

Subject-matter concerned	<input checked="" type="checkbox"/> 1) non-discrimination on grounds of nationality <input type="checkbox"/> 2) freedom of movement and residence - linked to which article of the Directive 2004/38 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	12 October 2010
Deciding body (in original language)	Cour administrative
Deciding body (in English)	Higher Administrative Court
Case number (also European Case Law Identifier () where applicable)	26864C
Parties	Madame ... v. a decision of the Administrative Court
Web link to the decision (if available)	The decision can be found on the website of the Administrative Court: http://www.justice.public.lu/fr/jurisprudence/juridictions-administratives/index.php , inserting the above-mentioned case number.
Legal basis in national law of the rights under dispute	Act of 22 June 2000 regarding public financial aid for higher education (<i>Loi du 22 juin 2000 concernant l'aide financière de l'Etat pour études supérieures</i>). ¹ Act of 29 August 2008 regarding free movement of persons and immigration (<i>Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration</i>). ²
Key facts of the case (max. 500 chars)	A French citizen introduced an application to the Luxembourg Ministry of Culture, Higher Education and Research (<i>Ministère de la Culture, de l'Enseignement supérieur et de la Recherche</i>) for a financial incentive (<i>prime d'encouragement</i>) after having obtained her master's degree at the University of Luxembourg. While the woman had not taken up formal residence in the country during her studies, after having obtained her degree she decided to stay in Luxembourg to work and take up residence. This is also when she decided to apply for the financial incentive for her master's studies, an incentive which can be applied for up to one year following the obtainment of the diploma. The application was rejected on the basis that the woman did

¹ Luxembourg, Act of 22 June 2000 regarding public financial aid for higher education (*Loi du 22 juin 2000 concernant l'aide financière de l'Etat pour études supérieures*), available at: <http://legilux.public.lu/eli/etat/leg/loi/2000/06/22/n1/jo>

² Luxembourg, Act of 29 August 2008 regarding free movement of persons and immigration (*Loi du 29 août 2008 1) portant sur la libre circulation des personnes et l'immigration ; 2) modifiant - la loi modifiée du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection, - la loi modifiée du 29 avril 1999 portant création d'un droit à un revenu minimum garanti, - le Code du travail, - le Code pénal ; 3) abrogeant - la loi modifiée du 28 mars 1972 concernant 1. l'entrée et le séjour des étrangers ; 2. le contrôle médical des étrangers ; 3. l'emploi de la main-d'œuvre étrangère, - la loi du 26 juin 1953 portant fixation des taxes à percevoir en matière de cartes d'identité pour étrangers, - la loi du 28 octobre 1920 destinée à endiguer l'affluence exagérée d'étrangers sur le territoire du Grand-Duché*), available at: <http://legilux.public.lu/eli/etat/leg/loi/2008/08/29/n1/jo>

	not fulfil the criteria to obtain such an incentive in the period for which she was seeking the incentive.
Main reasoning / argumentation (max. 500 chars)	The decision to refuse the woman's application was based on the arguments that the woman was not yet, at the time when she received her master's degree, a resident in Luxembourg, nor did she qualify as a worker (in the sense of Directive 2004/38/EC) at the time.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>The Court held that the financial incentive that the woman had applied for constitutes a form of maintenance aid for studies in the sense of Article 24.2 of Directive 204/38/EC, and that there was no obligation to grant such a benefit during the first three months of reference (let alone before the person takes up formal residence) in the country.</p> <p>Even if the woman had taken up residency in the country and qualified as a worker at the time of her application for a financial incentive, this had not been the case during the period for which she was seeking the said incentive.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The woman's appeal was rejected and the Higher Administrative Court followed the line of the court of first instance and of the Ministry that had initially denied the woman the financial incentive she had applied for. The Court also decided that the woman should bear the cost of the proceedings.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>« Dans ce contexte, il convient de relever spécialement que toutes les aides financières visées par la loi du 22 juin 2000 ont pour but de faciliter « l'accès » aux études supérieures, de sorte que les conditions d'obtention doivent être remplies au moment où l'étudiant poursuit le cycle d'étude visé par l'aide financière en question, même si l'octroi final de ladite aide dépend de l'obtention du diplôme ou certificat sanctionnant le cycle d'études concerné et que cette aide ne peut partant être sollicitée que suite à l'obtention du diplôme en question. »</p> <p>Unofficial translation:</p> <p>"In this context, it should be pointed out in particular that all types of financial aid covered by the Act of 22 June 2000 are intended to facilitate 'access' to higher education, meaning that the conditions for obtaining such an aid must be met at the time when the student is pursuing the study cycle covered by the financial aid in question, despite the fact that the final payment of the aid depends on the obtainment of the diploma or certificate attesting to the course of studies concerned, and that such an aid can, therefore, be sought only after obtaining the diploma in question."</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No.