

Joined Cases C-11/06 and C-12/06

Rhiannon Morgan

v

Bezirksregierung Köln

and

Iris Bucher

v

Landrat des Kreises Düren

(References for a preliminary ruling
from the Verwaltungsgericht Aachen)

(Citizenship of the Union — Articles 17 EC and 18 EC — Refusal to award an education or training grant to nationals of Member States pursuing their studies in another Member State — Requirement of continuation between studies pursued in another Member State and those pursued previously for at least one year in an establishment in the student's Member State of origin)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 20 March
2007 I - 9164
Judgment of the Court (Grand Chamber), 23 October 2007 I - 9195

Summary of the Judgment

1. *Citizenship of the European Union — Provisions of the Treaty — Scope ratione personae (Arts 17 EC and 18 EC)*

2. *Citizenship of the European Union — Right of free movement and residence in the territory of the Member States*
(Arts 17 EC and 18 EC)

1. Nationals of a Member State, studying in another Member State, enjoy the status of citizens of the Union under Article 17(1) EC and may therefore rely on the rights conferred on those having that status, including against their Member State of origin. The situations falling within the scope of Community law include those involving the exercise of the fundamental freedoms guaranteed by the Treaty, in particular those involving the freedom to move and reside within the territory of the Member States, as conferred by Article 18 EC.

studies must be the continuation of an education or training course for at least one year in their Member State of origin.

The twofold obligation to have attended an education or training course for at least one year in that Member State and to continue only that same education or training in another Member State is liable, on account of the personal inconvenience, additional costs and possible delays which it entails, to discourage citizens of the Union from leaving the Member State concerned in order to pursue studies in another Member State and thus from availing themselves of their freedom to move and reside in that Member State, as conferred by Article 18(1) EC.

(see paras 22, 23)

2. Articles 17 and 18 EC preclude a condition whereby, in order to obtain an education or training grant for studies in a Member State other than that of which the students applying for such assistance are nationals, those

Such a condition cannot be regarded as proportionate to the aims of ensuring that the students concerned complete their courses in a short period of time or enabling students to make an appropriate choice of studies. The aim of ensuring that grants are made only to students who have the capacity to succeed in their studies and show their

willingness to pursue and complete their studies successfully and without delay may constitute a legitimate aim in the context of the organisation of such a system. However, the imposition of that condition to the extent that it may, in practice, bring about an increase in the overall duration of studies appears to be inconsistent with that objective and, therefore, inappropriate for achieving it.

It may in principle be legitimate for a Member State to make grants only to students who have demonstrated a certain degree of integration into the society of that State, in order to ensure that the grant of assistance to cover the maintenance costs of students from other Member States does not become an unreasonable burden which could have consequences for the overall level of assistance which may be granted by that State. However, the requirement of

a first stage of studies in the student's Member State of origin unduly favours an element which is not necessarily representative of the degree of integration into the society of the said Member State at the time the grant is applied for. Such a condition thus goes beyond what is necessary to attain the objective pursued and cannot therefore be regarded as proportionate.

Finally, the restriction in question cannot be regarded as appropriate or necessary, by itself, to ensure that the grants in question do not duplicate grants of a similar nature received in another Member State.

(see paras 18, 30, 35, 36, 39, 43, 44, 46, 50, 51, operative part)