

Malta will be receiving EU funds to set up an Office for the Mobility of Researchers. However, this service will not target undergraduate students.

Ideally, making advancements in the area of portability, it would be preferred to extend the portability of students through European Initiatives rather than through national policy. This would ensure a synchronized evolution in national policies. It would also speed up the implementation procedures of such policies. One could for example think of a mobility program similar to that of the Socrates Erasmus Program, but then for full study abroad. This could function in such a way as to allow students to receive joint University degrees, or even degrees by other Universities outside of the home country. Such an initiative should also be encouraged through a better framework for distance learning that will counterbalance any national brain-drain problems. It is likely that such a framework would also be endorsed more fully at national levels, as each country would effectively reduce the chances of losing increased human resources.

### **14.3 Student support for EU-employees**

EU students are entitled to follow all University of Malta courses without having to pay registration fees. To this extent they are treated similar to Maltese students. However, they are not entitled to receive the National Student Stipend that is budgeted for by the Government of Malta for Maltese Nationals. EU member state students registered at the University of Malta can apply to participate in an Socrates Erasmus exchange.

# 15 Netherlands

## 15.1 Portability of student support and its limitations

Dutch student financial support can be used for study abroad in a few cases. The major divide is between short-term and long-term study abroad. In the first case one visits a foreign higher education institution to follow a number of courses or a do practical period within the framework of the program being followed at the Dutch home institutions. The second case, long-term study abroad, concerns a situation in which students undertake (a part of their) study abroad without being enrolled in a Dutch higher education institution at the same time.

### *Short-term study abroad*

For short-term study abroad, students can take all direct support, including grants and loans, as long as one pays tuition fees at a Dutch higher education institution and eventually will hand over a degree for which one is entitled to student support. Because the public transport pass cannot be used abroad, students can apply to get the cash value during the period of their stay abroad, being €72,68 per month.

In addition to these facilities, students can also apply for a whole range of scholarships available for short-term study abroad. Most grants have to be applied for via the institution in which one is enrolled. For study in the United States a limited number of grants is available through the Fullbright program. This program annually offers 12 scholarships for excellent students or young researchers from Dutch nationality who want to specialise in fields not offered in the Netherlands. Students can receive a \$1.500 travel compensation or a scholarship up to a maximum of \$10.000 for study and maintenance expenses. Another program concerns the Cultural Treaties through which the Netherlands co-operates with a number (40) of other countries by facilitating temporary study or research abroad. Finally, Dutch students can apply to the EU-programs like Tempus, Leonardo da Vinci and Erasmus.

### *Long-term (full) study abroad*

Only in a limited number of cases Dutch students can use student support for full study abroad. These include the following:

- For higher education programs in Flanders (Dutch Speaking Community in Belgium) and the Brussels area which are taught in Dutch.
- For higher education programs in the German states Bremen, Lower Saxony, and Northrhine-Westfalia for which the German government also provides student financial support to its own citizens.
- For a limited number of programs, including medicine, veterinary sciences, dentistry, apotheker, architecture, nursing, and midwifery, in EU- and EEA-countries, being Austria, Belgium, Denmark, Finland, France, Germany,

Greece, Iceland, Ireland, Italy, Luxembourg, Liechtenstein, Norway, Portugal, Spain, Sweden and the UK.

The student support students can take for study abroad equals the amounts one is entitled to in the Netherlands. However, because the public transport pass cannot be used abroad, students can apply to get the cash value during the period of their stay abroad, being €72,68 per month.

If students do not meet the eligibility criteria for direct student support, for example if they study in part-time or already all their student support entitlements, then their parents can claim part of their costs for maintaining the students as a tax reduction. In such a case they would have to prove that they really support their child who is enrolled as a student.

Though there are quite some opportunities to use Dutch student support during a short-term study visit abroad, the portability of direct Dutch student support for full study abroad is limited to only a few countries or geographical regions and study programs (see previous subsection).

However, indirect support in the form of tax facilities for parents (or working students) is widely available for study abroad as long as the students are under 30 years of age and not eligible for direct support.

## **15.2 Experiences with the portability of student support and intentions for expansion**

The Dutch government feels limited in its intentions to expand the portability of student financial support and prefers a situation in which Dutch students would have easy opportunities to study abroad, either for short-term study visits or for conducting full study abroad. Though it still is a minority of students who actually use mobility opportunities, the Dutch government and also many students see the benefits of international study experiences. This is also expressed by the recently established positioning policy that aims to attract foreign students to the Netherlands (Vossensteyn et al., 2003).

The Dutch government has already a number of years the intention to expand the portability of student support. The first step was taken with the border region treaty in which the Dutch Speaking Community in Belgium, Bremen, Lower Saxony, Northrhine-Westphalia and Netherlands agreed on full student mobility with the continuation of national student support within these regions. In 2002, the minister of Education, Cultur and Science put forwards his ideas to have a major extension of the system of portability of loans and grants. In essence, the full system of Dutch student support should be portable to a study anywhere in the world. These plans were already worked out and discussed favourably by the Dutch parliament. However, these policy proposals have been put aside because the decisions of the ECJ in the field of social benefits, student support and EU-citizenship. These decisions by the ECJ created a high financial risk for such initiatives to extend the portability to the whole of the EU (Vossensteyn, 2000b). Because the Netherlands still has a relatively generous system of direct student support compared to most other EU-countries, this might lead to substantial unintended use of Dutch students support facilities. One could think of children of

migrating EU-employees employed in the Netherlands but still have their main residence in their home country and who intend to study in their home country but would like to claim Dutch student support (e.g. based on the case Meeusen). Not only does this lead to financial risks, but also to double claims by EU-student, since there are no coordination mechanisms in the field of student support.

The Dutch government however took the initiative to set up an international working group on the portability of study grants and loans in order to come to some kind of an EU agreement where portability opportunities are examined without putting national budgets at risk. It will be delicate to find a compromise between the aims of international mobility of students, the EU non-discrimination principle and the national financial constraints.

### **15.3 Student support for EU-employees**

The problems in the area of student support that arise from the decisions made by the ECJ and EU-law are apparent when it comes to the portability of student support (see above). The initiatives to expand the portability of loans and grants are therefore suspended. However, the EU-law has already a major impact on the Dutch system of student support. Because of developments in EU-jurisprudence, it is increasingly difficult to limit the group of students that qualify for student support.

