



Master Thesis

European Studies

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The Europeanisation of Student Financial Support Systems

A Case Study of the Changes of the Dutch and German Student Financial
Support Systems

by
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Acknowledgements

This graduation report is about policy changes in the area of student financial support in Germany and The Netherlands and the European influence on those changes.

This report was written for our graduation committee, the Centre Higher Education Policy Studies (CHEPS), as for the Dutch ministry of education, culture and science (Ministerie van OCW) and everyone who is interested in the developments concerning the portability of student financial support on the European and national level of Germany and The Netherlands.

Countries, which are changing their policies in this area, have, most of the time, one common goal, increasing the mobility of their national students. This is important for their language knowledge and to get to know foreign cultures. Those two experiences of student mobility are important in times of Globalisation and European Integration. I am myself a mobile student.

Especially during the writing of my Master thesis, I could make those two experiences. This graduation report was written during an internship at the department of student financial support (SF) of the Ministerie van OCW. During this time I learned a lot about international and national policy-making, which is still of great value for me. Furthermore, I could get to know not only the Dutch working culture, but also the Dutch culture in general. Overall I can say that I only did profit from this six months at the Ministerie van OCW, where I was very welcome, for what I want to thank everyone I met and worked with at the Ministerie van OCW. Of course, I want to thank my supervisor Prof. Dr. Hans Vossensteyn, who made this experience possible by arranging this great internship for me and, furthermore he was a great guide through writing this graduation report. Secondly I want to thank Aldrik in 't Hout who taught me a great deal of everyday policy-making in The Netherlands and internationally. Of course, I want to thank Prof. Dr. Ramses Wessel whose lectures on European Law inspired me to write a thesis that includes European Law and European Integration.

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Abstract

This report describes the research of how much influence the EU has on national policy-making in the area of student financial support.

Officially, the EU has no influence on policies, which have to do with education. However, there are some European processes in the area of education, which have a high influence on the national states in Europe. Meant are the Bologna Process and the indirect influence of the EU through ECJ Case law. At a first glance those two have not a lot in common, one a pure intergovernmental process and the other a more supranational institution. However those are two the main sources of Europeanisation of the Dutch and the Germany policy-making system in the area of student financial support. Student financial support is a matter of the national state and the EU has no legitimating to interfere on Member States policies in this policy-area. That is one reason why the harmonisation and thereby creation of the European higher education area has its main sources at the Bologna Process. However does the EU still influence on higher education policies of the EU Member States and thereby as well on student financial support policies. This influence is mainly indirect, through supporting the Bologna Process with infrastructure, information and financial support. Furthermore, the rulings of the European Court of Justice (ECJ) force Member States to adjust their laws and slowly policy-structures in the higher education sector.

The Bologna Process and the EU change the face of the national and European higher education area. The question is, if those changes are coming from top-down, so the national level or bottom up from the supranational area, the EU level. This will be examined on the two case studies of the changes of the student financial support systems of Germany and The Netherlands. Those two countries just recently made their student financial support portable for a long-term, in 2007. If they acted under the influence of European processes or if national reasons were crucial for the decision making process in those two countries, will be the main subject of this report.

As conclusions to the research it can be said, that the countries of the two cases studies have been under the influence of European processes and supranational institutions. This influence was mostly indirect; however strong enough to cause the change to the policy-making structures in the area of student financial support systems in Germany and The Netherlands. If those changes only appeared, because policy-makers have been europeanised cannot be answered by this research. Therefore, more research has to be done.

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Abbreviations

AföRG: Ausbildungsförderungsreformgesetz
BAföG: Bundesausbildungsförderungsgesetze
BFUG: Bologna Follow up Group
Bmbf: Bundes Ministerium für Bildung und Forschung
CDU: Christdemokratische Union
CHEPS: Center for higher education policy studies
DSW: Deutsche Studentewerk
ECTS: European Credit Transfer and Accumulation System
ECJ: European Court of Justice
EC: European Community
ECSC: European Coal and Steel Community
EEC: European Economic Community
EFTA: European Free Trade Association
EMS: European Monetary System
ENQA: Quality Assurance in Higher Education
EPC: European Political Cooperation
ERM: Exchange Rate Mechanism
EU: European Union
EUA: European University Association
EURASHE: European Association of Institutions in Higher Education
HRK: Hochschulrektorenkonferenz
ISO: Interstedelijk Studenten Overleg
NUFFIC: Netherlands Organisation for International Cooperation in Higher Education
OMC: Open method of coordination
OCW: Onderwijs Cultuur en Wetenschap
SEA: Single European Act
SFB: Studiefinancierings Beheer
SPD: Sozialdemokratische Partei Deutschland
TEU: Treaty of Maastricht
UNESCO-CEPES: European Centre for Higher Education/Centre Européen pour l'Enseignement Supérieur
VSNU: Vereniging van Universiteiten
WSF: Wet Studiefinanciering

1 Introduction

This research is dealing with the following subjects, Europe, education and the increasing integration of those two subjects in the last ten years.

Education is the concern of national states. It is unique in every national state, it is the source of culture, it teaches national history and the language. For that reason, education is one important source of the identity of a national state. For example, countries are famous for their philosophers and writers; others are proud of their well known universities or countries are head with the development of new technologies. This is one reason why education is matter of the Member States of the European Union (EU), because education is a too important part of a nation's culture identity. However since the last years education has become more and more Europeanised.

Education is and has been on the European agenda for almost 10 years now. In the Lisbon strategy of the EU, education plays a crucial role in order to reach the goal of making Europe *"the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment by 2010"*¹. This 'deadline' of 2010 was set for one of the most important processes on education in Europe, the Bologna Process too. To this process, the education ministers of the Member States committed themselves to up-date the European higher education area. Inside of this process, many changes of the higher educations area of Europe are created and accomplished.

Both strategies, the Lisbon en the Bologna processes have one thing in common, they want to create more student mobility in Europe in order to create more internationalization in Europe. One of the biggest obstacles of student mobility is the financial support for students who study abroad. In order to support student mobility, the EU introduced grants for mobile students, however those grants, like the Erasmus grant are not sufficient enough to support all mobile students or those who want to become mobile. At the one hand European national states are mostly supporting their students or parents of students. However, this support is mostly restricted to studies at national higher education institutions or only for a short time portable to foreign university. EU-citizens claimed their right before the European Court of Justice (ECJ) to receive student financial support paid for studies abroad by the home country or host country. At the other hand, those cases already forced many EU Member States to change their rules on student financial support. In order to make portability of grants and loans possible in more nations in Europe, inside the Bologna Process a network has been established. This Expert Network on portability of grants and loans discusses obstacles to portability of grants and loans tries to solve those problems. However, this network is still in its beginning and has not accomplished anything yet. It is not easy to see why Germany and the Netherlands made the change in their student financial systems and made their grants and loans long-term portable to foreign higher education institutions. Is one reason the pressure of ECJ case law? Or is the work in the Bologna Process a reason? That is what this research is trying to find out: The role of Europe in this whole process. However, it is difficult to explain what effects the European Integration process actually has on Europe and its countries.

As a student of the study program European Studies, you are dealing with the development of the European Integration process. The European Integration process changed

¹ Lisbon strategy, 2000

its face many times. Many theories have been developed in order to get a grasp of why European Integration developed and what it is. However, it seems like the EU has been changing too quickly for scholars, because there is after 60 years of European Integration, no theory which can explain the developments of this unique process. While the European Community (EC) became the EU the tasks of this supranational powers changed and its influence on the Member States. When studying European Integration one can see how policies of the EU Member States are harmonised. One result is convergence of policies inside Europe. Everything started with the harmonisation of the internal European Market. Workers were allowed to move freely inside the EU and work in every Member State. After a short time it was recognised that a pure economic harmonisation needed further harmonisation and altering of social policies. In this time (1980s) the Social Charter of workers was created, where EU-workers received more social rights in EU Member States. The rights of families of workers were widened. Children of migrated workers that were nationals of another EU state, have the same rights in a host-country, as nationals. Furthermore, the EU-Citizenship was introduced in 1993; the Schengen declaration abolished all border controls and people could not be discriminated because of their nationality inside of the EU as EU-citizens. One might come to the conclusion that the European Integration process changed from a purely economic process to a more general and highly complex process, which is indirectly altering beliefs and systems of national actors. Most interesting are these areas where the EU officially has no legislation power, because it looks like that the Europe Integration process does not stop where the EU's power ends. This is very interesting; however, it is very hard to measure too. Nevertheless this research will try to find out if the power of the EU actually stops where it officially should or not in our two case countries: The Netherlands and Germany, which changed their higher education law on portable study financing. The question is why they did so and why now? In this research, those two policy processes in Germany and in the Netherlands will be analysed in order to find out the answer to the following main research question.

1.1 Main Research Question

How can the portability of grants and loans in The Netherlands and Germany be understood in the framework of Europeanisation?

Why study governments in the EU? That is one question Van Keulen (2006) is asking in the beginning of her book. She wants to find out if the Dutch Government shapes European Union policy. This question can be answered with the statement, that Member States matter, as Van Keulen (2006) phrases it. Even though this statement is generally not contested, the focus on Member States of the EU is more and more subject of academic debate. It is an area, which has been poorly understood until now. One reason for this is, that European Integration is broadening and widening more and more and the general grand integration theories did not give tools to describe the feedback processes to it². That is why the theory of Europeanisation developed, which is looking at the reactions or feedback of European countries to the power of the EU. The developments in our two case studies are no result of European Integration, because there was no direct influence of the EU on Germany or The Netherlands. Both acted autonomously from the EU. The question is why they changed it, if they have been Europeanised and if the whole process of European Integration created Europeanisation in

²See also Van Keulen, M. 2006, p 3

those two countries. The framework of Europeanisation can give us the tools to understand the policy changes in Germany and The Netherlands. However, before we can use those tools we have to 1. define our tools 2. define our research subject. This will be done through answering the sub-questions.

1.2 Sub questions

To be able to answer this research question the following sub-questions have to be answered:

1. What theoretical perspective can help understand Europeanisation and give a theoretical framework to this research?

This study tries to find out if the German and the Dutch student financial support systems is Europeanised. In more specific the question is important if policymakers in the area of student financial support are influenced by the EU, even though the EU has no legislative power in this policy area. Therefore, we need a theoretical framework to 'measure' the level Europeanisation in both policy-making systems. For this task, the theory of Europeanisation is ideal. As it will be lined out, Europeanisation theory looks exactly at the level of national policy-making and their reactions on the actions on the EU level.

2. What is portable student financial support?

Portable student financial support is the one indicator we use to see the level of Europeanisation in German and Dutch policy-making on student financial support policies. It is a concept of student financial support which increases mobility of students in Europe or all over the world. The question is if our two example countries chose to change their grants and loans system, because they are Europeanised? Before we can answer this question we have to understand how portable student financial support is organised. This will be done in this part. There are differences if grants and loans are given to the student (direct financial support) or subsidies to the parents (indirect support). Furthermore portability of grants and loans can be organised in different ways: Long-term or short-term.

3. How did portable student financial support policies develop?

This question helps to analyse our case studies better. If we identify the most important Europeanisation processes in the area of policy-making on student financial support, we can look what actual impact they have on Germany and The Netherlands. The most important sources or processes of Europeanisation are of course coming from the EU, especially EU Law. Secondly, the Bologna Process influences student financial support policies in Europe too.

4. Why did The Netherlands and Germany change their student financial support systems?

In this part we will use the theoretical framework and the knowledge we got through the chapters before. We try to find out what made The Netherlands and Germany make their student financial support portable for a long-term. Furthermore interviews with policy-makers and important stakeholders in this policy area will be analysed to answer this question.

5. What could be a future perspective?

The future perspective of the portability of grants and loans is an important one, because if the German and the Dutch examples are only exemptions in Europe we can not talk about an effect of Europeanisation. It would be not logical if Europeanisation only

occurred in the two countries. And on the other hand the Europeanisation processes have just occurred for a short time and seems to have stopped now.

1.3 Methods of Research

As the study has the aim to find out the level of Europeanisation of policy-making in student financial support systems of Germany and The Netherlands a mix of methods has been used. Firstly a desk research was done mainly on literature, especially on the theoretical framework. Law texts were an important source for information too, for example old and recent laws on student financial support of Germany and The Netherlands. Primary and Secondary sources of EU Law were used too. Furthermore the Communiqués of the Bologna Process and the reports of the Bologna Follow-Up Group (BFUG) contributed to this, as well. Secondly we received information through interviews with policy-maker and stakeholders in the area in both countries. Those interviews were done face to face. The interviews were all held in a similar way. In order not to ask useless questions, about topics the person does not deal with at all, the interviews had to be adapted to the function of the interviewed expert. Thirdly information of the websites of the two governments was used, as well as studies of Centre for Higher Education Policy Studies (CHEPS) and Centre for higher education development (CHE), which already had done research on higher education policies in Europe.

1.4 Structure

This research wants to explore if the changes of the student financial support systems in The Netherlands and Germany were a result of what is called Europeanisation. Europeanisation is an integration process, which alters beliefs and structures of policy-makers and stakeholder in Europe. This process of integration or change is called Europeanisation. Europeanisation is a quite new perspective and discussed controversially. It is quite complex to explain what Europeanisation exactly is. In order to understand what Europeanisation is we will show where it comes from and which theory can be used to explore in this research.

Europeanisation developed from European Integration. European Integration is the process of the development and growth of the EC. This unique process of European Integration has been tried to be explained in several theories, European Integration theories. Europeanisation has the focus on the variable or the effect of European Integration which impacts upon the national governments. Europeanisation theory says that European Integration has the effect of Europeanisation. This means influencing processes, structures and beliefs of policy-maker and policy-making. Europeanisation is an outcome or a forgotten dimension of European Integration³. Forgotten dimension means, that European Integration is looking at one dimension, the EU-dimension and the processes there. Next to the EU-dimension a second one developed, as result of outcomes and influences of the first dimension, this dimension is Europeanisation. Thus if we want to be able to understand Europeanisation and its means, we have to go into the depth of past and present European Integration and its theories. European Integration theories analyse European Integration. European Integration theories have been trying to explain the phenomena of the growing supranational and intergovernmental powers of the EU for longer than half a century. There has not been one theory that was able to explain European Integration, because it has been changing a lot in different ways.

³ Jachtenfuchs and Kohler-Koch, 2004, in Van Keulen, M. 2006, p. 40

To sum this up, to get to explore if the Dutch and the German student financial support systems have been changed because of Europeanisation, we firstly have to understand how Europeanisation developed, which means we have to go to its roots. Those roots are in European Integration. In order to understand them we have to give an overview of what European Integration is. If we see what Europeanisation is, we need a theoretical framework in which we can examine the two cases of Germany and The Netherlands on Europeanisation. Understanding what European Integration theories try to explain, can help understand the theory which tries to explain Europeanisation, the Europeanisation theory. That is why this theoretical part of this research is structured as the following:

- Chapter 2: We will give a quick historical overview of European Integration. How it started and developed.
- Chapter 3: European Integration theories of the past and the present will be lined out. Which theories did scholars use in the past to understand European Integration in a theoretical framework and which theories are currently used?
- Chapter 4: The focus will be on the theory of Europeanisation, which we are using in this research as theoretical framework. The focus will be on how it developed out of European Integration theories, the main ideas, discussions and matters Europeanisation is dealing with. In the last section of this chapter, the use of Europeanisation in the matter of portability of student financial support will be dealt with. It will be outlined why Europeanisation theory is used to describe this case study.
- Chapter 5: After the theoretical framework is settled, we will have to define the exact subject of this research: portability of student financial support. There are different kinds of support, the most convenient are: Long-term support, short-term support, direct and indirect support, grants and loans. In chapter 5 will explain the differences of those student financial support tools and which are subject to this research. This research will concentrate on long-term portable student financial support, because this kind of support is relatively rare.
- In chapter 6, we will give two examples of possible tools of Europeanisation of structures of policy-making in student financial support systems, the EU Law and the Bologna Process. EU Law clearly is part of European Integration. However, it has direct influence on the Member States of the EU as well on the higher education sector of its Member States. Its influence is growing and spreading. We will show the most important cases of the ECJ to portable student financial systems. The Bologna Process is no EU process. Nevertheless, the influence of the EU, especially of the European Commission grew in this process and became quite big. We will show in chapter 6 how the Bologna process developed, what its purpose is, why it is important to portable student financial support systems and what role the EU is playing in it.
- Chapter 7: After we have defined our theoretical framework, we have defined the subjects of this research and we have defined the most important Europeanisation tools on the policy-making in the student financial support area for Germany and The Netherlands. The following sub-question is why those two countries changed their student financial support systems. This will be examined in two case studies in chapter 7, in which the student financial support systems and their past developments

in The Netherlands and Germany are explained. Furthermore, the developments of long-term portable student financial support will be lined out. Then a partial analysis of the past developments will be made, in which we will try to find out why those two countries changed their laws on portable student financial support in 2007 and how big the influence of the two Europeanisation tools has been. This will help to explore the two case studies inside the theoretical framework of Europeanisation Theory.

- In chapter 8, the future perspective of portability of grant and loans higher education will be looked at. The main questions will be: “Is there any future to it and if yes how does it look like?” and “Will Europeanisation go on in this area?”
- Chapter 9: In the last chapter, we will come to the main research question. Are policy-makers in the field of student financial support Europeanised, which means are the student financial support systems in Germany and The Netherlands Europeanised?

2 European Integration⁴

European Integration is an important and unique process, which started over 50 years ago and is having a mayor impact on Europe. This process cannot bee seen lose from other processes

European integration is the process of political, legal, economic (and in some cases social and cultural) integration of European states, including some states that are partly in Europe. In the present day, European Integration is primarily achieved through the European Union and the Council of Europe. (Brockhaus Encyclopedia)

Box 2a

any more. As Laffan and Mazey say ‘the central of discussion is that there is no *single* dynamic of European Integration and, therefore, no single theoretical framework can encapsulate the totality of European Integration.’⁵

Those processes like Europeanisation are results, spill-overs or by-products

of European Integration. Before we can understand the result of a process we have to understand the process itself, thus if we want to understand Europeanisation, we have to understand European Integration. In order to make this process feasible we will line out its development over the years.

European Integration is the growing relationships and interdependences of the Member States of the EU, through the EU. European Integration is complex and different to other political and economic processes, which social scientists have tried to explain in the last century.

2.1 The Beginning - 1950s until 1970s⁶

In 1950 the French foreign minister Robert Schumann, French businessman and Konrad Adenauer, the first German Chancellor after World War Two developed the concept of a joint authority which should administrate the French and German coal and steel industry. At the press conference to announce the formation of the ECSC, Robert Schuman invited other European countries to join this European Community. Italy and the three Benelux countries followed this call. Italy sought more national political stability after the war and the three Benelux countries had been several time victims of the conflicts between Germany and French caused by the coal and steel resources at the border between the two big neighbour countries. In Paris, in 1952 the ECSC was founded. This was a huge political success at this time, facing the fact that those six countries had been in war for nearly fifty years.

Definition: European Integration

Was firstly (1950s-1970s) a top down economic integration process in the Member States of the EEC.

This changed to a bottom-up process, through the domination of interest groups in the 1980s and 1990s where the social rights and welfare systems were getting more important than pure economic integration. Political and social integration became a part of the term European Integration.

European Integration is often criticised for its lack of democratic legitimation, because it is not a full transparent process to those that are affected by it, the European citizens.

Box 2b

This success of the ECSC opened the way for further steps. Six years later these six countries founded the EEC in order to go a step further than with the ECSC. The goals of this community was a common policy in the agricultural sector, a common external tariff for goods coming inside the EEC, a single market, with free-movement of people, money,

⁴ This chapter is based on: Richardson, J. (2006), Pfetsch, F.R. (2001), Wessels & Weidenfeld (2002), McCormick, J. (2005)

⁵ Laffan and Mazey, in Richardson, J. ,2006, p 32

⁶ Box A: See also. Kleinman, M. 2002

services and goods. Background for this development was that it created some difficulties having common policy for coal and steel, but for other economic sectors not. Those difficulties were caused by the overlapping of other economic sectors with the two of coal and steel. Consequence of this was that the six members decided after the success to go on with integrating more economic areas. Besides the EEC the EURATOM was founded for a common market also for atomic energy through the Treaty of Rome.

The administration of the ECSC and the EEC was structured similarly: There was a quasi-executive Commission, a Council of Ministers with powers over decision-making and a Court of Justice. Which meant that it was an intergovernmental steered integration process, where the decision making power was only with the ministers of the six Member States. When the two treaties of Rome were signed, a new Parliament was founded to cover all three communities, which was named the European Parliament in 1962. Three years later, in 1965, the next big treaty, the Merger Treaty, was signed, which merged the institutions of the three communities to three common ones. This was the official birth of the European Commission, the Council of Ministers and the European Court of Justice (ECJ). The European Commission was and is functioning as an indirect agenda setter, it prepares the work of the Council. The ECJ is making sure that the national and the European laws meet the terms and the spirit of the treaties. In that time, these European laws consisted of the treaties of the EC and later more and more regulations, directives and decisions followed and became secondary sources of EU Law. Through case law and preliminary rulings, which are both overruling national law, the ECJ has become the silent power of the EU.

After a very productive and active start of the European Integration process (1945 - 1958) the Merger Treaty was the last achievement, for a while. One reason for this was the enlargement of the EEC in the 1970s, when the number of Member States of the European Community increased from six to eight. In 1973, Britain, Denmark and Ireland became members of the EEC.

2.2 Economic integration and supranational power - 1980s

The number of new members went on growing in the 1980s, with Spain, Portugal, Greece, Austria and Cyprus. However, until the middle of the 1980s no further European Integration

The Evolution of the EU

1952 Treaty of Paris
1958 Treaty of Rome
1962 Merger Treaty
1973 First Enlargement
1981 Second Enlargement
1985 Schengen
1986 Single European Act
1992 Treaty of the EU
1998 Treaty of Amsterdam
1999 The Euro
2000 Treaty of Nice
2004 Third Enlargement

Box 2c

success was accomplished. Besides the enlargement of the EC, as the EEC was called now, another main problem caused this stagnation in the European Integration process, which was accomplishing the main goal of the Treaty of Rome: the creation of the single market. The customs union was in place, but the accomplishment of free-movement of people, services and money was rather difficult. The variation of technical, quality and health standards as levels of indirect taxation in the Member States made it difficult to create the common market. It was argued that without a common currency no single market would be possible⁷. This was the beginning of a supranational discussion, because a common currency would have the consequence

of loss of power for the leaders of the Member States. Therefore, the EC would become a more political community with its own power. In the beginning of 1970s, when this

⁷ McCormick, J. 2005, p. 68

discussion started, those ideas were too radical. The European Monetary System (EMS) took the first steps in 1979, with the soft tool of the Exchange Rate Mechanism (ERM), which helped to stabilize the exchange rates. Ten years later Jacques Delors, the President of the Commission at that time, created a three-stage plan; those three steps should lead towards one common currency.

Besides the Delors Plan the Single European Act was actually the most important and successful step in the process of European Integration since the Treaty of Rome. The SEA was created in order to help the single market, which at the one hand struggled with inflation and unemployment. At the other hand, the Member States were still thinking quite nationalistic and protected their industries with non-tariff barriers, like subsidies. It was time to reach the goal of the Treaty of Rome and create a single market. The SEA, which was signed in 1986, set a deadline for the accomplishment of the single market on midnight on 31 December 1992. Therefore, many physical, fiscal and technical barriers had to be removed. The removal of one important fiscal barrier had already started through the Schengen Agreement. The agreement, which was made outside the EC, by Germany, the Benelux Countries and France, started the process of removing the border controls. Until today, all European Countries have signed this agreement except Britain and Ireland. Besides strengthening and organising the common market, social matters became important too, when in 1989 the Charter of Fundamental Social Rights Charter for Workers (Social Charter) was signed. Social matters were always a bit of a stepchild of the Community, but through building a single European market the social area of work had to be reorganised too. In the Social Charter matters concerning working cross the borders were promoted, examples are free-movement of workers, fair pay, better living and working conditions. Furthermore, the EC institutions received more power, most important points were responsibility for areas, which had not been mentioned in the Treaty of Rome, like environment, research and development; the ECJ gained more power; the meetings of the Council had a legal status now; and the EP and the Council of Ministers received more power as well. Those changes show that in this second phase of European Integration the EC became a supranational community, where the EC institutions gained and the national states gave up some power.

