

MOBILITY OF STUDENTS AND THE NEW LAW ON HIGHER EDUCATION IN POLAND

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Abstract in original language:

The mobility of students is a condition sine qua non of building a modern society of knowledge. The international co-operation is one of the most important goals of the Polish government as well Polish higher education institutions. This paper aims to show how the new Law on Higher Education relates to the mobility of students, especially to the incoming ones. It also shows which of its provisions are the result of the implementation of the Bologna Process rules.

Key words in original language:

Mobility; students; higher education; Bologna Process.

The free movement of people is guaranteed by the European Community Treaty. Pursuant to these provisions, also students and academic teachers have the right to enter and stay in any Member State of the European Union. Student mobility has been in the focus of European politics for a long time now. Hence a number of programs financed by, for instance, the European Commission, which enable an international student exchange. However, pursuant to art.149 of the Amsterdam Treaty, none of the EU bodies has a formal jurisdiction over higher education. Their role is supposed to consist merely of supporting higher education.

The actual process aiming at the harmonization of higher education systems in Europe is taking place outside the European Union's structures. Before the Bologna Declaration was signed by 29 European countries in 1999, higher education in a wider aspect had been practically inexistent in the European policy¹. The higher education ministers who had signed this deed set themselves two main goals: one is to establish a European Space for Higher Education by 2010² and the second one is to make the European higher education more competitive on the world education market. One of the things which, according to the signing parties of this declaration, is supposed to contribute to achieving these goals is the increased mobility of students, academic teachers and researchers. The mobility in the area of higher education can be categorized into horizontal mobility, i.e. studying in a different university, and vertical mobility, i.e. changing university after completing a certain level of studies, which may be connected with changing the field of study.

The Bologna Declaration is classified as the so-called soft law, which means that there is no formal obligation for the states to implement it into their own legal systems. They do it, however, because they do not want to stay behind. It also refers to Poland, which adapts its

¹ At present, there are 46 countries who have signed the Bologna Declaration, including those which do not belong to the European Union.

² However, during the meeting of higher education minister in Leuven/Louvain-la-Neuve between 28-29 April 2009, this deadline was extended until 2012.

own higher education system to the recommendations agreed upon during the so called Bologna Process.

The aim of this article is to present the Polish legal regulations referring to student mobility and, in particular, those which are supposed to encourage foreign students to study in Poland. The mobility in the area of higher education is one of the main objectives of both the Polish Government and the schools of higher education.

The sources of higher education law in Poland

The Polish higher education system is regulated by the Constitution of the Republic of Poland, the Law on Higher Education (hereinafter referred to as LHE) and numerous by-laws to this act.

Pursuant to art.70 item 2 of the Constitution, the education in public schools is free. The law may, however, permit rendering certain educational services for a fee. It refers mainly to extramural studies. Pursuant to art. 70 item 4 of the Constitution the authorities provide the citizens with a universal access to education. For this purpose, they create and support the systems of individual financial organizational aid for pupils and students. The terms of such aid are specified by the act. The provisions of the Constitution apply also to foreigners who may study in Polish schools according to the same rules as Polish citizens.

The basic legal act relating to higher education is the Law on Higher Education³. International cooperation is discussed in Chapter 4 entitled „International Co-operation of Higher Education Institutions in the Area of Education and Research”. Pursuant to art. 41 item 1 of the Act, the minister responsible for higher education, in consultation with the Minister of National Defence and the ministers responsible for home affairs, health matters, culture and national heritage protection, research and maritime economy, co-ordinates the co-operation between higher education institutions and foreign academic and research institutions within the framework of international agreements concluded by the Republic of Poland. And pursuant to art.42, the minister responsible for higher education has specified, by regulation, the conditions for sending people abroad on research, didactic and training assignments and the specific entitlements of persons on such assignments.⁴ However, according to item 2 of the above mentioned article, considering the autonomy of higher education institutions, the conditions and procedure for a higher education institution sending abroad its staff, doctoral students and students for the purposes specified above are laid down by the senate of this institution.

