Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

21 February 2013 *

(Citizenship of the Union — Freedom of movement for workers — Principle of equal treatment — Article 45(2) TFEU — Regulation (EEC) No 1612/68 — Article 7(2) — Directive 2004/38/EC — Article 24(1) and (2) — Derogation from the principle of equal treatment for maintenance aid for studies consisting in student grants or student loans — European Union citizen studying in a host Member State — Paid employment prior to and subsequent to the start of studies — Principal objective of the person concerned at the time of entry on the territory of the host Member State — Effect on his classification as worker and on his entitlement to student grants)

In Case C-46/12,

REQUEST for a preliminary ruling under Article 267 TFEU from the Ankenævnet for Statens Uddannelsesstøtte (Denmark), made by decision of 24 January 2012, received at the Court on 26 January 2012, in the proceedings

L.N.,

v

Styrelsen for Videregående Uddannelser og Uddannelsesstøtte,

THE COURT (Third Chamber),

composed of M. Ilešič, President of the Chamber, E. Jarašiūnas, A. Ó Caoimh (Rapporteur), C. Toader and C.G. Fernlund, Judges,

Advocate General: Y. Bot,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 28 November 2012,

after considering the observations submitted on behalf of:

— the Danish Government, by V. Pasternak Jørgensen and C. Thorning, acting as Agents,

— the Norwegian Government, by E. Leonhardsen, M. Emberland and B. Gabrielsen, acting as Agents,

— the European Commission, by D. Roussanov and C. Barslev, acting as Agents,

— having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

* Language of the case: Danish.

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 7(1)(c) and Article 24(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77, corrigenda OJ 2004 L 229, p. 35 and OJ 2005 L 197, p. 34).

2 The request has been made in proceedings between Mr N. and the Styrelsen for Videregående Uddannelser og Uddannelsesstøtte (Danish Agency for Higher Education and Educational Support) ('the VUS') concerning the latter's refusal to grant him education assistance.

Legal context

European Union legislation

Regulation No (EEC) No 1612/68

3 Article 7 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968 (II), p. 475) provides:

'1. A worker who is a national of a Member State may not, in the territory of another Member State, be treated differently from national workers by reason of his nationality in respect of any conditions of employment and work, in particular as regards remuneration, dismissal, and should he become unemployed, reinstatement or re-employment.

2. He shall enjoy the same social and tax advantages as national workers.

...'

Directive 2004/38

4 Recitals 1, 3, 10, 20 and 21 in the preamble to Directive 2004/38 state:

'(1) Citizenship of the Union confers on every citizen of the Union a primary and individual right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaty and to the measures adopted to give it effect.

…

(3) Union citizenship should be the fundamental status of nationals of the Member States when they exercise their right of free movement and residence. It is therefore necessary to codify and review the existing Community instruments dealing separately with workers, self-employed persons, as well as students and other inactive persons in order to simplify and strengthen the right of free movement and residence of all Union citizens.

…

(10) Persons exercising their right of residence should not, however, become an unreasonable burden on the social assistance system of the host Member State during an initial period of residence. Therefore, the right of residence for Union citizens and their family members for periods in excess of three months should be subject to conditions.

…

(20) In accordance with the prohibition of discrimination on grounds of nationality, all Union citizens and their family members residing in a Member State on the basis of this Directive should enjoy, in that Member State, equal treatment with nationals in areas covered by the Treaty, subject to such specific provisions as are expressly provided for in the Treaty and secondary law.

(21) However, it should be left to the host Member State to decide whether it will grant social assistance during the first three months of residence, or for a longer period in the case of job-seekers, to Union citizens other than those who are workers or self-employed persons or who retain that status or their family members, or maintenance assistance for studies, including vocational training, prior to acquisition of the right of permanent residence, to these same persons.'

5 Article 3(1) of Directive 2004/38 provides that that directive is to apply to all Union citizens who move to or reside in a Member State other than that of which they are a national.

6 Article 7(1) and (3) of Directive 2004/38 is worded as follows:

'1. All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they:

(a) are workers or self-employed persons in the host Member State; or

(b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State; or

(c)

— are enrolled at a private or public establishment, accredited or financed by the host Member State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training; and

— have comprehensive sickness insurance cover in the host Member State and assure the relevant national authority, by means of a declaration or by such equivalent means as they may choose, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence ...

…

3. For the purposes of paragraph 1(a), a Union citizen who is no longer a worker or self-employed person shall retain the status of worker or self-employed person in the following circumstances:

…

(d) he/she embarks on vocational training. Unless he/she is involuntarily unemployed, the retention of the status of worker shall require the training to be related to the previous employment.'

