



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director General

Brussels,
JUST/ E1/FG/lf

Mr Karsten Lauritzen
Minister of Taxation
Mr Søren Pind
Minister of Higher Education and
Science

Subject: Your letter dated 16 October 2017 to Mr. Olivier Bailly concerning the collection of debt from Danish state loans obtained by foreign students

Dear Mr Lauritzen,
Dear Mr Pind,

I refer to your letter dated 11 October 2017 transmitted by the permanent Representation of Denmark to Mr. Olivier Bailly, Head of Commissioner Moscovici's Cabinet, who transferred it to the Cabinet of Commissioner Jourová, in charge of Justice, Consumers and Gender Equality. I will reply on behalf of Commissioner Jourová.

According to this letter, Danish Authorities are concerned about the following problem regarding collection of debts on state loans granted to EU students in Denmark: while certain students from other Member States have a right to obtain student loans during their studies in Denmark on the basis of Union law, no obligation exists at the EU level for Member States to assist one another in collecting debts on such loans. It has been observed that many European students who move to other Member States do not repay their debts. For the future sustainability of the current system they believe that a balance should be established at EU level between access to student grants and loans on the one hand and effective student debt recovery between member states on the other.

As a preliminary remark, I would like to clarify that the main EU legislation on consumer credit, Directive 2008/48/EC of 23 April 2008 on credit agreements for consumers, does not regulate questions related to debt recovery, which are regulated by national legislation only. It should also be noted, that, under certain conditions, credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market are excluded from the scope of application of the Directive. If

they meet these conditions, loans granted to students would be excluded from the scope of application of the Directive, and they could be regulated by national law only.

The Commission naturally shares the view that students having been granted loans should pay them back. As regards other pieces of EU legislation, it is to be noted that Denmark, under the Treaties, has opted out from Title V of part Three of the TFEU (including also judicial cooperation in civil matters). Assuming that such recovery by the State of payments under student loans is a dispute relating to civil and commercial matters, (i.e. it does not relate to the State acting in exercise of its public law powers) (to be determined by the competent Danish courts), several EU instruments facilitating cross-border debt recovery cannot be applied in Denmark, i.e. Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims, Regulation (EC) No 1896/2006 creating a European order for payment procedure and Regulation (EU) No 861/2007 on a European Small Claims procedure.

Nevertheless, some of the EU civil justice instruments in the area of jurisdiction and applicable law apply to Denmark. In particular, the Brussels I Regulation (Regulation 1215/2012, recast), which applies in Denmark pursuant to the parallel EU-DK agreement of 2005, provides which court would have international jurisdiction to hear such a (contractual) dispute; it also provides for the recognition and enforcement of (e.g. Danish) judgments in other EU Member States and abolishes the exequatur procedure. In addition, the 1980 Rome Convention on the law applicable to contractual obligations applies to Denmark; it would govern the law applicable in a dispute relating to the repayment of the loans.

As regards current Brussels I Regulation (recast), it applies as from 10 January 2015. Its Article 79 stipulates that by 11 January 2022 the Commission shall present a report on its application, which, where appropriate, shall be accompanied by a proposal for amendment of this Regulation.

Yours sincerely,

Tiina Astola