The ECJ has ruled that EU-employees, ex-employees, independent workers and the families of these groups must be treated equally to Dutch citizens. Therefore, if one is considered to fall in one of these categories, he or she gets the full packet of student support. How are these groups defined? An important question in this regard is: what is an employee? The ECJ states that the work must be real and actual. The Netherlands has decided that one can be considered to be an employee if he or she works 32 hours a month. For students, it is relatively easy to work this amount of hours a month. Most students work next to their studies in order to increase their budget. It is therefore easy for EU-students to receive the full package of student support. Even more problematic is that once these students are in the system of student support, they stay there. This is due to the fact that the ECJ also ruled that ex-employees should be able to receive student support (there is a distinction in voluntarily unemployed or involuntary); furthermore, the ECJ ruled that students who started their study with student support should be able to finish it even if circumstances change (case: Echernach and Moritz).

The EU-students who claim the full package of student support in the Netherlands in this way, might also receive student support in their home-country (f.e. through their parents in the form of child support). There are no mechanisms to coordinate these double claims.

The ECJ is now going even further than granting equal rights to EU-(ex-)employees and their families. Just the fact that one is a EU-citizen can be enough to receive student support (see the Grzelczyk-case). The court accepted that there must be a certain amount of solidarity between the EU member states in this area. Circumstances for students can change and this can justify a claim to social benefits in the host country. Since students are usually expected to stay



only temporary in a country, the financial burden for the host country is acceptable. The new directive of free movement of persons is also not quite clear in this respect. The Bidar case that is now considered by the ECJ will be an important test as to how far the ECJ will go in granting rights to EU-citizens.

# 16 Norway

## 16.1 Portability of student support and its limitations

In terms of direct support, students can use all of the student support arrangements for short-term study abroad. In addition, Norwegian students abroad might receive financial aid to cover travel expenses. The travel grant is supposed to cover two return trips from the educational institution to Norway. The travel aid is divided between a grant (70 percent) and a loan (30 percent). Norwegian students in higher education may use all financial support (NOK 80 000, travel support, childcare grant, etc.) for studies in a country of their own choice as long as the educational institution is officially approved. In general, financial support for studies (abroad or in Norway) is only given for studies with at least one semester's duration. They may also get extra support to cover tuition fees at foreign universities.

In the 2004 fiscal budget, the Government proposed changes in the financial support system for Norwegian students abroad. The Parliament approved the changes, which will include all Norwegian students who begin their studies abroad in the academic year 2004-2005.

In the present financial support system for Norwegian students abroad there exist limitations regarding the type of educations eligible for tuition funding. These limitations will be abolished in the new financial support system, a change that will give Norwegian students a greater choice when planning to study abroad. At the same time, the current tuition grant of NOK 52 320 per year will be given partly as a grant and partly as a loan. For students at lower level university studies (Bachelor level), 50 percent of this amount will be given as a grant and 50 percent will be given as a loan. For students at higher level university studies (Master level), 70 percent of this amount will be given as a grant and 30 percent of the amount will be given as a loan. In addition, the students will have the opportunity to borrow NOK 50 000 per year to cover their tuition fees. Thus, in the new system, students will have NOK 102 320 per year at their disposal to cover their tuition fees abroad.

The current supplementary grant of NOK 55 320 to students studying specific subjects at specific educational institutions will continue, but it will only be given when the tuition fees exceed NOK 102 320 per academic year.

As a parallel initiative to the changes in the tuition funding scheme, it will be possible to obtain financial support for students who need and/or want to take a preparatory semester in order to learn a foreign language before starting a full-degree education in a non-English-speaking country.

The major limitation with relation to the portability of student support is that students must have lived in Norway (or a Nordic country) for at least two years in the last five years before taking a full degree abroad.

In the academic year 2002-2003, 530 million NOK was awarded to students studying abroad in order to cover tuition fees at their educational institutions.

## **16.2 Experiences with the portability of student support and intentions for expansion**

In the 2004 fiscal budget the Government proposed changes in the financial support system for Norwegian students abroad, and those changes were endorsed by the Parliament. The current model of financial support has shortcomings that are covered by the new model. As far as the Ministry of Education and Research is concerned, the new model offers satisfactory flexibility for the students.

The current arrangements are not changed due to administrative problems, but out of a wish to encourage students to freely choose where and what to study. However, the current arrangements are administratively challenging in the sense that the educations that are eligible for tuition grants are supposed to reflect Norway's need for educated personnel within these areas, and the supply and demand system does not work perfectly well in this connection.

Students have voiced dissatisfaction with the current system of financial support to studies abroad, but the new system will hopefully accommodate the students' wishes.

When the reforms regarding portability of student support will be implemented from the academic year 2004-2005, the need for further reforms will probably be minor.

## **16.3 Student support for EU-employees**

Through the EEA Agreements, all EU provisions relating to the free movement of persons are equally applicable to Norway. Hence, Norwegian provisions are in accordance with regulation 1612/68 and the relevant case-law.

Norway also applies the EU-definitions with respect to the concept of migrant workers, thus using Article 28 EEA and Regulation 1612/68. As the essential characteristics of an employment relationship it is defined that one for a certain period of time should perform services for and under the direction of another person in return for which he receives remuneration. Part-time work is not excluded from the application of the concept of worker provided the activity pursued is effective and genuine. This also applies to self-employed persons. However, there are not given any further specifications to this definition.

An EU-employee is entitled to student support in Norway if there is a relationship between the purpose of the studies and the previous occupational activity. Such continuity is not required if the employee has involuntarily become unemployed and is obliged by conditions on the job market to undertake occupational retraining in another field of activity.

Children of EU-employees are given the same treatment as Norway's own nationals according to study financing.

## **17 Poland**

### **17.1 Portability of student support and its limitations**

Students can use Polish student financial assistance for short-term study visits abroad if these visits are within the framework of inter university cooperation.

## **18 Portugal**

### **18.1 Portability of student support and its limitations**

Only study grants awarded by private foundations or direct support from families may be used for full study abroad. The public grants as described in the background report cannot be received when students study abroad. However, some postgraduate diploma, master and PhD students may benefit from financial support provided by the Fundação para a Ciência e a Tecnologia when they study abroad. This kind of support is normally paid to researchers for study and work abroad. There are no additional student support facilities.