The Single European Act

- Creation of the world biggest market and trading unit
- EC institutions received more responsibility over new policy areas for example environment and regional policy.
- ECJ received more power and a Court of first instance to ease the workload of the ECJ
- Legal status to the meetings of the European Council were given as new powers to council of ministers and EP
- Legal status was given to the European political Cooperation
- Economic and monetary union became an EC objective

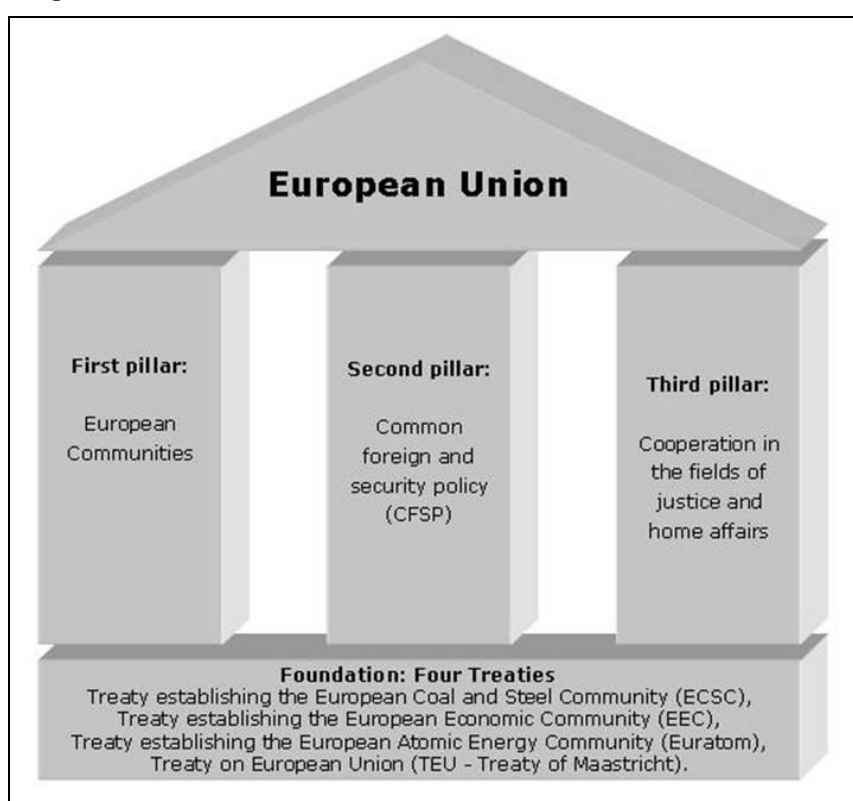
Box 2d

2.3 From European Community to European Union - 1990s until today

Besides social integration, political integration was starting as well. Examples are the European Political Cooperation (EPC), which was given legal status with the SEG and which was dealing with foreign policies. This cooperation had its successes but it did not work perfectly well, especially during the Gulf crisis in the 1990s, when Britain was taking position for its big and traditional ally, the USA and most of the other EC member did not. Then it was clear that there is no real common foreign policy. The first steps towards a closer political integration inside the EC were taken, when in 1984 France had presidency of the Council, Françoise Mitterrand focused on the theme of political union. The outcome of this

was the Treaty of the European Union or Treaty of Maastricht, which was signed in 1991 and legally binding in 1992. The most important achievement of this treaty was the change of the community into a union and a new structure for it. The three-pillar structure of the EU was consisting of one pillar, where the 'old EC' was settled, it included the EEC, ECSC and Euratom. On the second pillar the new policy cooperation CFSP (which had its roots in the EPC) was placed. The last pillar consisted out of another new intergovernmental cooperation like the CFSP, the Cooperation in home affairs and justice. Further points of the Treaty of Maastricht were taking the last of the three above mentioned Delors Steps, the common currency, which should be implemented in January 1999 and the European citizenship was created. Furthermore, the EP received more power and as the whole EU gained more policy areas in its repertoire. After the founding of the EU, Austria, Sweden and Finland became members of the EU in 1995. After this enlargement a mayor one seemed to happen in the coming years, the East-enlargement. Partly in preparation for this enlargement and to bring the European Integration process forward the Treaty of Amsterdam and the Treaty of Nice were signed in 1997-2000. The Treaty of Amsterdam was dealing with more policy areas like policies on asylum, social policies and improvements to arrangements for EU foreign policy. The Treaty of Nice was less headline-making⁸ than the SEA or the Treaty of Maastricht. It made some important institutional changes like increasing the size of the European Commission and the EP.

Figure A



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⁸ McCormick, J. 2005, p. 74

2.4 Conclusions

In the area of the single market the EU made big accomplishments from 1952 to 2008. Having a single European currency and looking at the enlargement up to 27 Member States and its institutions the EU became more and more powerful. Since its official founding with the Merger Treaty the European Commission has become one of the most supranational institutions of the EU. It prepares regulations, directives, decisions and recommendations; it is agenda setter and mediator/transmitter of nearly all information. It could be seen as one of the most powerful think tanks of Europe. The EP is the only directly elected international legislation in the world and has received more and more power over the years. The silent power, how the ECJ was called above is one of the most work-overloaded institutions of the EU, which is a consequence of its growing importance. The EU became a powerful and important supranational-intergovernmental union.

However, one question could never be completely satisfyingly answered: Why European Integration occurred and developed in this kind of way. In the next chapter, some of the most important theoretical attempts to explain European Integration will be lined out.

3 European Integration Theories

Explaining why European Integration occurred and developed in this kind of way is a difficult task. The reasons why it is so complex to explain the phenomena of European Integration in a theoretical framework are on the one hand, that European Integration is a unique process. For example national states never gave up judicial, legislative and executive power in that kind of way before. On the other hand, the concept of European Integration changed many times. The goals and tasks of the EU are changing constantly, as is shown in chapter 2. Often those changes were unforeseeable. An example is that today EU law is overruling national law of the Member States of the EU. In 1952-57 none of the heads of states, who signed the treaties of Rome and Paris, thought of establishing such a powerful supranational institution as the ECJ. In the beginning the reason for the missing of a theory in the field of the EU developments was the fact that especially international relation theorists underestimated the significance of the whole process. Nevertheless, over time, new approaches have developed and old ones have changed in order to grasp the European Integration process. Over the last 50 years one thing has become clear, that Europe ‘matters’ in the daily political life of national bureaucrats, politicians and the wider public⁹, but it stays unclear how it should be explained. This part will show the most prominent European Integration theories. This will help us understand how the Europeanisation theory developed and why.

Definition: Theory

The word **theory** is often used to signify a conjecture, an opinion, or a speculation.

Box 3a

3.1 Development of the European Integration Theories

Green Cowles and Curtis (2004) say ‘first theoretical accounts in the early years of European Integration were helpful in describing the emergence of the ECSC (European Coal and Steel Community) but they failed to do so in the 2000s’¹⁰. Consequence was, many different theories developed over the years. That is why they¹¹ structure the history of European Integration theories in four parts or phases. In this research we are using this structure, but shortened it to the most important theories. Furthermore, in this chapter only two phases of Green Cowles and Curtise (2004) of European Integration will be lined out. The third phase is Europeanisation and will be explored in the following chapter 4. It is important to see that even if Europeanisation is seen as a phase of European Integration it is not European Integration but more of a dimension of it.

3.1.1 First phase of European Integration Theories

Intergovernmental Theory vs. Neofunctionalist Theory

In the first phase, the origin and development of European Integration were highlighted. This phase started in the 1950s and ended around the 1980s. In the beginning, a lack of interest of scholars in European Integration dominated European Integration theory and made it to an orphan under the other theories. The ‘first’ most prominent theory that were dealing with this matter was the intergovernmental and neofunctionalism theory.

⁹ Jorden and Liefferink, 2004, p. 1

¹⁰ Green Cowles, M. and Curtis, S. 2004, p. 296

¹¹ Green Cowles, M. and Curtis, S. 2004, p. 296

Ernst Haas developed the neofunctionalist theory in the 1950s. He saw interest groups and supranational actors as the key actors in the process of European integration. Haas thought motor of integration was functional. Amy Verdun (2000) phrased it this way: 'This meant that domestic actors would discover that they could create policies much more effectively by conducting them at the supranational level'¹². This theory did not see the national governments as main 'shaper' and 'takers' of the EU policies. Neo-functionalist theory assumes that the EU developed into an autonomous source of political authority, which was located above the national governments. For Neo-functionalists European Integration was a bottom-up created process. As George and Bachee state (2001) that neofunctionalism did not assume that a state was a single unified actor on the international stage¹³. Once one area of policymaking was transferred to the supranational level, other areas of policy-making would follow, which is named political or functional spill over. In the 1960s Stanley Hoffman identified areas where the neofunctionalist theory could give no explanation, Hoffman created the intergovernmentalist theory.

The intergovernmental view is following the assumption that the federal state is and always will have the main power and influence on all action and developments that accrue to it. As George and Bachee (2001) put it the intergovernmental theory was giving the counter-argument to the neofunctionalist theory¹⁴. The critique on the neofunctionalist theory was that it underestimated the role of the national governments. At this time, a debate was going on between scholars concerning which of the two approaches was right. The intergovernmental theory had its high times especially in the beginning of European Integration, when the federal states or Member States itself had the main power and the supranational institutions were still developing. National governments acted as gatekeepers, who regulated all interactions between the EU and the national level¹⁵. The main critique of this theory stresses the idea that governments receive enough information to foresee the consequences of their actions. No government can be able to monitor everything and organise everything in one country. There are always interest groups, lobbyists, non governmental organisations and supranational institutions which have influence on the policy of a country. Those sources of power the intergovernmental theory is completely blanking out. Another point of critique is that Intergovernmentalism assumes that the supranational level has a marginal importance for the international policy-making¹⁶. However, the creation of the EC institutions through the Merger Treaty two of the most powerful supranational institutions were created, the European Commission and the ECJ. Those two institutions gained more and more power over time and the intergovernmental point of view was not sufficient enough to explain this development.

As said before, the strong position of the national governments weakened when the European Commission became an overall important supranational institution through the Merger Treaty in 1965/67. This process of 'Intergovernmentalism weakening' went on, when the EP was directly elected for the first time in the 1970s and the ECJ gained more and more jurisdictional power. During this time the bottom-up orientated theory of neo-functionalism had its high times. This theory sees the non-governmental organisations as main agenda setter

¹²Verdun, A. 2000, p.1

¹³George, S. & Bache, I. 2001, p. 9

¹⁴George, S. & Bache, I. 2001, p. 12

¹⁵Van Keulen, M. 2006, p. 3

¹⁶Van Keulen, M. 2006, p. 3

of every day policy. For example the European Commission has extensive contacts with interest groups in order to receive information for their decision making. This is one reason why interest groups re-focused over time from the national level to the European level, because they could achieve more at the EU level than at the national level. Further developments like the Treaty of Maastricht and Amsterdam (1992 and 1997) gave more power to the EU institutions strengthened this supranational theory. However, European Integration changed its face again, it became with every new treaty, regulation or directive more and more complex and neo-functionalism seemed to be inefficient to explain the whole phenomenon of European Integration. As the intergovernmental theory was too one sided by saying European integration was a purely top-down process by the heads of states, the neo-functional theory was one sided too, because it saw European Integration only as a bottom-up process.

3.1.2 Second phase of European Integration Theories

A change of focus in European Integration theory took place. It became clear that European Integration was more than a one sided process. Not the grand bargains were in the centre of attention of new theories but general policy-making. One reason for this development was the new strength of European institutions that had grown through the different treaties over the years. The cumulative effects of policies and policy-making were making the change not the decisions of the EU leaders', scholars argued. Most important was the emergence of the multi-level governance theory, which represents the 'new way of theory' in the area of European Integration. This theory developed during a study of new structures, which were used for the Treaty of Maastricht (TEU) in 1992. One of the most important multilevel-governance scholars was Gary Marks, he, Hooghe and Blank formed this approach the most, especially with the critique on the intergovernmental approach and less on the neo-functional approach, of which parts can be found in the Multilevel governance approach, too¹⁷. In the centre of interest in the multi-level governance theory is the interaction of supra-, sub- and national level actors in the making of EU-Policies¹⁸. The number and level of 'players' increased inside the EU policy actions, that is why it was neither helpful to describe the central processes of the EU policies in order to understand European Integration, nor of interest for the scholars of the 1990s. This theoretical view looked at the different stages of EU-policies at the different levels of policy-making. The question was how the single policy-acts were dealt with at the different levels of policy-making. The multi-level governance theory, which is still an important theory today, is as well criticised to be more of an approach than a real theory. One reason for this critique could be the new way in which this theory is explaining European Integration. It is not staying inside any supranational or intergovernmental framework, but makes a connection between the different levels of European Integration, as was mentioned above. Multi-level governance theory helped to develop other new theories by taking a new perspective at European Integration, which is visible in the following.

Green Cowles and Curtis (2004) describe the result of this phase of European Integration as a shift from 'classical integration theory' to a 'governance approach'. Most important developments were¹⁹:

¹⁷George, S. and Bache, I. 2001, p. 24

¹⁸ See also Hooghe, L. and Marks, G. 2001, Bache and Flinders, 2004 and Van Keulen, M. 2006

¹⁹Green Cowles, M. and Curtis, S. 2005

- From the 1990s on the EU and its politics were taken seriously by scholars and theorists.
- Aim was not answering the why and how of European Integration but seeking the understanding of forms, outcomes, problems et cetera.

That is why Europeanisation theory developed. In the next chapter this theory will be examined more closely.

3.2 Conclusions

European Integration changed as we examined in chapter 2. This made it difficult to explain in a theoretical framework. European Integration is affecting many different areas of policy-making and everyday life of governments in EU Member States, EU citizens, also other countries and people. It cannot be measured how far the influence of this process goes. This influence cannot only be named European Integration, because it became far more than only the process of European states integrating their free market. Governments, institutions and people are influenced and respond to processes around them and it cannot be 100% proved that this is because of European Integration. That is why the concept of Europeanisation developed. It goes beyond European Integration, as European Integration does not go beyond the borders of the EU and its policies. This matter will be explored in the following chapter.

Summary

As a summary to this part of the chapter, we can say that scholars see and analyse the European Integration through three separated major perspectives or theories. Those parts are:

Intergovernmentalism

European integration is a top-down process. Governments rule and national governments are the 'shaper' and 'taker' of international and national legislation and jurisdiction.

Neo-functionalism

This theory is the counterpart to the first part of European Integration, as it says that supra-nationalism rules and European Integration is created from the bottom-up.

Multi-level governance

Multi-level governance claims that European Integration is not only influenced by the supra-national institutions of the EU or by its members' governments, but as well by other national and sub-national actors. European Integration is bottom-up, top-down and horizontal.

4 Europeanisation as Theoretical Framework

The sub-question which has to be answered in this chapter is which theoretical framework can help to understand Europeanisation and give this research a theoretical framework. That is why this chapter is structured as the following:

- Firstly there will be an explanation of what Europeanisation is.
- Secondly it will be explained what Europeanisation theory is.
- In the end the use of this theory for this study will be explained.

Definition: Europeanisation

Europeanisation is [...] a concept interested in domestic adaptation to 'EU-Europe'. The concept assumes the EU as the direct and indirect provider of a necessary impulse for domestic change. [...] The EU represents a set of rules, [...] a point of departure for impulses that flow top-down, horizontal and 'round-about' when impacting on the domestic level. (A. Lenschow, 2006)

Box 4a

As pictured above the focus of scholars was first only on the why-question of the appearance of European Integration and then slowly their focus was on the influence and effects of EU policy and not only on the EU level. The effects of European Integration on the national level are poorly understood²⁰, because scholars tried for too long to answer why European Integration appeared and did not pay attention to what effect European Integration has. The perspective of Europeanisation is focusing on the national policy and elements of domestic political structures and on the way they produce changes in the overall nature of political systems and their politics.²¹ This chapter will explain what Europeanisation is and how it fits into the European Integration process and this research.

The definitions of Europeanisation are varying. Andrea Lenschow summarized and compared it in Box 4a. Europeanisation is a new concept with a new angle to look at European Integration. Radaelli (2000) speaks of evidence that Europeanisation is outside the current domain of the EU²². That is why scholars do not speak of European Integration any more but about Europeanisation. Europeanisation takes place through different mechanisms, like Knill and Lehmkuhl (1999) say²³. The main difference to general European Integration is that European Integration only looks at the EU level (EU-policies) but not on the national level. The Europeanisation literature lies 'at home'²⁴. Because the national level in combination with European Integration is largely under-explored, it is also called the 'forgotten dimension' of European Integration²⁵. There have been many Europeanisation studies in the last 10-15 years; Green Cowles and Curtis name Europeanisation as an important approach in that it examines EU as a deeper form of polity than described in the 1990s. Therefore, it is important to see that Europeanisation may not be a classical theory, maybe only an approach, but is the best tool in order to understand the influence of the EU on current national developments, as Green Cowles and Curtis say:

²⁰Knill, C. & Lehmkuhl, D. 1999, p. 1

²¹ See also Lenschow, A. 2006, p. 56

²²Radaelli, C. M. 2000

²³Knill, C. & Lehmkuhl, D. 1999

²⁴ Van Keulen, M. 2006, p. 40

²⁵ Jachenfuchs and Kohler- Koch, 2004, p. 109, in Van Keulen, M. 2006, p. 40

*Yet the recognition of Europeanisation - governance structures that influence domestic structures within Member States – expands our understanding of governance and requires new theoretical tools to address it.*²⁶

In the ‘current phase’ of European Integration theories, it can be examined that scholars understand the EU as ‘Euro polity’, which is making its own policy and which is influencing political processes and actors on different levels. **Europeanisation** is one of the most important ‘new’ concepts in the area of European Integration. Green Cowles and Curtis define it broadly as:

*‘The impact of EU structures of governance on culture and so on - and the resulting feedback on European institutions.’*²⁷

Europeanisation is mainly criticized because of its broadness. Some say that it is a new term, which is exchanging the term of European Integration. The main discussions about Europeanisation are about the content and the scope of the concept²⁸ and if it can be seen as a theory or not. In this part, we will line out the main arguments to those two discussions and why Europeanisation is a theory. After this, we will show how the theoretical framework of Europeanisation theory is built and how Europeanisation can be used for this research of student financial support systems.

4.1 The scope and content of Europeanisation

The first discussion of scholars in this field were held about the dimension of Europeanisation. This is so because Europeanisation can be seen as a bottom-up, top-down, horizontal and round about process of the EU-Member State relationship. This fact brings the critique of concept stretching²⁹.

Europeanisation as a classical bottom-up process, as Lenschow phrases it, is not much different to the concept of European Integration. It is classical, because this dimension is the dimension of the intergovernmental theory. The top-down dimension is seen as the supranational impact of the EU on the Member States. The horizontal dimension is explaining the state-to-state transfer processes and can take place independent of the EU. A. Marschall is even talking about up-load and down-load Europeanisation, instead of top- down or bottom-up.³⁰ However, not all scholars are seeing all these dimensions as important when looking at Europeanisation. Here are some examples of how scholars are seeing and using the Europeanisation process.

4.1.1 The dimension(s) of Europeanisation

Tanja Brözel (2003) is saying that scholars need to look at the bottom-up and top-down dimension of the EU-Member State relationship in order to understand the effect of the EU on national states and the given feedback of the Member States. Three questions have to be asked in order to find out what effects the EU has on the national level and how the actors on this level strike-back:

1. Where does the EU affect the Member States (dimension of domestic change)?

The EU is trying to get more influence on higher education policies of the Member States.

²⁶ Green Cowles, M & Curtis, S. 2004, p. 308

²⁷ Green Cowles, M. & Curtis, S. 2004, p. 302

²⁸ Lenschow, A. 2006, p. 57

²⁹ Radaelli, C. M. 2000, p. 1

³⁰ Marschall, A. 2005, p. 672

2. How does the EU affect the Member States (mechanisms of domestic change)?

For example with student financial support systems, the EU has indirect influence through the Bologna Process or ECJ Case law.

3. What is the effect of the EU on the Member States (outcome of domestic change)?³¹

With the student financial support systems the EU affects Member States through supporting the most important process on student mobility in Europe, the Bologna Process. By this process, all European countries are changing their degree structure of higher education and the work inside the Bologna process tries to increase portability of student grants and loans. Through the ECJ rulings the EU Member States have to adjust their laws on student financial support (for more information see chapter 6). The face of student financial support systems seems to change indirectly because of the influence of the EU.

Dyson and Goetz (2003) go a bit further than Brözel and say that interaction between the EU and its Member States is a complex interactive top-down and bottom-up process in which domestic politics, politics and public policies are shaped by European Integration and in which domestic actors use European Integration to shape the domestic area.³² If this is the case with the student financial support area is arguable, because the EU has no direct power over education policies and everything dealing with it. However, one could say that the EU is changing whole structures so that policy-makers are so Europeanised that they only act in the European. This would be a quite radical position though.

Bomberg and Peterson (2000) see the horizontal transfer of concepts and policies between Member States of the EU as the right explanation what Europeanisation is.³³ The EU is not seen a part of this process of Europeanisation, but it is providing the area for the inter-state communication. One example could be the Bologna Process, where EU Member States started an international process and used the infrastructure of the EU.

All in all Europeanisation is a broad concept and the critique of concept stretching is plausible. However one can say that the European integration became big and even too big to be only named European integration alone. One can say that processes of influence in Europe by the EU are different and that every process has its own dimension of Europeanisation. Some are top-down and bottom-up, some are purely horizontal. When examining Europeanisation one has to check first which dimension is important to his subject of research. In this research we are more looking at the top-down- bottom-up process of Brözel. This means the effect of the EU on the Member states and how they react to it.

It is obvious that such a process as Europeanisation is hard to line out in a theoretical framework. That is why under scholars the discussion started if Europeanisation can be seen as a theory or not.

4.2 Europeanisation as a concept and as a theory

In the new literature about European Integration theories and their developments, Europeanisation is named as a theory. However, some say it is not a theory at all. For example Lenschow (2006) says that Europeanisation is not an explanatory concept itself; rather it subsumes several mechanisms that bring about domestic change³⁴. Olsen (2001/2002) tries to find out if Europeanisation is just a fashionable term or buzzword or

³¹ Brözel, T. 2003, p. 1

³² Dyson and Goetz, 2003, p. 20, in Lenschow, A. 2003

³³ Bomberg and Peterson 2003, p. 20, in Lenschow, A. 2003

³⁴ Lenschow, A. 2006, p. 59

really a concept or theory.³⁵ He comes to the conclusion that there is no grant Europeanisation theory that could help to understand the relationship between the EU and the European national states. However, Vink (2002) states that there seems ample room to make a connection between thick Europeanisation and supranational theories, on the one hand and thin Europeanisation and intergovernmental theories, on the other.³⁶ This shows that Europeanisation Theory is a mix of the top-down intergovernmental positions, which shows that Member States matter³⁷ and the supranational view of that the EU has real bottom-up power over the Member States daily-agenda of policy-making. In this research, we are making this connection, which creates our theoretical framework, Europeanisation Theory. There have already been attempts by scholars to combine those two theories in order to be able to understand European Integration itself, for example by Amy Verdun. She states in her paper 'Merging Neo-functionalism and Intergovernmentalism: Lessons from EMU' that:

*'European Integration theories need to be merged in order to focus us to obtain a better picture of the actors involved in the European integration process.'*³⁸

It can be said we are using 'old' European Integration theories and refocus them on a new dimension outside of the European Integration process. For example the multilevel governance approach could be used to understand the horizontal dimension of Europeanisation. This Europeanisation theory might be a stretched theory, however the EU has become more and more complex and so one of its newest theories is as complex or broad as the process it wants to describe. It is not new to see Europeanisation as a theory, for instance Green Cowles and Curtis assumed Europeanisation might become one of the new coming up key-theories of today.³⁹ Van Keulen does nearly the same thing, she shows the most important European Integration theories of the past and names Europeanisation the newest theory or perspective there is at the newest current, which can help to explain the effects of the EU and the response of the Member States. It is clear that Europeanisation is emerging from European Integration, but its direction, its mechanisms, its processes and its definitions are broader than the approaches and theories, which were discussed in this part before. The problem with Europeanisation theory is at the same time its advantage: It was used to explain many different phenomena of European Integration, but until now, it has not been one explanatory framework that could give a 100 per cent definition. So Europeanisation Theory will not give an answer to what effect the emergence and development of the EU has on Europe, however it is at the moment our 'best try' to find an explanation of the changes of student financial support systems in Germany and The Netherlands.

For this research, the perspective of Europeanisation seems to be the best way to analyse current developments in national governments and the possibility of indirect influence by the EU. This is the case because it is a perspective that is concentrating on the different effects the EU has on national states and what kind of feedback is coming back from them. The main question of Europeanisation is: To what extend are EU Member States Europeanised?⁴⁰ It has to be clear that there is a difference between European Integration and

³⁵Olsen, P. 2001-2002, p. 1

³⁶Vink, M. 2002, p. 18

³⁸Verdun, A. 2002, p. 28

³⁹Green Cowles, M. and Curtis, S. 2004 p. 305

⁴⁰Van Keulen, M. 2005, p. 5

Europeanisation: Europeanisation as a theory and Europeanisation as a term which is explaining a situation, which is caused by European Integration.

