



# The Scottish Parliament

## PUBLIC PETITIONS COMMITTEE

Marcin Libicki  
Chairman  
Committee on Petitions  
European Parliament  
Rue Wiertz  
B-1047 BRUSSELS

14 May 2009

*Dear Mr Libicki,*

### **EUROPEAN PARLIAMENT PETITION 1748/2008**

I am enclosing a correspondence which we have received from the Cabinet Secretary for Education and Lifelong Learning in relation to petition 1748/2008.

I hope that you will find this information helpful in taking forward the petition by Xenia Burlaca.

Yours sincerely

*Frank McAveety*

**Frank McAveety MSP**  
**Convener of the Committee**

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Your ref: European Parliament Petition 1748/2008

12<sup>th</sup> May 2009

*Dea Ford*

Thank you for your letter of 28 April 2009 on behalf of the Public Petitions Committee in which you seek the response of the Scottish Government to the petition submitted by Xenia Burlaca to the European Parliament's Committee on Petition, regarding university tuition fees.

From the limited information submitted by Mrs Burlaca it is not possible to comment in detail on her particular case. However it may be helpful if I outline the residency rules which set out which students are eligible for home fee status in Scotland and how they were most likely applied in her case.

In order to be eligible for home rate fees, students must meet certain residence criteria on the first day of the first academic year of their course. This is referred to in the pertinent Regulations as the 'relevant date'. For a non-UK EC national they must have been ordinarily resident in the territory comprising the European Economic Area, Switzerland, or the EU overseas territory throughout the 3 year period prior to the relevant date. Their residence in the EEA or Switzerland during this 3 year period must not have been wholly or mainly for the purpose of receiving full-time education<sup>1</sup>.

These residence criteria are set out in The Education (Fees and Awards) (Scotland) Regulations 2007 as amended. As such it is not possible to exercise discretion in specific cases. The purpose of these criteria, which have been a feature of student support across the UK in some form since 1962, is to ensure that eligibility for home rate fees and student

<sup>1</sup> The Education (Fees and Awards) (Scotland) Regulations 2007 as amended, Schedule 1, Paragraph 9  
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support in general is determined with reference to an applicant's residence rather than solely by their nationality.

In Mrs Burlaca's case, she has joint Romanian/Moldavian nationality. As Romania is part of the European Union, she would be considered as a non-UK EC national for the purposes of determining her eligibility for home rate fees. Moldova is however not part of the European Union. Her status would be determined by her residency in the 3 year period prior to the relevant date, which in her case would have been the 1 August 2007. If her residence in the 3 year period up to the 1 August 2007 had been in Romania then she should have been considered as a home student and would have been offered fees-only student support from the Students Awards Agency Scotland (SAAS). However, if her residence in that same period had been in Moldova, outwith the European Economic Area, then she would not have been eligible for home rate fees or any support and the University of Edinburgh would be correct in treating her as an international student for the purposes of fees. A student's fee status is set at the beginning of the course therefore it is not possible for an international student to change status to a home student part-way through a course of study.

Each country in the European Union and, each of the countries within the UK, has its own legislation on student support and while many base eligibility for home rate fees and student support on residency criteria similar to those applied in Scotland, there are significant differences between countries. Therefore it would not be appropriate for me to comment on Mrs Burlaca's eligibility for study in other countries such as the Netherlands or the rest of the UK.

In conclusion, the Scottish Government is committed to meeting its obligations under EU law to ensure EU students have the opportunity to study in Scotland and are not at a disadvantage compared to Scottish students in accessing higher education.

*Kind regards*  
*Fiona*

**FIONA HYSLOP**