### **18.2 Experiences with the portability of student support and intentions for expansion**

When (children of) EU-employees come to study in Portugal, they have the right to claim student financial support if they comply with the same requirements as applied to Portuguese students. This will be not the case if the student comes from a non EU-Member State.

### **18.3 Student support for EU-employees**

The children of EU-employees are eligible for Portuguese support. For the moment, the children of non EU-employees are not eligible for this support, except when bilateral agreements between Portugal and the country of origin of the student are in force and establish reciprocity mechanisms.

# 19 Slovakia

## 19.1 Portability of student support and its limitations

Short-term study stays of university students are possible on the basis of grants or stipends. Such grants are derived from various foreign cooperation programs (Socrates-Erasmus, CEEPUS, etc.). The grants for supporting exchange students are financed by the state. Such stipends are granted by specific foreign universities in individual countries through competitive procedures.

Students are not eligible to receive the social stipends provided by the state for full study abroad. However, the costs of long-term studies or full courses abroad may be covered by government stipends, if these stipends are granted on the basis of bilateral agreements with the relevant country. Students having their permanent residence in the Slovak Republic and studying at a foreign university may, under Act No. 200/1997 Coll., apply for student loans.

Among other forms of support of studies abroad there are foundations, charity organizations, corporate sponsoring - stipends, etc.

A student may, in the course of his/her studies, participate only once in a student exchange program (e.g. Erasmus student) for short-term study stays abroad and make use of portable support.

## 19.2 Experiences with the portability of student support and intentions for expansion

The recent legal situation, regarding the social security of SR citizens studying abroad is unsatisfactory. The SR Ministry of Education presently prepares a relevant legal regulation, with substantially increased social security applicable to an extended range of students. SR citizens studying at foreign universities will be included in the regulation. The same legal regulations are also requested by the students.

The SR Ministry of Education, in accordance with the Bologna process, has the long-term objective of enabling to all university students a short-term study stay at a foreign university at least once in the entire duration of studies.

## **20 Slovenia**

### **20.1 Portability of student support and its limitations**

Any study abroad that is recognized as part of regular studies is regarded as study at a national educational institution. All rights connected to studying in Slovenia therefore remain unchanged. A candidate who is resident in Republic of Slovenia and meets conditions of legibility for State scholarships or Zois scholarships to study in Slovenia, may also apply for these scholarships to study abroad, when there is no national study program in accordance with his/hers academic needs or when studying abroad is geographically more suitable. In all other cases the candidate is left with the responsibility to prove that studying abroad will enhance his/hers employability and/or professional expertise. This may be challenging due to the fact that there are no rules set and no written guidance about how to do it. There is no additional student support for study abroad.

### **20.2 Experiences with the portability of student support and intentions for expansion**

The system is operating satisfactorily in practice. There are no recorded difficulties with the portability of the three main kinds of scholarships (state scholarships, Zois scholarships and company scholarships) which amount to more than 90% of all scholarships available. For the last ones, the interest of the company is the guiding principle. Expansion of the (public) arrangements are not considered at the moment.

# 21 Sweden

## 21.1 Portability of student support and its limitations

Studies abroad can be divided into two groups. The first being studies as an exchange student, which means that the study is regarded as a part of the program of the study one takes at the Swedish home university. The second concerns following a degree (diploma/certificate) program at a foreign higher education institution. Such studies must at least last 13 weeks and be taken on a fulltime basis.

For both types of study abroad, students can take Swedish student support abroad. The amount of grants remains the same, but the amount of loans may differ from country to country, depending on the costs of living.

In addition to the regular student assistance, students taking their studies abroad may be eligible for supplementary loans for travel costs, insurance and tuition fees up to certain limits.

However, the opportunities for full study abroad are to some extent limited for language courses, health programs, and aviation programs.

## 21.2 Experiences with the portability of student support and intentions for expansion

Sweden has a very open policy regarding the portability of student support and has very good experiences with that. Over 29.000 students receives student support for studies abroad in 2003. The potential consequences of the Bidar case are not an issue (yet) in Sweden.

The portability of student support is already quite advanced in Sweden and thus not directly envisaged to be further expanded in the near future. The Swedish government has been proactive on the issue of enlargement and always has safeguarded the fundamental EU principles concerning freedom of mobility. In the unlikely case that this would lead to serious (financial) risks, Sweden might consider to make its system more robust and adapted to the realities of globalisation.

## 21.3 Student support for EU-employees

Foreign nationals generally do not qualify for financial support for studies outside Sweden. Exceptions to this rule are citizens of EU-countries who, under certain conditions, can be entitled to financial support under similar conditions as Swedish students. Particularly, EC-legislation applies to migrant employees, self-employed migrant workers and their family members. CSN follows the practices of the EC-legislation when it comes to the definition of an EU-employee and family members.



## **22 United Kingdom (England and Wales)**

### **22.1 Portability of student support and its limitations**

Student loans can be used by UK students taking short-term study abroad. Nothing for long-term study abroad.

A higher overseas rate of student loan is available for UK students who spend part of their course abroad. In 2004/02 the maximum loan for study overseas will be £5,000 (£4,350 if the period of study abroad is during the final year of the course). Students may also be eligible for assistance with travel and a reduced tuition fee contribution, if they go for a full year (tuition fees are waived for Erasmus students on a year abroad. For others the fee contribution is reduced to up to the half rate).

UK students wishing to take a full course abroad may be eligible to apply for a Career Development Loan (CDL). This is a deferred bank loan, which provides help to finance vocational education or training and is operated by the Department in partnership with four of the major banks. The loan may be for up to 80 per cent of course fees plus other related costs including childcare providing the course is for no more than two years, plus if relevant, up to one year's practical work experience.

The major limitation to the portability of student support is that there is no specific Government student support available for long-term study abroad. UK students can apply for Career Development Loans.

### **22.2 Experiences with the portability of student support and intentions for expansion**

The Government is content with the current arrangements. There are no intentions to expand the availability of student support for study abroad.

Maintenance loans are not available to Non-UK EU students but this has been challenged by an EU student (Bidar) and the case has been referred to the European Court of Justice. Our latest information suggests that we will not have a formal judgement from the ECJ on this case until the Spring 2005.