- **European Integration** is a term that is used to explain the integration process inside of the EU, between Member States and the EU. Which is explained in figure B. where it can be seen that intergovernmentalism, multi-level governance and neo-functionalism only explain the direct interactions between the EU and its Member States. They stop at the national states and do not go on and look at what is happening inside the Member States. Europeanisation goes further.
- **Europeanisation as a term** is a kind of second dimension of European Integration. Europeanisation means the direct and indirect effects of European Integration on national states in Europe and the results out of those effects.
- **Europeanisation as a theory** says beliefs, structures and processes of national states in Europe have changed, because of European Integration. Nevertheless, this theory is not only looking at the EU (supranational power) but at the national states themselves (intergovernmental) too. Europeanisation theory says that the EU has an influence on nearly every area of policy-making of European national states, because if beliefs, structures and processes are changed, everything changes. This influence is appearing through different direct and indirect mechanisms, which are causing processes in the end. Those processes can be for example the Bologna Process or the maybe the changes of national policies (see figure B).

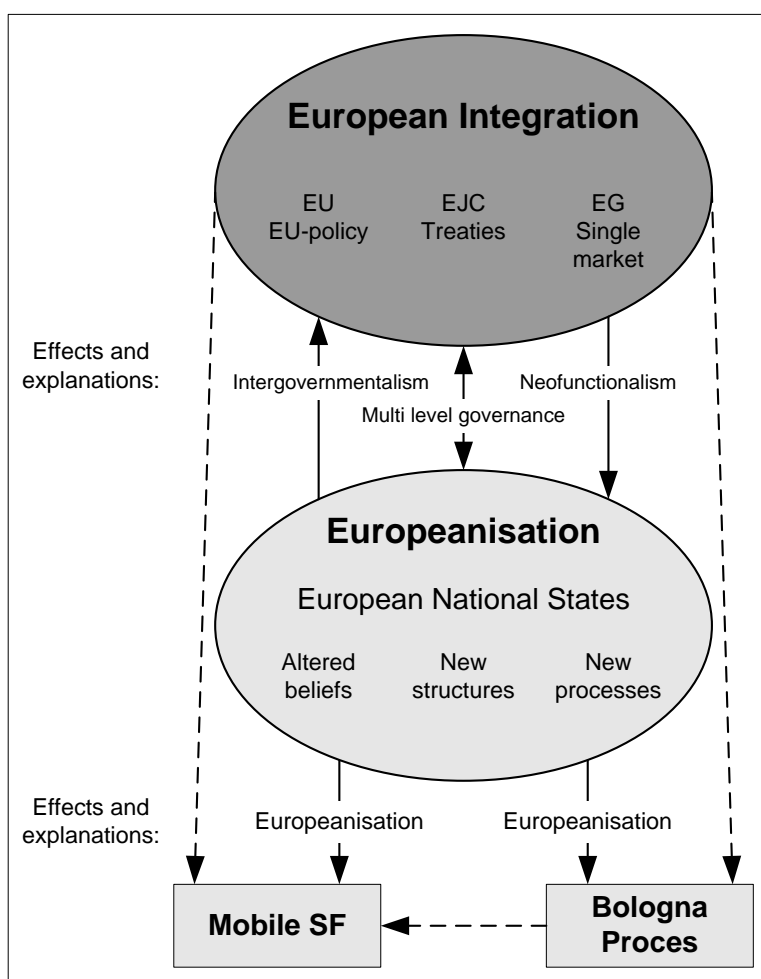


Figure B

For the better understanding, it will be lined out firstly, what Europeanisation is not explaining or analysing. Secondly, we will show the different mechanisms it is dealing with. Europeanisation does not look at results, but at mechanisms and processes, which European Integration caused or created. That is why in the third part, we will see which processes it is describing.

4.3 What Europeanisation is not explaining or analysing

Before Radaelli (2000) gives an answer to what Europeanisation is he is answering the question of what Europeanisation is *not*. Radaelli (2000) argues that Europeanisation is not⁴¹:

- **Convergence**

Convergence is rather a consequence of European Integration than of Europeanisation. Radaelli (2000) says there is a difference between a process and its consequence. Europeanisation theory says that structures and beliefs of policymaking are changed in the national states of Europe, the process of change is Europeanisation, the outcome might be convergence or not.

- **Harmonisation**

Radaelli (2000) sees Europeanisation not as a producer of harmonisation, because Member States are too different. For example, each country finds different solutions for the same problems. They decide for themselves what they do and how. Their policy depends on the identity of the Member States.

- **Political integration**

The question why countries join the EU and enter the process does not belong to Europeanisation, because Europeanisation looks at specific questions and not at general political integration, like the role of domestic institutions. Pure integration theory looks on whether European Integration strengthens the state, weakens it, or triggers 'multi-level governance' and not on the question why they make certain decisions. We are not looking at the outcome of the policy changes in Germany and The Netherlands but the question why they did so. Why did they change their laws on student financial support in order to make it long-term portable, was it because of the Europeanisation processes or mechanisms?

Furthermore, Radaelli (2000) says that that even Europeanisation and EU policy formation can actually never be seen apart. European policy originates from the processes of bargaining, imitation and diffusion wherein domestic governments and national interest groups play an important role⁴². Nevertheless, it should be 'analytically' distinguished between process leading to the formation of a certain policy, and the reverberation. The question is what the main mechanisms of Europeanisation are.

In the beginning, we lined out the dimensions of Europeanisation, which Tanja Brözel was using. She was using three questions: The first question was about the area where the EU affects Member States. In this research the policy-maker of student financial support systems are object of influence by the EU. The second question was about the how the EU was affecting the Member States. The answer is that this is done through mechanisms. The third question was asking for the outcome of the domestic change. In the following two parts we will look at the mechanisms of Europeanisation and the outcomes/processes which start because of Europeanisation.

⁴¹ Radaelli, C.M. 2000, p. 5

⁴² Radaelli, C. M. 2000, p. 6

Definition Convergence

- The theory of convergence was established as an explanation of the development of welfare states in 1950s and 1960s.
- Most important scientist is Harold Wilensky.
- This theory is an optimistic one; it says that industrial advanced societies all develop towards a similar kind of welfare state as they have already done in the area of economy/production/market.
- Convergence can happen to all kinds of policies of the EU.
- But it is difficult because of the diversity inside the EU Member states. That is why harmonisation of policy outcomes is more a goal of EU policies than convergence.

(Wilensky, in Hemmerijck and Bakker, 1995, p. 152)

Box 4b**Definition Harmonisation**

Harmonisation means to create a harmony (joint, agreement) in or with something, a common result. In the policy area harmonization or out-put-harmonization, means the way that the states are reaching the goal can be different but the outcome (out-put) has to be the same, harmonised.
(De Vroom, 2002)

Definition Political integration

European Integration is a political integration. The integration of political policies of states. European Integration is also consisting on political integration.

4.4 Mechanisms

Knill and Lehmkuhl (1999) try to identify different constellations of Europeanisation, in order to find out more about the impact of the EU on the domestic level. It is argued that the domestic impact of Europe varies with the level of European adaptation pressure on domestic institutions and the extent to which the domestic context facilitates or prohibits actual adjustments to European requirements⁴³. Knill and Lehmkuhl (1999) are naming the ideal types of European Integration: positive integration, negative integration and 'framing' integration. Those types of integration are characterised by distinctive mechanisms of Europeanisation:

- **Explicit European legislation of Europeanisation**

The most explicit form of European policymaking is the top-down decision-making of EU institutions. They trigger domestic change by prescribing concrete institutional requirements, which are binding to the Member States⁴⁴. Policies of positive integration imply the most direct institutional requirements for domestic adjustment. As an example in our case of higher education we can name the citizenship rights of students in other EU Member States, this area seems to be highly Europeanised. EU-citizens who are working in another EU Member State are not allowed to be discriminated, their family neither. They have to be treated the same (Regulation 1612/68). Another example for the

Definition Mechanism

In sociology a mechanism is a set of rules designed to bring about a certain outcome through the interaction of a number of agents each of whom maximizes their own utility.

In our research:

How does the EU affect the Member States, through which mechanisms of domestic change (T. Brözel, 2003)?

Box 4c

⁴³ Knill, C & Lehmkuhl, D. 1999, p. 1

⁴⁴ Knill, C. & Lehmkuhl, D. 1999, p. 1

higher education sector would be the ruling of the ECJ in cases of students who claim their rights of student financial support in other EU Members from their home country or the host country. The decisions of the ECJ are binding and the Member States have to follow it (see further information chapter 6).

- **Implicit European legislation of Europeanisation**

A more implicit legislation of the EU are arrangements which are altering domestic opportunity structures and by doing so influencing the distribution of power and resources between domestic actors. Here the Lisbon Strategy is an example for the higher education sector. This European policy is not prescribing how the Member States have to implement the policy, it is more challenging than the old structures.

- **Indirect European legislation of Europeanisation**

European policy alters beliefs and expectations, not directly, but in a way that domestic arrangements are affected. In turn those changed domestic beliefs can affect strategies and preferences of domestic actors, for example, it can lead to corresponding institutional adoptions. Here the Bologna Process is an example for the higher education area. The EU is only a member of the process but it is one of the main think tanks and sponsors in the process. However, in general policy-makers are more frequently busy with EU matters. Andreas Schepers (2007 interview with Schepers) of the BMBF said, that ten years ago it was something special when something of the EU came into his office, now it controls half of the agenda. This kind of constant presence can cause changes of work and think structures.

Those three mechanisms show that Europeanisation is looking on the effects the EU has on the national level. Those mechanisms can start different processes. The most important processes of Europeanisation which are named in literature will be discussed below.

4.5 Processes

Some mechanisms happen randomly, some more often and some do not. But they all have consequences for the national states: They start processes which change the national states of Europe. John P. Olsens (2001) names some general processes of Europeanisation⁴⁵:

- **Changes in external territorial boundaries**

Europe has become a single political space, which has influence in its territory that extends through enlargement. Nevertheless Olsen says that the European transformations are not only limited to the EU and its Member States or to Western Europe. Non-territorial forms of political organisation increased as cross-border relations and networks, which are without a centre of final authority and power⁴⁶. These developments are outcomes of Europeanisation. To give an example, that a country is joining the EU has on the one hand to do with organisational and financial aspects. On the other hand Olsen (2001)

Definition Process

A process (lat. processus - movement) is a naturally occurring or designed sequence of changes of properties or attributes of an object or system

In this research:

What is the effect of the EU on the Member State, what is the outcome of domestic change? An outcome can be a process.

Box 4d

⁴⁵ Olsen, P. 2001-2002, p. 3

⁴⁶ See also Olsen, P. 2001-2002, p. 6

says, enlargement cannot be seen purely as the result of a strategic choice.⁴⁷ Beliefs, identities and norms have to change in some cases, in order to be able to meet the criteria to enter the EU. The question is whether future Member States will change their beliefs, norms and logics in order to become part of the EU. In the perspective of Europeanisation this is possible. The EU influences national states and one possible feedback or outcome could be that they change in order to become a member of the EU.

- **The development of institutions of governance at the European level**

Institutions are building up, which facilitates and enforces binding decisions. Examples are the ECJ whose decisions are binding and overrule national law or the influence of the Commission through the preparation of decisions of the European Council, which is taking direct influence.

- **Central penetration of national and sub-national systems of governance**

The division of power and responsibilities between Member States and institutions is one result Europeanisation states the EU is causing with its policies. The EU has influence on its Member States up to the lowest level. This is an example for explicit European legislation. Europeanisation focuses on the change in core domestic institutions of governance, identities and policies. Important is, that not every country is changing or reacting in the same way, like it was said: Europeanisation is not harmonisation. Europeanisation sees the impact the EU has, as altering not only policy structures but also beliefs. One outcome of the impact of the EU is as well the resistance to the EU among ordinary citizens⁴⁸, but as well politicians.

- **Exporting forms of political organisations and governance that are typical and distinct for Europe beyond the European territory**

Europe is acting and influencing national states and organisations outside of its territorial borders. Europeanisation became an import product that causes changes all over the globe. The EU cannot be looked at isolated in its own territorial borders. One example is the Bologna Process. The Bologna Process was possible, because there has been an infrastructure in Europe, the infrastructure of the EU. Through this infrastructure the Bologna Process could be started and work. The Bologna Process is even facilitated through the EU with money and ideas, even though it is no EU process. It is *an exported form of political organisation and governance*.

The outcome of Europeanisation is becoming more and more important. It is a political entity, which is related to the territorial space, centre building, domestic adoption and to the question how European developments are affected and are influenced by systems of governance and events outside the European continent.

4.6 Europeanisation theory and portability of student financial support

In this research we want to learn if the two case countries, Germany and The Netherlands have changed their student financial support systems because of the influence of Europeanisation mechanisms and processes. The reasons why the Europeanisation theory is the right tool in order to answer our research question are:

⁴⁷ Olsen, P. 2001-2002, p. 15

⁴⁸ Schlesinger, 1993, in Lenschow, A. 2006, p. 58

- Important for this research is, that this approach puts the focus on the national level of European integration. Europeanisation theory looks at the national level, in specific on the policy-making level. The question of this research is dealing with the question is how Europeanised policy-maker in the area of student financial support systems are. Europeanisation Theory gives the right theoretical framework to answer this question. It is agreed on, that Europeanisation is domestic change caused by European Integration. Europeanisation theory is pointing out some under-researched questions like the domestic implementation of European policies, especially on ‘the organisational logic of national politics and policy-making’⁴⁹. The influence of European Integration on national parties, party systems, local governments, and refugee policies or citizenship are being analysed by this approach. The influence of European Integration on policy-making structures and policy-maker fits very well in this list of analyses.
- One point in Lenschow’s (2002) definition is the position of the EU in her definition: The process of Europeanisation is not restricted to EU Member States only and more than EU’isation⁵⁰. There are other countries, organisations or processes which are not originated in the EU (OSCE, COE, Bologna, EFTA), but which have their influence on national politics all over Europe.
- Europeanisation Theory is saying that the EU or European Integration has direct and indirect influence on national Member States and describe the feedback it is causing inside the Member States. Europeanisation theory says that the EU is Europeanising its Member States and other states. How strong and with which effect states are Europeanised is depending on the process and mechanism of Europeanisation. For this research we will have a look of which of those mechanisms and processes of Europeanisation can be found in the area of policy-making on grants and loans systems in our case countries.
- It is an example of how scholars do not define the boundaries of European Integration between domestic and international or domestic, European and international but on the national and sub-national level. To make this clear the example of identity can help. People can be Basque/Bavarian/Fries, Spanish/ German/ Dutch and a European at the same time. Individuals, organisations, national or domestic, are affected by EU-policies, but they are able to react back. Europeanisation Theory examines the EU as a deeper form of polity than in the second phase⁵¹. The Theory of Europeanisation gives benefit to this research, because it defines European Integration as a producer of changes in the overall nature of political structures and their policies. The dated view of the national state as the only power in the policy-making processes or the obsolete position of making policy-spill-over of actions of interesting groups fully responsible for European Integration actions have been detached by the ideas of Europeanisation. In the 1990s Europeanisation became more and more important and discussed, ‘Europeanisation developed into an important ‘touchstone for theories on the domestic impact of the EU’⁵².
- Higher education is a very important part for the European labour market, here one of the most important ‘products’ or ‘good’ of the EU is made: academics, knowledge and ideas.

⁴⁹ Ladrech, R. 1994, in Radeallie, C.M. 2000

⁵⁰ Lenschow, A, 2006, p. 57

⁵¹ Green Cowles, M. and Curtis, S. 2004, p. 304

⁵² Cowles, Rissen and Carporaso, 2001

However, the EU has officially no entrance to higher education in any of the Member States. The own higher education process they started, the Lisbon Agenda is giving more negative publicity than the most comparative knowledge society in the world. But still, even without direct influence European countries harmonise their higher education systems and two even made their student financial support long-term portable. The questions are: “If it is not European Integration, is it Europeanisation?” Is it the result of altered structures and beliefs of policy-makers and stakeholders? Do they think European? Or are those only coincidences and it is all caused by national matters? The theory of Europeanisation gives us the needed framework to examine this question.

4.7 Conclusions

Sub question number one: “What theoretical perspective can help understand Europeanisation and give us a theoretical framework?” can be answered that the theoretical perspective of Europeanisation gives us the right tools to understand Europeanisation, as we explained above, higher education is not in the region of influence of the EU. All actions Member States take in this area can be decided on autonomously. To find out if the European Integration process had an indirect effect on the decision-making of Dutch and the German policy-makers of student financial support, the Theory of Europeanisation gives the right tools. Europeanisation is addressing effects and reactions inside the national states and not only on the EU-level, like other theories.

In the following chapters, there will be an analysis if there are signs of Europeanisation: Are there processes, which are caused by European Integration, which Europeanisation theory is naming Europeanisation or Europeanisation mechanisms? Especially at the case study, these questions will be tried to be answered in order to find out if Germany and The Netherlands changed their student financial support systems because of the direct or indirect influence of European Integration: Are they Europeanised? However, we first have to define our exact research subject which sub-question 2 and 3 is dealing with. Secondly, we have to ask, what portable student financial support is and thirdly how portable student financial support policies developed internationally. This will be examined in the following chapters five and six.

Summary

European Integration is a term that is used to explain the integration process inside of the EU, between member states and the EU.

Europeanisation as a term is a kind of second dimension of European Integration. Europeanisation is the direct and indirect effects of European Integration on national states in Europe and the results out of those effects.

Europeanisation as a theory says beliefs, structures and processes of national states in Europe have changed, because of European Integration.

What Europeanisation is not explaining or analysing:

- Convergence
- Harmonisation
- Political integration

Mechanisms:

- Implicit European legislation of Europeanisation
- Indirect European legislation of Europeanisation
- Explicit European legislation of Europeanisation

Processes:

- Exporting forms of political organisations and governance that are typical and distinct for Europe beyond the European territory
- Central penetration of national and sub-national systems of governance
- The development of institutions of governance at the European level
- Changes in external territorial boundaries

5 Portability of student financial support state of the art

This part will deal with the basis of European student financial support systems. Student financial support is organised very differently all over Europe. In some countries only grants are given for example in Ireland, in others a mix of grants and loans like in Sweden, The Netherlands and Germany.

In many European countries student financial support is means-tested, which means the financial situation of the applicant and his family are tested, to see if he needs financial support by the state. In the Dutch speaking part of Belgium for example students can only receive a grant from the state if their parents do not have a higher income than 26.810 Euros exclusive tax per year. Other countries have a mix of rules for different kinds of financial support. The Netherlands for example do not have any entry rules for the basic grant, basis beurs. Each student under the age of 30, who has the Dutch nationality, receives it, if he does not earn more than 12.000 Euros per year and is enrolled in a higher education institution, the same counts for a loan. However only students in an exceptionally financial situation receive an extra financial support, which is means-tested.

Besides the differences in the support-tool (grants and loans) and in the entry rules (e.i. means-test) there are two matters which have to be explained for this research: 1. Which kinds of student financial support exist and 2. Which of those are we going to explore in this research? Students in Europe receive the student financial support directly or indirectly through their parents.

It is obvious that there are many different sides to student financial support. However the most important matter we have to explain is the way in which portable student financial support is organised long-term or short-term. This will be explored in this chapter.

5.1 Direct vs. indirect portability of student financial support

The differences between the student financial support systems inside of Europe are still quite big. This part will show where the biggest differences are. The biggest diversity lies with the fact that some states support their students with direct support, some with indirect support and others with a mixed of both.

The first question is: What is direct student financial support? H. Vossenseyn (2004) defines it as the following: It consists of arrangements directly available to students, like grants, scholarships, loans and support in kind such as meals and travel support⁵³. For example the Dutch student financial support system consists of only direct student financial support. Students receive, from the age of 18 years if they enrol at a higher education institution, a grant and if needed a loan (for more information see chapter 7). However, there are other ways to organise student financial support. The German student financial support system will be an example for the indirect student financial support will be described in the following part.

Indirect support addresses all kinds of subsidies available to the parents of students (or other relatives), including family allowance and tax benefits.⁵⁴ However indirect support can go to other parties, too, for example higher education institutions. In fact, in the case of publicly funded higher education institutions, students are indirectly supported, because they cannot pay or only lower tuition fees.

⁵³Vossenseyn, H., 2004b, p. 12

⁵⁴Vossenseyn, H., 2004b, p. 12

In Germany parents receive monthly money which is called 'Kindergeld', child-money, and they receive a tax relief as well. This money is paid to the parents till the age of 27, if the child is still studying or doing any other kind of educational training. This is one part of the German student financials support. The other part consists of direct student financial support, the BAföG, which are a grant and a loan. The BAföG is paid directly to the student.

Those two kinds of student financial support can be found in different versions all over Europe. For example in Sweden the students receive all student financial support directly. In the Dutch speaking part of Belgium, Vlaanderen, students receive direct (studietoelage) and their parents the indirect student financial support (Kinderbijslag and belastingvrije som). In The Netherlands the student financial support was organised similarly. However the Dutch student financial support changed 20 years ago. The reason was that it seemed to cause problems for students than the pure direct payment. In 1986 the child-money and tax-relief was changed into a direct grant, which is paid as a direct student financial support. This change was made to make the system more flexible⁵⁵ for the students. It was not always clear if the parents gave indirect student financial support to their children, when they started an educational training at university or at universities of applied sciences or as a trainee education.

A positive side of indirect student financial support is that students can take their indirect student financial support to any study in the world (in Germany, as long as the students are following an educational training and they are under the age of 27). However as H. Vossensteyn (2004) phrased it: 'Students are dependent on their parents' willingness to pay to benefiting from the subsidies involved.'⁵⁶ It is interesting to see that H. Vossensteyn found out in his research of portability of student financial support systems in Europe form 2004, that nearly each country expects the families to pay a substantial part of the costs of the students. This counts for countries that do not give indirect subsidies to the parents too. For example in the introduction of the Dutch law on student financial support, the WSF 2000, is written that student financial support should consists of three parts: the support by the state, by the individual and by the family⁵⁷.

In this research we will concentrate on direct student financial support, because the indirect version is most of the times portable to other countries, if it is paid to the parents and not to the higher education institutions of the country. We want to know if the portability of grants and loans systems of Germany and The Netherlands are Europeanised and not the indirect subsidies of the states to the parents.

The following part will show the two different ways of how portable student financial support is organised in Europe.

5.2 Long-term vs. short-term portability of student financial support

Portable student financial support is organised in two ways: partly for a short-term, like one or two semesters and partly for a long-term which is a full educational training abroad. Short-term portability of grants and loans is quite common all over Europe, long-term support abroad not. We will explore why.

Short-term student financial support is possible in nearly each European state, which is providing student financial support.⁵⁸ Some countries provide extra subsidies for national

⁵⁵ WSF-oud, introduction

⁵⁶ Vossensteyn, H., 2004b, p. 63

⁵⁷ WSF 2000, Introduction

⁵⁸ See also: H. Vossensteyn, 2004, p. 65

students abroad. For example Germany pays the travelling costs to the host country and back and an extra subsidy for other costs and the tuitions fee for one year. In the UK, Finland, Sweden and Norway similar extra support is possible too. This kind of support is normally chosen by a student during a full-time study at a national higher education institution. These opportunities of support were introduced in order to increase internationalisation of nationals. However through the growing internationalisation of higher education the interest of students to go for a short-term period abroad, was growing. This meant more costs for those higher education institutions which facilitate the programs which enabled students to go abroad. So in return the limitations to those programs of countries grew over the time. The reasons for the internationalisation of higher education in Europe will be discussed in the following chapter 6.

Long-term student financial support is student financial support for a full study at a foreign higher education institution without enrolment in a domestic higher education institution. A full study means from the first semester of an educational training till the last semester, which ends with receiving a degree, for example Bachelors or Masters. Important is that indirect student financial support is portable to other countries most of the time, because it is paid to the parents, to support them with their parenthood, regardless of the sort of educational training of the child. Direct long-term support is not given in many countries of Europe. In some countries in Europe this kind of student financial support is given to their nationals. In a research H. Vossensteyn explored the possibilities of long-term and short-term student financial support. He came to the following conclusions: Only the Scandinavian countries give long-term student financial support to their students when they go for a full study abroad. This system of student financial support developed because it was cheaper to send the own students abroad than building more universities and creating more studies. In Norway for example many students went abroad for their higher education. In 2000/01 16.000 students⁵⁹ studied abroad. The Norwegian students abroad receive around 940 Euros monthly as a loan, which is changed into a 40% loan if the student finishes his or her study and makes a degree.⁶⁰ Besides the Scandinavian countries, there were no other countries till 2005 which gave their direct student financial support for a full study abroad.

5.3 Conclusions

It is clear now what portable student financial support is and we partly analysed how it develops nationally. But we still want to see how portable student financial support was pushed forward internationally or as a Europeanisation process.

There are many differences but as well similar developments. In 2007 The Netherlands made their direct grants and loans system portable for a long-term and Germany followed half a year later. This was a big change and it seems like other countries will follow, for example Scotland started a feasibility study if they could implement long-term portability with their direct student financial support. Why The Netherlands and Germany changed their student financial support systems will be explored in the case study. In order to find out if they changed their grants and loans systems because of Europeanisation, we have to explore European higher education policy developments, before we can think about their effect on Germany and The Netherlands. This will be examined in the next chapter.

