Notes of the second meeting of the Portability of Grants and Loans Working Group, Glasgow 7- 8 September 2006

Those present:

Austria: Hermann Holubutz; Eduard Galler.
Bologna Secretariat: Ann McVie; Louis Ripley (notes).
Denmark: Hanna Dam; Mia Wallin.
England: Janet Coatsworth.
ESIB: Nina Gustafsson Åberg.
Finland: Leena Koskinen
Germany: Andrea Schepers; Daniela Ehlbeck.
Ireland: Pat Dowling; Eilish Bergen.
Lithuania: Jelena Kasjanova
Norway: Ida Andrén; Hildrum Tyldem.
Romania: Ion Ciuca; Radu Damian.
Scotland: Kathleen Robertson; Carolynne Wilson; Claire Neads.
Sweden: Linda Norman Torvang.
The Netherlands: Aldrik in 't Hout (Chair); Annelise Sprenger; Matyi Tegzess.

Day 1

1.   Welcome and introductions

The Chair welcomed everyone and provided an outline of the agenda and the suggested aims of the meeting.It would mark the completion of Phase 1 which had focussed primarily on data gathering and assessment and the beginning of Phase 2 in which agreed recommendations would be taken forward.

He asked members to consider where the work of the group was going, particularly in relation to the drafting of the London Communiqué as there would be an open discussion on this, (including how all the working groups would input into the drafting process) at BFUG9 on 12-13 October in Helsinki. Ann McVie of the Bologna Secretariat would be providing an update on the London Communiqué later in the meeting.

The Chair explained that the Netherlands expected to implement full Portability in 2007. Experiences gained would be shared with other Bologna countries

2.   Sub-groups – finalise work Phase 1

The meeting then broke into the three Phase 1 sub groups for the rest of the day to finalise their work during this period and to prepare short presentations to the main group the following day.

Day 2

3.   Fifteen minute presentations from sub groups followed by discussions on how to take results forward.

Prior to the presentations, the Chair asked the main group to consider several factors in relation to the following discussions:

- What had been done?
- What can we share?
- What can we conclude?
- How do we proceed?

EU Law - Presentation (Aldrik in t'Hout)

During the presentation the following points were made:

The sub group had given particularly consideration to the entitlement of a student to support from the host state when going to a particular kind of state.

The sub group had considered the following kinds of state:

- EU members.
- EU members with exceptions.
- EU candidates.
- Switzerland.
- Other states.

It became clear that there is still a lot of room for states to deny incoming students financial support. Residency requirements limit the entitlement of incoming students effectively.
Several of the findings of the sub group had concurred with the findings of the Commission's 'expert' group, particularly as the autonomy of some member states made intervention by the Commission inappropriate. There was also doubt as to whether there were legal instruments in place for this. This led to the conclusion that EU Law was somewhat neutral in terms of portability.

This might change: at the moment two cases are pending before the EU-court of justice, Morgan and Bucher, C-11/06 & C-12/06. In a nutshell, the court will have to answer if students have a right to portability of their student support when they are using their right to move freely within the EU.

Furthermore, two non EU instruments, from the Council of Europe were identified: 'The European Social Charter' and the 'European Agreement on Payment of Scholarships for Students Studying Abroad.' Neither of these agreements were directly relevant but the second one could arguably be considered a step forward in terms of portability comparing to a situation of non-portability.

In summary the EU Law sub group considered that:

- The relative neutrality of EU Law makes it possible for states to provide portable support.
- Some incoming students have rights to student support from the hosting country, but residency requirements limit the possibility to use the support effectively. However, double funding might occur and needs to be addressed.
- The final report should include an Appendix with EU Directives/Agreements and analyses.

In discussion the following points were raised:

Germany

The principles of EU Law regarding migrant workers could be problematic for some countries, particularly if the parents were seasonal workers and their children did not go to the host country. At present short term migrant workers (for example 2 months duration) in Germany would be refused support, but was this compatible with EU Law.

Ideally, it would be helpful to achieve a consensus in terms of migrant worker residency policy.

Matyi Tegzess would check at the Netherlands Ministry to see if he could find any advice on current / proposed practice regarding the issue on migrant workers Germany had raised.

The Netherlands

The Chair said that the short term example given by Germany was probably compatible with EU Law, but migrant workers did have potentially strong claims and were liable to be the most likely cause of double funding. Robust residency requirements would be the best way to manage this. In countries that already have portability this seemed not to be a major issue, although residency requirements are in place in those countries.

Migrant workers deserve equal treatment. In the Netherlands, according to Directive 2004/38, there is also a follow on period of potential eligibility after the period of employment has ended in certain cases. There is a difference between seasonal workers and migrant workers although one could become another.

It is difficult to predict how the EU-court of justice will rule on the residency requirements, although they seem in accordance with the Bidar ruling. However, making a firm national statement in favour of residency requirements that are neither ridiculous nor impossible to achieve seems a sensible approach. These residency requirements should be applicable to nationals and incoming EU-citizens alike.

