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Press and Information

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Judgment of the Court of Justice in Case C-158/07

Jacqueline Förster v. Hoofddirectie van de Informatie Beheer Groep

THE COURT STATES UNDER WHAT CONDITIONS STUDENTS FROM OTHER MEMBER STATES ARE ENTITLED TO A MAINTENANCE GRANT

Community law does not preclude the application to students of a requirement of five years' prior residence

On 5 March 2000, Jacqueline Förster, a German national aged 20, settled in the Netherlands, where she enrolled for training as a primary school teacher and, from 1 September 2001, for a course in educational theory leading to a bachelor's degree at the Hogeschool van Amsterdam. During her studies, Ms Förster had various kinds of paid employment. The IB-Groep, the competent authority as regards the financing of higher education, granted her a maintenance grant from September 2000. That authority took the view that Ms Förster was to be regarded as a 'worker' and, consequently, should be treated in the same way as a student of Netherlands nationality as regards maintenance grants.

Following a check, the IB-Groep however ascertained that between July 2003 and December 2003 Ms Förster had not been gainfully employed. Holding that she could therefore no longer be regarded as a worker, the IB-Groep annulled the decision concerning the maintenance grant paid in respect of the period between July and December 2003. Ms Förster was requested to repay the excess sums.

In her appeal against that decision, Ms Förster claimed, inter alia, that she was already sufficiently integrated into Dutch society during the period at issue to be able to claim a maintenance grant as a student under Community law. In this respect, she relies on the judgment of the Court of Justice in *Bidar*,¹ in which it was held that the existence of a certain degree of integration may be regarded as established by a finding that the student in question has resided in the host Member State for a certain length of time.

Following that judgment, the IB-Groep adopted a policy rule which provided that a student from the European Union must have been lawfully resident in the Netherlands for an uninterrupted period of at least five years before claiming a maintenance grant.

¹ Case C-209/03 *Bidar* [2005] ECR I-2119, see CP 25/05

The Centrale Raad van Beroep, which had to rule on appeal on the action brought by Ms Förster, made an order for reference to the Court of Justice, requesting it to state under what conditions a student from another Member State may be entitled to a maintenance grant.

In its judgment, delivered today, the Court points out that a student who is lawfully resident in another Member State can rely, for the purposes of obtaining a maintenance grant, on the prohibition of any discrimination on grounds of nationality.

Since the requirement concerning the duration of residence is not applicable to students of Netherlands nationality, the issue is raised of what restrictions may be imposed on the right of students who are nationals of other Member States to a maintenance grant without the different treatment which may result being considered discriminatory.

In this connection, the Court observes that it is legitimate for a Member State to grant assistance covering students' maintenance costs only to those students who have demonstrated a certain degree of integration into the society of that State and that the existence of a certain degree of integration may be regarded as established by a finding that the student in question has resided in the host Member State for a certain length of time.

The Court holds that, in the present case, a condition of five years' uninterrupted residence is appropriate for the purpose of guaranteeing that the applicant for the maintenance grant at issue is integrated into the society of the host Member State. Furthermore, that condition cannot be held to be excessive.

By enabling those concerned to know, without any ambiguity, what their rights and obligations are, the residence requirement laid down by the IB-Groep's policy rule is, by its very existence, such as to guarantee a significant level of legal certainty and transparency in the context of the award of maintenance grants to students.

Accordingly, **Community law does not preclude the application to nationals of other Member States of a requirement of five years' prior residence.**

Unofficial document for media use, not binding on the Court of Justice.

Languages available: ES, DE, EN, EL, FR, IT, NL, PL, PT, RO

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-158/07>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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