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Advocate General's Opinion in Case C-131/25 | Dris

### **Advocate General: J. Richard de la Tour, non-resident students who have completed most of their secondary education and obtained their diploma in Belgium must be treated as residents for the purposes of access to medical studies**

Mr Axel Dris, a student who is a Luxembourg national and resident in Luxembourg, completed his secondary education in Arlon, a Belgian border town. In 2022, he passed the entrance examination for admission to medical studies in Belgium. However, he was subject to the system of quotas capping non-resident students, and, in the light of his ranking according to the general average, did not obtain the certificate of achievement required to enrol in a medical school in the French Community in Belgium. Mr Dris challenged that decision.

Hearing the dispute, the Belgian Conseil d'État (Council of State) seeks a ruling from the Court of Justice on the compatibility with EU law of national legislation establishing a system of quotas capping non-resident students seeking access to medical studies.

In his Opinion, Advocate General Jean Richard de la Tour takes the view that **national legislation which does not treat in the same way as residents in Belgium students who have completed all or most of their secondary education in Belgium, whilst being resident in another Member State, is contrary to EU law. Such legislation cannot, with a view to limiting the number of non-resident students, restrict their first-time enrolment in medical science courses** at higher education institutions.

The Advocate General is of the opinion that this legislation creates a difference in treatment between resident and non-resident students and therefore constitutes a restriction on the right to move and reside freely within the territory of the Member States. Such a restriction may be permitted only if it pursues a legitimate aim, such as the protection of public health, and complies with the principle of proportionality.

In the first place, he states that it is for the national court to verify the existence of genuine risks to public health that might justify a restriction on access to medical studies. To that end, the competent authorities must base their assessment on an objective and quantified analysis, taking into account, in particular, the impact of non-resident students, the mobility of graduates and the possible establishment of professionals trained abroad.

In the second place, the national court must assess whether the legislation in question is appropriate for attaining the objective of protecting public health. The existence of a residence requirement may be understood to limit access to medical science courses and to avoid university 'tourism' in order to study in a Member State in which access to those studies is less strict than in other Member States. However, Mr Dris' case shows that this sole criterion is, in itself, unsuited to certain situations. Having completed all of his secondary education in Belgium, this student spent most of his time in that country, which contributed to him develop friendships and become involved in extracurricular activities. Consequently, it could be considered that he has a connection with Belgium equivalent to that of a resident within the meaning of the national legislation.

In the third place, the Advocate General notes that it is for the national court to verify whether the national legislation goes beyond what is necessary to attain the objective pursued. In that regard, the existence of a genuine connection with the Member State concerned may be established on the basis of factors other than residence alone, so that less restrictive measures could be envisaged.

**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**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 EU law or the validity of an EU 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 Opinion is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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