Scotland

In Scotland migrant workers are expected to be resident in the EEA, not in the UK. The children of short term migrant workers would however find it difficult to enrol on courses. Only the evidence which was correct at the time of application is used, not anticipated working periods. Perhaps there might be a case for separate portability rules for migrant workers.

England

Residency requirements were exacting in England but were achievable in that migrant workers could potentially be eligible for student support. A migrant worker's child not in England however, would not be eligible.

Ireland

It was suggested that perhaps a principle of a 'reasonable period of work' might be a better way of managing the issue. Unlike the UK, residency in the EU or EEA did not meet Ireland's requirements.

Portability had significant consequences for social security systems. For example Polish workers in Ireland were claiming family support for their children even though the children had never been resident in Ireland.

It was only when a country put a portable system in place that the consequences started to become apparent.

Norway

Norway reported that they had a test case going ongoing at present and unlike Bidar, workers had far greater rights than students.

Denmark

It was difficult to say how the Iceland – Norway case would work out. The case had nothing to do with portability but was really about equality of entitlement.
Many Danes had gone to other countries with cheaper tax systems. This had led to changes being made in terms of residency where they had to be in residence for two years. So the residence requirement was installed to limit access for Danish nationals.

It was agreed that:

The sub group had not found any (test) cases within EU Law which prevented the promotion of portability.

In response to an enquiry from Ireland on whether types of support might be differentiated in terms of portability, (ie more rigorous requirements for access

to certain portability grants) the Chair said that this did not seem unreasonable and no cases had dictated this. This could however, be an important element in the Morgan and Bucher cases. The current test case might rule that portability is a requirement within the EU.

Portability presents the issue of double funding in some cases.

Residence conditions were required and presumed to be in accordance of EU Law.

Descriptions - Presentation (Annelise Sprenger)

During the presentation the following point were made:

The returns had provided a substantial amount of information on different student support systems, highlighting a number of similarities and differences.

Generally colleagues participating in the exercise had been asked to classify their student support systems according to:

- Full time students, what they might be able to receive and how much.
- Part time students, what they might be able to receive and how much.
- Whether the student support system was separate to the social security system.
- What was available in terms of grants and loans at different levels of study.
- What the entitlement to grants and loans was dependant upon, for example: age; income; attendance, achievements.
- Whether the student support was means tested.
- To what extent were their systems portable and were there any restrictions.

The group had focussed upon state support, (not private) although this was not necessarily straightforward in some countries, for example Romania paid state support through universities.

For some countries, (for example Austria) indirect support to (families of) students (through the social security system) had made it more difficult for them to provide a comprehensive description of their student support systems. These indirect benefits could also have implications for portability.

The findings had revealed that there could be legal and other implications / difficulties to be dealt with, regarding the exchange of information between the home and the host countries, especially with data protection legislation in place.

In summary the descriptions group considered that:

The 'joint actions' recommended by Ministers in the Bergen Communiqué have implications in terms of:

- The facilitation of exchange of information.
- This has implications in terms of data protection; what a country is allowed to or able to give; the legal implications should be looked into.
- Whether information exchange needs to be just bi-lateral or multilateral (all of the Bologna countries) should be point of consideration.

In discussion the following points were raised:

Austria

The point was reiterated about indirect benefits, stating that countries would need to consider this in relation to their student support systems. The Chair stipulated that, whilst this was an important issue with implications for participating countries, it did not directly affect the portability of grants and loans.

Ireland

The potential withdrawal of benefits such as family allowance could be an impediment to portability.

The work of the Social Dimension and Data on Mobility Working Group might complement the work of the group in Phase 2 although it was understood that the information gathered by the former group was more statistical in nature.

It was agreed that:

In response to the suggestion that the information gathering exercise might be extended to all Bologna countries, the Chair said that whilst the information gathered would be useful, consideration would need to be given to the resources available to do this. The inventory could be used as an appendix to the working group's report. Looking at the broad range of countries represented in the working group and thus in the inventory, it seems that a sufficient amount of information is available.

It would be helpful to consult with the Social Dimension and Data on Mobility Working Group to see if their findings might complement the portability group's work.

The exchange of information was extremely important in terms of portability.

The descriptions list might be added to at a later stage.

Current Best Practice on Portability - Presentation (Kathleen Robertson)

During the presentation the following points were made:

The aims of the sub group had been to:

- Aim 1 – highlighting common factors of models that could be part of a portability 'toolkit.'
- Aim 2 – highlighting common areas of concern that could be part of a portability 'toolkit.'
- Aim 3 – highlighting any areas where further collaborative action can be taken across current and future countries offering portability, to make administration easier.

Kathleen explained that the work of the Best Practice subgroup had in some ways overlapped with the Descriptions subgroup. The main difference was that the Best Practice subgroup had not gone into the same level of detail but had focussed more upon examples of good practice.

In summary the Current Best Practice sub group had considered that:

- Highlighting of national / international level information sharing between organisations involved in portability whether government and central agency or local authority / institutional delivery model as examples of good practice.
- Highlighting of data protection laws and comparability of qualifications as these were potential issues; data protection was an issue when exchanging data on individual persons and should be more closely looked into.
- Recommending continued collaboration between Bologna countries for international exchange of information on institutions, qualifications and available funding to support the administration of portability and reduce double funding.