### **22.3 Student support for EU-employees**

The Education (Student Support) Regulations (these apply to England and Wales although similar provisions apply in Scotland) state that any reference to an EEA migrant worker is a reference to a person who is a national of a member state of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom. The criteria which must be fulfilled for a student to qualify for support under the migrant worker provision are as follows:

- At the time the application for support was made the applicant, their spouse, their parent or step-parent was a worker.
- The student was ordinarily resident in England and Wales on the first day of the first academic year of the course (student's living in the UK wholly or mainly for the purpose of education are not viewed as ordinarily resident).
- The student was ordinarily resident within the EEA or Switzerland for the three years prior to the start of the course.

In deciding whether an EEA or Swiss national can be classed as a migrant worker, the test which should be applied is as follows:

- Is the person in an employment relationship in which they perform services in return for remuneration?
- Are they pursuing an activity which is effective and genuine?
- Is this activity on such a small scale as to be regarded as purely marginal and ancillary?
- Did the student cease work in order to start or will they continue to work whilst studying?

A person could lose their migrant worker status if:

- they left work voluntarily without good reason,
- they left work to begin a course of study which had no link to their previous employment.

The spouse of an EEA or Swiss migrant worker is eligible for support on the same basis as the migrant worker him or herself, provided that the spouse is installed with the migrant worker in the UK. In the case of *Diatto* the ECJ held that Article 10 of Regulation 1612/68 required only that the migrant worker had accommodation available for his/her family which would be considered normal for the purpose of accommodating the family. However, there was no requirement that the spouses must be permanently living together. The ECJ held that this was consistent with the spirit of Article 11 of the Regulation, which gives members of the family the right to take up an activity as an employed person throughout the territory of the member state concerned, even though that activity is exercised at a place some distance from the place where the migrant worker lives. Once migrant workers are divorced, the same rules will not of course apply. But, whilst they are separated, even if they intend to divorce later they are still spouses for the purposes of the Student Support Regulations. The spouse must meet the same ordinary residence test as the migrant worker. The nationality of the spouse is not relevant; both EEA and non-EEA nationals are eligible.

Children of EEA or Swiss migrant workers may also be eligible for student financial support. For the purposes of this paragraph "parent" is defined as including a guardian, any other person having parental responsibility for a child and any person having care of a child - this includes a step-parent. To prove they are the child of a migrant worker who is entitled to obtain student support a student does not have to show that they are under 21 years old or dependent on their parents. They only need to demonstrate that they have lived with a parent in

the UK and at the time the parent lived here as a migrant worker. In every case the parent must have established migrant worker status in this country and the child must meet the residence conditions. For evidence of this an LEA could ask the child of a migrant worker to produce the documentation they might be asked to provide as evidence of their right to a residence permit, such as their passport, their birth certificate and the migrant worker's contract of employment. The fact that the migrant worker parent has since died, or that the child is for other reasons no longer dependent on the migrant worker, does not necessarily result in disentitlement. However, where the parent is still living, they must normally be residing within the UK and have retained their migrant worker status. However, the child of a migrant worker retains their status in the UK even when that student's family returns to their Member State of origin, even after a certain period of absence, in order to continue studying, where that study could not be pursued in the State of origin.

Students who cease work before starting their course will retain their status as migrant workers if there is a link between their work and their studies. There has been little guidance from the ECJ on what constitutes a sufficient 'link' between the course of study and the previous employment for these purposes. In the cases of *Lair* and *Bernini* the Court indicated that what was important was the relationship between the purpose or subject matter of the studies and the previous employment. This principle does not apply where a person has been employed in the UK but has subsequently "become involuntarily unemployed and is obliged as a result of the situation of the labour market to transfer to another employment sector".

Where a student continues to work while he is studying, a recent opinion from the Advocate General in the case of *Grzelczyk*, indicates that he does not need to show a link between his employment and his studies in order to retain his status as a migrant worker. Many of the issues raised in the *Grzelczyk* case including this one remain the subject of legal challenge in Europe. In the meantime LEAs are advised to carefully consider the circumstances of each case in the light of this opinion. If a student's application shows that his or her circumstances are the same or similar to that of *Grzelczyk* consideration should be given to the Advocate General's opinion.

## **23 United Kingdom (Scotland)**

### **23.1 Portability of student support and its limitations**

Students who undertake short-term study abroad will have their fees paid, will receive student loans at the 'elsewhere' rate (£4,095) unless they are studying in a 'high cost' or 'higher cost' country, where they will receive a higher rate of loan. Students will also be eligible for support with additional travel costs and medical insurance.

For students taking full study abroad, the same package of loans and supplementary grants with tuition fees paid at the private rate, rather than the public fee rate. Students studying in 'high cost' or higher cost' countries will be eligible for a higher level of loan.

Funding is available if a student has to undertake a period of study abroad or chooses to do so under the ERASMUS exchange scheme. An income assessed student loan is available at the rate of loan appropriate for the country in which the student is studying. Students can also apply for supplementary grants.

Funding is also available for students wishing to take a voluntary period of study abroad if it does not extend the minimum period of their course. Students can receive student loans at the rate for students living outwith their parents' home as well as other living cost support. However, these students cannot receive DSA, travel expenses or medical insurance.

The courses on which students can be supported for long-term study are very limited. The courses supported are theology courses; RC Priesthood training at the Scots Colleges in Rome and Salamanca, and valid first degree courses at Trinity College Dublin, University College Dublin, University College Cork and University College Galway. Funding will not be available for courses which are undertaken wholly outside the UK.

### **23.2 Experiences with the portability of student support and intentions for expansion**

Under the Berlin Communiqués, Bologna member countries (ourselves included), set out a commitment in principle that will look at how we might make our student support systems more flexible and portable in order to facilitate greater levels of student mobility. We are considering the obstacles to mobility within the European Higher Education Area. The Scottish government is looking at opportunities to expand the portability of student support in the framework of the Bologna commitments, but no decision has been made yet.

EU nationals studying in Scotland are not eligible for living cost support under the Scottish student support system. This will be reconsidered when the outcome of the Bidar case is known.

### 23.3 Student support for EU-employees

In order to qualify for Migrant Worker status in Scotland a student must:

- be an EEA national;
- have been ordinarily resident in the EEA during the three years preceding the first day of the first academic year of the course but at no time must that residence be wholly or mainly for the purpose of receiving full-time education;
- have been employed in the UK though not necessarily continuously since last entering that country;
- have not been working in the UK in order to qualify for an award;
- the employment in the UK is not a direct result of the student being accepted onto the course; and
- the course is related in some way to the employment except in the case where the migrant worker subsequently becomes unemployed and has to change to another type of work.