Pursuant to art. 43 item 1, non-nationals may undertake and follow educational programs and participate in research and development projects according to the rules applicable to Polish citizens and pursuant to the provisions of this Act. Pursuant to art.43 item 2, these persons are:

- non-nationals who have been granted a permit to settle;

³ The Act dated 27 July 2005 (Journal of Laws No.164, item 1365 as amended).

⁴ The Decree of the Minister of Science and Higher Education dated 12 October 2006 relating to the conditions of sending persons abroad on research, didactic and training assignments and specific entitlements of persons on such assignments.

- holders of a valid Polish Charter;
- non-nationals who have the status of a refugee granted in the Republic of Poland;
- non-nationals under a temporary protection on the territory of the Republic of Poland;
- migrant workers who are nationals of a Member State of the European Union, the Swiss Confederation or a member state of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area and their family members if they live on the territory of the Republic of Poland
- non-nationals who have been granted on the territory of the Republic of Poland a residence permit of a European Community long-term resident;
- non-nationals who have been granted on the territory of the Republic of Poland a permit for fixed-term residence in connection with the circumstances referred to in art. 53 section 1 point 7, 13 and 14 of the Aliens Act of 13 June 2003 (Journal of Laws No.128, item 1175, as amended)⁵;
- non-nationals who have been granted complementary protection on the territory of the Republic of Poland;
- nationals of European Union Member States, member states of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area or the Swiss Confederation and their family members who have a permanent residence right.

The remaining foreigners may enrol on and follow education:

- as holders of scholarships awarded by the Polish party;
- on a fee-paying basis;
- without a fee or scholarship benefits;
- as holders of scholarships awarded by the sending party, without paying tuition fees;
- as holders of scholarships awarded by higher education institutions;
- on the basis of:
- international agreements, subject to the rules defined therein;

⁵ It refers to the case of granting a fixed-term residence permit to a non-national who has a work permit or a written declaration of the employer about the intention to give a job to a non-national if a work permit is not required; has a residence permit for a long-term EC resident granted by another Member State of the European Union, or intends to work or conduct business activity on the basis of the relevant legal regulations binding in the Republic of Poland, undertake or continue studies or vocational training, or proves that there are other circumstances justifying his/her stay on the territory of the Republic of Poland; is a family member of a non-national mentioned above, that he/she lived together with on the territory of another EU Member State, accompanying him/her or willing to join him/her.

- agreements concluded between higher education institutions and foreign entities, pursuant to the rules defined therein;
- decisions of the minister responsible for higher education or the respective minister;
- decisions of the provost of a higher education institution.

Nationals of the Member States of the European Union, the Swiss Confederation or the member states of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area and members of their families who have a valid Polish Charter and adequate funds to cover the maintenance costs during the period of study may enrol on, and follow, degree programs, doctoral programs and other forms of education or training, as well as participate in research and development projects pursuant to the rules applicable to Polish nationals, with no entitlement, however, to a maintenance grant, special grant for disabled persons, accommodation grant, meals grant or aid payments, or pursuant to other rules which depend on personal circumstances of the non-nationals.⁶

Pursuant to art. 44 of the LHE, the Minister of Science and Higher Education, has specified, by regulation, the criteria that the non-nationals willing to study in Poland have to meet. They refer to the mode of study and the related financial issues⁷.

The Law on Higher Education and the Bologna Process

The new Law on Higher Education contains a lot of recommendations connected with the realization of the Bologna Process and the establishment of the European Space for Higher Education, including those which are supposed to ensure a higher student mobility. What is considered to be the most important here is the introduction of the European Credit Transfer System (ECTS), a two-cycle education and doctoral programs.

The ECTS is supposed to ensure a greater transparency of education systems and facilitate student mobility in the whole Europe by means of the transfer of credits. The ECTS is based on the assumption that the total input of work that a student has to contribute to complete successfully one academic year corresponds to 60 credits. These 60 credits are distributed among the particular classes in a given course, courses or modules, which show the part of the student's total work input which is required to achieve the specific learning outcomes related with a given class/course or module. Credit transfer is guaranteed by clear-cut agreements signed by the sending institution, the receiving institution and the student who does a part of his/her studies in a different school⁸.