⁵⁹ See also: Witte, J. K. & Brandenburg, U. 2007, p 20

⁶⁰ See also: Witte, J. and Brandenburg, U. 2007, p. 21

Summary

The following dimensions of portable student financial support can be named:

Direct student financial support

It consists of arrangements directly available to students, like grants, scholarships, loans and support in kind such as meals and travel support¹.

Indirect student financial support

Addresses all kinds of subsidies available to the parents of students (or other relatives), including family allowance and tax benefits.¹. However indirect support can go to other parties, too: for example higher education institutions. In fact, in the case of publicly funded HEIs, students are indirectly supported, because they can pay no / lower tuition fees.

Student financial support as a loan

Money is loaned to the student and has to be paid back after the student is done with his study. How much and till when differs.

Student financial support as a grant

The student receives financial support as a gift and does not have to pay it back.

Portable student financial support for a long-term

Means student financial support for a full study at a foreign higher education institution without enrolment in a domestic higher education institutions.

Portable student financial support for a short-term

Short-term student financial support is given in nearly every European state, which is providing student financial support.

6 Policy developments

In this part we will examine the two most important Europeanisation mechanisms in the field of portable student financial support. Those mechanisms are the Bologna Process and EU Law. EU Law is a typical mechanism of explicit EU Legislation of Europeanisation. EU law is top-down in the EU Member States. As Knill and Lehmkuhl describe it (1999) ‘They trigger domestic change by prescribing concrete institutional requirements, which are binding to the Member States’⁶¹. The Bologna Process is no EU process, however there is a high influence of the EU on the process. That is why the Bologna Process is seen as an indirect European legislation of Europeanisation. In this part we will examine the power of Europeanisation mechanisms, how they are affecting student financial support systems of EU Members and how they function. This will help us to analyse how effective those Europeanisation tools were in our two case countries in chapter 7. The first part of this chapter is structured as follows:

- Firstly the most important goals and progress of the Bologna Process will be laid out, when it started, what it has achieved until now and what the latest developments are.
- Afterwards there will be an analysis how strong the EU’s influence is on the process. We will also use sources of interviews with German and Dutch policy experts in order to find out what their view of the EU’s influence in the Bologna Process is.

In the second part of this paper the influence of EU Law on higher education of national states will be examined. The most important sources of EU Law and their influence on EU Member States and its students in the fields of portable student financing will be explained and important regulations and EU articles.

6.1 Bologna Process

6.1.1 From Sorbonne to Bologna

Actually, the Bologna Process started in Sorbonne. In 1998, the French education minister, Claude Allégre invited his colleagues from Germany, Italy and England a few weeks before

Sorbonne Declaration

- Two-cycle degree structure
- Master and Bachelor degree (undergraduate and graduated degree) for more internationalisation
- Use of credits and semesters to reach more flexibility

Box 6a

the celebrations to the 800th Celebration of the Sorbonne University in order to create a bottom-up change of Higher Education in Europe and a counter balance to the European Commission. Those three nations, which Claude Allégre had personal ties with (through G8 meetings), represented for him ‘les autres grandes nations’ (the other grand nations) besides France. In this declaration the four ministers concluded that it was their duty to make it possible for their students to graduate with having the benefit of studying in another European

country. The overall goal was ‘the harmonisation of the architecture of the European higher education system’⁶². More detailed plans you can find in Box 6a.

After signing the Sorbonne Declaration the four ministers agreed on a follow-up meeting in Bologna, in Italy. This meeting became a bit bigger than planned. Many education ministers from Europe were informed about the Sorbonne Declaration and wanted to participate in Bologna. The Bologna Conference took place in June 1999 and 29 countries

⁶¹ Knill, C. & Lehmkuhl, D. 1999, p. 1

⁶² Sorbonne Declaration 1998

signed the Bologna Declaration. One important factor of the Bologna Declaration was that every country that signed it, gave freely the commitment to reform its own higher education system, in order to create convergence in the European higher education area.

The main objectives were:

- 1) **To create a degree-system** which is easier to compare. One implementation therefore was the Diploma Supplement, which showed exactly what students did during their study and could create a better employability in Europe.
- 2) The second objective was similar to what was decided on in the Sorbonne Declaration, a **two-cycle degree system**, one undergraduate and one graduate. The first degree was not named bachelor yet and it was not decided yet if it should lead to a master degree or doctorate degree.
- 3) As well on **the credit point system** it was not decided whether to take the EU ECTS-system or a different one, they only communicated that one was necessary. New at the crediting objective was the inclusion of a non-higher education context, which should include lifelong learning!
- 4) One very important objective was the **promotion of mobility** by overcoming obstacles to the effective exercise of free movement with attention to better opportunities for students and teachers to access studies or have more time for researches (Homepage Commission). The last two objectives which were signed by the 29 countries were:
- 5) **European co-operation in quality assurance**
- 6) **The general necessity of this dimension of European higher education**

The countries, which signed the Bologna Declaration, agreed on completing the changes in their higher education systems till 2010. The importance of the conference seemed to be higher than in Sorbonne. This time the Declaration was written by the so-called 'steering committee'. It was agreed on that the country that had the Presidency of the European Councils should always chair this steering group. Besides the declaration a report was made which should explore the trends in learning structures in higher education in Europe, this 'trends report' was financed by the European Commission. This should help harmonising the European higher education area.

The Bologna Declaration was not too different to the Sorbonne Declaration. One thing, which was noticeable, was the growing influence of the EU. Besides having high influence on the text, the Bologna Declaration and the 'trends report', goals and ideas, which the EU had, were implanted in the Bologna Declaration, for example life long learning and the European credit point system. Furthermore 15 of the 29 nations, which signed the Bologna Declaration, were Members of the EU.

6.1.2 From Prague to Berlin

A lot of work had to be done in order to reach the deadline of 2010. Already in the starting-phase between 1999 and 2001, the institutionalisation of the Bologna Process was increasing. The European Commission founded the ENQA (Quality Assurance in Higher Education); members were agencies, public authorities and associations, which were dealing with quality assurance in higher education and EFTA countries and countries that

Bologna Declaration - goals

- To create a degree-system
- The credit point system
- Promotion of mobility
- European co-operation in quality assurance
- General necessity of this dimension of European higher education

Box 6b

were already involved with higher education Community programs. An important new institution, which was created, was the merger of the Confederation of EU Rectors' and the CER, the EUA, in order to play a more active role in shaping the European higher education area (Witte, 2006). The 'steering group' stayed but was composed differently. The steering group was composed of the EU enlarged-troika countries, the Commission, the Confederation of EU Rectors' Conference and as well the CER. This group became the basis of which later was called the 'Bologna follow-up group' between important conferences, the states representatives sent high-level or leading ministerial officials to those group meetings.

































Prague

Important agreements were made during the time between 1999 and 2001. The Bologna follow-up group (BFUG) agreed that the first of the two-cycles should require 180 to 240 ECTS points. The degree should lead to employment, this meant a more practice orientated study or lead to another degree.

In the meeting of the education ministers in Prague, three more countries joined the Bologna Process. Besides those three, the European Commission was recognised as a full member of the process since Prague. A reason could be that the EU delivered many ideas to the Bologna Process, like the concept of the Diploma supplement which became the concept for every diploma in the Bologna countries.

In the time between the conferences in Prague and in Berlin, a growing interest of stakeholders developed and many seminars have been held on the Bologna Process.

Figure C

| 2008 | The | Members | of the | Bologna | Process |
|--|---|---|--|----------|------------------|
|  Austria |  Belgium |  Bulgaria |  UK | Turkey | Russia |
|  Denmark |  Estonia |  Spain |  Finland | Georgia | Lichtenstein |
|  France |  Germany |  Latvia |  Slovak Rep | Moldavia | Andorra |
|  Hungary |  Malta |  Romania |  Slovenia | Ukraine | Albania |
|  Italy |  Lithuania |  Cyprus |  Poland | Serbia | Montenegro |
|  Luxembourg |  Portugal |  Netherlands |  Sweden | Iceland | Bosnia-Herzegov. |
|  Greece |  Czech Rep. |  Switzerland |  Ukraine | Armenia | Norway |
|  Azerbaijan |  Former rep. of Yugoslavia |  Holy sea |  Croatia | | |

Berlin

In the meeting of Berlin in 2003 the progress reaching the objectives in the Member States was discussed, as the progress the Bologna Process made in the last two years. The institutional level was analysed and they changed what had to be improved. The BFUG became more and more important. It had to organise the conferences of the Bologna Process,

therefore a BFUG board was defined, to have a look on the effort between the next conferences in Bergen 2005. The BFUG had to co-ordinate stocktaking for the next meeting, monitor the work on quality assurance and assist the development of a European framework of qualifications.

In the matter of student mobility the Ministers made the commitment⁶³ to take the necessary steps to enable the portability of loans and grants. This was the first time in the Bologna Process that loans and grants got attention in such an explicit way. However until the meeting in Bergen in 2005 not much happened in this area.

6.1.3 From Bergen to London

Bergen

At the conference in Bergen in 2005 a positive report about the progress of the Bologna Process was given by the BFUG: half of all students in most of the participating countries were enrolled in a two-cycle degree system; almost all countries had made provision for a quality assurance system, whose criteria were set out in Berlin 2003. The ministers stressed the so- called social dimension, to make an academic degree possible for students who have economic or social weak backgrounds. The deadlines of 2005 have been fulfilled, not 100% but sufficiently. This conference was used mostly as a mid-turn-review of the Bologna Process to prepare the process for 2010. As in the last three conferences new members signed the Bologna Declaration, it now consisted of 45 countries, of which 27 EU Member States are. The next conference was planned in London for 2007 where the future of the Bologna Process was planned to be discussed.

Until Bergen not much has happened in the area of portability, only workshops like in The Netherlands in 2004. In the Bergen Communiqué one main objective was to increase mobility of staff and students, the ministers underlined that more progress was needed in order to enforce this key objective of the Bologna Process:

*'[...] we confirm our commitment to facilitate the portability of grants and loans where appropriate through joint action, with a view to making mobility within the EHEA a reality.'*⁶⁴

Referring to this commitment of the ministers 11 Bologna Partner Countries drafted a proposal to establish a Bologna Working group on Portability of grants and loans to the BFUG in the period between December 2005 and April 2006.⁶⁵ The BFUG approved the establishment of the group in April 2006. In 2007, in London the group presented its results at the minister conference of the Bologna Process.

London

In the Communiqué, the Ministers seemed to be pleased with the overall progress of the work in the Bologna Process. However, there were some voices of critique, that the aim to accomplish the Bologna goals beyond 2010 will not be reached, for example by the students

London Communiqué Mobility

3.2. In our national reports for 2009, we will report on action taken at national level to promote the mobility of students and staff, including measures for future evaluations. We will focus on the main national challenges [...]. We also agree to set up a network of national experts to share information, and help to identify and overcome obstacles to the portability of grants and loans.

Box 6c

⁶³ Berlin Communiqué, 2003

⁶⁴ Bergen Communiqué, 2005 p.4

⁶⁵ Report of the working group portability of grants and loans, to the BFUG 2007

organisation ESU, which had published the 'black book on the Bologna process already in 2005⁶⁶. Quality assurance and obstacles for students were still big issues. Nevertheless the face of the EHEA has changed over the last seven years rapidly. For example in the academic year 2007 48% of German higher education institutions were bachelor or master programs, the number of Masters and Bachelors studies increased from 1999 till 2007 with 9% per year.⁶⁷ In order to overcome one big obstacle to mobility of students, the financial support of mobile student, the ministers agreed on the advice of the working group on portability of grants and loans and agreed on setting up a network of national experts. Those experts shall share information, help to identify and overcome obstacles to the portability of grants and loans.⁶⁸

The development from the Sorbonne Declaration until the Ministers Conference in London was unique and seems to be a quite successful one. What started as small declaration of four countries became a mayor European process that has made quite some change possible in the higher education system the last seven years. Interesting is that at every follow-up meeting new objectives have been added and it does not seem that the Bologna Process will be over soon.

The EU has gained more and more importance in this process. It is interesting to see how this Union had to work to gain influence and the trust of the nations outside of its territory. Overall, it can be said that the EU has a mayor influence on this process. Many instruments or developments of the EU have been implemented like the Diploma Supplement, the Socrates-Erasmus program, the credit-point system et cetera. The EU is involved through its institutions in the structure of the Bologna Process too. It has the chair of the BUFG; it is giving financial support to the process; it made three trend reports that were used for implementing new objectives and creating new instruments and it is seen as member of the process. One question that remains to be asked is: Is the EU that important to the Bologna Process? This will be dealt with in the following part.

6.1.4 Analysis

For this research ten interviews were taken with policy experts from Germany and The Netherlands. Besides experts on the national grants and loans systems and internationalisation of those, the Chair of the BFUG secretariat Marlies Leegwater and the Dutch Bologna promoter Robert Wagenaar have been interviewed too. The interviews were split in three parts, part one was about the changes of the laws on portability of the German and the Dutch grants and loans, the results of this part will be part of chapter 7. The second part included questions about the Bologna Process and the influence of the EU on it and on higher education in general. The last part was a general part about the future perspective. We will now use the second part for the analysis of the influence of the EU in the Bologna Process.

The most important questions in section two of the interview was, if the Bologna Process had started without the existence of the EU. The answer to this question was quite clear in the majority of the interviews: They all agreed that the EU plays an important role to the existence of the Bologna Process. Robert Wagenaar, Bologna promoter and lecturer at University of Groningen explained why. He said the EU gave the Bologna Process the infrastructure it needed to be functional. In over 50 years the EU created a platform for

⁶⁶ Caddick, S. 2008 p. 4

⁶⁷ Statistische Daten zur Einführung von Bachelor- und Masterstudiengängen, Sommersemester 2007, p. 7

⁶⁸ London Communiqué, 2007, p. 6

policy-makers in Europe. All the tools to work together were already given, the education ministers had met before, there was contact between the different ministries of the EU Members (interview with Wagenaar 2007) and people trusted each other. Wagenaar (2007) said that the EU, especially the European Commission, is a very important deliverer of ideas. Many of the main projects and reforms of the Bologna Process came from the EU. For example Life Long Learning was brought forward by the Commission as the ECTS. Besides this the second power of the Commission in the Bologna Process is financial support. Marlies Leegwater, the Chair of the BFUG secretariat, said that the EU sped up the process. She said that the EU is supporting the Bologna Process, because it has little alternatives to take influence on higher education in Europe yet. Aldrik in 't Hout of the Dutch ministry of Education, Culture and Science (OCW) and co-chair of the Bologna Expert Network on portability of grants and loans said, that the EU is a very important motor of the Bologna Process and without the EU ever having existed, the creation of the Bologna Process would not have been possible (interview In 't Hout 2007). However the EU itself had not enough power to make a change in higher education, that was why The Netherlands turned to the Bologna Process to receive support in their plans of making their student financial support portable, after the European Commission had not been able to help during the Dutch Presidency of the European Council in 2004.

If we are looking at the development of the Bologna Process, the projects and reforms it implemented in the Member States, we can see that the EU, through the European Commission, was the most important player, which supported and facilitated this process from the beginning on. This is one argument, why the Bologna Process can be seen as a result or dimension of European Integration – Europeanisation. At the other hand can we say that national policy-makers joined the Bologna Process because they have been Europeanised. Hans de Jonge of the VSNU said: 'European countries do not see themselves alone in the situation of concurrency with the US's education and science area, but they do not see their national state in concurrency with the US but Europe of which their state is apart of (interview, de Jonge, 2007)'. Without the EU creating a platform, changing infrastructures in national states, altering beliefs, the educational ministers might not have been ready to agree on the Bologna Declaration. The Bologna Process seems to be a pure Europeanisation product. As said before, Claude Allégre wanted an agreement outside of the EU, because he did not want the European Commission to have influence on higher education in Europe. This is a kind of Europeanisation too, the power of the EU made Member States of it work together and accomplish something which has nearly the same result as the EU's work, European Integration. That is why the Bologna Process is an indirect European legislation of Europeanisation, because European policy altered beliefs and expectations, not directly, but in a way that domestic arrangements were affected. That was how domestic beliefs changed and strategies and preferences of domestic actors were affected. It led to corresponding institutional adoptions of the Bologna countries. It results in the Europeanisation process of exporting forms of political organisations and governance that are typical and distinct for Europe beyond the European territory and central penetration of national and sub-national systems of governance.

The next part will deal with an *explicit European legislation of Europeanisation*, the second important mechanism of Europeanisation in higher education policy of European national states: EU Law.

6.2 EU Law⁶⁹

Nationals of a Member State of the EU are EU-citizens (article 6EC, 8EC and 12EC). This EU-citizenship comes along with rights, like the right to vote the EP, to move, work and live freely in every Member State of the EU (Article 18EC, 39EC). Those rights are settled in the EC Treaty, established and altered over the last 50 years of European Integration. Nevertheless, with creating rights other rights have to be given too, in order to make the European Integration process complete. What this means will be explained in this part.

In the beginning the EU was an economic integration process, as European Heads of States wanted economic growth (see chapter 2) and to increase their productivity, therefore for example workers had to be able to work and move freely inside of the EU area. However, if workers have the right to move and work freely all over the EU, what is with their family, which rights do they have? What happens if a worker is discriminated by his host country, can he be sure that the judge there is objective? How do they claim their right in order to get their right? This is a highly complex area; it is complex, because it is about national states giving rights to non-national EU-citizens on bases of supranational law, bases of EU Law. This law has developed over time and became part directly, through case law and indirectly, through Regulations and Directives of student grants and loans systems of the EU Members. In this part, we will try to show how EU Law became part of portability of student financial systems of EU Member States. It is difficult to understand the influence of EU Law on grants and loans systems of national states, because there are not many direct connections from the EU to the national states, but indirect ones. We will explore which EU Law is important in

Secondary Sources of EU Law Regulations

Effective on every Member State and directly applicable.

Directives

Not directly applicable, Member states have to implement them into their national law before a set deadline. How they can decide themselves.

Decisions

Directly applicable to those who it is addressed. They can be addressed to individual member states, natural and legal persons.

Recommendations

They are not legally binding, but they are persuasive and should be taken into account by national courts.

Box 6d

the study grants and loans area and why, because education is an area whose reasonability is lying with the Member States of the EU. Firstly we have to explore the sources of EU Law.

EU Law is binding to the EC Member States. There are two different sources of EU Law: Primary source: Treaties of the EC and Secondary sources: Secondary legislation, case law and general principles of EU law.

Treaties are binding, because through signing a treaty states are obliged to fulfill what is written in a treaty. Those two sources are not all applicable to higher education-policies of Member States or to put it in the right phrase they are not directly connected to higher education- policies. In this part, we will show the most important parts of EU Law to higher education-policy on portability of grants and loans inside. Many parts of the primary and secondary sources of EU Law are somehow linked to higher education or they could be interpreted to

be effective directly or indirectly for the higher education-area of EC Member States. We will concentrate on the most important parts of EU Law concerning portability of grants and loans. The case law part will be the most important part. Here the most important rulings in

⁶⁹ The content of this part is based on the following sources: Understanding EU Law (2007), European Union Law (2004), Deards and Hargreaves, European Union, power and policy-making, 3rd edition (2006), Richardson, Core EU Legislation (2006) Busby and Smith and European Union Law in a Global Context, Text, cases and Materials (2004), Hartley

the area of student financial support of the ECJ will be explored. Thus, this part is structured as follows:

- In the first part the Primary sources of EU Law consisting of EEC and EC Treaty articles will be shown.
- In the second part the first kind of Secondary sources of EU Law will be explored, these first kinds are Regulations, Directives, Decisions and Recommendations (see box 6d).
- The second kind of Secondary sources of EU Law, ECJ case law, is dealt with in the third part of this chapter.

6.2.1 The Treaty of the EC

The Treaty of Maastricht, 1992/93 (see chapter 3) included for the first time a Treaty of the EC articles on education that was not purely economic. One of the biggest accomplishments in the beginning of the European Integration process was article 48EEC in which EU-companies received the same rights in another Member State as national companies of the host-country:

*'Companies [...] within the Community shall [...] be treated in same way as natural persons who are nationals of Member States.'*⁷⁰

Companies had to be treated equally in the whole EU. But as in beginning the EU was for 100% an economic community, as described in chapter 2. Later, in the 80s and 90s other matters were put on the EU's agenda. One example, the rights of individuals, became a big part of it, which has become clear since the Treaty of Maastricht that included the citizenship. Article 8 of the Treaty provides:

'1. Every citizen of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union.

*2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.'*⁷¹

In this whole process education became one part of the new agenda of the EU too. Is not a big surprise, because education is an important part for an economy, especially for the European market. Knowledge became one of the greatest goods of Europe over the last 50 years. Times of mayor industries are ending in Europe, but research and technology are the new areas for Europe. This is why the EC has a special interest if its Member States invest in education. Article 149EC reflects this interest:

*The Community shall contribute to the development of quality education by encouraging cooperation between Member States and if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.'*⁷²

Furthermore, Article 149 says how the EC shall support education. The most interesting way is encouraging the mobility of students and teachers (see box 6e). Important is that the EU Member States signed the Treaty and are therefore obliged to fulfil the Treaty. However the EU had no power to implement these actions at the Member State level or force them to do

⁷⁰ Consolidated version of the Treaty of Establishing the European Community, article 48.

⁷¹ Treaty of the EU Article 8

⁷² Consolidated version of the Treaty of Establishing the European Community. Article 249, section 1.

so. This can be seen in the second part of Article 149EC, where the respect to the reasonability of the Member States for the education sector is underlined (see above article 149EC). Article 149EC seems to be more of a work basis for the EU to have a legal ground on possible future steps. However, the influence of the EU in the area of higher education is small. One example is the ambition of the Dutch Presidency in 2004, to use the presidency to bring student mobility forward inside the EU. The result was that there was no possibility to take further action to bring student mobility forward on an EU level (In 't Hout 2007) or with an EU tool. The EU seems to want direct influence, but it can only show its good will in an article, but it cannot take direct action. This was the reason why The Netherlands turned to the Bologna Process, where they had the possibilities to bring student mobility further in Europe (interview with In 't Hout, 2007).

Besides article 149EC there is one important EEC article that was fundamental for the development of free movement of students and their financial support. Article 7EEC:

*'Within the field of application of this Treaty and without prejudice to the special provisions mentioned therein, any discrimination on the grounds of nationality shall hereby be prohibited. The Council may, acting by means of a qualified majority vote on a proposal of the Commission and after the Assembly has been consulted, lay down rules in regard to the prohibition of any such discrimination.'*⁷³

This article has the effect that, if any Member State discriminates EU-citizens, the EU can take action and make the Member State stop discriminating and abolish or change any law

which is doing so. EU Law has supremacy over national law of the Member States. If for example students are discriminated on grounds of their nationality they could under certain circumstance claim their rights on bases of EU Law, because EU Law can be directly effective to individuals. In 6.2.3. we will explore this matter further.

The conclusion from this part is, that the EC-Treaty has no power on portability of grant and loans policies of the EU Member States. One of the few articles of Community Treaties that could make a call on a Member State in the area of education is article 7EEC. It is obvious that there is no direct connection to education in this primary source of EU Law.

Article 149EEC Paragraph 2

Community action shall be aimed at:

- Developing the European dimension in education, particularly through the teaching and dissemination of the languages of Member States,
- Encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study,
- Promoting cooperation between educational establishments,
- Developing exchanges of information and expertise on issues common to the education systems of Member States
- Encouraging the development of youth exchanges and of exchanges of social educational instructors,
- Encouraging the development of distance education.

Box 6e

6.2.2 Regulation No 1612/68/EEC and Directive No 2004/38/EC

Secondary sources of EU Law are affecting Member States as Primary sources of EU Law. In this part we will talk about a Regulation and a Directive. Besides Regulations and Directives,

⁷³ EEC Treaty

there are Recommendations and Decisions (see box), which are as well prepared by the European Commission and agreed on by the European Council and the EP.