In addition, to establish migrant worker status, students from EEA countries must have undertaken work in the UK which is not considered to be purely marginal and ancillary. There are no hard criteria relating to the number of hours worked per week or month. Each case will be considered on its merits by the Student Awards Agency for Scotland (SAAS). EEA Migrant Worker status is determined at the start of the course, therefore if the student lost their job or gave it up this would make no difference to their entitlement.

Spouses and children of EEA Migrant Workers may also be eligible for support. As with Scottish domiciled students, EEA migrant workers and their families do not generally receive student support to undertake study abroad, including in their home countries, unless the student is undertaking part of their course abroad.

## **24 Comparative analysis and reflections**

### **24.1 Introduction**

The previous chapters showed a great variety in the current national policies with regard to the portability of student support in the case of study abroad. Because of this great variety in national practices, it may be difficult or confusing about where to start the international (European) debate on the need for increased international mobility of students and the potential barriers to this due to the limitations to the portability of student financial support.

This document is aimed at giving an overview of current practices and as such can be seen as a starting point for the international debate. Interesting questions are whether we can discern any common patterns in the extent to which can use student support for (full) study abroad and in the limitations mobile students face in this respect? Furthermore, it may be interesting to see whether particular type of systems are more attractive for mobile students and whether that might make such systems more vulnerable for claims of unintended groups of students, such as non-nationals without any clear links with the hosting country but who may claim student support which is leading to additional costs. A further question concerns whether EU-member states, and their students, are satisfied with the current situation and what the role of the decisions of the ECJ in recent cases in this area is in those opinions. The final question is whether the member states have any intentions for expanding the opportunities to use national student support for study abroad or that they rather have conservative policies in order not to run the risk of unexpected expenses on student support. Do the national policies so far call for a more co-ordinated European approach to the issues on the table? What is reasonable and what is feasible? These questions cannot all be answered or solved on the basis of this report, but the material studied provides a wealth of information to open up the debate.

To structure the debate, the information from the country descriptions will be summarised and reflected upon through different angles, as presented in the following sections.

### **24.2 Relative generosity of student support arrangements**

The first perspective looks at the relative generosity of the systems of student support. The relative generosity of a system of student support may have consequences in terms of its value for international mobility. In addition, the relative generosity of student support systems can determine the extent to which foreign students may be attracted to claim student support entitlements. Generous systems are more likely to attract foreign claims than poorer systems. In addition, systems of direct support may attract more foreign claims than indirect systems of student support (family allowances and tax benefits), because the latter option

implicitly requires a strong social or economic relationship with the country in which one would like to claim support.

Based on the descriptions of the various national systems of student financial support as presented in the background report (*Student financial support, an inventory in 24 European countries*), we can conclude that there are substantial differences among the European countries in the ways of providing student support and the subsidies involved for the individual students.

#### *Direct versus indirect support*

A first major distinction can be made between direct and indirect support. In the case of direct support, such as grants and loans, the subsidies directly fall to the students. From a student's point of view, direct grants and loans may be advantageous because students know what they will get if they qualify for student support. Within that, grants are to be preferred over loans, because the latter will have to be repaid. The ultimate type of direct support system makes students financially independent from their parents. This is the case in the Scandinavian countries where students receive grants and loans that cover about all costs normal students would need to make.

Indirect support is primarily given to students' parents in the form of family allowances and tax benefits, and is often based on the idea that parents have a legal or moral obligation to maintain their studying children. A disadvantage may be that students are dependent on their parents' willingness to pay for benefiting from the subsidies involved.

All of this, however, does not yet tell what would be the most generous system of student support. That depends on the amount of the subsidies involved in the respective systems, particularly in relation to the "standard" costs students would have to make. In our line of argument, the most generous systems of support may be the most likely systems to attract foreign students for making student support claims, because they offer the highest benefits.

Though the attached background report on the national systems of student financial support does not include a comparative analysis of the relative generosity of the systems involved, it provides some indications for the types of systems that may be more attractive to foreign students than others. In countries with primarily indirect support, students' families are often expected to make substantial contributions to the costs of study, such as in many of the accession countries, Austria, Belgium, France and Germany. However, also in countries where student support is predominantly direct through grants and loans, such as in the Netherlands and the UK, families are also expected to pay a substantial part of the costs because the public budget does not allow full support mechanisms. But even in countries where students are declared financially independent, e.g. in Denmark, Finland, Sweden and Norway, parents make considerable contributions to the costs of study because they voluntarily want to prevent their children from accumulating high study debt.

The subsidies given to students and their families in many countries are substantial. First of all because of low or free tuition. In the case of indirect support, the families of students can accumulate substantial subsidies, like for example in Germany, Austria, (France) and Belgium. These subsidies fall to

almost all fulltime students in the respective countries. In the accession countries, such subsidies are generally lower, but the costs of living are also less high. Because indirect support like family allowances and tax benefits require real social- and economic ties with the providing country, indirect support will not attract many foreign student for the purpose of studying only.

Also in the case of direct support, the public subsidies can be substantial. But in countries with predominantly indirect support, only a minority of students benefit from grants (and loans), which generally are means-tested or merit-based. Such subsidies are more widely available in countries where student support mainly consists of direct support, like grants and loans. In countries like the Scandinavian ones, the Netherlands and the UK, students are not so dependent on their parents for their finances or even fully independent (as in the Scandinavian countries). This may be attractive for foreign students, even though a large proportion of support comes in the form of student loans. However, up to now, the criteria for foreigners to become eligible for direct support are rather tight. Even after a number of decisions of the European Court of Justice opened up some of the opportunities for students from EU-member states. It still is difficult to claim student support for study abroad due to all kinds of criteria, such as means-tests, merit-tests, residence requirements, etcetera. In addition, foreign EU-students can still not easily claim maintenance support in the country they study, what is being challenged now in the Bidar case. Such criteria so far may discourage students to apply for direct support abroad, unless they are sure they will easily pass the criteria. It might be argued that such criteria, especially the residence requirements, are forms of indirect discrimination, because it is easier for nationals of the host country to meet such criteria than for other EU-citizens, as for instance is discussed in Mortelmans and Ooik (2003).