7 Article 24 of Directive 2004/38, entitled 'Equal treatment', is worded as follows:

'1. Subject to such specific provisions as are expressly provided for in the Treaty and secondary law, all Union citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence.

2. By way of derogation from paragraph 1, the host Member State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4)(b), nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.'

Danish legislation

8 Paragraph 2a(2) and (4) of Consolidated Law No 661 of 29 June 2009 on the Students' Grants and Loans Scheme (Lovbekendtgørelse nr. 661 af 29. juni 2009 om statens uddannelsesstøtte) (*Folketingstidende* 2005/2006 L 95, Supplement A, p. 2854) is worded as follows:

'…

2. Applicants for courses of study who are EU or EEA [European Economic Area] citizens and their family members may receive education assistance for courses of study in Denmark and abroad under the conditions laid down in EU law and the EEA Agreement. EU citizens and EEA citizens who are not workers or self employed persons in Denmark and their family members shall be entitled to education assistance only after five years' continuous residence in Denmark …

…

4. The Minister for Education may adopt rules governing non-Danish citizens' entitlement to [education assistance] for education in Denmark and abroad.'

9 Paragraph 2a(2) of Consolidated Law No 661 was implemented by paragraph 67 of Regulation No 455 of 8 June 2009 on State education assistance (Bekendtgørelse nr. 455 af 8. juni 2009 om statens uddannelsesstøtte). Paragraph 67 reads as follows:

'An EU citizen who is a worker or self-employed person in Denmark under EU law may be granted assistance for education in Denmark or abroad on the same terms as a Danish citizen. A worker or self-employed person under [European Union] law shall also be deemed to include an EU citizen who was previously a worker or self-employed person in Denmark, where there is a substantive and temporal connection between the education and the previous work in Denmark, or an involuntarily unemployed person who, due to health reasons or structural causes on the labour market requires retraining for the purpose of employment in a field which does not have a substantive and temporal connection with the previous work in Denmark.'

10 Under paragraph 3 of Regulation No 474 of 12 May 2011 on residence in Denmark for non-Danish citizens covered by the European Union rules (EU residence law) (Bekendtgørelse nr. 474 af 12. maj 2011 om ophold i Danmark for udlændinge, der er omfattet af Den Europæiske Unions regler (EU-opholdsbekendtgørelsen)):

'1. An EU citizen who is a worker or self-employed person, including service provider, in Denmark, shall have a right of residence for more than the three months provided for in § 2(1) of the Aliens Act (udlændingeloven);

2. An EU citizen who was previously covered by subparagraph (1) but is no longer in active employment retains his or her status as worker or self-employed person,

(1) if the EU citizen is temporarily unemployed due to illness or accident;

(2) if the EU citizen is involuntarily unemployed after having been in paid employment or a self-employed person for over one year, duly recorded, and has registered at an employment office as a job-seeker;

(3) if the EU citizen is involuntarily unemployed after the expiry of a fixed-term employment contract of less than one year's duration, duly recorded, and has registered at an employment office as a job-seeker;

(4) if the EU citizen, in the course of the first 12 months has lost his or her employment involuntarily or is no longer a self-employed person, duly recorded, and has registered at an employment office as a job-seeker; or

(5) if the EU citizen either commences a course of vocational training connected to that person's previous employment or is involuntarily unemployed and commences any type of vocational training.

3. An EU citizen covered by subparagraph 2(3) or (4) shall retain his or her status as worker or self-employed person for six months.

4. An EU citizen who has entered the country to seek employment shall have a right of residence as a job-seeker for up to six months from the time of entering the country. After that time the person shall have a right of residence as a job-seeker in so far as it can be documented that that person is still seeking employment and has actual employment prospects.

…'

The dispute in the main proceedings and the question referred for a preliminary ruling

11 Mr N., a European Union citizen whose nationality is not indicated by the national court, entered Denmark on 6 June 2009.

12 On 10 June 2009 Mr N. was offered full-time employment in an international wholesale firm.

13 On 29 June 2009, the regional government administration issued a certificate of registration to him as a worker on the basis of paragraph 3 of Regulation No 474.

14 The case-file indicates that Mr N. had applied to the Copenhagen Business School ('CBS') before 15 March 2009, the deadline for applications, that is, before entering Danish territory.

15 On 10 August 2009, Mr N. filed an application for education assistance from September 2009 onwards.

16 On 10 September 2009, Mr N. began his studies at the CBS. Mr N. then resigned from his employment with the international wholesale firm, but then carried on other part-time employment.

