

EUROPEAN COMMISSION
Cabinet of Vice-President Viviane Reding,
Commissioner for Justice, Fundamental Rights and Citizenship

Head of Cabinet

Brussels, 15 February 2013
MS/VH/jl Ares (2013) 75647

Your Excellency,

On behalf of Vice-President Viviane Reding I would like to thank you for your letter of 17 January 2013 concerning the problems Bulgarian students encounter in the United Kingdom.

The fundamental right of free movement guaranteed by EU law to EU citizens and their family members is the most cherished right in the European Union. EU citizens feel understandably distressed when facing obstacles and difficulties where there should be none.

The Commission is fully committed to safeguarding this right and ensuring that EU citizens can effectively enjoy it across the EU.

We have launched infringement proceedings against the UK (*press release available at http://europa.eu/rapid/press-release_IP-12-417_en.htm?locale=en*) with a view to ensuring the full and correct transposition and implementation of EU rules on free movement. Parts of the reasoned opinion related to the comprehensive sickness and residence documents issued to Bulgarian workers are related to the problems you have raised in your letter.

In their reply of 24 July 2012, the UK authorities confirmed that they do not share our interpretation of EU law on free movement of EU citizens in relation to the NHS coverage but indicated that they intend to comply fully with the second aspect of the Commission's reasoned opinion and that they will bring forward necessary legislative changes shortly.

The Commission is currently carrying out another investigation in relation to the duration of the procedures for issuing residence documents to workers from Bulgaria and Romania. You may rest assured that you will be kept informed about developments in our investigation.

Regarding your question about the differences in treatment between Bulgarian and non-EU students, you should be aware that while Bulgarian students – *like other EU students* – are not obliged under UK law to register their residence in the UK, they must – *unlike other EU students* – hold a yellow registration certificate if they want to work alongside their studies for 20 hours a week, during vacation or as part of a course of vocational training.

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The 'yellow registration certificate' does not only confirm the right to reside but is also the document that is necessary for Bulgarian students to work in the UK. The UK can request such an authorisation to work from Bulgarian nationals pursuant to the transitional arrangements on free movement of workers, and the period within which such authorisation must be issued is determined by national law. Unlike a registration certificate, an authorisation to work does not have to be issued immediately as that would defeat the discretionary power the transitional arrangements afford to the UK authorities.

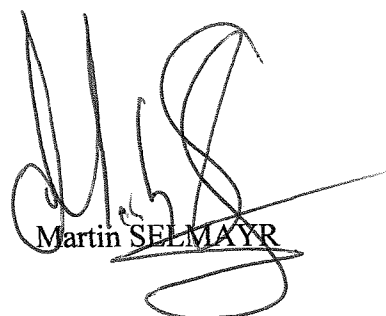
Considering that Bulgarian students do not have to register their residence but have to obtain this certificate to be allowed to work the Commission considers that the period within which to deliver the yellow registration certificate can be determined by national law.

Point 14(2) of the transitional arrangements in Bulgaria's Act of Accession provides that Member States that restrict the labour market access of Bulgarian workers must give preference to Bulgarian nationals who want to access a Member State's labour market for the first time over non-EU nationals who want to access that Member State's labour market for the first time. This provision requires that the applicants are in comparable situations.

However, in the Commission's view the situation between non-EU and Bulgarian students is already not comparable for this purpose: the right to work alongside studies of non-EU national students is linked to the right to enter and stay in the UK and requires prior permission by means of an entry visa. Bulgarian students, however, have the right to enter and stay for the first three months without any conditions, and have a right to reside in the UK for a period of more than three months under Article 7(1)(c) of Directive 2004/38/EC.

Regarding the question about means of redress available to EU citizens and Member States, please note that besides lodging a complaint with the European Union Institutions, individual EU citizens can make use of the means of redress available at national level to defend their EU rights. This enables them to assert their rights more directly and more personally. Where EU citizens have suffered damage, only the national courts can award them reparation.

Yours faithfully,



Martin SELMAYR