All in all, systems of student support predominantly relying on direct support are more vulnerable for claims from foreign students within the EU than systems that mainly consist of indirect support through parents. Within the systems of direct support, grant support may be more attractive than loans, because grants do not have to be repaid. However, loans often also include subsidies, like interest subsidies or debt remission. In addition, the repayment of student loans is still not fully covered and guaranteed internationally. Therefore, international exchange of debt information may gain importance. Particularly if the social entitlements to the EU-citizenship are further expanded, for example if Bidar wins the case against the British government. As a result, the differences in student finance systems, together with a broad interpretation of the citizenship of the Union could lead to a situation of 'student finance tourism'. In such a situation, countries that have extensive student support arrangements, particularly in the area of direct support, will become the most attractive countries. These include the Scandinavian countries, the Netherlands, Germany and the UK.

#### *High-cost versus low-cost countries*

Another interesting distinction may be found in the relative cost- and wage-levels among the various EU-countries. A first remark in this respect will be that average students from low-cost and low-wage countries will enter into financial difficulties if they would like to study in high-cost countries, unless they get generous stipends



for it. Such stipends are not widely available for full study abroad. And even if student support from their own countries is available for study abroad, it to be doubted if that will be sufficient for studying in high-cost European countries.

However, if it is possible for students to claim student support in other countries, that becomes increasingly attractive for students from lower-cost and low-wage countries, because they might more easily pass potential means-tests. In addition, that opens up opportunities to study in high-cost countries if these have relatively well developed direct student support mechanisms.

### **24.3 Portability of student support: opportunities and limitations**

The second perspective relates to the opportunities that are offered to students to use student support for study abroad. This concerns possibilities either for short-term study periods abroad that are recognised at the home institution or for following full degree programs at a foreign higher education institution. Discussing the opportunities for portability, also makes clear what the limitations to the portability of student support are. Such limitations for instance include additional requirements to be met before student support can be taken abroad or the range of programs or countries to which student support can be taken. The limitations to the portability of student support facilities may partly be explained by the fact that traditionally systems of student support were established to cater for national students in national higher education institutions. With internationalisation becoming more important in national societies, limitations to the portability of student support may be driven by the aim to maintain control over the costs. Countries that had very open policies for their own citizens for using national facilities abroad, may have built in limitations as to prevent forms of unintended use by foreign students.

#### *Short-term study abroad*

The information from most countries shows that students generally can use all student support facilities they get for study within their country also when they conduct a recognised study period at a foreign higher education institution. These periods then should be in the framework of the program being followed at the home institutions. This means that their eligibility for grants, loans, tax benefits and family allowances is continued when they are abroad. Some countries even provide additional assistance in the form of additional grants or loans to cover travel expenditure, potential tuition costs, extra (health) insurance costs or higher maintenance costs. This for instance is possible in Finland, Germany, Norway, Sweden and the UK. However, in some countries, continuation of student support for short-term study abroad is not possible or only available for a limited group of students, such as Erasmus exchange students (Estonia, Latvia and Slovakia).

#### *Long-term study abroad*

The portability opportunities of student support are much more limited in the case of long-term study abroad, such as following a full degree program. Though

national information was not widely available, there seem to be hardly any problems in using indirect support for full study abroad. Parents can claim their regular family allowances and tax reductions as long as their children attend a recognised higher education institution and not pass the age-limit. The country in which the child is studying often is not an issue. The Czech Republic, Latvia and Portugal seem to be the exceptions to this rule.

However, the portability of direct support seems to raise much bigger problems in many countries. In the Czech Republic, Italy, Latvia, Lithuania, Portugal, England, Wales and Scotland students cannot use at all the national grants for full (undergraduate) study abroad and in most cases also not the loans.

There are many countries that allow only limited use of student support for full study abroad, for instance by limiting the range (or level) of programs for which support is portable or by limiting the number of countries to which support can be taken. A few countries, Belgium, Latvia and Slovenia, use the criterion on non-equivalence, which means that support can only be used for programs not offered nationally. Other countries use the condition that there should be bilateral agreements in this direction, such as the Netherlands, Slovakia and the UK.

There are a few countries that have a relative open policy towards the portability of student support, being Denmark, Finland, Norway and Sweden. Students from these countries can use national support almost unlimited for study abroad. However, these countries tend to have relatively restrictive conditions applying to foreign students when they apply for student support. These criteria include residence requirements, in particular relating to the period they have resided in the country under consideration. Again, this may raise the question whether these requirements may have an indirect discriminatory effect in view of the ECJ decisions such as in the Grzelczyk case. The German opportunities are quite extensive as well, though students should first have studied for 2 semesters (1 year) in Germany itself, like in Austria.

Finally, some countries even provide additional scholarships, loans or tax facilities for students studying abroad. This is particularly the case in countries with already relatively large opportunities to use national support for study abroad, for example Denmark, Finland, Norway, Sweden and Germany. Such facilities particularly include extra grants (or loans) for tuition, travel costs, (health) insurance and/or higher living costs.

#### *The position of foreign students*

An issue that deserves particular attention is the position of foreign students. Under what circumstances can they claim student support abroad and for what purposes? The non-discrimination principle of the EU soon led to the situation that students from other EU member states should be treated equally to national students with respect to tuition policies and the financial compensation that can be provided for that. So far, the major ECJ cases have indicated that EU-employees and their children are entitled to all student support in the hosting country like national citizens of that country, including maintenance support.

The big question is, however, if it will also become possible to claim social benefits, like student support, in other EU-countries if one is (or was) not gainfully employed, what is being challenged in the Bidar case. Under current residence

regulations for students from other EU-member states this should not be the case. It is not expected that the European Court of Justice will allow direct recourse to Articles 12 and 18 of the EC Treaty, which would have the consequence that a maintenance allowance is granted without any preconditions to any EU citizen entering the hosting state for the purpose of training. This would probably be in contradiction with Article 7 of the future directive 2004/38/EC (the "freedom of movement directive") which links the right of residence in the territory of another member state for a period of more than three months to the condition that the individual concerned and his/her dependents have sufficient means of subsistence. This guarantees that one should not have to claim social benefits from the hosting member state during their stay. Thus only when a student has acquired the right of unlimited residence in another member state (after five years) he/she can claim student support. The Grzelczyk case has shown that only in exceptional cases (like length of studies, financial emergency or proportionality) the right to claim government support may be made earlier.