17 On 27 October 2009, the VUS informed Mr N. that it had rejected his application for education assistance.

18 On 30 October 2009, Mr N. filed a complaint against that decision with the Ankenævnet for Statens Uddannelsesstøtte (Appeals Tribunal, the Danish Students' Grants and Loans Scheme), arguing that he had the status of 'worker' within the meaning of Article 45 TFEU and was entitled to education assistance.

19 On 7 December 2009, the VUS requested the regional government administration to inform it as to whether Mr N. satisfied the criteria for status as a worker within the meaning of Article 45 TFEU. First, in a letter of 11 December 2009, the government administration stated that Mr N. was deemed to be a worker for the period from 29 June to 10 September 2009. Then, by letter of 12 April 2010, it changed the basis for Mr N.'s residence from that of worker to that of student, on the ground that his principal objective in coming to Denmark was to pursue a course of study.

20 By letter of 28 September 2010, the VUS referred the case to the national court. In that letter, it indicated that, in the examination of the evidence in the case, account had to be taken of the fact that Mr N. had come to Denmark for the purpose of pursuing a course of study, since he had applied to the CBS before coming to Denmark and had commenced his studies shortly thereafter. Consequently, in the VUS's view, Mr N. could not fulfil the requirements to be considered a worker.

21 On 31 August 2011 the national court contacted the VUS, asking for a review as to whether Mr N. came within the concept of 'worker' under EU law. At the same time that court requested the VUS to contact the regional public authorities for clarification on the same question. The VUS indicated that, in its view, there were no grounds to cast doubt on the regional public authorities' earlier decision on the basis for Mr N.'s residence.

22 The national court takes the view that Articles 7(1)(c) and 24(2) of Directive 2004/38 must be interpreted as meaning that a person considered to be a student is not entitled to a study grant even if he can also be classified as a 'worker'. It accords importance to the fact that Article 7(1)(c) of that directive defines a student as a person enrolled at a private or public establishment 'for the principal purpose of following a course of study'.

23 In those circumstances the Ankenævnet for Statens Uddannelsesstøtte (Appeals Tribunal, the Danish Students' Grants and Loans Scheme) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Does Article 7(1)(c), read in conjunction with Article 24(2) of the Directive 2004/38, mean that a Member State (host Member State), in the assessment of whether a person must be deemed to be a worker entitled to education assistance, may take account of the fact that the person entered the host Member State for the principal purpose of following a course of study, with the result that the host Member State is not obliged to grant education assistance aid for studies to that person (see aforementioned Article 24(2))?'

The question referred for a preliminary ruling

24 By its question, the national court asks, in essence, whether Articles 7(1)(c) and 24(2) of Directive 2004/38 must be interpreted as meaning that a European Union citizen who pursues a course of studies in a host Member State whilst at the same time being in employment may be refused maintenance aid for studies granted to the nationals of that Member State where he entered the territory of that State with the principal intention of pursuing a course of study.

25 It should be observed as a preliminary point that Article 20(1) TFEU confers on any person holding the nationality of a Member State the status of citizen of the Union.

26 Both students from Member States other than the host Member State who follow a course of study in that State and nationals of Member States having the status of 'worker' within the meaning of Article 45 TFEU have that status, provided that they hold the nationality of a Member State.

27 As the Court has held on numerous occasions, the status of citizen of the Union is destined to be the fundamental status of nationals of the Member States, enabling those among such nationals who find themselves in the same situation to receive, as regards the material scope of the FEU Treaty, the same treatment in law irrespective of their nationality, subject to such exceptions as are provided for in that regard (see, to that effect, Case C-184/99 *Grzelczyk* [2001] ECR I-6193, paragraph 31, and Case C-224/98 *D'Hoop* [2002] ECR I-6191, paragraph 28).

28 Every citizen of the Union may therefore rely on the prohibition of discrimination on grounds of nationality laid down in Article 18 TFEU, provided for in other Treaty provisions and in Article 24 of Directive 2004/38, in all situations falling within the scope *ratione materiae* of European Union law. Those situations include the exercise of the fundamental freedoms conferred by inter alia Article 45 TFEU and those relating to the exercise of the freedom conferred by Article 21 TFEU to move and reside within the territory of the Member States (see, inter alia, Case C-85/96 *Martínez Sala* [1998] ECR I-2691, paragraph 63; *Grzelczyk*, paragraphs 32 and 33; Case C-209/03 *Bidar* [2005] ECR I-2119, paragraphs 32 and 33; and Case C-75/11 *Commission* v *Austria* [2012] ECR, paragraph 39).

