



Reports of Cases

Case C-275/12

Samantha Elrick

v

Bezirksregierung Köln

(Request for a preliminary ruling from the Verwaltungsgericht Hannover)

(Citizenship of the Union — Articles 20 TFEU and 21 TFEU — Right of free movement and residence — National of a Member State — Studies pursued in another Member State — Education or training grant — Conditions — Duration of course greater than or equal to two years — Obtaining a vocational qualification)

Summary — Judgment of the Court (Third Chamber), 24 October 2013

1. *Citizenship of the Union — Provisions of the Treaty — Scope ratione personae — National of one Member State studying in another Member State — Included — Effect — Benefit of rights attaching to the status of citizen of the European Union*

(Arts 6(e) TFEU, 20 TFEU, 21 TFEU and 165(1) TFEU)

2. *Citizenship of the Union — Right to move and reside freely on the territory of the Member State — Education or training grants awarded to nationals for studies pursued in another Member State — Award of grant for studies pursued in another Member State subject to the requirement that the course pursued be of at least two years' duration — Award of grant for studies pursued in the State awarding the grant possible for a course of less than two years duration — Unlawful — No justification*

(Arts 20 TFEU and 21 TFEU)

1. See the text of the decision.

(see paras 18-24)

2. Articles 20 TFEU and 21 TFEU must be interpreted as precluding legislation of a Member State that makes the award of an education or training grant, to a national resident in that Member State, for a course pursued in another Member State, subject to the requirement that the course in question lead to a vocational qualification equivalent to that provided by a vocational school in the State awarding the grant, following a course of at least two years' duration, whereas an education or training grant would have been awarded to the concerned party, as a result of her particular situation, if she had chosen to undertake, in the State awarding the grant, a course equivalent to that which she wished to pursue in another Member State, and which is of less than two years' duration.

That legislation constitutes a restriction within the meaning of Article 21 TFEU, given the impact that exercising that freedom is likely to have on the right to an education or training grant.

Legislation which is such as to restrict a fundamental freedom guaranteed by the Treaty can be justified in the light of EU law only if it is based on objective considerations of public interest independent of the nationality of the persons concerned and if it is proportionate to the legitimate objective pursued by the provisions of national law.

In that respect, the requirement that the course chosen be of at least two years' duration appears to be devoid of any link to the standard of that course and is therefore unrelated to the alleged objective of that legislation. The imposition of that condition concerning duration appears to be inconsistent and cannot be regarded as proportionate to that objective.

(see paras 28-30, 32-34, operative part)