⁶ The level of scholarships for non-nationals has been specified in the Communication no.3 of the Minister of Science and Higher Education dated 15 July 2007 and relating to the level of scholarships awarded to non-nationals who are the holders of scholarships awarded by the Polish party and the students of Polish origin following studies in the country of their residence (Official Journal of the Ministry of Science and Higher Education No.1, item 10)

⁷ The Regulation of the Minister of Science and Higher Education dated 12 October 2006 relating to non-nationals enrolling on and following studies, courses and other participants in scientific research and development projects (Official Journal No.190, item 1406)

⁸ Szerzej na temat ECTS zob. Europejski Przewodnik Transferu i Akumulacji Punktów (ECTS), Warszawa 2006

The application of the ECTS is provided for by the art.165 item 1 of the LHE, which states that the organization and schedule of degree programs shall allow for the transfer and recognition of results obtained by students in an organizational unit of their home institution or in another institution, including a foreign one, in accordance with the rules of a learning achievement transfer system. The system was implemented by the regulation on the conditions and procedure for learning achievement transfer issued on the basis of the art.165 item 2 of the LHE by the Minister of Science and Higher Education on 3 October 2006 (Journal of Laws No.187 item 1385). Pursuant to paragraph 3 of the regulation, a student obtains ECTS credits corresponding to a given course if he/she meets all the curricular requirements and achieves the assumed educational results.

The new Law on Higher Education has also introduced two-cycle degree programs although they were also allowed under the Act on Higher Education of 12 September 1990, which is no longer binding. In the art. 159 of the LHE it is clearly stated that states degree programs in a higher education institution are provided as first-cycle or second-cycle programs or as long-cycle Master's degree programs. Pursuant to art. 166 item 1 of the LHE, first-cycle programs (Bachelor's degree, Pl: licencjat) last from six to eight semester whereas, pursuant to art.6 item 4, second-cycle programs last three or four semesters.

In accordance with the agreement concluded between the ministers responsible for higher education in Berlin in 2003, the above-mentioned model of education has been extended to include third-cycle programs, i.e. doctoral degree programs, which are discussed in Chapter 3 of the act. Pursuant to art. 195 of the LHE, doctoral programs may be provided by organizational units of a higher education institution which are authorized to confer either the academic degree of doktor habilitowany or the academic degree of doktor in at least two different disciplines of the same area of science. Doctoral degree programs exist in the majority of Polish higher education institutions. However, their development is different in each of them, which has been proved by a survey related to the operation of doctoral degree programs in Polish schools of higher education⁹. The survey has been conducted in only 21 institutions, which educate over 10 thousand doctoral students. Its results indicate the popularization and diversification of doctoral degree programs. Depending on an institution, young academics have a different status and doctoral programs - a different place in the institution's strategy. The survey has also shown a financial diversity and the lack of common coherent actions which would improve the quality of education and foster a good operation of doctoral programs.

The granting of ECTS credits is obligatory only with reference to fist-cycle and second-cycle programs. Pursuant to § 5 item 1 of the regulation on the conditions and procedure for transferring students' achievements, the number of ECTS credits required to graduate is:

- 1) for first-cycle degree programs: 180—240;
- 2) for second-cycle degree programs: 90—120;
- 3) for long-cycle Master's degree programs: 270—360.

⁹ A survey conducted in December 2007 by the Management Board of the National Representation of Doctoral Students, available at: <http://www.erasmus.org.pl/index.php/ida/292/>

At present, the ECTS is not obligatory for doctoral degree programs. Upon the completion of these programs, the graduate does not receive, like in the case of the two preceding cycles, a diploma confirming the award of a degree, but a certificate confirming the completion of this program.

An important element supporting student mobility is the introduction of diploma supplements. A diploma supplement contains the information necessary to determine the level and character of education obtained by a graduate of a degree program, i.e.: a description of the program syllabus, a register of a student's individual achievements, a general description of the higher education system of the country where the given degree program is conducted¹⁰. The supplement is a document issued in the language of the country where the degree program is conducted and in one or more "international languages". One of its objectives is to serve as a tool for employer evaluation of graduates on the global labour market, but its application for this purpose is rather limited¹¹. Pursuant to art. 167 item 3 of the Law on Higher Education, the minister shall specify by regulation the conditions for the award of and specimen of diploma supplements¹².