Another main concern relates to the question about the influence of the EU freedom of movement legislation on the eligibility for student financial support when studying abroad. The Meeusen case proved that even the place of residence does not have to be a problem in the situation that student support is being used for study abroad. Under Article 24 of the freedom of movement directive in its current version, it would be possible that the residence requirement does not apply to the children of EU-migrant workers for using student support for study abroad. For example, if German student support would be fully portable across Europe, a child of an Italian EU-employee working in Germany could use German student support for study in Italy even if the student has never lived in Germany. This actually means that if countries make student support widely portable, all EU-employees in that country and their children may claim student support for study in all places where the national students of the country involved can use it. Furthermore, if the ECJ would further extend the concept of EU-employee and, for example, also recognizes part-time and seasonal employment to establish the status as worker, the number of EU-foreigners eligible to receive student support from the hosting country while studying in their home country because their parents are gainfully employed in the hosting country (even if only seasonally) would strongly increase. Such developments would put a high financial risk on the potential intentions to expand the opportunities to use financial support for study abroad.

These considerations demonstrate that under the current circumstances it makes sense for countries to maintain relatively strict residence requirements for evaluating if national citizens and foreign citizens are eligible for student financial support, particularly if the countries have a relatively open policy towards using public support for study abroad, like in the Scandinavian countries. In more general terms, if the interpretation of the EU-citizenship will be further expanded, this may lead to situations where EU-citizens could claim student benefits in all EU-member states. Without a coordinating mechanism or principle, it will be unclear when the home country is responsible and when the hosting country. This may result in double claims from students. When such risks become apparent, member states will be likely to limit the opportunities to sue student financial

assistance for study abroad, which is contrary to the general developments of internationalisation and to the EU-intentions to stimulate student mobility.

#### **24.4 Experiences, intentions and the way forward**

In the third perspective we particularly focus on the experiences with the portability of student support and whether these may have led to intentions to expand opportunities to use national student support for (full) study abroad.

The national representatives contacted for this study generally tend to refer to the current situation as satisfactory. This answer is expected from countries that already have relatively open portability arrangements. Of the countries that have limited opportunities to support their students when studying abroad, only a few indicate that mobile students require more flexibility in the portability of support. But they often still indicate to be satisfied with the current situation. The impression arises that these positive statements about the current situation may partly be based on realistic judgements about the costs of expanding portability arrangements. Opening up opportunities for mobility could have considerable financial consequences.

Only the Netherlands, Lithuania, Scotland and Slovakia indicate to be dissatisfied with the current situation. They would like to open up the opportunities to use student financial assistance for study abroad, but feel limited to do so by the developments in the jurisprudence of the ECJ. They now take a reluctant attitude because they are afraid of the financial risks that may result from the ECJ decisions. These decisions namely add a host-country perspective to the traditional home-country perspective on providing student support. This makes portability issues rather complex, particularly if this includes a risk that foreign students may claim student support in another country to study in their home country.

All in all, the intentions to expand the arrangements for portability of student support are very limited. Some countries would like to open up opportunities but feel limited by their national budgets (Estonia, Latvia, Slovakia), other countries feel limited due to the ECJ decisions (Austria, Germany, the Netherlands and Scotland). The countries that have open policies towards the portability of student support, use relatively strict residence requirements in order to keep control over their student support budgets. These considerations provide common ground for the idea that a more co-ordinated approach in the area of the portability of student support and about who is responsible for the support (the sending or receiving country) could benefit mobile students throughout the whole European Union.

#### **24.5 Main conclusions, reflections and recommendations**

We have seen that some systems of student support may be more attractive for foreign students than others. Particularly systems of direct support may be attractive to claims from foreign students. Up to now, the relatively strict criteria and limited opportunities to use national student support for study abroad have kept the risks of such claims relatively low. However, the Bidar case seems to be

of crucial importance. This may open up a whole wave of claims of students who study abroad in countries with relatively well developed systems of direct student support. In this it include a number of risks

The inventory of national policies also shows that the opportunities for using national student support for study abroad are much stronger for short-term study visits than for full-degree study abroad. In addition, indirect support is more easy to use for study abroad than direct support. For indirect support, parents generally only have to proof that their children study at a recognised tertiary education institution, either being in the home country or abroad. However, the portability of direct support is generally subject to much stricter requirements and available for only a limited rang of programs or countries.

The experiences with the current portability policies are predominantly satisfactory but not optimal. Though many countries can live with the current situation, there also is a sense that the arrangements should be expanded and become more flexible to cater for the growing demands of internationalisation. However, the developments due to a number of decisions of the ECJ make some governments reluctant about the next steps to be taken. Particularly the outcome of the Bidar case, challenging the idea that foreign students are not eligible for maintenance support, may have a major impact on national policies in this area. There is a fear that the differences in student finance systems together with a broad interpretation of the EU-citizenship concept may lead to 'student finance tourism' at the expense of countries with a well developed system of direct student financial assistance.

Altogether, the issues relating to the portability of student support show that this is a complex area with national and supra-national interests at stake. This calls for a stronger co-ordinated political approach in this area. If further extension of portability of student support is regarded as valuable in stimulating student mobility, there should be a better compatibility between EU-regulations concerning the free movement of persons and national student support mechanisms. An ideal situation would be if all EU-countries had comparable national support systems allowing full portability in which all states remain responsible for their own nationals even while studying abroad. However, due to the national responsibilities and the differences in the student support policies and national economic realities, such a solution is impossible.

Nevertheless, it needs to become clear in which cases the home or hosting countries are responsible to support students. In our view, mobility-increasing measures can therefore only be ensured if some practical principles are applied with relation to financial responsibility of providing student support, also for studies in other EU-member state. A basic principle could be that the financial responsibility lies with the home state and not with the host member state, unless there is a firm socio-economic link with the hosting country. In the latter case one could think of a residency requirements as the expression of the socio-economic link. This would substantially reduce the financial risks for countries of opening up the portability of student aid.

In addition, the EU itself could take further responsibility in opening up mobility grants that are particularly directed at compensating cost-differences between countries. Rather than the relatively general Erasmus grants for short-term

mobility, one could think of a solution of the EU targeting its funds to stimulating mobility by subsidising cost differences.

