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Judgment of the Court of Justice in Joined Cases C-11/06 and C-12/06

Rhiannon Morgan v Bezirksregierung Köln and Iris Bucher v Landrat des Kreises Düren

**THE GERMAN FEDERAL LAW ON EDUCATION AND TRAINING GRANTS
UNDULY RESTRICTS FREEDOM OF MOVEMENT FOR CITIZENS OF THE UNION**

The provision which makes the award of education and training grants for studies in another Member State subject to the condition that those studies should be a continuation of studies pursued for at least one year in Germany is liable to deter citizens of the Union from making use of their freedom of movement

Having completed her secondary education in Germany, Ms Rhiannon Morgan, a German national, moved to Great Britain where she worked for a year as an au pair before commencing her university studies, for which she applied to the German authorities for a grant. Her application was rejected because, under German legislation, the grant was subject to the condition that the course of study should constitute a continuation of education or training pursued for at least one year in a German establishment.

Ms Iris Bucher, who is also a German national, lived with her parents in Bonn until she decided to move to Düren, a German town on the Netherlands border, and pursue a course of study in the Netherlands town of Heerlen. Ms Bucher applied to the authorities in Düren for a grant, which she was refused on the ground that she was not ‘permanently’ resident near a border as required by the German legislation.

The administrative court in Aachen, before which both students brought actions, asked the Court of Justice whether freedom of movement for citizens of the Union precludes the condition that studies abroad must be a continuation of education or training pursued for at least one year in Germany. In the event that the reply to that question is in the affirmative, that court would also uphold Ms Bucher’s action.

In its judgment today, the Court of Justice recalls that although the Member States are competent to determine the content of teaching and the organisation of their respective education systems, that competence must be exercised in compliance with Community law and, in particular, in compliance with freedom of movement for citizens of the Union.

Consequently, **where a Member State provides for a system of education or training grants which enables students to receive such grants if they pursue studies in another Member State,**

it must ensure that the detailed rules for the award of those grants do not create an unjustified restriction on freedom of movement.

On account of the personal inconvenience, additional costs and possible delays which it entails, **the twofold obligation, to have attended an education or training course for at least one year in Germany and to continue only that same education or training in another Member State,** is liable to discourage citizens of the Union from leaving the Federal Republic of Germany in order to pursue studies in another Member State. It therefore **constitutes a restriction on freedom of movement for citizens of the Union.**

On the justification for the restriction on freedom of movement

A number of arguments were submitted to the Court seeking to justify the condition of a first stage of studies in Germany.

The Court recognises that the objective of ensuring that students complete their courses in a short period of time may constitute a legitimate aim in the context of the organisation of the education system. However, the first-stage studies condition in Germany is inappropriate for achieving that objective.

The requirement of continuity between the studies in Germany and those pursued abroad is not proportionate to the objective of enabling students to determine whether they have made ‘the right choice’ in respect of their studies. That requirement **may prevent students from pursuing, in another Member State, education or training different from that pursued in Germany.** As regards education or training courses in respect of which there are no equivalents in Germany, the students concerned are obliged to choose between foregoing the planned education or training course and losing entitlement to an education or training grant.

The Court states that, **in principle, a Member State is entitled,** in order to ensure that education or training grants to students wishing to study in other Member States do not become an unreasonable burden which could have consequences for the overall level of assistance which may be granted by that State, **to grant such assistance only to students who have demonstrated a certain degree of integration into the society of that State. The first-stage studies condition** is none the less too general and exclusive in that it **unduly favours an element which is not necessarily representative of the degree of integration** into the society of that Member State at the time the application for assistance is made.

The Court also rejects the argument that the first-stage studies condition is necessary to prevent duplication of the assistance granted by different Member States. It observes that that condition is in no way intended to prevent or take account of any duplication. It cannot therefore be claimed that the requirement of a first stage of studies in Germany is appropriate or necessary, by itself, to ensure that those grants are not duplicated.

The Court concludes that **the restriction on freedom of movement cannot be justified by the reasons put forward.**

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Languages available: CS DE EN FR HU NL PL RO SK

*The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-11/06>*

It can usually be consulted after midday (CET) on the day judgment is delivered.

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*Pictures of the delivery of the judgment are available on EbS "Europe by Satellite",
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