In discussion the following points were raised:

Norway

The Nordic countries had worked closely together and this had helped to prevent double claiming. Either bilateral or multilateral arrangements were recommended.

The Netherlands

They were developing an advanced web based system to help manage information exchange. It was recognised that data exchange and the identification of organisations that held the necessary information could be problematic. As information exchange related to public funding however, this might be a good argument for a special case to be made: regulation by law is needed, but is fairly justifiable.

Whilst all data is protected, obtaining information from non EU countries might be more problematic.

There were potential issues around: comparability of qualifications between countries and identifying awarding bodies. Also, institutions in the Netherlands were protected by privacy laws in terms of data protection.

Germany

Work was needed on data collection and a network needed to be established between states for effective gathering and exchange of information.

Romania

They pointed out that information on academic performance might also be subject to data protection. Further, some of the examples considered were based on the Nordic countries' experiences which might not be applicable elsewhere, due to the absence of specialized student support agencies.

Scotland

Much of the data in Scotland was held by institutions and due to their autonomy they were not compelled to provide information. This could make information exchange more difficult. It might help if institutions were to be involved in the consultation process.

It was agreed that:

In view of the limited time scale leading up to the London Conference it might be better for the working group to focus upon information that was relatively easy to obtain.

It was proposed that the next steps (Phase 2) might include consideration of:

- Illustrations of current models.
- Highlight recommended practice.
- Illustrate concerns.
- Recommended ways forward.

4.   Planning and organising work - Phase 2

Ann McVie of the Bologna Secretariat provided an update on the forthcoming work of the Communiqué drafting group and how the work of all of the working groups would need to feed into this. Working group reports could include recommendations for post May 2007. There would be no word limit on the reports although it would be appreciated if they were fairly concise.

The October BFUG would mark the start of serious preparation for the London conference of which the Communiqué played an important part. Discussion was likely to include the content of the Communiqué and agreement on who would be in the drafting group.

The meeting dates of the Communiqué drafting group were:

- 10 November 2006 – Berlin
- 8 December 2006 – London
- 7 March 2007 – Berlin
- 28 March 2007- Riga

Portability in the third cycle

Referring to a point raised by the EUA at BFUGB13 on 1 September, Ann asked if the working group would be looking at portability in the third cycle. After some discussion, the Chair said that although the 'Descriptions' questionnaires had indicated that there was support in some countries at third cycle it had been agreed at BFUG8 that only first and second cycles would be looked at. Kathleen thought that if a country offered support at third cycle it should make no difference to their portability. It was noted that in some countries PhDs were treated as employees. Radu Damian said that in Romania, some students at third cycle had double status and thought that Bologna should consider students at this level regardless of whether they were employed.

Members of the group from Ireland, Scotland, England and Denmark said that support at third level could be quite complex with multiple support systems and grants aimed at specific areas of research. In England there was no general support at this level.

It was suggested that Education International's February 2007 event might inform future discussion on this issue.

The Chair thought that given the available resources this was out of scope but perhaps it could be flagged up for future consideration. In addition the Social Dimension and Data on Mobility working group might have some useful input and the Eurydice survey had included questions on third level support.

Planning and organising Phase 2 (continued)

Summary of 2nd Meeting – Following discussion it was agreed that:

Phase 2, (from September 2006 to January 2007) would be carried out as described in the Current Best Practice sub group proposal.

As the information gathering stage for the working group had been completed in Phase 1, a smaller task force would now take forward the formulation of an outline report. This was intended to provide recommendations and guidance for Ministers. More specifically the guidance would provide advice on joint actions and examples of good practice and what issues / barriers they would need to consider should a country decide to implement portability. The guidance would also provide advice on how countries could facilitate other countries' portability, even though the country itself was not yet implementing portability.

Volunteers for the new sub group were:

- Aldrik in 't Hout / Matyi Tegzess / Annelise Sprenger – Netherlands
- Janet Coatsworth – England
- Kathleen Robertson – Scotland
- Radu Damian / Ion Ciuca – Romania
- Linda Norman Torvang – Sweden
- Mia Wallen / Hanna Dam - Denmark
- Nina Gustafsson-Åberg / Koen Geven – ESIB

The joint actions at this point should be ambitious but at the same time they needed to be realistic and not focus too closely on detail. The working group concluded that this implied that, based on the gathered information, for now, the most important facilitation of data exchange should be related to:

- avoiding double claims;
- obtaining information about national institutions that recognise higher education institutions;
- creating a list of relevant student support organisations / contact persons in each country;

It was not feasible to provide a set model (toolkit) that would fit all Bologna countries but would rather offer generic examples.
In the process of writing up the report, the working group as a whole would still be consulted. If necessary, the task force might meet around November. The next meeting of the full group would take place in mid January, in Berlin, Germany. A draft report would be presented at BFUGB14, 23 January 2007 Berlin for discussion at BFUG10 5-6 March 2007.

The outcome of the Working group should be represented in the (draft) London Communiqué.

The Chair asked the members of the working group to update their national BFUG counterparts on the progress of the group.