The first Regulation is an early one of the year 1968, when the EC was in its beginning. Through the Regulation No 1612/68/EEC workers received the same rights in other EU Member States as national workers. They would have the same net-income, unemployment and working conditions et cetera. This Regulation is important to this research, because it gave the family members of workers with the EU-citizenship the same rights as nationals:

*'The children of a national of a Member State who is or has been employed in the territory of another Member State shall be admitted to that State's general educational, apprenticeship and vocational training courses under the same conditions as the nationals of that State, if such children are residing in its territory.'*⁷⁴

This influenced education policy in the Member States of the EU. A Regulation is one of the most powerful tools of the EU. It is directly applicable and effective to all Member States. However the Regulation was quite open and Member States with a better social network for their citizens were afraid of 'social care-tourism'. In regulation 93/96/EC it was ruled, that economic not active EU citizens in other EU Member states, for example students, have no right to receive a student grant or a loan of the host-country. However when Article 18EC was introduced and discrimination because of nationality was against EU Law, the use of regulation 93/96/EC was questioned more and more. The fear that every EU-citizen could live, work and benefit in all EU Member States with no real strings attached, dominated the discussion. Some countries were afraid there would be a big wave coming from the new, mostly East European Member States of the EU to the richer EU Member States in the West. In 2004 Directive No 2004/38/EC defined some points in the area equal treatment Article 24 EC which firstly demanded for workers who have the EU-citizenship and who work longer than for 3 months in the EU-host country that they have to be treated equally and even their family members even if they are non-Europeans. However the second paragraph of article 24 EC makes a selection of who can receive a student grant or loan:

*'[...] the host Member State shall not be obliged[...] prior to acquisition of the right of permanent residence, to grant maintenance and for studies, including vocational training, consisting in student grants or student loans to persons other than worker, self-employed persons, persons who retain such status and members of their families.'*⁷⁵

Furthermore it implemented a time-period which a student person has to be living legally inside the host country, after the time period of five years a EU –citizen has the same right to get social benefits like nationals⁷⁶. This Directive was important, because 1. it defined the position of the host-country of students and 2. for this research interesting, it took action in the area of student financial support systems very clearly. But the Community Treaties still give some space of definition and interpretation and this space is impossible to fill with only directives et cetera. It is the task of the ECJ to fill the gaps of the primary sources of EU Law.

⁷⁴ Council Regulation EEC No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community as amended by Regulation 312/76, article 14.

⁷⁵ Council and Parliament Directive (EC) No 2004/38 of April 2004, Article 24, paragraph 2

⁷⁶ Directive 2004/38, article 16 EC

How this is done and what this means for student financial systems will be explored in the following part.

6.2.3 ECJ-Case Law⁷⁷

The ECJ is an important factor of Europeanisation higher education, because the ECJ created through case law a stronger connection between the EU and higher education policies of the national states.

The ECJ's function is based on Article 220 EEC, it has to ensure that the content of the EC is interpreted and applied in the right way. One can say that Primary and Secondary sources of EU law can be imprecise or not sufficiently comprehensive⁷⁸. The ECJ has to flesh-out EU Law with its rulings and advice. This means that the General Principles of EC Law is developed by the ECJ. The decisions of the ECJ are binding and every Member State has to follow the ruling if it is addressed to it, the ECJ has supremacy of national law. This supremacy is not directly given by the EC Treaty, but it developed through case law over time, the same way the EU received its influence on student financial systems of Member States through EU case law. As we said in 6.2.1., individuals can claim their rights on grounds of Primary and Secondary sources of the EU Law. However individuals can claim their rights on grounds of every source of EU law. This means that EU Law provides not only Member States with rights and obligations, but also individuals; and such rights and obligations can be enforced by individuals before their national courts.⁷⁹ If a national court is not sure about its ruling, it can ask the ECJ for support, for example through a preliminary ruling. The whole system is quite complex and it is necessary for this research to explain it completely. Important to know is, that individuals can claim that a national state is infringing EU Law before the national court, which can ask the ECJ for support. This is in simple words how case law of the ECJ is produced.

Now we will explore the most important cases of the ECJ concerning student financial support systems of EU Member States. We will find out that the above mentioned Primary and Secondary sources of EU Law will be mentioned in the following part. Of course there

Most important EU Case law

1983: Gravier 293/83
 1989: Raulin C357/89
 1990: Bernini C-3/90
 1997: Meeusen C-337/90
 1999: Grzelczyk C-184/99
 2001: Ninni-Orasche C-412/01
 2003: Bidar C- 209/03
 2006: Morgan C11/06 and
 Buchner C-12/06

Box 6f

are other sources of EU Law which mattered in the process we will line out next, but we choose the most important ones to give a good and clear picture of the influence of EU Law on student financial support systems of Member States.

Free movement of students and student financial support of EU-Citizens

Free movement of students inside the EU seems to be a normal thing; however, 20 years ago it was not. There were differences in treatment of non-national students, for example that non-nationals had to pay higher tuition fees,

like it is still the case with non-EU citizens in some Member States of the EU, for example The Netherlands. Another difference was that non-nationals were not able to receive any grant or loan of the host state for their study. This part will show through six cases how the ECJ rulings made a change.

⁷⁷ Information of this part is based on EU-case law rulings, which can be found at <http://curia.europa.eu/>

⁷⁸ Compare Davis, K. 2007, p. 43

⁷⁹ Compare Davis, K. 2007, p. 49

After rights were given to workers and their families, the question about the student financial support came up. The question was:

*Is the host country obliged to support the student from another EU Member State or the home country?*⁸⁰

This question was discussed in case law of the ECJ. One of the first important rulings of the ECJ concerning student financial support systems of Members of the EU was in the case **Gravier 293/83**. In this case the French native Francaise Gravier was student at a Belgium University in 1983. Gravier had to pay an extra tuition fee (Minerval) as every non-Belgium or Luxembourg native or non-resident in one of the two Benelux countries. The ECJ ruled that Gravier who was following a vocational training to become a comic-strip drawer was discriminated. This means that the Belgium law which made foreign students pay the Minerval was infringing Article 7EEC. Because the ECJ has supremacy over the national law of Member States Belgium had to react on that infringement of EU Law, by changing the national law. This case answered one part of the question raised above, if the host country or the national country has to support students from other Member States of the EU. After Gravier it was clear that no EU-host country was allowed to discriminate any EU-citizen. This created another question: When does protection from misuse of non-nationals of the social system of the host country turn into discrimination of an EU-citizen? The ruling Gravier was an important case, because it was the starting point for the free movement for students inside the EU. Students could study freely in other EU-Member States without being discriminated. The next case brought this process another step forward.

Raulin C357/89, a French student, claimed student financial support for her tuition fee of the Dutch government, the country where she was studying, but she was dismissed of that support. Raulin claimed discrimination on grounds of Article 7 EEC as in the case Gravier. The other article which she claimed to be effective to her was Article 48EEC. She had worked for a short period of time inside The Netherlands and therefore claimed to have the status as a migrated worker. The ECJ ruled, that if financial assistance granted by a Member State to its own nationals those cost of access have to be granted as well for foreign students. This case brought once more clearness to what the rights of students are in another EU

Case Raulin C357/89

Claimed rights on:

- Article 7 EC
- Article 48 EC

Result:

- migrated worker of another EU Member State can not be discriminated and has to receive the same student financial support as nationals for the cost of access.

Box 6h

Case Gravier 293/83

Claimed rights on:

- Article 7 EC

Result:

- No discrimination of EU-Citizens inside of EU area

Box 6g

Member State and for Member States to protect their system from misuse or unintended use of non-native EU-citizens. The result of this ruling was that EU-citizens who were studying inside The Netherlands could claim 2/3 of their yearly tuition fee back. This refund was named the Raulin-vergoeding, Raulin-refund. It was a limited solution till in 2007 a general tuition fee loan was introduced in The Netherlands, of which EU-citizens can make use too. Another change was made in the WSF, every EU-citizen who is at least working for 8 hours per week in The Netherlands has the right to claim Dutch student financial support. Besides the effects to the Dutch student financial support system the ruling in this case

⁸⁰Witte, J & Brandenburger, U. 2007, p. 14

made clear that migrated workers of another EU Member State cannot be discriminated and have to receive the same financial student financial support as nationals.

In the case of Mrs. **Bernini** an Italian citizen who was raised from the age of two years in The Netherlands by her Italian parents. Her father had the status of a migrated worker in The Netherlands. When Mrs Bernini finished high-school she did an educational training as furniture designer in The Netherlands. After that she wanted to study in Italy. She claimed student financial support for this study abroad, this application was refused. The case Bernini C-3/90 is interesting, because it dealt with three different important questions:

1. Can a national of a Member State of the EU who has worked in another Member State in the context of occupational training be regarded as worker within the meaning of Article 48EEC and Regulation No. 1612/68 if he has performed services in return for remuneration, provided that his work was genuine and effective?
2. If a migrated worker voluntarily leaves his job in order to full-time studies in the country which he is a national of, does he retain his status as a migrated worker?
3. If a child of a migrated worker is studying in the country of his nationality does he have the right to receive the same student financial support that nationals of the country where the parent is working receive?

The ECJ answered all of those questions with a yes if: 1. The services during the occupational training are genuine and effective; 2. the study he is doing is in relationship with his previous occupational activity; 3. the parent who has the status of a migrated worker in the host-country is still supporting its child.

Meeusen C-337/97 a Belgium national who was studying inside of Belgium, but whose parents both were working in The Netherlands claimed Dutch student financial support. Her claim was dismissed. The question was if the same rights Mrs. Bernini received would be applicable for Mrs. Meeusen even if she has never lived in the country where her

Case Meeusen C-337/97

Claimed rights on:

- Regulation 1612/68

Result:

Even if the migrated workers do not live in the host-country their family has the same student financial support opportunities, as when they would be living inside the host country.

Box 6j

Case Bernini C-3/90

Claimed rights on:

- Article 48EEC
- Regulation 1612/68

Result:

- If in the occupational training effective and genuine work was done, status as migrated worker is given
- If migrated worker leaves job for a study in another EU state status as migrated worker stays if the study has to do with the job
- If migrated workers still support their children, the children keep the rights of nationals in the host country, even for student financial support abroad.

Box 6i

parents had the status of a migrated worker. The ECJ agreed with the Meeusens, their daughter could receive a Dutch grant, because her parents pay taxes and social payments in The Netherlands and she was still supported by her parents, as Mrs. Bernini was. The consequences for The Netherlands were that they changed article 7EEC of their Law on student financial support WSF 2000 that people living in border regions and working in The Netherlands could receive a grant as nationals and migrated workers inside the Netherlands. This counts as well for the student financial support in Flanders.

In the case of Rudy **Grzelczyk** C-184/99 the ECJ defined the obligations of the EU Member States to other EU-citizens.

Grzelczyk who felt discriminated by the fact that he as a French national could not receive

student financial support by the Belgium government, even though he had been studying for over three years at the Catholic University of Louvain-la-Neuve, Belgium. The ECJ ruled that the nationality should not be a reason of dismissing an EU-citizen of not receiving social support. There should not be any discrimination on grounds of the nationality of a student

Until now most of the cases we showed ended with a positive ruling for the plaintiff. In the case of

Case Ninni-Orasche C-412/01

Claimed rights on:

- Article 48EC
- Regulation 1612/68

Result

- The EU-citizenship is not sufficient in order to receive a grant of another member state.

Box 1

Ninni-Orasche C-412/01 the ruling of the ECJ was

more difficult. Mrs. Ninni-Orasche, an Italian national had been married with an Austrian since 1993 and had worked for two and a half months in Austria as a waitress. Her contract ended and she went to Italy to make her high school diploma in Italy. This diploma enabled her to study in Austria. After two years of unemployment (1995-96) she started a study at an

Austrian university and claimed an Austrian grant. This request was dismissed and the ECJ was asked for a preliminary ruling for the question if she could receive a grant, because she had been a migrated worker in 1993. The answer of the ECJ was that the fact that a national of a Member state who has worked for a temporary period of time in another Member State can confer on him the statutes of a worker, it depends on the relevance of the work. It is on the national court to determine if the work was relevant and effective. Most important in this case is, that the ECJ showed that the EU-citizenship was not sufficient in order to receive a grant of another Member State, but the status of a worker of the person itself or the parents is important.

Dany Bidar C209/03 had the French nationality; he was living in England with his grandmother. He finished high school in England and started a study in England; therefore he claimed an English loan, which all English nationals receive if they go to university. The question of the English court was, if Dany Bidar was discriminated on grounds of EU Law even if Regulation No 1612/68/EEC was not applicable for him, because he was not a migrated worker or a child of a migrated worker. It was the question how far the EC Treaty gives EU-citizens rights in other Member States like their home state and how far host states can discriminate non nationals of another Member state of the EU. The answer to this question was: If a person established a genuine link with the society of the Member State which the host-country is stated, they have the right to receive student financial support. The question which is left open is what genuine link means. The UK answered this question as a period of time the person has been living inside of England, which is three years. The Netherlands and Germany have used this ruling as basis for their new law on portability of student financial support (see chapter 7).

Case Grzelczyk C-184/99

Claimed rights on:

- Articles 12 EC, 17 EC and 18 EC
- Directive 93/96/
- Regulation 1612/68

Result:

Nationality should not be a reason of dismissing a EU citizen of not receiving social support

Box 6k

Case Bidar C209/03

Claimed rights on:

- Art 12 EC and 18 EC Citizenship

Result

- If a person established a genuine link with the society of the Member State which is the Host stated, they have the right to receive student financial support

Box 6m

**Case Morgan C-11/06
And Bucher C-12/06****Claimed rights on**

- Art 17 EC and 18 EC
Citizenship

Result

Germany had to change its
law on portability of students
financial support

Box 6n

The cases we have explored till now were all about EU-citizens who felt discriminated by a host country. The last case of Dany Bidar seems like it gave a final answer to a very important question of EU member states: “In order to protect our student financial support system on which grounds are we allowed to discriminate EU-nationals, so they do not become an unbearable burden for our system?” This question has been dealt with for over 20 years of ECJ case law history and it seems like it came to an end. Now a new area seems to have started, beginning with the

following case the case Morgan C-11/06 and Bucher C-12/06.

The two German nationals Morgan and Buchner went abroad for a complete study. Rhiannon Morgan went to the UK and Iris Buchner to The Netherlands. Both started a study program which did not exist at a German education facility. Both made a claim for student financial support by the German Government, both claims were refused. Their applications were refused, because the German Law on student financial support BAföG only provided support if the applicant was enrolled for one year in a German University in study program which was in relation with the study he wants to follow abroad. Because of the similarities of the two cases they were combined. Morgan and Buchner claimed that this rule was infringing article 18 EC and 17 EC of the free movement of citizen of the EU. The ECJ ruled that the one-year rule of the German BAföG is against EU Law. This could be one reason why Germany abolished the one-year rule in December 2007 (see chapter 7).

6.2.4 Analysis

We looked at three different sources of EU Law, which have different kinds of influence on higher education policies of European states. The first source was the Primary source of EU Law, EU treaties. We learned that these sources of EU Law have no big direct influence on Member States, only indirectly through ECJ case law the EU treaties get a significant meaning to higher education policies in EU Member States. The same counts for the second source of influence of EU Law, Regulations and Directives. Those found their real meaning through ECJ case law. The cases which we dealt with are all important cases for the development of student financial support systems in the EU. The plaintiffs claimed their rights on grounds of EU treaty articles and Secondary Sources of EU Law. There have been two different streams of claims: Discrimination of EU-citizens and rights and status of migrated worker or/and their family members. Through ruling in those cases (and others) the ECJ could answer an important question: Is the host country obliged to support the student from another EU Member State or the home country? The answer is: If the student does not provide genuine and effective work in his education; does not have the status of a migrated worker; is not supported by a parent who has the status of a migrated worker and does have no genuine link to the society of the host country, the host country is not obliged to financially support the student.

However after this question had been answered a new question came up through the case Morgan and Bucher: Is the home-country of a student obliged to financially support its native students in another Member State? This question will be answered in the future for sure. But for this research the following question is of more importance: Does ECJ case law Europeanise Member States through its rulings? This question will be answered in this part.

Here we will use the output of the interviews with the policy experts as we did in the analysis of the Bologna Process part of this chapter.

In the interviews with the policy experts in the higher education sector we asked why they think their country changed the national law on portability student financial support at this point of time (see attachments). Aldrik in 't Hout of the Dutch education ministry OCW said it was a long process which had already started in the 1990s but was too risky to finalize until the ruling of the case of Dany Bidar. This ruling delivered the final piece to the answer of the question what the tasks of the host countries to students of other EU member states were. In 't Hout said that creating a law on student financial support has always been made with the caution not to infringe EU Law. This brings us to the conclusion that the law making process in The Netherlands was Europeanised by a mechanism of explicit European legislation of Europeanisation, which is the already existing EU Law that tells the Member States top-down what they can do and what not. Furthermore we can say that EU law is an indirect legislation of Europeanisation, because it alters beliefs, expectations and structures in the national states. Through the awareness of the existence of EU Law, or more precisely ECJ case law, Member States higher education policy-making is influenced. Matyi Tegzess of the student financial support agency of The Netherlands underlined this point too. He replied the question why the Dutch government changed its law on student financial support now, that it was because of the pressure of the ECJ and the European Commission For The Netherlands he said it is a question of time that other countries follow the Dutch example. With being one of the first countries for a long period, which made their grants and loans system for students long time portable, the Dutch model of portability of grants and loans could used as an role model for this kind of policy-change in Europe. From these answers we can learn or guess that the expectations of the Member States of the EU are that there might come an ECJ ruling which says EU Member States have to give long-term student financial support to their natives in other Member States of the EU. As well in the interviews with the German policy experts the influence of ECJ case law was seen as a significant tool of influence on their law making process. Andreas Schepers of the German ministry of education BMBF did not see the ruling of Bidar as big reason for the change of the law at that point in time, but the ruling in the case gave the German government comfort in their decision to change their law. It is obvious that the ruling of Morgan and Buchner would have made the changes in Germany necessary. However, the German government was quicker with their law making process, which started before the ruling in the case of the two nationals. This can be seen as another factor of Europeanisation, the German government already changed their law before they even had to.

EU Law is influencing the policy-making of EU Member States, it does it top down, implicit and indirect, by keeping the Member States aware of its presence through every ruling it is making. The result is the process of central penetration of national and sub-national systems of governance and change of external territorial boundaries of student financial support. EU Law has mechanisms of European legislation of Europeanisation which cause processes inside the EU Member States. The question is: How strong are those processes and mechanisms of Europeanisation in the Member States and are they strong enough to say they are the reason for the changes inside of Germany and The Netherlands? This will be answered in the next chapter.

6.3 Conclusions

This chapter showed that there are two policy changing sources which cause mechanisms of European legislation of Europeanisation, that have influence on the higher education policies on student financial support: The Bologna Process through indirect European legislation of Europeanisation and EU Law through explicit, implicit and indirect European legislation of

Europeanisation. Both are tools which are taking influence on policy-making in the student financial support area in European countries. The sub-question 3 “How did portable student financial support policies develop?” can be answered in two parts: at the one hand out of pure national reasons like in Scandinavia out of resources reasons (see chapter 5) and on the other hand because of Europeanisation of higher education policies by the Bologna Process and EU Law.

Before we go on with the following chapter, we review what we have done so far. The main research question of this paper is: *How can the portability of grants and loans in The Netherlands and Germany be understood in the framework of Europeanisation?* To answer this question we have been answering four sub-questions. 1. Which theoretical perspective can we use in order to understand Europeanisation? We saw that the Theory of Europeanisation is the most applicable one. 2. What is portable student financial support? and 3. How did it develop? We saw that a few other countries have it already, but it is a long time ago a country introduced it in its student financial support system. That is why we have to answer this question through our two case studies. The fifth sub-question is: Which developments occurred in Germany and The Netherlands in the area of student financial support? This means that the purpose of the following chapter is to find out how financial student financial support developed and which developments have occurred so that Germany and the Netherlands changed their student financial support.

Summary

Bologna Process:

The Bologna Process is a mechanism of Europeanisation because:

- It was developed to create a counterbalance to the European Commission and to increase internationalisation and quality of higher education in Europe. This means the Bologna Process is partly the result of European Integration, without the strong Commission it might have not occurred in this kind of way.
- The Bologna Process used the infrastructure of the EU as financial supporter and think tank.
- The Bologna Process influences policy-making of its Members; they are indirectly obliged to change.

The Bologna Process is causing Europeanisation processes:

- It is exporting forms of political organisations and governance that are typical and distinct for Europe beyond the European territory and central penetration of national and sub-national systems of governance.

EU Law:

EU Law is causing mechanisms of Europeanisation because:

- Indirect impact of case law on national states.

EU case Law is causing Europeanisation processes:

- Central penetration of national and sub-national systems of governance. The national states have to change their laws and open it to non-nationals
- Changes in external territorial boundaries, student financial support becomes available for non-nationals not living inside the country.

7 Case studies

For a long time no country changed its rules on study financing in such an extensive way like The Netherlands did when they implemented the portable student financing in their law in the beginning of 2007. Germany was following the Dutch example and changed their laws on student financial support in the end of 2007. In those case studies, the specific reasons for the change in both countries will be explained. Hopefully this analysis will help to understand why countries introduced portable student financing, and how is it organised. Which influence did 'Europe' have on the two countries and do the German and the Dutch reasons differ from each other?

Besides these analyses, the general student financial support system will be discussed, to provide context for interpreting the developments in portability if Germany and The Netherlands can be compared at all in the field of student financial support.

Therefore the past and present situation of the student financial support system in Germany will be described. Which kind of direct student financial support did and do they provide and how is it organised today? To see the historical background helps to understand the development of the current system better and maybe will help to predict what will in the happen if other countries follow in the future.

7.1 Case Study Germany

This part separates in two sections:

- Firstly, the establishment and development of direct student financial support in Germany will be briefly described. Main changes of the general 'BundesAusbildungsförderungsgesetz' (BAföG) and the law, which was active till 2007. Added to this there will be a short explanation of the indirect student financial support, which plays an important part in the German student financial support system.
- Secondly, a description of the main developments of the student financial support system for German students abroad will follow. When could students receive a grant or a loan for studying abroad? How did it change? And what is the situation today?
- In the third part there will be an analysis of the reasoning of the German government to change their student financial support system and made their grants and loans for long-term portable to other countries. Background of this analysis will be five interviews done with the most important stakeholders of the process.
- Finally this case study will be analysed in the theoretical framework of Europeanisation.

7.1.1 Direct student financial support and its past developments

The German student financial support system consists of two parts, indirect and direct student financial support. The indirect grant, which is paid to the parents of a student, is compared to the possible maximum direct financial support of student in Germany, one third of the whole student financials support (around 200-240 Euros per month). However the indirect grant will not be part of this case study, because we are only examining direct student financial support.

From federal to national-federal student financial support

Before the German BAföG was displacing the old national system in 1971, the so-called 'Honnefer Modell' was the only national wide organized student financial support system.

The states (Länder) and the federal state (Bund) provided jointly a grant of which only highly skilled students benefited. In 1970, AföG was introduced. This was the first step towards today's BAföG, which already replaced the AföG after a year in 1971. The biggest difference to the old national student financial support system, the 'Honnefer Modell', was that the BAföG provided a grant for students with a weak financial background and not for highly skilled students. Another important fact was that before AföG and BAföG were established, the German 'Länder' had had the only legislative power in the area of student financial support (with the exception of the above mentioned 'Honnefer Modell')⁸¹ This meant that they had to finance the support of their students themselves. The support of students studying at universities was similarly organised, in all 'Länder' in that time, by the Rhöndorfer Modell. Important to know is that in both models (Rhöndorfer and Honnefer Modell) no one could make a legal claim, the support based on the effort and quality of the student's results in his or her study. Between 1966 and 1969, the needs of a nationally organised student

Evolution of the Bafög

- Till 1970 Honnefer Modell for highly skilled students
- 1970 AföG
- 1971 BAföG was introduced as 100% grant
- 1980s BAföG became 100% loan
- 1990s BAföG changed in to 50% grants and 50% loan
- 2001 AföRG became operative

Box 7a

financial support system made the Grand Coalition of CDU and SPD change the German constitution (Grundgesetz) and create the national law on student financial support in Germany.⁸² Now the 'Bund' and 'Länder' financed the support jointly. Until today, the state is providing 65 per cent and the federal states 35 per cent of the BAföG-budget. This has had two main reasons: 1. To create justice and more social support and 2. the need of the German industry for highly skilled and educated personnel/employees at that time. This new law made it possible for every student, without

sufficient financial means to go to university and to claim student financing from the government. From that time on, every two years the height of the student financial support has been checked, but this does not mean the government is obliged to increase it every two years. The following part will provide a description of how it was organized in the past and how it changed.

The BAföG and Changes – A General Outline⁸³

At first, the BAföG was a 100% grant, which did not have to be repaid. The amount of money students received was to cover the costs of their basic needs (living, housing, food, clothing, schoolbooks, travelling et cetera). The grants were and still are means-tested. How much a student received was and is still dependent on the financial situation of the parents, partner and the student himself, which means that the decision is family-dependent. Important to the means-tested of the support are the following points:

- Program the student is following,
- The education institution: training school, university of applied sciences, university, et cetera,
- Living situation: single or at the parents.

⁸¹ Weber, H.J. 2005, p. 1

⁸² Weber, H.J. 2005, p. 1

⁸³ Information of this part is based on information of the BMBF website and DSW website, downloaded 2007

To the different variations of those factors amounts of money are fixed. Those fixed amounts had to be checked on their actuality. An example for this would be to check the changes of the housing costs for students, who are living on their own, and if those actual costs are covered by the amount, the student receives through the BAföG. In the end it is on the German federal cabinet (Bundeskabinett, which is more for internal discussion of the government), parliament (Bundestag) and federal council (Bundesrat) have to decide if those amounts are adjusted to the current financial developments in Germany or not. Shortfalls in the adjusting of these amounts, caused in the past decreases in the number of beneficiaries, which points out the following part. In 1974, 44.6 per cent of all enrolled students, were financed by the German state. During the 1970s, the cycle of beneficiaries was widened, now high school students and trainees could also claim student financial support under the BAföG.