29 There is no provision of the Treaty to suggest that when students who are citizens of the Union move to another Member State to study there, they lose the rights which the Treaty confers on citizens of the Union, including the rights conferred on those citizens when they are in employment in the host Member State (see, to that effect, *Grzelczyk*, paragraph 35, and *Bidar*, paragraph 34).

30 It follows that a citizen of the Union who is studying in a host Member State or is in employment in that State and holds the status of 'worker' within the meaning of Article 45 TFEU may rely on the right, enshrined in Articles 18 TFEU, 21 TFEU and/or 45 TFEU, to move and reside freely within the territory of the host Member State, without being subject to direct or indirect discrimination on grounds of his nationality.

31 Both the Danish and the Norwegian Governments contend, however, that Articles 7(1)(c) and 24(2) of Directive 2004/38, read together, must be interpreted as meaning that a citizen of the Union who studies full-time in a host Member State and who entered the territory of that Member State for that purpose may be refused maintenance aid for studies for the first five years he is resident in the country, even if he is in part-time employment alongside his studies.

32 It should be borne in mind in that regard that Article 24(2) of Directive 2004/38 provides that the host Member State is not obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.

33 As a derogation from the principle of equal treatment provided for in Article 18 TFEU, of which Article 24(1) of Directive 2004/38 is merely a specific expression, Article 24(2) must, according to the Court's case-law, be interpreted narrowly and in accordance with the provisions of the Treaty, including those relating to citizenship of the Union and the free movement of workers (see, to that effect, Joined Cases C-22/08 and C-23/08 *Vatsouras and Koupatantze* [2009] ECR I-4585, paragraph 44, and Case C-75/11 *Commission* v *Austria*, paragraphs 54 and 56).

34 According to the information provided to the Court, the aid for which Mr N. applied is maintenance aid in the form of a study grant. It may therefore come within the derogation from the principle of equal treatment provided for in Article 24(2) of Directive 2004/38.

35 However, as is readily evident from the wording of that provision, that derogation may not be applied as against persons having acquired a right of permanent residence or to 'workers, self-employed persons, persons who retain such status and members of their families'.

36 Although Article 7(1)(c) of Directive 2004/38 does provide that a Union citizen is to have the right of residence on the territory of another Member State for a period of longer than three months if he is enrolled at a 'private or public establishment' within the meaning of that provision 'for the principal purpose of following a course of study', it does not however follow from that provision that a citizen of the Union who fulfils those conditions is thereby automatically precluded from having the status of 'worker' within the meaning of Article 45 TFEU.

37 The order for reference and the observations submitted to the Court indicate that Mr N. was in full-time employment from the time he arrived in the territory of the host Member State and that, once he began his studies, he was in part-time employment.

38 The case-file also indicates that he was refused maintenance aid for studies on the ground that he entered the territory of Denmark with the principal intention of following a course of study, the purpose of his residence in Denmark being, according to the competent national authorities, such as to preclude him from having the status of 'worker' within the meaning of Article 45 TFEU.

39 It is settled case-law, however, that the concept of 'worker' within the meaning of Article 45 TFEU has an autonomous meaning specific to European Union law and must not be interpreted narrowly (see, to that effect, inter alia Case 66/85 *Lawrie-Blum* [1986] ECR 2121, paragraph 16; Case 197/86 *Brown* [1988] ECR 3205, paragraph 21; Case C-3/90 *Bernini* [1992] ECR I-1071, paragraph 14; and Case C-413/01 *Ninni-Orasche* [2003] ECR I-13187, paragraph 23).

40 Moreover, that concept must be defined in accordance with objective criteria which distinguish the employment relationship by reference to the rights and duties of the persons concerned. The essential feature of an employment relationship is 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 (see *Lawrie-Blum*, paragraph 17; *Ninni-Orasche*, paragraph 24; and also *Vatsouras and Kouptantze*, paragraph 26).

41 The low level of or origin of the resources for that remuneration, the rather low productivity of the person concerned, or the fact that he works only a small number of hours per week do not preclude that person from being recognised as a 'worker' within the meaning of Article 45 TFEU (see, to that effect, *Lawrie-Blum*, paragraph 21; Case 344/87 *Bettray* [1989] ECR 1621, paragraph 15; and *Bernini*, paragraph 16).

42 In order to qualify as a 'worker', the person concerned must nevertheless pursue effective and genuine activities which are not on such a small scale as to be regarded as purely marginal and ancillary (see, inter alia, Case 53/81 *Levin* [1982] ECR 1035, paragraph 17, and *Vatsouras and Kouptantze*, paragraph 26 and the case-law cited).