If the EU is serious about the intentions to promote student mobility and internationalisation, it must be clear that the current complexity national student finance arrangements, EU-regulations and student demands, require a stronger co-ordinated and co-operative policy approach of the issues discussed in this report. The first step in this direction has been made by putting it on the EU-agenda. The next steps will be to have a critical debate on the issues and interests at stake and to come to viable solutions that benefit international student mobility.

# Comparative overview

Table 25.1: Comparative overview portability of student support (full study abroad)

Country	Grants / scholarships		Loans
	Short-term	Long term	
<b>Austria</b>	Yes	Limited	No
<b>Belgium – NL</b>	Yes	Limited	n.a.
<b>Belgium – FR</b>	Yes	Limited	n.a.
<b>Czech Republic</b>	Yes	No, except PhD	No
<b>Denmark</b>	Yes	Yes	Yes
<b>Estonia</b>	Yes (limited)	Yes (limited)	Yes (for short term study)
<b>Finland</b>	Yes	Yes	Yes
<b>France</b>	Yes (limited)	Yes (limited)	No
<b>Germany</b>	Yes (up to 5 semesters)	Yes	Yes
<b>Ireland</b>	Yes	Yes	n.a.
<b>Italy</b>	Yes	No	No
<b>Latvia</b>	No	No	Yes
<b>Lithuania</b>	Yes (limited)	No	Yes
<b>Malta</b>	Yes	Yes (limited)	No
<b>Netherlands</b>	Yes	Yes (limited)	Yes(limited)
<b>Norway</b>	Yes + tuition support	Yes + tuition support	Yes + tuition support
<b>Poland</b>	Yes	-	-
<b>Portugal</b>	No	No (except post grads)	No
<b>Slovakia</b>	Yes	Yes (limited)	Yes (limited)
<b>Slovenia</b>	Yes	Yes, limited	No
<b>Sweden</b>	Yes + tuition/travel support	Yes + tuition/travel support	Yes, amount differs per country
<b>UK – England/Wales</b>	No (travel + tuition support)	No (travel + tuition support)	Yes (short-term & career development loan)
<b>UK – Scotland</b>	No (travel + insurance help)	No (travel + insurance help)	Yes

Table 25.1: Comparative overview portability of student support (full study abroad continued)

Country	Indirect support	Limitations	Allocation period
<b>Austria</b>	Yes	Language courses	20 (+ 12) months
<b>Belgium – NL</b>	Yes	Netherlands, non-equivalence	Full study program
<b>Belgium – FR</b>	Yes	Non-equivalence	Full study program
<b>Czech Republic</b>	No	Only post master studies	1 year (repetitive)
<b>Denmark</b>	n.a.	Residence requirement	Nominal duration (+12 mths)
<b>Estonia</b>	Yes	Few grants, merit, subject	Nominal duration
<b>Finland</b>	n.a.	Residence requirement	Nominal duration (+12 mths)
<b>France</b>	-	Relation to study in France	-
<b>Germany</b>	Yes	First 2 semesters in D; residence requirement	Nominal duration
<b>Ireland</b>			
<b>Italy</b>			
<b>Latvia</b>	No	Non-equivalence (loans)	Nominal duration
<b>Lithuania</b>	Yes	State grants and loans	Nominal duration
<b>Malta</b>	n.a.	Only some programs	Nominal duration
<b>Netherlands</b>	Yes (if no other support )	Limited number of countries and programs	Nominal duration (+ 3 years full loans)
<b>Norway</b>	n.a.	No, as from 2004/2005	Nominal duration
<b>Poland</b>	-	-	-
<b>Portugal</b>	No	Yes, only Ma's & PhDs	Nominal duration
<b>Slovakia</b>	Yes	Only bilateral agreements	Nominal duration
<b>Slovenia</b>	No	Non-equivalence or proof of professional expertise	Nominal duration
<b>Sweden</b>	n.a.	Fulltime study, limits for particular programs	Nominal duration
<b>UK – England/Wales</b>	n.a.	Only career development loans for long term study	Career development loan: 2 years
<b>UK – Scotland</b>	n.a.	Limited number of programs and countries	Nominal duration



Table 25.1: Comparative overview portability of student support (full study abroad continued)

Country	Experiences	Intentions	EU-employee criterion
<b>Austria</b>	Satisfied, but more flexibility preferred	Hesitant (home/host tension)	Objective criteria
<b>Belgium – NL</b>	Limited use and possibilities	Just expanded to Bologna countries & EU-employees	Employer proof
<b>Belgium – FR</b>	-	-	-
<b>Czech Republic</b>	Students limited now	Not much yet	-
<b>Denmark</b>	-	-	Not specified
<b>Estonia</b>	Satisfied, but too limited (in € and in numbers)	Expansion to targeted programs	-
<b>Finland</b>	Satisfied, works quite well	No plans for change	No
<b>France</b>	Satisfied	Aims for expansion	-
<b>Germany</b>	Feel limited by ECJ	Aims at comparable systems of student support in EU	12 hours per week
<b>Ireland</b>	Satisfied	No intentions	No
<b>Italy</b>	-	-	-
<b>Latvia</b>	Limited by fin. resources	No	n.a.
<b>Lithuania</b>	Some expansion realised	Further expansion foreseen	n.a.
<b>Malta</b>	Receiving students satisfied	Synchronise EUI policies	No
<b>Netherlands</b>	Feel limited by ECJ, financial risks	Further expansion aimed at	32 hours per month
<b>Norway</b>	Students felt limits, now abolished	No, except small changes	Work substantial & genuine
<b>Poland</b>	-	-	-
<b>Portugal</b>	Satisfied so far	Not yet, first see what happens within EU	No hard criteria
<b>Slovakia</b>	Dissatisfactory situation	Intend to allow all students one short-term stay abroad	n.a.
<b>Slovenia</b>	Satisfactory	No expansion considered	n.a.
<b>Sweden</b>	Open policy satisfies	No expansion considered	Additional criteria for EU-employees (& children); work not marginal & paid for
<b>UK – England/Wales</b>	Current situation satisfactory	No plans for expansion	Elaborated test; work effective and genuine; EEA residence requirement
<b>UK – Scotland</b>	Too few opportunities	Expansion being considered	No hard criteria (each case considered on its merits)

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