

Case C-184/99

Rudy Grzelczyk

v

Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve

(Reference for a preliminary ruling
from the Tribunal du travail de Nivelles)

Articles 6, 8 and 8a of the EC Treaty (now, after amendment, Articles 12 EC, 17 EC and 18 EC) — Council Directive 93/96/EEC — Right of residence for students — National legislation which guarantees a minimum subsistence allowance (Minimex) only for nationals, persons covered by Regulation (EEC) No 1612/68 and stateless persons and refugees — Foreign student who has met his own living expenses during the first years of his studies)

Opinion of Advocate General Alber delivered on 28 September 2000 I-6197
Judgment of the Court, 20 September 2001 I-6229

Summary of the Judgment

1. *Citizenship of the European Union — Treaty provisions — Persons covered — National of one Member State lawfully residing on the territory of another Member State — Whether included — Effect — Benefit of rights attaching to the status of*

citizen of the European Union — Whether a citizen of the European Union pursuing university studies in a State other than that of which he is a national may rely on the prohibition against all discrimination on the grounds of nationality
(EC Treaty, Arts 6, 8 and 8a (now, after amendment, Arts 12 EC, 17 EC and 18 EC))

2. *Freedom of movement for persons — Right of entry and residence for nationals of Member States — Directive 93/96 — Conditions for the issuing of a residence permit — National legislation requiring students who are nationals of Member States to have resources of a specific amount, to be evidenced by specific documents — Not permissible — Whether a host Member State is entitled to adopt measures to terminate the residence of a student who has availed himself of the social assistance system — Limits*
(Council Directive 93/96)
3. *Community law — Principles — Equal treatment — Discrimination on grounds of nationality — Social security benefit guaranteeing a minimum subsistence allowance — National legislation making entitlement to the benefit subject to the condition of falling within the scope of Regulation No 1612/98 in the case of nationals of other Member States only — Not permissible*
(EC Treaty, Arts 6, 8 (now, after amendment, Arts 12 EC and 17 EC); Council Regulation No 1612/68)
4. *Preliminary rulings — Interpretation — Effect of interpretative judgments *ratione temporis* — Retroactive effect — Limits imposed by the Court — Conditions — Significance for the Member State concerned of the financial consequences of the judgment — Not decisive*
(EC Treaty, Art 177 (now Art 234 EC))

1. Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for.

Member State, can rely on Article 6 of the Treaty (now, after amendment, Article 12 EC) in all situations which fall within the scope *ratione materiae* of Community law.

A citizen of the European Union, lawfully resident in the territory of a host

Those situations include those involving the exercise of the fundamental freedoms guaranteed by the Treaty and those involving the exercise of the right

to move and reside freely in another Member State, as conferred by Article 8a of the Treaty (now, after amendment, Article 18 EC).

The fact that a Union citizen pursues university studies in a Member State other than the State of which he is a national cannot, of itself, deprive him of the possibility of relying on the prohibition of all discrimination on grounds of nationality laid down in Article 6 of the Treaty. The Treaty on European Union has introduced citizenship of the European Union into the Treaty and added to Title VIII of Part Three a new chapter 3 devoted to education and vocational training. There is nothing in the amended text of the Treaty to suggest that students who are citizens of the Union, when they move to another Member State to study there, lose the rights which the Treaty confers on citizens of the Union. Furthermore, the Council has also adopted Directive 93/96, which provides that the Member States must grant the right of residence to student nationals of a Member State who satisfy certain requirements.

(see paras 31-33, 35-36)

not require, as a condition for obtaining the right of residence, resources of any specific amount, nor that they be evidenced by specific documents. The article refers merely to a declaration, or such alternative means as are at least equivalent, which enables the student to satisfy the national authority concerned that he has, for himself and, in relevant cases, for his spouse and dependent children, sufficient resources to avoid becoming a burden on the social assistance system of the host Member State during their stay.

That interpretation does not, however, prevent a Member State from taking the view that a student who has recourse to social assistance no longer fulfils the conditions of his right of residence or from taking measures, within the limits imposed by Community law, either to withdraw his residence permit or not to renew it. Nevertheless, in no case may such measures become the automatic consequence of a national of another Member State having recourse to the host Member State's social assistance system.

2. Article 1 of Directive 93/96 on the right of residence for students does

Indeed, Directive 93/96, like Directives 90/364 on the right of residence and 90/365 on the right of residence for employees and self-employed persons

who have ceased their occupational activity, accepts a certain degree of financial solidarity between nationals of a host Member State and nationals of other Member States, particularly if the difficulties which a beneficiary of the right of residence encounters are temporary. Furthermore, a student's financial position may change with the passage of time for reasons beyond his control. The truthfulness of a student's declaration is therefore to be assessed only as at the time when it is made.

(see paras 40, 42-45)

3. Articles 6 and 8 of the Treaty (now, after amendment, Articles 12 EC and 17 EC) preclude entitlement to a non-contributory social benefit, such as a minimum subsistence allowance, from being made conditional, in the case of nationals of Member States other than the host State where they are legally resident, on their falling within the scope of Regulation No 1612/68 on the freedom of movement for workers within the Community when no such

condition applies to nationals of the host Member State.

(see paras 46 and operative part)

4. An interpretation that the Court gives to a provision of Community law clarifies and defines its meaning and scope only as it should have been understood and applied from the time of its entry into force. It is only exceptionally that the Court may, in application of the general principle of legal certainty inherent in the Community legal order, be moved to restrict the possibility for any person concerned to rely upon a provision which it has interpreted with a view to calling into question legal relationships established in good faith. The financial consequences which might ensue for a Member State from a preliminary ruling do not in themselves justify limiting the temporal effect of the ruling.

(see paras 50-52)