
SEMINAR 9 **FREE MOVEMENT OF PERSONS AND EDUCATION – MUTUAL RECOGNITION**

Reading

<u>Flynn</u>	“Vocational Training in Community Law and Practice” (1988) 8 YEL 59
<u>Lenaerts</u>	“Education in European Community Law after Maastricht” (1994) 31 CMLRev 7

Education rights:

- Basic and advanced vocational Training – Art 156 TFEU (ex-140 EC)
- Education, Vocational training, Youth & Sport – Arts 165 & 166 (ex-149 & 150 EC)

1. **Introduction**

Forcheri v Belgium, Case 152/82 [1983] ECR 2323
3 categories: mobile students, workers and workers’ families

2. **Mobile Students**

Meaning of “vocational training” and “access”? **Read:** Barnard, Ch12 pp302-306
Gravier, Case 293/83 [1985] ECR 593 (fees)
Blaizot, Case 24/86 [1988] ECR 379 (vocational training)
Commission v Belgium, Case 293/85 [1988] ECR 305
(contrast with *R v ILEA ex p Hinde* [1985] 1 CMLR 716
Raulin Case C-357/89 [1992] ECR I-1027

3. **Workers/citizens**

Brown, Case 197/86 [1988] ECR 3205 (not a worker) (Art 24(2)(d) CRD after 5 years residence)
Lair, Case 39/86 [1988] ECR 3161 (part-time but if involuntary unemployed different) (maintenance grant)(Art 7(3)(d) CRD)
Grzelczyk Case C-185/99 [2001] ECR I-6193 (“social advantage” ie uncome support; housing benefit; child support– minimex re 4th year of study)
Bidar Case C-209/03 [2005] ECR I-2119 (“settled status” asked for maintenance costs via social assistance) (Art 24 CRD)

4. **Workers’ Families**

- spouses/parents
- children

Echternach & Moritz, Cases 389 and 390/87 [1989] ECR 723

Brown, Case 197/86 (cited above)
Gaal, Case C-7/94 [1995] ECRI – 1031
(noted [1996] JSWFL 114)

- grants to study abroad

Land Berlin, Case C-308/89 [1990] ECRI – 4195

5. Education as a service

[Advantages: no need to show vocational training and other rights based on non-discrimination]

Reminder: *Humbel* – State education not a service as not “normally provided for remuneration” confirmed by *Worth*

Private education? – In *Worth* ECJ agreed it was a service

Advantages of bringing education within “services”

- (a) no need to refer to vocational training ie not restricted to vocational training
- (b) rights confined on mobile students and workers are based on the provisions which prohibit discrimination directly or indirectly and not on status

BUT

Service provisions require removal of “restrictions”? Is that significant? It is easier to invoke freedom of services against own Member state than it is under free movement of workers or right of establishment

II Mutual Recognition

Barnard Ch 13 pp319-330

Vertical directives eg lawyers – Directive 77/249 (re services) & Directive 98/5 re establishment

Horizontal directives:

Directive 89/48 on mutual recognition of higher education diplomas

Art 2 – “regulated professions” defined in Art. 1

Meaning of “diploma” = 3 years of study

Directive 92/51 (general system to professions for which the level of training was lower)
Less than 3 years of study

Directive 99/42 extending the mutual recognition approach to industrial and professional sectors previously covered by vertical directives

ECJ’s contribution

Based on Article 10

Vlassopoulou, Case C-340/89 [1993] 2 CMLR 221 (internal situation?)

Thieffry, Case 71/76 – Belgian national obtained degree in Belgium which was recognised by a French university.