In 1974, the full grant, which was given by the German state, was changed in the beginnings of the 'Era-Kohl' (1981 till 84). The BAföG was changed not to a higher benefit of the students more to the opposite. Extensive economies (savings) in the German household/budget during this time were the main reasoning for those changes. High school students received financial support only if they lived outwards (auswärts) and the amount of financial support was reduced. From the academic year of 1983/84 on students, who were enrolled at a higher education facility could only receive a full loan. Overall, the 1980s were rather negative times for indigent students in Germany and the number of financially supported students in higher education facilities and on high schools decreased.

In the time of the German reunification, the BAföG was changed in a mainly positive way for German students, when the full loan was changed back to the 50 per cent grant and 50 per cent loan system in 1990. The consequence was that the number of supported students increased in the beginning of the 1990s. Reasons for the developments in the area of student financial support were insufficient adjustments of the parameters, like the height of income of the parents, which decided about the question if someone received BAföG and if they did, how much. As mentioned before, those parameters have been and are still discussed in a two-year cycle. Nevertheless, during this time they did not adjust the parameters well, so many students did not receive any student financial support.

This downward development stopped when in 2001 the Ausbildungsförderungsreformgesetz (AföRG) became operative. The number of students who benefitted of the BAföG increased from 2000 to 2001. The AföRG was a reform of the new government of the SPD and Grüne, which did not fulfil all the wishes and suggestions of institutions which deal with the BAföG, like the 'Deutsche Studentenwerk'. However, there have been some changes: One of the important changes was the adjusting of the support to the then current financial situation of people living in Germany, the consequence from this change was that more students could claim BAföG. The 'Kindergeld', which is a monthly financial support for parents, was no longer taken into account when the height of the support

Who receives BAföG

- Nationals
- Legal refugees
- Children of Germans abroad under the age of 21
- Everyone who has his permanent residence in Germany

Definition: Permanent residence
The place that is centre of life, if the only reason for living in Germany is to study, Germany is not seen as your permanent residence.

Box 7b

was calculated and the maximum debt of a student was fixed at the amount of 10.000 Euros.⁸⁴ Another improvement was dealing with the support of German students outside of Germany, which will be explained in the following part.

Next to the living situation, the kind of school which has been attended and the nationality is an important factor as well. Besides every German national, who is fulfilling the above-mentioned criteria, trainees who are granted an asylum in Germany, refugees or exiles receive German BAföG. To this list people from other EU-Member States have to be added who have a home address in Germany. For other foreign students German student financial support is granted if they or at least one parent have been working in Germany for five or three years before the education was started. Important as well is, that students seem to be able to finish a program in time, one example would be passing the midterm exams on universities. Students, trainees and pupils can request BAföG after their 30th birthday only in exceptions. The length of the support, which is given, depends on the chosen study program; every university program has a standard period of study. The student has to show after five semesters if he or she passed the test until this time with an average performance.

Evolution of German portable SF

- 1971 possibility to study abroad for one year, if the program was not offered in Germany (abolished 1990)
- 1979 Art. 5a BAföG as introduced, the time aboard was subtracted from the study time = students can receive longer BAföG
- 1996 abolishment of Art 5a BAföG
- 1999 reintroduction of Art 5a BAföG
- 2001 AföRG, most important changes:
 - The one year rule became operative
 - Grenzpendler-Regelung
- 2007 change of the BAföG
 - full portability of grants and loans

Box 7c

The BAföG consists of 50 per cent grant and 50 per cent loan. Students do not have to pay back more than 10.000 Euros in total even if they borrowed more (only for students who applied for BAföG after the AföRG was introduced). Five years after ending of the standard studying time of the study is the latest point of time students could start with paying back their debt. The minimum height here is 105 Euro, which can be paid every month and not longer than 20 years. If the income after finishing the program is not higher than 960 Euro monthly, the payment will be excused, besides this one there are other exemptions. Another important fact is that only one study

program is supported. Nevertheless, a study program of a Master degree, which is following only one Bachelor degree, will be financially supported.

In 2006 around 350.000 pupils and 500.000 students received BAföG⁸⁵. On average pupils received 301 Euros per month and students 375 Euro per month⁸⁶. The highest amount a student could receive is 585 Euro⁸⁷. This amount made it obvious that the height of the BAföG has not been extended for a while; because the amount is not sufficient to pay the life-minimum for a person per month in Germany. The DSW did a research on how much money a student needs monthly and came to the conclusion that it was 777 Euro. In 2001 was the last time a change of the height of the BAföG has been but more because of the change from the DM to the Euro. The amounts did not increase a lot, more rounded up, after translating them from DM to Euro⁸⁸. There have been a lot of discussions inside the grand

⁸⁴ Vossensteyn, H. (2004)b, p39

⁸⁵ Handelsblatt 19-08-2007 and Spiegel 21-05-2007

⁸⁶ Spiegel 21-05-2007

⁸⁷ Spiegel 08-05-2007

⁸⁸ DSW 2007

coalition, if the BAföG should be increased or not.⁸⁹ There had been no mayor change in the BAföG until 2007. The changes, which changed the face of German student financial support for students abroad, will be explained in the following.

7.1.2 Portable student financial support and its past developments

In 1971 when the BAföG was introduced the possibility to study abroad was already given: for one year if the program was existing on German Universities or for a full study program if the program did not exist in Germany. The latter was abolished in the 12th change of the BAföG (1990), because the variety at programs on German Universities had been growing, so not many students could make use of this law. An important detail of German student financial support was introduced in 1979. Meant is the rule (Art. 5a BAföG) which added the study period abroad to the study time in Germany. As it was explained above every study in Germany has a fixed time-frame. A student has to finish within this timeframe or the 50% grant becomes a loan, the student will have to pay everything back (up to 10.000 Euro). With Art 5a of the BAföG the time used for studying abroad was subtracted from the actual time the student spent on his or her study and as a consequence the student could study longer than allowed, which means receive student financial support longer. This made the Auslands-BAföG quite attractive, because students could make a study experience abroad, finish their study in time, and receive BAföG the whole time. This rule was abolished in 1996, which had the consequence that the number of students who went abroad declined. Out of this reason, the article 5a of the BAföG was reintroduced in 1999. In 1990, the minimum time for internships and studies was fixed on three and six months, to make sure that the stay abroad reaches the goal of learning the language, getting to know the country, culture et cetera.

For this study are the changes which were made through the already above-mentioned reforms of the AföRG in 2001 most important. The AföRG⁹⁰ widened the sponsorship for students, who intended to study abroad. Before the AföRG became effective, German students could only study for short periods in another country and receive student financial support from the German government. Since 2001 German students have been allowed to study in another Member State of the EU and receive student financial support by the German state if they have been enrolled at a German university for at least two semesters, which is equal to one year (see Box 7d). The study program, which was followed in Germany, has to be in the same field or

has to be important to the program, which was chosen abroad. The student had to stay at least one semester (six months). Pupils could be supported as well, but only after the tenths years of grammar school (Gymnasium) or similar. Internships abroad were as well supported, if it is mandatory for everyone who was following the study program, if it was useful for the study and if it takes at least 12 weeks.

One Year Rule

§ 5 BAföG, Para. (2), section 3

Auszubildenden, die ihren ständigen Wohnsitz im Inland haben, wird Ausbildungsförderung geleistet für den Besuch einer im Ausland gelegenen Ausbildungsstätte, wenn (...) eine Ausbildung nach dem mindestens einjährigen Besuch einer inländischen Ausbildungsstätte an einer Ausbildungsstätte in einem Mitgliedstaat der Europäischen Union fortgesetzt wird (...)

Box 7d

⁸⁹ See also Focus-Campus, 18-08-2007 and Handelsblaatt 20-12-2007

⁹⁰ Ausbildungsförderungsreformgesetz (AföRG)

Besides this possibility for German students to study abroad, there are two other important chances for students to study abroad: the ‘Grenzpendler-Regelung’ and the cooperation between higher education facilities. The first case is operative if a German national is living in Germany at a border region. If his/her closest and best reachable higher education facility (University or school) was in the neighbour state, he or she was receiving student financial support by the German state. Even if he or she did not study for one year in the German Higher education system this is effective, see box 7e.

The third case in which Germans could be financially supported by the state when studying abroad is, if the student is following a study which is organized in cooperation between a German and a foreign University or similar facility.

Besides those mostly for university students important rules, an additional charge is available for German nationals who live abroad and who do not have the possibility to study

Grenzpendler

§ 5 BAföG, Para. (1), section 1)

(...) Auszubildenden wird Ausbildungsförderung geleistet, wenn sie täglich von ihrem ständigen Wohnsitz im Inland aus eine im Ausland gelegene Ausbildungsstätte besuchen. Der ständige Wohnsitz im Sinne dieses Gesetzes ist an dem Ort begründet, der nicht nur vorübergehend Mittelpunkt der Lebensbeziehungen ist, ohne daß es auf den Willen zur ständigen Niederlassung ankommt; wer sich lediglich zum Zwecke der Ausbildung an einem Ort aufhält, hat dort nicht seinen ständigen Wohnsitz begründet.

Box 7e

in Germany, like high school students under age, whose parents are working and living abroad. Those students receive the yearly tuition-fee (up to 4.600 Euro), travelling costs and maybe an additional charge to their health insurance. Students outside the EU receive a special charge between 60 and 450 Euros monthly (amount's height depends on the country). This support is a full grant and students who would not receive any BAföG because of the height of the income of their parents for instance inside of Germany, might be able to receive BAföG outside of Germany. The reasoning behind this is that the education is more expensive in some other countries. This rule is mostly used as an exemption as

the ‘Grenzpendler’ rule, because there are not too many people who fulfil the criteria.

7.1.3 New rules on portable student financial support

In 2001, when the AföRG was not effective yet, the CDU-fraction made the claim to make student financial support abroad portable inside the EU, without the ‘one-year-rule’. The ‘one-year rule’ was implemented in the reform, but the German Ministry of Education announced that it would make, in given time, an overall evaluation of their then new portable student financial support, in order to check if the reform was useful or not. In 2005, this evaluation was done. It showed how the AföRG had worked.

Evaluation of the ‘old-portable student financial support’⁹¹

One study was made by the ‘Hochschul-Informationen-System’(HIS), which is an agency which can be called a think tank for higher education institutes and policy. It made this qualitative research out of a request of the BMBF (Bundesministerium für Bildung und Forschung). In a report the BMBF summarises the main outcomes of the above named research and it is showing some numbers from own surveys in these areas. Those two reports and their outcomes will be summarised briefly.

⁹¹ Information of this part is base don the HIS report of 2005 and the BMBF evaluation 2005

The BMBF survey reports that the numbers of students (trainees, pupils and interns) who followed a study program abroad increased extensively in five years from 8728 to 18862 students (1999-2004)⁹². It has to be said that this development is not purely the consequence of the AföRG, but the reinforcement of article 5a BAföG (see 5.1.1.3. Past developments), which made a study abroad more attractive to students. Of those supported students abroad, 66 per cent followed a program inside the EU (70 per cent with the new EU-Member States of 2004). From 2003 to 2004 the numbers of supported students outside of Germany decreased more inside the EU than outside (2003: 21 per cent, 2004: 23 per cent), which could have to do as well with the joining of the new Member States in the EU.

When differentiating those numbers in students, trainees and pupils, it becomes obvious that the clear majority of the beneficial is students and the minority is pupils (0.2 to 5.0 per cent). For example, 2217 students, 222 interns and 88 pupils were financially supported in Great Britain in 2004.

The research shows that the ‘Grenzpendler’ rule has been used quite extensively, especially in Austria 12 per cent, in Belgium/Luxembourg 19,4 per cent, in Switzerland and Lichtenstein 25,3 per cent and in The Netherlands 80 per cent of the there supported students are supported as ‘Grenzpendler’. The high number in the Dutch case has to do with the variety of study programs in German and English, the short distances between the countries and the opportunity to be able to study a complete study in another country.

The HIS survey showed that there is a cohesion between social heritage and the height of student financial support and that the changes in the AföRG contributed to balance social inequality a bit more. In its end report, where the BMBF summarized the HIS survey, it named possible changes of the Auslands-BAföG. The most important suggestions for this research were:

- **the abolishment of the ‘one-year-rule’**
- **the portability of the BAföG to all Bologna Member States**
- **the abolishment of the ‘Grenzpendler’ rule**
- **the implementing other support types**

In the beginning of 2007, a draft law for the BAföG was handed in the German parliament and at December 20th 2007 the Bundesrat agreed on the 22nd version of the BAföG. In the following part, we will line out the most important matters, which deal with the new German law on portable student financial support.

Figure D Supported Students⁹³ abroad 1999-2004

| | 1999 | 2004 |
|--------------------------------------|-------------|--------------|
| EU Member States (2003) | 6343 | 12527 |
| New EU Member States (after 2004) | 77 | 604 |
| Other Bologna States | 425 | 944 |
| North America | 1142 | 2301 |
| Africa and Asia | 366 | 770 |
| Australia, Oceania and South America | 377 | 1716 |
| In total | 8730 | 18862 |

Source BMBF 2005

⁹² BMBF(2005)

⁹³ Pupils, trainees and students

New German Law on student financial support – 22nd version of the BAföG

At December 20th 2007 the Bundesrat agreed on the new version of the BAföG, which was the last step in the German law-making process. The general height of the student financial support increased by 10% that means that students will receive up to 643 Euro per month, students with children will receive more monthly support and migrants will be able to receive a grant and a loan. Besides those changes, the Auslands-BAföG was altered too. Here is a summary of the changes of portable student financial support.

- **Abolishment of the one-year rule**

This abolishment was not a surprise after the ruling in the case Morgan and Bucher, which is laid out in chapter 6. Furthermore, this rule is not valid any more after the following rule was agreed on.

- **Portability to all EU-Member States and Switzerland**

Students who want to study abroad are allowed to receive student financial support from the first semester on for a study abroad, if they have sufficient language knowledge, the study is inside the EU or Switzerland and if the study or planned time is at least six months. Furthermore, the applicant has to fulfil the premises, which are valid for receiving the general BAföG, see box 7b and has been living inside of Germany for the last 3 years. An important change is, that there has been besides the positive change of portability of grants and loans some negative developments too. Students who went abroad in the framework of the old one-year rule, which is still valid till September/August 2008 received money for the whole time the money tuition fee (max. 4.600 Euro) as money for travelling home and back several times and as extra money for insurance et cetera. Those three different kinds of financial support decrease with the new law. Students will only receive financial support to pay the tuition fee for one year, the trip abroad and back and the support for insurance et cetera was cut back as well.

- **Abolishment of the 'Grenzpendler' rule**

Through the new portability of the BAföG, this rule is not important anymore, because everyone is able to take the grant and the loan abroad, living in a border-region or not.

If we are comparing the suggestions of the BMBF from 2006 and the actual changes of the law, we can see that two of the three suggestions are included in the law, the abolishment of the Grenzpendler rule and of the one-year-rule. The portability of the BAföG to all Bologna states is implemented in the law, the portability of grants and loans to all Member States of the EU and Switzerland. Reason for this was to keep the number of countries, where students could study with German student financial support, quite low in the beginning, to get used to the situation and be able to act quickly and solve problems quickly.

7.1.4 Reasons for Changing the German Law on Student Financial Support

The main question of this research is: 'How can portable student financial support be understood in the framework of Europeanisation?' Therefore we explained what Europeanisation is (chapter 2 and 3), we defined what student financial support is and what it means when it is portable (chapter 5). In chapter 6, two important tools of influence on higher education in Europe are shown, the Bologna Process and ECJ case law. One of the last steps to answering the main research-question of this paper is to find out why Germany changes its student financial support. In this part we will analyse the reasoning of the

German policy changes in order to find out if the European policy processes caused or influenced the decision-making of German policy-makers or maybe other things.

It is difficult to measure how high the influence of the European policy developments was on the decision to make student financial support portable to non-national higher education institutions. In order to find out the reasons why Germany changed its law on student financial support, interviews with German policy-experts were done. This and the analysis of actual national and international developments will help to understand the changes of the German student financial support law on portability of grants and loans. The interviewed people are all experts in the area of the BAföG or/and of the Bologna Process in Germany. The plan was to get a good picture of the policy changing process out of many perspectives. That is why the interviewed people were from the BMBF, HRK, and DSW.

Deutsche Studentenwerk

In Germany there are different competences in the area of higher education.

- The federal state and the states are sharing those.
- The states have the competences of education, research, economical and social matters of students. Inside the states the competences are split-up again.
- Economical and social competences are of the Studentenwerke and the competences in the area of research and education received the universities and other higher education institutions (Fachhochschulen).
- The DSW is dealing with the social and economical competences. The DSW is a network of 48 offices in the 16 German states.
- Those offices are facilitating and organising social student facilitations, like student housing, student cafeterias and financial student financial support. Those competences the 17 different Studentenwerke received by the states governments.

Box 7f

The Interview

The interviews (see example interview attachment 1) were separated in different parts; there were some variations in the structure of the interviews, which had to do with the interviewed person and his knowledge. The policy experts inside the government were asked more questions about the beginning of the law-making process, the influences on the contents of the law and sources of information and inspiration. Besides the parts of the start of the law-making/changing process in Germany, there was a part about the national influence on the law changes; another part about the international influence of the law making process, and a part where the interviewed person had to make some assumptions about the future perspective of portability of grants and loans. In the following, a summary of each interview will follow.

Deutsches Bundesministerium für Bildung und Forschung

In the interview with Andreas Schepers, the responsible person for portability of grants and loans in the BMBF, the position of the German government on the changes of the Auslands-BAföG became visible.

As explained in part above the German government controls if the BAföG (every two years) needs to be altered or not. In 2006 it was time to do so. One of the updates was implementing portable student financial support. Concerning the interview there are three different kinds of influence on the decision-making of the German government. Firstly, the influence of the Bologna Process, which sped up the process, seems to be important. Mr. Schepers phrased that it was comforting to see that other countries were going in the same direction like the German government with its plans. The work of the German experts was supported by the fact that it was possible to ask questions in the working group for portability

of grants and loans in the BFUG formation to ask questions to other foreign colleagues about their experiences. Secondly, the case law of the ECJ, in specific the case of Dany Bidar (chapter 6) gave the same encouraged Germany to go in that direction; so it strengthened the process of changing the law. Mr. Schepers said that besides the ECJ the influence and interference of the EU in general increased especially through regulations. The third reason for Germany to make their student financial support portable to foreign higher education institutions, was that it seemed like a natural development to change it now. Other countries were going in this direction, the ECJ was ruling in favor of portable loans and grants and the BAföG was about to be changed anyway. It did not seem to be a big step, which was bringing a lot of change. Mr. Schepers sees the change of the Auslands-BAföG as a solution for problems a few students have who are going abroad.

Deutsches Studentenwerk

From the perspective of the DSW, which is organising the social and economic support of students in Germany (for more information box 7f) there were too many reasons for the German government to make the grants and loans portable to other countries. Firstly, Meyer auf der Heide of the DSW said, the government wanted to increase the mobility of students. But most importantly, Mr. Meyer auf der Heide said, the change of the Auslands-BAföG was a political reason, in order to present a positive change in the law. This intended positive change would distract from the matter of fact that the government had not been increasing the height of the BAföG after a long period. Secondly Meyer auf der Heide acknowledged that the Bologna Process forced the German government to become more active in the higher education area and that of the mobility of students. So here we can see that the Bologna Process influenced the law-making process because it forced the Member States to cooperate with each other. This cooperation sped up the law making process in Germany, Meyer auf der Heide said. Thirdly he underlined that the EU has a mayor influence on the higher education-policies of its Member States, as agenda setter and that the higher education area of Europe would not be like it is now without the existence of the EU. The EU is influencing the government. This becomes visible by looking at the national agendas. 1/3 of the agenda is full with EU matters. Furthermore does the DSW promote mobility and tries to lobby to bring this matter forward.

Hochschulrektorenkonferenz

In the interview with the HRK representative and chair of the Bologna Center of the HRK Dr. Zervakis, the influence of the Bologna Process was seen clearly in the decision of the German government concerning the Auslands-BAföG. Dr. Zervakis said, that the first step toward student mobility was not a 'Selbstläufer' (self-seller) but needs certain activities like windows of mobility in Bachelor curricula and more stipends. As the Bologna Process started chain-reactions were happening, like the change of the national German law on student financing by the German Science Ministry (BAFÖG). Furthermore, there are more internal stakeholders, who are promoting mobility in different working groups like the 'Bologna-Arbeitsgruppe' (DAAD, DSW etc.). Student organisations are very strong in this

HRK

- The HRK is a voluntary association of 258 German higher education institutions.
- Around 98% of all German students are enrolled in one of those 258 institutions.
- The HRK is representing the opinion of its members in public and at the political level.
- It is an important stakeholder in the higher education area in Germany.

Box 7g

promotion process. The HRK itself is organising many seminars and conferences where the BMBF is actively participating too as well as the Länder representatives and the HRK has the possibility et al. to promote the mobility of students at the government-level. Dr. Zervakis also argued that the Bologna Process is giving the Member States more pressure and speeds up the process of the mobility in the higher education area et cetera, because of their commitment by signing the communiqués every two years, or their signature of the Sorbonne Declaration and Bologna Process. He mentioned too that the EU Commission itself is as an important source of influence on the Bologna Process and in general the higher education sector in Europe because it finances many good-practice like TUNING etc.

Analysis

If we look at the three interviews, we see three different sources of influence on the German decision-making. Firstly, there is the Bologna Process, which is promoting increasing student mobility and which forces the Bologna countries to take actions in the area of student mobility. Secondly, we have to take into account the influence of the EU through the Commission and EU Law. Thirdly there are specific national reasons which brought the law making process forward. We will explore and summarise those three sources which took influence on the law-making process in Germany.

a) The Bologna Process

All three policy experts agreed that the Bologna Process sped up the process. This happened at the one hand through the participation at the project group on grants and loans and at the other hand by the pressure through the signature of the Ministers of the communiqués. By signing these countries are indirectly forced to take actions to promote student and staff mobility in the higher education area. Germany does not want to be seen as an outsider, that's why the cooperation with other countries is important. For the law making process especially the exchange of information about experiences of countries which already have long-term portability of grants and loans seems to be important.

This shows that the Bologna Process Europeanised the law making process in Germany, by giving an indirect pressure on Member States of the Bologna Process. The BAföG had to be changed, it was important that something positive changed, therefore the policy-makers choose a Bologna goal, to increase student mobility. This could be because of Europeanisation. Maybe portability was chosen because of altered belief and change structures through the Bologna Process. It seems most likely that the Bologna Process sped up the policy-making process in Germany by Europeanising it.

b) The influence of the EU through the Commission and EU Law

All three interviewed experts agreed on the influence the EU has on higher education policymaking in the higher education sector in Germany, as it had on the law-making process in 2007. The EU is seen as an agenda setter of policy-makers. New regulations or directives are quite frequently on the agenda of everyday policymaking in Germany. Furthermore we could see through the interviews that the EU Law is speeding up internationalisation of higher education too, like the cases Morgan & Bucher and Bidar. Those cases supported Germany in making the decision to make their grants and loans long-term portable.

The Europeanisation of the law making process in Germany through EU influence became quite obvious through the interviews. The EU seems to be present at the policy-

making level constantly. That is why policy-making structures and maybe beliefs are changed in Germany, because ‘big brother is watching’.

c) National reasons

Besides those two processes of Europeanisation national reasons were important to the timing of the new law. The German government had not increased the height of the BAföG for quite a long time and was therefore criticised. In 2006 the German government had to make changes again, like it is written in the law, every two years the BAföG has to be altered and adjusted. An increase of the grant and loan was not included in the concept of the Government. However they implemented three changes in their draft which were quite positive, one of those three was the long-term portability of grants and loans for students. Meyer auf der Heide saw the implementation of those three positive changes as a partly gift which should distract from the fact that the monthly amount of money given to students as grant and loan was not increased again. After the DSW and other stakeholders had disagreed and had lobbied against this draft proposal of the German government the increase of the BAföG was implemented in the new version of the law.

Besides this the national stakeholders have been promoting student mobility for quite a while. The HRK, DWS and the students’ organisations have been promoting mobility of students in conferences, press releases and seminars for a long time. This lobbying for student portability might have had a positive influence on the law making process in Germany too.

7.1.5 Conclusions

The question why Germany changed their student financial support system at that point of time can be answered in two parts. Part 1: the German policy process of making German student financial support long-term portable was sped up by the Bologna Process and was influenced by the EU and its agenda setting. This means the decision of making grants and loans portable was as well directed by Europeanisation. Part 2 consists of national reasons, inside of Germany stakeholders had promoted student mobility for a while and the German government chose this point of time to satisfy the needs of the stakeholders in a moment where it was willing to give something instead of increasing the height of the BAföG. This plan did not succeed as we know.

