



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 133/16**

Luxembourg, 14 December 2016

Judgment in Case C-238/15

Maria do Céu Bragança Linares Verruga and Others v Ministre de l'Enseignement supérieur et de la Recherche

**By making the receipt of a study grant by the child of a frontier worker conditional on the frontier worker having worked in Luxembourg for a continuous period of five years at the time the application for the grant is made, Luxembourg has infringed EU law**

Luxembourg law provides that the children of frontier workers employed in Luxembourg or pursuing an activity in that country may apply for financial aid for higher education studies ('study grant'), provided, in particular, that the frontier worker has worked in Luxembourg for a continuous period of five years at the time the application is made. That condition of a minimum and continuous period of work of five years was introduced in July 2013 following the judgment of the Court in the *Giersch* case<sup>1</sup> before being repealed in July 2014 in favour of a more flexible rule.<sup>2</sup>

Mr André Angelo Linares Verruga resides with his parents, Mrs Maria do Céu Bragança Linares Verruga and Mr Jacinto Manuel Sousa Verruga, in Longwy (France). Mrs Bragança Linares Verruga has been working in Luxembourg as an employee since 15 May 2004, with a single break of less than three months between the end of 2011 and the start of 2012. Mr Sousa Verruga worked in Luxembourg as an employee between 2004 and 2011 and between 2013 and 2014. Since 1 February 2014, he has worked there on a self-employed basis.

Enrolled in the University of Liège (Belgium), Mr Linares Verruga applied to the Luxembourg authorities for a study grant for the winter and summer semesters of the 2013/2014 university year. The Luxembourg authorities rejected those applications on the grounds that neither Mr Linares Verruga's mother, nor Mr Linares Verruga's father, had worked for a continuous period of five years at the time the application for the grant was made. Mr Linares Verruga has challenged that decision before the Luxembourg courts and the tribunal administratif (Administrative Court) of Luxembourg, before which the matter has been brought, has asked the Court of Justice whether the condition of a continuous period of work of five years is compatible with EU law.

In today's judgment, the Court finds that the **condition of a continuous period of work of five years** constitutes **unjustified discrimination** and that it consequently infringes EU law.

The Court notes that such a condition is not laid down in respect of students who reside in the territory of Luxembourg. However, such a distinction based on residence is liable to operate mainly to the detriment of nationals of other Member States, as non-residents are in the majority of cases foreign nationals. Consequently, the Court concludes that there is discrimination.

Next, the Court examines whether that discrimination can be justified by the objective relied on by Luxembourg, namely of encouraging a significant increase in Luxembourg in the proportion of residents with a higher education degree. The Court recognises that it is legitimate for Luxembourg to seek to ensure that the frontier worker has a link of integration with Luxembourg society by requiring a sufficient attachment in order to combat the risk of 'study grant forum shopping'.

<sup>1</sup> [C-20/12](#) *Giersch and Others*, see Press Release No. [74/13](#).

<sup>2</sup> From the coming into force of the Luxembourg Law of 24 July 2014, it is sufficient that the frontier worker has worked in Luxembourg for a period of five years in the seven years preceding the application for the grant.

Accordingly, the Court holds that the condition of a minimum period of work in Luxembourg on the part of the frontier worker parent is appropriate, since it is of such a kind as to establish a connection on the part of the worker with Luxembourg society and a reasonable probability that the student will return to Luxembourg.<sup>3</sup>

By contrast, the Court considers that the **condition of a continuous period of work of five years goes beyond what is necessary in order to attain the objective pursued**. That condition does not permit the competent authorities to grant a study grant where, as in this case, the parents, notwithstanding a few short breaks, have worked in Luxembourg for a significant period of time (in this case, for almost eight years) in the period preceding the application. Since such breaks are not liable to sever the connection between Luxembourg and the applicant for the grant, the Court concludes that the condition of a continuous period of work of five years involves a restriction that goes beyond what is necessary in order to attain the objective pursued by Luxembourg (namely of increasing the number of persons holding a higher education degree in the population of Luxembourg).

Lastly, it should be noted that tomorrow, 15 December, the Court will rule on whether the stepchild of a frontier worker may claim a study grant in Luxembourg even though he is not the biological child of that worker. A press release regarding that case will also be available.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>3</sup> In the judgment in *Giersch and Others* cited above, the Court, moreover, itself mentioned the possibility of making a grant conditional on the frontier worker having worked in Luxembourg for a certain minimum period of time.