43 In investigating whether a specific case involves effective and genuine employment, the national court must base itself on objective criteria and make a comprehensive assessment of all the circumstances of the case that have to do with the activities and the employment relationship concerned (*Ninni-Orasche*, paragraph 27).

44 It is for the national court to conduct an analysis of all the aspects which characterise an employment relationship for the purpose of determining whether the employment activities pursued by Mr N. before and after he began his studies were effective and genuine in nature and, therefore, such as to confer the status of worker on him. That court alone has direct knowledge of the facts of the main proceedings and the aspects characterising the employment relationship of the applicant in the main proceedings and is accordingly the best placed to make the necessary findings.

45 As there is nothing in the order for reference to cast doubt on the fact that the employment relationship between Mr N. and his employers had the features of an employment relationship as outlined in paragraph 40 above, it is for the national court to make sure inter alia that the employment activities of the applicant in the main proceedings are not on such a small scale as to be regarded as purely marginal and ancillary.

46 As regards the argument put forward by the Danish and Norwegian Governments to the effect that the intention the applicant in the main proceedings had when he entered Danish territory to follow a course of study precludes him from having the status of 'worker' within the meaning of Article 45 TFEU, it should be remembered that, in order to assess whether employment is capable of conferring the status of worker within the meaning of Article 45 TFEU, factors relating to the conduct of the person concerned before and after the period of employment are not relevant in establishing the status of worker within the meaning of that article. Such factors are not in any way related to the objective criteria referred to in the case-law referred to in paragraph 40 of this judgment (*Ninni-Orasche*, paragraph 28).

47 It should be noted that the definition of the concept of 'worker' within the meaning of Article 45 TFEU expresses the requirement, which is inherent in the very principle of the free movement of workers, that the advantages conferred by European Union law under that freedom may be relied on only by people genuinely pursuing or genuinely wishing to pursue employment activities. It does not mean, however, that the enjoyment of that freedom may be made contingent on which objectives are being pursued by a national of a Member State in applying to enter the territory of a host Member State, provided that he pursues or wishes to pursue effective and genuine employment activities. Once that condition is satisfied, the motives which may have prompted a worker of a Member State to seek employment in another Member State are of no account and must not be taken into consideration (see, to that effect, *Levin*, paragraphs 21 and 22, and Case C-109/01 *Akrich* [2003] ECR I-9607, paragraph 55).

48 Should the national court decide that Mr N. must be considered a 'worker' within the meaning of Article 45 TFEU, it is clear that a refusal to grant that citizen of the Union maintenance aid for studies infringes his right to equal treatment which he enjoys in his capacity as worker.

49 Under Article 7(2) of Regulation No 1612/68, a citizen of the Union who has exercised his right of free movement of workers guaranteed by Article 45 TFEU enjoys, in the host Member State, the same social benefits as national workers.

50 Moreover, the Court has held previously that maintenance aid for studies constitutes a social advantage within the meaning of Article 7(2) of Regulation No 1612/68 (see Case 39/86 *Lair* [1988] ECR 3161, paragraphs 23 and 24, and *Bernini*, paragraph 23).

51 In the light of the foregoing, the answer to the question referred is that Articles 7(1)(c) and 24(2) of Directive 2004/38 must be interpreted as meaning that a European Union citizen who pursues a course of studies in a host Member State whilst at the same time pursuing effective and genuine employment activities such as to confer on him the status of 'worker' within the meaning of Article 45 TFEU may not be refused maintenance aid for studies which is granted to the nationals of that Member State. It is for the national court to make the necessary findings of fact in order to ascertain whether the employment activities of the applicant in the main proceedings are sufficient to confer that status on him. The fact that the person entered the territory of the host Member State with the principal intention of pursuing a course of study is not relevant for determining whether he is a 'worker' within the meaning of Article 45 TFEU and, accordingly, whether he is entitled to that aid under the same terms as a national of the host Member State under Article 7(2) of Regulation No 1612/68.

Costs

52 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Articles 7(1)(c) and 24(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that a European Union citizen who pursues a course of studies in a host Member State whilst at the same time pursuing effective and genuine employment activities such as to confer on him the status of 'worker' within the meaning of Article 45 TFEU may not be refused maintenance aid for studies which is granted to the nationals of that Member State. It is for the national court to make the necessary findings of fact in order to ascertain whether the employment activities of the applicant in the main proceedings are sufficient to confer that status on him. The fact that the person entered the territory of the host Member State with the principal intention of pursuing a course of study is not relevant for determining whether he is a 'worker' within the meaning of Article 45 TFEU and, accordingly, whether he is entitled to that aid under the same terms as a national of the host Member State under Article 7(2) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community

[Signatures]