The other sub-research question of why portability of grants and loans developed, one can say, that Germany was influenced by the Bologna Process and ECJ case law. Without the participation in the Bologna Process and in the work on portability of grants and loans, the German BAföG would maybe not so fast or at all been made portable to other countries for a whole study program.

7.2 Case Study The Netherlands

After the German case study on portability of grants and loans, we will go on with the second case, the Dutch system on long-term portable student financial support. The Dutch case is special interesting because it changed in 2007 its student financial support system. Those changes made it possible for students to take their student financial support abroad for a full study. The second interesting point of this case is the role The Netherlands are playing in the Bologna Process, being one of the mayor motors of bringing internationalisation of education forward. Now The Netherlands are steering this process to help other Bologna Member States

make their grants and loans portable too, in order to reach a balance between Dutch student abroad and foreign students on Dutch universities.

This Chapter is structured as the following:

- First, the developments of the Dutch student financial support system of last years will be lined out shortly in order to give a good picture how the present grants and loans system of The Netherlands was organised.
- The second part explores the developments of the long-term student financial support of the last years. Especially the changes of the WSF-2000 in 2007 will be examined.
- After the description of student financial support of The Netherlands and the past developments, we will analyse the reasoning of the Dutch government to make the change from only short-term portable student financial support to long-term student financial support outside of The Netherlands possible.
- In the final part before the conclusions, this case will be analysed in the theoretical framework of Europeanisation.

7.2.1 Dutch student financial support system and its past developments⁹⁴

In The Netherlands it is a long tradition to give grants and loans to students who live in a less stable financial situation. First a short summary of the most important developments and the grants and loans system of The Netherlands will be given.

In 1878 a law was enforced which provided financial support for students with a low income. In 1920, the government established a first commission on student financial support ('Rijksbeurzencommissie'), which controlled and organised Dutch student financial support at that time. The first student financial support systems were for students, who were following a scientific/academic study. There were different kinds of support possible, like the freeing of the tuition fee and/or financial support for living-costs. The Dutch student financial support system changed a lot over the last century. The rules of who could claim a grant or a loan, how student financial support was organised (as a loan or as a grant or both) and for how long a student could receive money from the government were altered many times. For this research the period between 1980s and 2007 is most important, because in this timeframe today's Dutch law on student financial support was developed.

WSF 2000 (old) Article 2.14.

Buitenlandse opleidingen hoger onderwijs

1. Voor studiefinanciering kan een student in aanmerking komen die is ingeschreven voor het volgen van onderwijs aan een bij ministeriële regeling aangewezen opleiding die leidt tot getuigschriften of diploma's ten aanzien waarvan in het kader van de Overeenkomst betreffende de Europese Economische Ruimte specifieke regeling verbonden zijn geworden inzake de onderlinge erkenning of vergelijkbaarheid.

Box 7h

The Grants and Loans System of The Netherlands - 1970s to 2000s

In 1986 the 'Wet op de studiefinanciering' (WSF) came into force. This law was the first step to the student financial support system, which now exists in The Netherlands. The name of the law is still almost the same, but the content has differed. This part will give a short summary of the most interesting developments in the Dutch student finance system of the 70s, 80s and 90s.

Before the 1980s, students had to keep a certain level of quality (height of marks) in order to have the allowance to receive student financial

⁹⁴ This part is based on information of "Studiefinanciering 1919-1986", the Dutch law on student financing WSF-oud, and WSF 2000 and the report of the education Minister of 2001 'Studeren zonder grenzen' (2001)

support⁹⁵. Furthermore students received an indirect support through their parents by a monthly child-grant, the ‘kinderbijslag’ and a taxation relief. In 1974, the general secretary formulated a memorandum in which he suggested the following changes to the student financial system:

- to transfer the child support and the tax relief for the parents into a grant for students from the age of 18 on.
- to create an extra grant for students whose parents were not enabled to financially support their child during their study time.
- to make it possible for students to loan a certain amount to their grant. This would help if the parents are not willing to support their child financially and the student is not enabled to receive the extra grant for students in a family with a low income.

The ministry of education suggested to the parliament to widen this system for all students from 18 years on system. This concept of a new student financial system, which had the name System-Klein⁹⁶ (stelsel-Klein), was one-step to the WSF. In the beginning of the 1980s, the development towards WSF was taken further through the initiative of several education ministers.

In 1984, education minister Deetman suggested a new student financial support law, two years later the WSF was enforced. The WSF of 1986 included many of the ideas of former ministers of the 1970s and the beginning of the 1980s. It included three different student financial support systems. One for students in the higher education sector (volledige onderwijs, fulltime education) in the age of 18 until 30 years, the second system was for students younger than 18 years and the other system provided support for students, who did not fit in the two systems. For this research, the first system is the most relevant one. The most important rules in order to receive student financial support were the following: Every student, who was in the age between 18 and 27 years, who followed a full-time study (19 hours lessons a week for at least one year) at a national public institution (financed by the Dutch government) was enabled to receive a loan and a grant. The height of the loan and grant was dependent on the financial situation of the parents and if the student was still living at home or not. Every student who fulfilled these rules could receive a basic grant, an extra loan and if the parent had a low income they could receive another extra grant. A big difference to the student financial support system before 1986 was, that not only students who were enrolled at a university could receive a loan and a grant but as well students, who were enrolled at a university of

Dutch grant and loans system

- Basic grant for every student
- Extra grant for students with a weak financial background (parents year-income €30.000)
- Loan for extra money
- Student may have own income up until 12.000 euro gross per year.
- Student mobility card (free usage of public transportation on weekends or during the week)
- Tuition fee loan
- support through grant and loan for the nominal duration of the program, after this three years of full loan
- student has to start using support before he turns 30. Then he may use the support until he is max. 34 years old.
- If study not finished after 10 years the student has to pay back everything
- No double student financial support (A Dutch grant and a foreign)

Box 7i

⁹⁵ OCnW, (1986), Studiefinanciering 1919-1986

⁹⁶ WSF-oud

applied science. Another change was that from the age of 18 on the child-support grant changed into that basic grant which was paid to the student directly and that students had the possibility to loan some extra money to their grant. This grants and loans system is still in use today. Only the rules for students in order to be enabled to receive a grant and a loan changed over the years. For example the WSF was changed a short time after again, because the feeling occurred that the WSF enforced in 1987 was too expensive, that is why the ‘tempobeurs’ was implemented. In this law, the student financial support was connected to the study-performance of the student. This was done by checking the study points a student received in on academic year. Did he or she fail to reach the number of points that were fixed in the law the basic grant or and the extra grant for students with a financially weak background was changed into loan. However, this ‘tempobeurs’ as it was called was abolished in the end of the 1990s. Instead of the ‘tempobeurs’ the ‘prestatiebeurs’ was implemented. In this system, the two different grants were changed into a loan if the student did not finish his or her study in at least ten years time. This system is still in use today. In 2000, the WSF was taken one-step further with the new law that was named WSF-2000, which is the basis of today’s grants and loans system in The Netherlands.

When the WSF was abolished the general loans and grants system was not changed (box 7i). The goal of the new law on grants and loans was to make student financial support more flexible. For example the age of students who are allowed to receive a grant and loan was increased to 30 years and time span to graduate was increased too, to 10 years. This means that every student in the age of 18 until 30 years receives a basic grant. Furthermore students of parents who have a yearly income of Euros 30.000 or less get an extra grant. More details about the Dutch student financial support system are listed in box 7i.

These were the most important points of the student financial system of The Netherlands. To compare it with the German BAföG the WSF 2000 gives support that is more direct to their students and there are more possibilities to loan money. In the following part, we will concentrate on the possibilities for Dutch students to receive a grant and a loan abroad long term in the past and in the present. This will maybe help to understand why the Dutch government did change its student financial support system from short-term to long-term support abroad.

7.2.2 Portable student financial support and its past developments⁹⁷

To study or make an internship abroad for a short-term, it was possible to receive student financial support for a longer time in the Dutch system. Which possibilities there were in the past to study a full program abroad will be lined out in this part.

There were five different ways to receive student financial support for a whole study abroad:

1. Accepted European Degrees

On the basis of European rules some degrees were accepted in every European country. Dutch students could take their grant or loan abroad if they were following one of those studies in an EEC-country. Those programs were degrees in

Which immigrant receive SF

- EU-migrants workers and their family, EU-citizens living in the NL for at least 5 years.
- Third country nationals who have permanent residence permits.
- Some with non-permanent residence permits (asylum).

Box 7j

⁹⁷ This part is based on information of the Dutch law on student financial support WSF-oud and WSF 2000, information of the homepage of the IB-groep and the report ‘studeren zonder grenzen’ 2001 of the ministry OCW

architecture, medicine, vet, dentist, chemist and midwife. The background for this allowance to take their student financial support abroad, was that in those studies were not sufficient study places provided in The Netherlands.

2. Border region policies

In the border regions policies students which had the right to receive student financial support in the Netherlands could take their grant and loan to the border areas of Belgium and Germany to follow a study. Especially children of Dutch migrated workers, Dutch citizens who were working in the border area, outside of The Netherlands made usage of this rule. Only rule was that the education the student was following had to be an study program of higher education.

3. The Dutch Antilles and Aruba

Dutch students could get their degree as well on the former Dutch Colonies Aruba and the Dutch Antilles. However, not every study was supported, for example on Aruba only studies of the law faculty and the social-economical faculty of the university. Study programs were checked for example through the OESO reviews.

4. VISIE-beurs

This subsidy was not part of the Dutch student financial support law WSF 2000. When the education minister Ritzen created it in 1997, the plan was to support 1000 students per year who wanted to study long-term inside the EEC in a study that did not exist in The Netherlands. This subsidy was made for students who just left school, that meant that in order be enabled to receive a VISIE-beurs the applicant could not be enrolled at an institution of higher education longer than five months.

5. Tax-reduction

If a student has no right to receive neither in side nor outside The Netherlands a grant or a loan, the parents of students could get a tax-reduction.

We can say for certain groups of people there were some possibilities to follow a complete higher educational study abroad with Dutch student financial support. Nevertheless only a small group of people got the chance to get a diploma outside of The Netherlands. In 2001, the Education Minister Hermans (2001) released a report about those possibilities under the name 'studying without borders' (studeren zonder grenzen). In this report, he evaluated the named possibilities of long-term support and came to the conclusion that those possibilities are neither sufficient nor successful in increasing mobility. In the following part, his critique on the long-term support tools and his plans to increase portability will be lined out. This is important, because this was one of the most concrete steps towards the new law on portability of grants and loans.

Review of the old long-term Student Financial Support System

In the report 'studeren zonder grenzen' the VISIE-regulation was criticised because it did not seem effective, because only 130 to 175 students received the VISIE-beurs per year. Reasons therefore were that at the one hand that not many students applied for it, because the target group did not know about it. At the other hand, this regulation was made for students who just left high school, which meant that they are quite young. It was criticised that students in this age are normally not ready to go abroad for a longer time:

*'Men vond de schoolverlaters erg jong om dan al een beslissing te moeten nemen naar het buitenland te gaan voor een volledige studie.'*⁹⁸

Furthermore, the VISIE-beurs was criticised, because it was higher than the basic grant which every student received and parents of those students who used this VISIE-beurs could get a tax-reduction too. Consequence was that students who went abroad with a VISIE-beurse received more direct grant than students who stayed at home for their study:

*'Met name de bevoordeling van de 'VISIE-student' ten opzicht van de student met studiefinanciering is een belangrijke tekortkoming van de regeling'*⁹⁹

Furthermore, the tax-reduction for parents of students who followed a full study abroad was part of the critique in the minister's report. Parents could receive up to f 8100- per year, if their children were not enabled to receive a grant or a loan. This amount was higher compared to the basic grant 'basis-beurs'. The main critique was that to this financial support no rule was connected which checked the study performance of the student. As consequence the tax-relief without any study proof would be more attractive, than the basic grant where students had to finish their study within a certain timeframe.

The other possibilities were not discussed, but those were only attractive to a certain group of students and not a bigger group, for example, students who wanted to get a degree, which was not possible to get inside of The Netherlands. Minister Hermans wanted to change the WSF 2000 in order to make it more flexible and to create more international mobility among students. Therefore, he laid down a suggestion what had to be done in order to make the Dutch grants and loans portable for long term programs. His ideas will be explored in the next part.

Plans for a new long-term student financial support 2001

Minister Hermans suggested in his report to make student financial support portable to all EEC countries, in order to create a more flexible student financial support system to fulfil the needs of the times of internationalisation:

*'Het overwegend nationale karakter van de Nederlandse studiefinanciering sluit niet goed meer aan bij de nationale en Europese ontwikkelingen op et gebied van mobiliteit en samenwerking en bij de wensen van de student.'*¹⁰⁰

He discussed in his report those matters which would have to be done if the grant and loan system for students would become portable. Those matters were:

- **Quality insurance of the degrees received abroad**

It had to be made sure that the degrees, which Dutch students receive abroad, enable them to work as well in The Netherlands. This means that a quality assurance of foreign degrees had to be done before a student went abroad. He stated that it might be difficult to be able to compare the quality of the degrees in other countries, however it seems that through the Bologna process those difficulties would decrease.

- **Which kind of degree structure will be supported**

This point is dealing with the question if only higher educational degrees should be supported or as well non-academic degrees. Hermans suggested to start with only the higher

⁹⁸ OCW, Studeren zonder grenzen, 2001, p. 10

⁹⁹ OCW, Studeren zonder grenzen, 2001, p. 10

¹⁰⁰ OCW (2001), Studeren zonder grenzen, 2001, p. 1

degrees and to begin a pilot with non-academic degrees in the border areas. In the higher education sector inside the Bologna Process the Member States started with implementing the three-degree cycle structure. In the non-academic areas the differences between degrees were still very big all over in Europe.

- **A limitation to EEC countries**

The limitation to only EEC countries was regarded as easier to cope with differences between the education systems and degree structures, because there were already some comparisons of degrees existing inside the EEC:

*'Het meeneembaar maken van studiefinanciering naar alleen landen binnen de EER is het gemakkelijkst te realiseren. Zoals we hierboven al hebben aangegeven, bestaan er allerlei initiatieven binnen Europa om opleidingen, studiepunten en diploma's meer vergelijkbaar te maken.'*¹⁰¹

Another reason only to choose countries inside the EEC was the Lisbon Strategy. The Lisbon Strategy was a new program at that point of time, with the ambitious goal to make the EU the most competitive knowledge community. Hopes were that the EU Member States cooperation in higher education sector would speed such processes and support them, by overcoming obstacles. However the EU did not overcome obstacles it created obstacles and this was the reason why in 2001 – 2002 Minister Hermans took back his suggestion of making student financial support portable. The reason is explained in the following.

Portability of grants and loans in the Netherlands and EU Law

Minister Hermans made his decision to reverse the law making process on portability of grants and loans on the background of a research made by Prof. Mortelmans of the European Institute Utrecht, for the ministry of education, culture and science. In this research, Mortelman explored the possibilities to change the WSF 2000, from short-term to long-term student financial support safe. Safe is meant in the context of to make sure that there will not be any misuse of the new law on student financial support. The chances of misuses were and are high inside the EU, because through the free European market and the free movement of workers the direct discrimination of non-national EU-citizens is against EU Law. As it has already been discussed in chapter 6 every EU Member State is obliged to treat non-national EU-citizens, who work in the host country as national citizens, this counts as well for their children. The Dutch government was afraid that this ruling would bring misuse of the new law on student financial support, because every child of a worker who had been working in the Netherlands, even for a short time could receive a grant and a loan. That is why they wanted to implement the regulation that people who want to take their grant and loan abroad for a complete study have to be integrated in The Netherlands. The level of integration is hard to measure. In the planned law integration was reached if the applicant had been living for a certain time inside The Netherlands. However Prof Mortelman came to the conclusion that this kind of law/clause would be indirect-discrimination of EU-workers and which was against EU Law. Facing the result of the report, Minister Hermans stopped the law changing process in 2002.

Nevertheless, the plans were only on pause and did not completely vanish. The Dutch government still tried to find a solution for the problem. For example, in 2004 they put student mobility high on their agenda when they had the presidency of the Council of the

¹⁰¹ OCW, 2001, Studeren zonder grenzen, p. 13

European Union. The Commission founded a high-level group of experts to determine the possibilities of portability of grants and loans inside the EU. However, there was no real result to the work of this group.

Nevertheless, in 2005 one European development restarted the lawmaking process of 2002, the case Dany Bidar (chapter 6). This case gave the Dutch government at last the legal support they needed to make their student financial support portable without misuse by others. How the new law looks like and how it was made safe, will be explored in the following part of this chapter.

7.2.3 The new rules on portable student financial support¹⁰²

On 22nd May 2007 the Dutch Parliament agreed on changes of the WSF 2000. Since September 2007 students could take their student financial support abroad, if they had fulfilled all requirements for receiving a portable grant. What the changes exactly imply will be explained in this part.

Portability of grants and loans for long-term study abroad

To make long-term student financial support portable, the Dutch government had to create a law which would protect from misuse. Because of this safety-matter the law-making process was stopped in 2002. This time the ruling in the case of Dany Bidar (chapter 6) gave the Dutch governance enough confidence to create a safe law. This safety-matter is solved by article 2.14. which says, that every person who has been legally living/staying three out of the last six years inside The Netherlands (3 out of 6 rule). Furthermore is important that the quality of the program the student wants to follow abroad is of the same or comparable quality than a Dutch program. If this is not so problems can occur like for example Dutch students receive a bachelor diploma abroad. This diploma is of lower quality than the Dutch Bachelor diploma, the student won't be able to start a master program in The Netherlands. Furthermore does no student who is receiving Dutch student financial support allowed to receive any direct student financial support by another country. Those who are fulfilling those rules plus those who already count for student financial support inside of the Netherlands are enabled to receive direct and long-term student financial support. The importance in this article is that the nationality of the applicant does not matter, as long as he or she is fulfilling the 3 out of 6 rule.

Quality Assurance

Besides the issue of misuse, the Dutch government had to make sure that the quality of the degree received abroad is even with a national degree. Firstly, an institution has been hired to deal with the quality assurance. The quality assurance is done by NUFFIC and NVAO. An applicant sends his or her application form to the Dutch student financial support agency IB-Groep. If the applicant wants to receive a grant and loan for a study program which is not known the IB-Groep sends the details of the study to an agency, which will check it.

How portable should student financial support become?

Actually there are not many changes to the idea of Minister Hermans in 2002. The only big difference to his ideas is that, instead of portability to only EEC countries student have the permission to take their grant and loan to every country in the world. In the report on the new law, the Tweede Kamer says that inside the Bologna Process with its 46 Member States the

¹⁰² Information of this part is based on the report of the Dutch parliament, Tweede Kamer, Wijziging van onder meer de Wet studiefinanciering 2000 in verband met uitbreiding van de mogelijkheid om met studiefinanciering in het buitenland te studeren, invoering van een nieuw aflossingssysteem, 2006-2007, number 30 933

trend or progress of portability of grants and loans is growing, for example in the working group on portability of grants and loans. However, there are outside of Europe many good universities which have excellent programs and it would be good for students to get the opportunity to be able to study at one of those universities.

One important problem could not be solved in the new law, the danger of double student financial support by the home country and the host country. In the WFS 2000 it is agreed on, that it is illegal for students who receive Dutch student financial support to receive from another country any grant or loan for their study. This problem will be followed inside the Bologna Process. It is necessary to cooperate with other countries to effectively address this issue.

The law is now applicable for five months and the numbers of internationally mobile students doubled. However it is not clear if those students who claimed long-term student financial support abroad are already mobile students or if they made the decision to make a degree abroad because of the new law. It will take some time until the new law is known and the real effects of it are known. For this research it is interesting to learn, why the WFS 2000 was changed. This will be explored in the following part.

7.2.4 Reasons for changing the WFS 2000

Similar to the German case interviews were made with the stakeholders of the law-making process. The goal was to find the reasons of the Dutch government to change the WFS 2000.

Interviews

Ministerie van Onderwijs Cultuur en Wetenschap

In the interview with Aldrik in 't Hout of the department of student financial support of the OCW, who is in charge of internationalisation, a good picture of the government point of view of the process could be made. For the Dutch Education ministry of OCW was the goal of more portability and flexibility for grants and loans important. Especially the Bologna Process is seen as an important supporter in this process. The Netherlands have been very active in this process, for example The Netherlands were chair of the working group on portability of grants and loans of the BFUG as well as are part of the chair for the Expert Network which is a follow up of the just mentioned group. Internationalisation was and is for The Netherlands an important matter as it could be seen in part 7.2. One reason why the changes of the student financial support system were done at this point of time, was closely related to the ruling in the case Dany Bidar, In 't Hout said.

Informatie Beheer Groep

In the interview with Matyi Tegzess of the institution, which is handling all the administration, planning and organisation to do with grants and loans for students in The Netherlands, a view of an important non-governmental stakeholder could be seen. For Tegzess the political climate seemed to be right in 2006 and since in the border areas portability had already been implemented it seemed to be a natural development, that the WFS 2000 was changed. Especially after the Bidar ruling in 2005, when all mayor obstacles were erased and the 3 out of 6 rule could be implemented.

IB-Group

The Informatie Beheer Groep's most important tasks is the management of the students grants and loans system. It does everything around student financial support:

- The application for student financial support
- The payments to the students
- The repayment of the loan of the students.

It has to justify its actions to the ministry of OCW, which is supplying the IB-Groep, which is officially independent

Of course it is a lot of work and the system is not perfect yet, but already much more students take their money abroad than before, Tegzess stated. It would have been easier if the portability was only possible inside of Europe for example.

ISO

- ISO is the biggest national student association of The Netherlands. The matters of around 430.000 student are represented through ISO.
- It is an important stakeholder in the higher education area and for example the ministry OCW has frequent contact with ISO, to get the students perspective on political issues or organisational matters of higher education.
- Furthermore does ISO provide information for students which want to follow a higher education program or are already a student.

Box 7l

BFUG Secretariat and Dutch BFUG Delegate

Marlies Leegwater, the present head of the BFUG secretariat and one of the Dutch BFUG Delegates sees the Bologna Process and EU Law as the two main reasons, which made the Dutch government change the WSF 2000 at this point in time. The cooperation inside the Bologna Process gave more acceptance inside the Dutch parliament, Leegwater said. Without the work inside the Bologna Process on portability of grants and loans, the change of the student financial support system would have never been agreed up on in the Tweede Kamer she said. Furthermore does she see the EU as a constant supporter of higher education policies. Besides those European factors she underlined the influence of the student organisations which were very active in promoting portability of grants and loans at the Dutch government.

Internationaal Student Organisatie

For the students the change from short-term to long-term portability for all students in the Netherlands was an important step. Even if the expectations from their side are not so high, they do not believe that an extensive number of students will go abroad. Those that go abroad right after school will be a few; Fabienne Hendricks expected it will be a more vertical international mobility at the master-phase of the education. The bond to the home country is quite strong she stated, so students rather choose for a short time abroad, in a later point of time during their higher education. ISO followed the discussions about the process and tries to help during the process, but a more important help and agenda setter were the Bologna Process and the EU, Hendricks said (2008).

VSNU

For VSNU member Hans de Jonge was the change towards portable grants and loans a natural one. It was a small step, which is one of many follow-ups of the one big international development in the European higher education sector, the Bologna Process. But actually the VSNU was at the beginning of the law changing process against the change. The fear of the higher education institutions was, that the motivated and good students would go abroad, who will be missing at the Dutch universities. These doubts the VSNU wrote in a letter to the leader of the Tweede Kamer in 2005. They agreed that internationalisation is an important matter as well in higher education, but one should not forget the importance of the input good and motivated students give. In order to still have this quality in Dutch lectures the Dutch government should make sure, that in return

VSNU

- The VSNU is an association of 14 Dutch higher education institutions.
- It is promoting the universities common interests
- It is providing a forum for discussion
- Furthermore it is providing information and services
- It is an employers organisation
- The VSNU is an important stakeholder in the higher education policy area.

Box 7m

for the leaving students others should come. The idea to support other student to make their degree in The Netherlands through bringing portability of grants and loans in other countries forward through the Bologna Process.:

‘Wij geven daarom dringend in overweging de meeneembaarheid van studiefinanciering niet eenzijdig te regelen, [...] maar de regering te verzoeken de energie te richten op het overleg in Bologna verband en binnen dat verband tot sluitende afspraken te komen over een invoering van de meeneembaarheid door all [...] Bologna landen.’¹⁰³

7.2.5 Analysis

Through the answers of the experts in the interviews we could learn, that in the Dutch case the same Europeanisation process has taken influence on the law-making process as in the German case: Firstly the Bologna Process and secondly the influence of EU Law. The national influence was given in the Dutch case too, but not a specific one as in the German case.

a. The Bologna Process

The Bologna Process was an important fact in the law-making process in The Netherlands. The Netherlands already tried to make their grants and loans system long-term portable for all students, in the beginning of the 2000s. However as it is explained in 7.2.2, it was difficult to create a safe law on portable grants and loans inside the EU. That is why the Dutch government tried to get support from the EU with opening their student financial support system for long-term studies abroad. But the EU could not provide any help. The Netherlands used the infrastructure of the Bologna Process and they found the support they needed. The Dutch delegation was chairing a project group on portability of grants and loans inside the BFUG in 2005. One year later the new law on the Dutch student financial support system was agreed on. In the interview with In ‘t Hout (2007) said that the Bologna Process gave the right support they needed. They could exchange information with other countries and they could help starting to create a basis for other countries to open their student financial support systems like they did. This basis is the Expert Network on portability of grants and loans which is being built up at the moment inside the BFUG framework. Furthermore Marlies Leegwater underpinned the importance of the work in the Bologna Process to get the acceptance of the Dutch parliament for the change of the WSF 2000.

