

**Question for written answer E-005962/2012**  
**to the Commission**  
Rule 117  
**Alajos Mészáros (PPE)**

**Subject:** The elimination of obstacles to rights derived from EU citizenship

In its reply to Written Question E-001619/2012, the Commission explained that, while Member States are primarily responsible for the content of education and for the organisation of their educational systems, Article 165 of the Treaty on the Functioning of the European Union (TFEU) lays down that matters concerning access to education fall within the scope of the Treaty<sup>1</sup>. According to the Commission's standpoint, a blanket exclusion of all applicants not in possession of a certain national diploma would in principle infringe EU law.

The Commission acknowledges that such a situation could possibly be in contradiction with Article 21 TFEU if it amounted to penalising those who have chosen to study abroad; the exclusion of applicants holding the nationality of another Member State could amount to discrimination on grounds of nationality prohibited by Article 18 TFEU.

The Commission expressed uncertainty as to whether the Slovak authorities had indeed applied such a blanket exclusion. Under the relevant Slovak law<sup>2</sup> holders of the title "Magister" can take a rigorous exam, after the successful completion of which the university awards an academic title to them.<sup>3</sup>

Even if it was not possible to establish with absolute certainty from the text of the law that a blanket exclusion was being applied which was prohibited by European Union law, the relevant position statement by the Ministry of Education<sup>4</sup> and the practical application of the rule in question<sup>5</sup> prove beyond doubt that the law is incompatible with EU law. Thus, it seems to be necessary to change the rule in such a way that it would refer to taking account of qualifications obtained in other Member States which were equivalent to the Slovak "Magister" degree. Furthermore, under European Union law, excluded students may request their readmittance to the institutions in question even prior to the legislator's intervention.

Does the Commission agree with our view on the elimination of the infringement of EU law?

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<sup>1</sup> Case 293/83 of the ECJ

<sup>2</sup> Article 53(8) of Act 131 of 2002 on Higher Education

<sup>3</sup> In the cases referred to by us, the title of paedagogicae doctor (PaedDr)

<sup>4</sup> 2011-8218/19613:2-071. It appears from other decisions known to us that the dismissal of the student was not due to lack of recognition of equivalence of a qualification obtained in another Member State, but rather that the lack of a "Magister" title was the reason for the exclusion from the postgraduate training. The view of the educational institution was confirmed in a letter by the Slovak Ministry of Education.

<sup>5</sup> According to the position stated by the Slovak Ministry of Education, the educational institution in question dismissed all students not in possession of a "Magister" title, acting on the basis of the rule in question.