In the Dutch case we can see that The Netherlands already tried to change their system for a long time. They only needed the right support. So we learn the The Netherlands seem to have been committed to the work of the Bologna Process from the beginning on. The question is, if The Netherlands have been Europeanised through the Bologna Process by the commitment of signing the Bologna Declaration or even already before. The interviewed showed that the Dutch experts see the signature of the declaration and the communiqués by their ministers as a commitment, which they have to fulfil.

b. The Influence of the EU through the Commission and EU Law

The influence of the EU, especially EU case law, mattered to the timing of the new law in The Netherlands. It was clear that the ruling in the case of Dany Bidar made them re-start their law-changing process. As said before the Dutch policy-making process is aware of EU Law and wants to adjust to the new situation of ECJ power quickly. Matyi Tegzess said that

¹⁰³ Brief van de VSNU aan de Tweede Kamer 2006

in Dutch policy-making, being EU conform when changing something is common, every detail is thought of in the way the Commission would think of, this is done to prevent long processes with the EU. This is a clear sign of Europeanisation.

c. National reasons

The national reasons were not as strong as in the German case. In the interviews with Marlies Leegwater, the VSNU and ISO representative it became clear that the government was working strongly on making this law possible and the important stakeholders did not have to lobby a lot to make the government start the process of opening their systems of grants and loans for long-terms. Only for the organisation of student mobility stakeholders tried to influence the new version of the WSF 2000.

7.2.6 Conclusions

It is hard to see if in the Dutch case Europeanisation was the reason for the changes to the WSF-2000 in 2006. The Netherlands wanted to change their system for a long time and they tried to use every Europeanisation mechanism to make their plans work. First, they tried to use European Integration, in 2004 during their Council presidency. When this did not work they used an Europeanisation process, the Bologna Process, which was no European Integration, no action between EU institutions and Member States, but a process outside the EU which exported forms of EU policies to the Europe and further, was changing the whole higher education area of 2/3s of Eurasia. One can say that The Netherlands early had the ambition to increase student mobility. To materialise this ambition they used Europeanisation. At the one hand, the mechanism of indirect Europeanisation legislation of EU Law made them act in this area early. ECJ case law affected them and they are aware of the presence of the EU all the time and altered their policy-making structures to this. In The Netherlands they seem to see a ruling of the ECJ coming which will force EU Member States to give student financial support for long-terms to study inside the EU. Therefore, they want to be prepared, however under their conditions, that is why they have been so active to make their law changes possible in the last years. At the other hand they used Europeanisation of the Bologna Process to reach their goals. In a kind of way, they Europeanised other countries through their work inside the Bologna Process. They are promoting student mobility and its funding in the Bologna Process. Other countries get interested and see the Dutch example as a comforting one to try it too. The reason for the Netherlands to make usage of Europeanisation, of changing beliefs and working structures in other countries was to make portability of grants and loans safe. If all the Bologna countries are supporting their students even in other countries and for fulltime studies, unintended use of student financial support by others which are actually not allowed to make use of is, will decrease.

The Netherlands are active and seem to act in the fields of higher education really Europeanised. Their structures of policymaking and their ways of acting look like they are Europeanised. It could be that The Netherlands as a smaller country than Germany is automatically more internationalised and Europeanised than bigger countries. They have to act quickly in order to have more influence on processes, because later it is harder for them than for big countries. However this is a matter which we will not be able to answer in this research. Nevertheless, it can be said that Dutch policy-making is Europeanised, the Bologna Process and EU Law are highly important to them and they adjust their structures to it.

7.3 Conclusions of chapter 7

The reasons for the German and the Dutch policy changes of 2007 in the area of portability of grants and loans show the same Europeanisation by EU Law as the Bologna Process. Both were influenced by the ruling of the ECJ in the case Dany Bidar and by the work inside the BFUG. For instance, since the beginning part of the portability of grants and loans 'movement' of the BFUG Germany has joined it, too. In Germany the national reasons were quite dominating, in the Dutch case they were not. Therefore The Netherlands could be seen as Europeanisation motor in the BFUG process of portability of grants and loans, which affected Germany in its decision-making process too.

After we have analysed why Germany and The Netherlands made their student financial support long-term portable the question is: "What happens to other countries, will they follow?" This question is important, because if the two cases of Germany and The Netherlands stay the only ones Europeanisation is not the reason for those changes, because it is not logical that Europeanisation only occurs in two countries in the area portability of grants and loans. This will be discussed in the following chapter.

8 Future perspective

What are future perspectives of portability of grants and loans? That is the last sub-question of this research. The importance of this question to this study is that we want to learn in this research why The Netherlands and Germany made their grants and loans portable for the length of a whole study abroad. We want to examine if those two countries changed their student financial support systems because they have been Europeanised. However, if the German and the Dutch case stay the only two cases who opened their grants and loans systems, it is not very plausible that they are the only two countries which have been Europeanised and our theory is falsified. That is why we will have a look what future perspectives of portability of grants and loans in Europe can be seen. We will do this by having a look at the two most important policy processes of portability in Europe, the Bologna Process and ECJ case law and their current developments.

8.1 The Bologna Process and portability of grants and loans

Mobility of students has always played a key role in the Bologna Process. In Berlin and Bergen the Ministers made a commitment to bring the facilitating of grants and loans forward in Europe (chapter 6.1. Bologna process), but it must be asked how those commitments are/ have been put into action. This part will give an answer to this question.

Looking at the work the Bologna Process has done so far it becomes clear that the Bologna Process went through different stages of working. In the first stage conferences and seminars were organised to develop plans how to create this European higher education area and to exchange information and get into contact with each other. This was the case with the matter of student mobility and portability of grants and loans too. Between Berlin and Bergen the Dutch government organised a seminar with the title ‘Designing policies for mobile students’ where important stakeholders and policy experts organised workshops on matters of student mobility and grants and loans. Here experts and policy-makers met for the first times internationally to discuss student mobility in Europe with each other. The second stage the Bologna Process went through was the stage of working groups. Those working groups were mostly results of a Bologna seminar or conference. In our case the working group of portability of grants and loans developed in Vienna in 2006 (see chapter 6.1). This working group examined the desire of countries to implement portable student financial support and the obstacles in doing so and the different grant and loans systems in the Bologna area. The results of the work of this group were handed to the ministers at the Bologna meeting in London in 2007. During the work in the group, it became clear that there are some obstacles to portability of grants and loans and that there are some differences between the student financial support systems. Therefore, the working group advised the ministers to:

‘[...] establish a network of national experts which will facilitate the portability of grants and loans within the EHEA as well as help to identify and address obstacles, as appropriate.’¹⁰⁴

The minister followed that advice and in their communiqué, they asked to create an expert network on portability of grants and loans¹⁰⁵. This was last year and now after the stage of working groups one could think that a new stage of working process has been established

¹⁰⁴ Bologna Working group on portability of grants and loans report, 2007

¹⁰⁵ See London Communiqué, 2007

inside the Bologna Process. However, no new kind of working process has developed in most of the Bologna Process topic. Many started to organise conferences and seminars, which one could see as a backwards development. If that is the case, we will see in the future. Important for this research is, that in the area of portability of grants and loans a different development occurred. In Lisbon in October 2007, the Expert Network on portability of grants and loans met for the first time. This meeting was initiated by the Dutch delegation. They agreed on creating a network of experts as agreed on in the London communiqué. The Expert Network's goal is to overcome obstacles of portability and learn from each other by exchanging information, so that other countries can follow the German and Dutch example. The Network has 15 Bologna countries as members, where some already have long-term portability (Sweden, Finland, Denmark, Germany and The Netherlands). Those countries are interested in overcoming obstacles in data exchange between student financial support agencies and promoting portability to other countries for example. Members like Scotland, Ireland and Austria want to learn how other countries made the changes possible in their countries, because they are planning to make their grants and loans long-term portable in the near or far future. Network-members like Montenegro and Armenia are interested in the processes in the other countries and want to experience what they might be able to do in the future.

Overall, it seems like inside the Bologna Process further developments have been made in the area of student financial support. Other countries are interested in the topic and are willing to change and make long-term studies abroad possible for their natives. As lined out in chapter 7 The Netherlands use the Bologna Process to increase portability of grants and loans for a long-term study abroad in other countries in Europe. For The Netherlands this is an important goal, this becomes clear when looking at the efforts they made in the working-group on portability of grants and loans and the setting up of the Expert Network on portability of grants and loans. This shows that the Europeanisation of student financial support systems through the Bologna Process will go on in the future.

8.2 EU Law

In chapter 6, we could see that ECJ case law has a strong indirect impact on the higher education policy of EU Member States. This is resulting in Europeanisation of policy-structures and beliefs of policy-makers. In chapter 7 we could see how strong this indirect European legislation of Europeanisation is in Germany and especially in The Netherlands.

The future perspective of this process bringing portable student financial support forward is promising. This could be explained by the fact that it seems like there will be ECJ-cases until all Member States of the EU and the Bologna Process have finally adjust their student financial support systems. Now, there is another case at the ECJ dealing with student financial support and the question of the host state supports the plaintiff. The case meant is the case Förster C-158/07 and it does not seem like this will be the last case on this matter.

8.3 Conclusions

Sub-question 5 concerning what a future perspective could be, can be answered that the portability of grants and loans in a long-term will be implemented as well at several Member States of the EU and the Bologna Countries in the future.

The Bologna Process is continuing its work on student financial support of students abroad and countries show their interest in this matter. In the interviews the policy experts were asked, if they expect other countries to follow the German and Dutch example of

changing their student financial support systems and make their grants and loans portable for a long-term mobility. The answer of all interviewed persons was a clear yes. The EU Law and the Bologna Process were most important in Germany and The Netherlands for making that change and it seems that this influence of these two processes will go on and europeanise other countries too.

9 Summary and Conclusions

The goal of this research is to answer the following main research question: *How can the portability of grants and loans in The Netherlands and Germany be understood in the framework of Europeanisation?* In the last eight chapters we have answered five sub-question in order to answer this main research question.

The first sub-question was asking what theoretical perspective could help Europeanisation. This we answered after explaining how Europeanisation developed and most importantly what the difference between Europeanisation and European Integration is. We had to make clear that Europeanisation is going beyond European Integration, it looks at these side effects and spill-overs of European Integration. That is why the main question of Europeanisation Theory is: How Europeanised are states? Changing the student financial support system as a reaction of European Integration, because the harmonisation and convergence policies of the EU can have the effect that policy-makers change or alter their working structures. They adjust to the processes that they have to deal with everyday, until they act Europeanised without getting the direct order from the EU, which is Europeanisation. Furthermore, Europeanisation is the reaction of turning away from the EU to the other side too, because they do not want the EU involved in everything; one example is the Bologna Process. The theory of Europeanisation is looking at this behaviour and tries to find out if this behaviour is becoming an Europeanisation mechanism or process. We lined out the most important Europeanisation mechanisms and processes which we used as theoretical tools to analyse the level of Europeanisation in our two case countries. Before we could do so we had to define what exactly we had to examine. This brought us to our second question.

The second sub-research question of this paper was asking what portable student financial support is. We lined out the different kinds of student financial support, we learned that there is direct and indirect student financial support and that mobile students can receive a grant for a short-term or a long-term. We defined that in this research we are looking at direct long-term student financial support in another country than the home country. Now we had to have a look at how portability of grants and loans developed, which we did by answering sub-question number three.

Sub-question number three we answered in two chapters. We learned that in Scandinavia portability of grants and loans was introduced because it was more efficient than building more universities. Furthermore, we saw that there are two important sources which are causing policy changes which create mechanisms of European legalisation of Europeanisation, the Bologna Process and EU Law. We saw that countries had to adjust their student financial support systems because of ECJ case law and they made changes and education ministers committed themselves to change their grants and loans systems to create more mobile students. We learned that the Bologna Process and EU Law are causing mechanisms of Europeanisation in national countries.

The fourth sub-question of this research wanted to find out why the two case countries, Germany and The Netherlands change their student financial support systems at this point of time. To answer this question and others, policy experts of both countries were interviewed. The answers in the German case showed that Germany was involved in activities of the BFUG which were dealing with portability of grants and loans in the Bologna area which influenced the decision-making. Furthermore, Germany was involved in some cases of the ECJ concerning portability of grants and loans. They knew they had to adjust. Furthermore,

in the last two years Germany has been in a law changing process of the student financial support law BAföG that was quite difficult. The changes of the BAföG in 2007 to long-term portability of grants and loans inside the Bologna Countries was given to create a compromise in those law-making discussions. In the Dutch case the policy experts gave the picture that the Dutch government always wanted to have more long term student mobility and that they saw their chance in doing so when the case of Dany Bidar was finalised in 2005 when they had enough information and support through the Bologna Process to make the new law work.

The future perspective for portability of grants and loans looks good, too. Inside the Bologna Process an Expert Network is being built at the moment to create more and longer student mobility in Europe. EU Law seems not to stop making rulings in grants and loans matters till every EU Member has adjusted its student financial support systems to today's needs of students. This answered our fifth sub-question.

After answering all sub-questions we are now able to answer the main research question:

How can the portability of grants and loans in The Netherlands and Germany be understood in the framework of Europeanisation?

Through the framework of Europeanisation, we can see that Germany and The Netherlands have been effected by different kinds of mechanisms of European legislation of Europeanisation:

- Indirect European legislation of Europeanisation by EU Law
- Implicit European Legislation of Europeanisation through the Bologna Process

Those mechanisms caused or effected the changes of the national laws on student financial support in Germany and the Netherlands in 2006 and 2007. This means both policy changes in the area of portability of grants and loans occurred because policy-making in this area is Europeanised.

The Netherlands have been active to make their grants and loans long-term portable at an earlier point in time than Germany. Aldrik in 't Hout said the Dutch government was working on a plan to make their direct student financial support portable abroad for a whole study already in the end of the 1990s and beginning of 2000. One reason why The Netherlands were keen on changing their system was more internationalisation of their people. The language skills of students were not as good as they had used to be. In the times of globalisation, good language skills were an important good. That was the reason why they entered the Bologna Process. Another reason for The Netherlands to make a change and 'send' their students abroad was that they had been effected by rulings of the ECJ through the cases of Raulin and Meeusen. So they had to change their law, which made them think. It seemed that if they did not change their student financial support system the ECJ would do so over time by its rulings. This seemed to be one of the motors of the ambitions of policy-makers to make Dutch grants and loans for student long-term portable. After trying to achieve this in 2000, the Dutch government had to find out that there were too many obstacles to a law change, which The Netherlands could not overcome alone. That is why they tried to use the European Integration process to abolish those obstacles. In 2004 at the Dutch presidency of the Council student mobility was high on their agenda, but the presidency ended without any success. The European Integration process did not provide any help in overcoming the obstacles to more long-term student mobility. That is why The

Netherlands became highly active in the Bologna Process. They organised a seminar in Noordwijk in 2004. In 2006 they founded a working group on portability of grants and loans with other Bologna Countries, which resulted in the creation of the Expert Network on portability of grants and loans at the moment. During those activities Dutch policy-makers could search for answers to their question, support and information from other countries. The work in the Bologna Process was even used as argument for the new law in parliament as support to make new law work. The Bologna Process is seen as platform to make bilateral or multilateral agreements and to overcome obstacles.

After The Netherlands had become so active during their presidency of the Council in 2004 and later in the Bologna Process, other countries got interested and affected by it too, one example is Germany. Germany was member of the Bologna working group of portability of grants and loans too and is member of the Bologna Expert Network. From what was said in the interview with the policy experts, Germany seemed to have observed what The Netherlands were doing and after it was done they tried it too. The timing for it was good, just when they had to deliver positive changes of their student financial support law, BAföG. Of course, there were other reasons for the German government too to change the BAföG. Actually, these were the same reasons as in the Dutch case, EU Law and internationalisation of higher education. When the BAföG was changed, two Germans claimed their rights of long-term direct student financial support of Germany at the ECJ (Morgan and Bucher) and there have been other cases, which effected German higher education policies. Adjusting their student financial support now in a European way would prevent from further cases at the ECJ. As Andreas Schepers said in the interview, the changes of the BAföG are seen as a solution of the problems of some students that want to study abroad.

Through the theory of Europeanisation, we can see that portability of grants and loans in Germany and The Netherlands was created because of mechanisms of European legislation of Europeanisation and in the German case because of national reasons as well. Of course one could say, without Europeanisation Germany policy-maker would never have had the idea of giving portability of grants and loans instead of more student financial support. But, this we do not examine in this research.

Of course, there are other factors, which can influence a country in making their student financial support long-term portable. There have been many studies on the field of student mobility and the financial obstacles to it. There are some reasons for it. Some countries in Europe see a demographical change coming over the next 20 year, there will be less national students in their countries. On the other hand, Germany will struggle, for at least five till ten years, with the problem of too many students entering higher education institutions. Because in some states the high school time will be shortened and the double amount of students will graduate from high school and enter university. On the other hand foreign students are a profitable market for some countries, like it can be seen in the research of the HEPI (Higher Education Policy Institute) on the Economic Costs and Benefits of International Students for the UK. The benefit for the UK from international students is estimated of 800 million English pounds per year.¹⁰⁶ However, the two main mechanisms of Europeanisation, seem to play an very important part in the developments in Germany and in The Netherlands.

On the background of the theoretical debate about the influence of the EU, or more specific of European Integration and Europeanisation it looks like European integration itself is having a direct influence on Member States, however only on subjects they are allowed to

¹⁰⁶ Vickers, P. and Bekhradnia, B. (2007), 50

act. Europeanisation mechanisms have a much more indirect influence on Member States, which is hard to measure. The Bologna Process can be seen as an intergovernmental feedback of the Member States on European Integration. However did this 'contra-EU' process become more and more under the supranational influence of the EU. This is an good example that not one of the 'old-grand theories can explain the effects of European Integration, nevertheless, are those theories combined maybe the right tool to give some answers to the question of the influence of the EU on national states. That is why it can be said, that Europeanisation theory is a complex but promising tool to measure the level of influence of the EU on the Member States and their intergovernmental feedback on this supranational influence.

10 Attachments

Attachment 1

Interviews

The interview will be structured in four sections

1. The first section will deal with questions about the start of the process of changing the WSF 2000. Why did it start then, what was the possible inspiration, what expectations are on the new law and who were the main pressure groups outside and inside the government and Germany during the beginning of the process?
2. In this section the questions will focus on the influence which was brought by different groups, organisations, and parties during the process. Who had the biggest influence on the content of the law?
3. In the third part of questions the interviewed person is asked to make assumptions about the influence of the EU, Bologna process et cetera on the changes of the WSF 2000. It will be asked if this change was possible with out the EU-history or the existence of the Bologna process.
4. This part is on the theory of Europeanisation. Does the EU have an influence on higher education of national states?

Start of the process

In 2007 the new Dutch law was enacted, that is regulating portable student financial support coming into force. In this part the questions concentrate on the beginning of the process. The reasons why it was started, with which expectations and who started it.

1. It is a big and risky step to make the student financial support portable. Because when states open their student financial support system, they have to make sure there are no double payments and other unintended use. Maybe that is the reason why there are, besides Scandinavia, the Netherlands and the Dutch speaking part of Belgium, not many other countries that support their students abroad. The question is
 - 1.1. **Why was the law changed now at this point of time?**
 - 1.2. **What did The Netherlands ‘inspire’ to change its WSF 2000?**
 - ECJ case law
 - Bologna process work
 - Lisbon agenda work
 -
 - 1.3. **And why?**
2. **Which already existing model of portable student financial support inspired the new Dutch model/law?**
 - 2.1 **Why was this one chosen?**
3. **What were the reasons for the Dutch government to change the law on study financing (WSF 2000) in the area of internationalisation in The Netherlands?**
 - International studies (Pisa, OECD)
 - Pressure, ideas by/of the Bologna Process
 - ECJ Cases like Morgan en Bucher, Bidar
 - 3.1. **Which were the most important reasons?**

4. What impact do you/does your institution expect the law will have?

- On students?
- Quality of education?
- International status of The Netherlands?
- EU-Europe?
- Bologna process?
- Other countries

5. The law officially been made by first and second chamber. Was there any other source/pressure group that started the process? Or: Which of the official parts of governance started the discussions?

- Bologna Process
- Lisbon Agenda
- National actors
- National organizations
- National Institutions like Ministry of Education, of Economics or IBG
- The EU
- Political party outside the government
- Eerste Kamer or Tweede Kamer?
- Government

6.1 Why did they start the discussion?**6.2 Why do you think they started the process?**

The process itself

To change a law is not an easy task. Firstly, there has to be the interest to change it. This interest or reason develops for example out of an idea how to make it better, out of problems with the law, which might have occurred recently and so on. There are different sources of influence in such a process. Which the sources were in the case of the WSF 2000 will be analysed in this part.

Internal influence

Here the questions are concentrating on the time while the changes were made and the sources of influence on the process. Internal influence means national governance.

5. Which internal institutions of the Dutch government were involved and are leading in formulating the changes?

- Education ministry
- Political party
- Parliament

6. While the changes of the law were made, who had the most important internal influence on the contents of the law?**7. What about the citizens: Were there any movements or actions to influence the new law?****8.1. Was there any participation of citizens like studies or involvement of student organizations or others?****External influence**

External influence is meant outside the government inside of The Netherlands and outside of The Netherlands. Who from outside of the government took influence, national organizations, or institutions?

8. Which national organizations, institutions, or states were involved in formulating the changes?

- IBG
- ISO
- VSNU

International influence

9. Which international organization, processes, or institutions took influence?

- Bologna Process /BFUG
- ECJ (Case Morgan en Bucher)
- EU

Consulted for advice

Before such a law is changed there are certainly people, organisations, or other countries contacted, in order to get an idea of how the law should be changed.

10. Was there any consulted to the EU?

- Research
- Information
- Advice

11.1. What cooperation, advice from Brussels was helpful?

12. Was there any contact to other countries, which already had a similar law or rules?

12.1. Which advice or model was helpful?

12.2. How important was the cooperation with other countries?

12.3. Did you use any research or so of other countries?

13. Was there contact to other organisations, institutions?

- OECD
- BFUG

13.1. Which advice or information did The Netherlands use?

14. What were the main problems during the process of making the student financial support portable?

14.1. Why?

Assumptions

This is a more general part, where the interviewed person shall give his or her personal opinion about the changes of the changes on the WSF 2000 and the influence the EU has directly or indirectly on such decisions.

Effect of the EU

Officially, the EU has no legislative influence on the education policy of Member States. But there can be still some indirect influence.

- 15. What do you assume, how big is the actual influence of the EU on higher education policy especially in the area of portable grants and loans in The Netherlands? Why?**
- ECJ
 - Commission
 - Indirect through media or other projects
- 15.1. Would you say that the grants would have become portable as well if the EU had never occurred? Or: Did the EU speed up the process?**
- 15.2. Why?**
- 16. It has been said that the French President Claude Allégre created started the Process in Sorbonne to create a counter balance to the EC/EU? Would the Bologna Process would exist without the existence of the EU/EC?**

Effect of the Bologna Process

The Bologna Process as a not bounding process to its members tries to influence the area of higher education nearly for 10 years. How was it at the case of the new WSF 2000?

- 17. Would you say that the grants would have become portable as well if the Bologna process had never occurred? Mobility transparency.**
- 18. In which kind or way did the Bologna process influence the process in The Netherlands?**
- Contacts became stronger through the Bologna Process, without it contacting other colleges would have been more difficult
 - Signature on the communiqués...indirectly obliged to do something?

General

Here are last questions asked which are more general and which are important for the research.

- 19. How important is the Bologna Process?**
- 19.1. Do you think it is making a difference in the higher education sector in Europe?**
- 19.2. Why?**
- 20. What do you think, is the most influential force of EU:**
- Regulation
 - Implicit (case Law)
 - or indirect?
- 21. Would you say that the EU has an indirect influence on its Member States, national actors, citizens...?**
- Through altering beliefs
 - Altering process structures
 - Through high influence in other areas
- 22. Are Member States 'Europeanised'?**
- 22.1. Is there an influence of the EU on national states that is altering their beliefs and structures?**
- 23. What do you think about the future of mobility of students?**
- 23.1. Do you think more countries will follow the German and Dutch example?**

23.2. What do you think about ideas that there should be a European student financial support possible? How?

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Handelsblatt

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Bafög wird erhöht

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