Poland is currently working on the National Qualification Framework, which is supposed to be constructed with reference to the European Qualification Framework¹³. It means that the obtained qualifications, i.e., to put it simple, the title or degree associated with a given diploma or certificate, are comparable to the qualifications obtained in particular member states of the Bologna Process. It should be underlined here that the European Qualification Framework is not supposed to be an instrument standardizing the qualification framework in all countries. It is only a kind of a common denominator, a point of reference. The Qualification Framework should be constructed in a way that would account for the student's learning outcomes after the completion of a given degree program.

A significant element in the process of the development of international cooperation is the recognition of diplomas and qualifications obtained in another country. This issue is regulated mainly by a number of agreements that Poland is a party to. The matters which are not covered by these agreements, are subject to the Regulation of the Minister of National Education of 24 February 2006 relating to the nostrification of higher education diplomas awarded abroad (Journal of Laws No.37, item 255 as amended)¹⁴. This act lists, among others, the entities which nostrify diplomas and the situations when a person applying for admission to a second-cycle or a third-cycle program may be exempt from the nostrification procedure. For instance, pursuant to § 8 item 1 of the regulation, a person applying for admission to a third-cycle program in a Polish higher education institution or a doctoral

¹⁰ A. Kraśniewski, *Proces Boloński: dokąd zmierza europejskie szkolnictwo?*, Warsaw 2006, p. 19.

¹¹ *Ibidem*, s. 20.

¹² A diploma supplement specimen specified in the Annex to the Regulation of the Minister of Higher Education of 19 December 2008 on the types of professional titles conferred upon the graduates of degree programs, the specimen of diplomas and certificates awarded by higher education institutions (Journal of Laws No.11 item 60).

¹³ The European Qualification Framework was included in the Recommendation of the European Parliament and the European Commission dated 23 April 2008.

¹⁴ The regulation has been amended twice so far.

degree program in a research facility, or a person who wants to register for a doctoral degree conferment procedure in a Polish university or research facility, may be exempt from the nostrification procedure if he/she holds a higher education diploma awarded by an authorized institution operating in the education system of a Member State of the European Union, the Swiss Confederation, a member state of the European Free Trade Association (EFTA) — a party to the Agreement on the European Economic Area or a country – a party to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, and entitling its holder to apply for admission to doctoral degree programs or registering for a doctoral degree conferment procedure in the country where it has been awarded.

The above changes in the legislation relating to higher education are illustrated by the data which indicate an increase in the number of foreign students in Poland. In the 2007/2008 academic year, in Polish schools of higher education there were 13,7 thousand of foreigners compared to 11,8 thousand in the previous year, 6,6 thousand in 2000/2001 and 4,3 thousand in 1990/1991. The majority of foreigners study at universities - 4,2 thousand people and in medical universities - 3,8 thousand. In economic universities there were 2,8 thousand foreign students and in technical universities - 1,0 thousand. As regards the field of study, the most popular with foreign students were: medical degree programs (4,4 thousand people), economics and administration (2,8 thousand), social studies (1,9 thousand) and humanities (1,6 thousand).

In the total number of 1,5 thousand of foreign graduates in the 2006/2007 academic year, the graduates of medical degree programs – 307 people (i.e. 20,6% of the total) constituted the biggest group, then came the graduates of economic and administrative degree programs – 257 (i.e. 17,3% of the total), social studies – 233 persons (i.e. 15,6% of the total) and the humanities – 221 persons (i.e. 14,8% of the total). The most numerous group of foreigners studying in Poland were students from Europe – in total 8,9 thousand people, including students from Ukraine, Belarus, Norway and Switzerland.¹⁵ Unfortunately, the number of foreigners pursuing their doctoral degrees in Poland is decreasing. Last year there were only 375 of them.¹⁶

Conclusion

The Polish Law on Higher Education provides an adequate framework for non-nationals not only to study on the same level, but also to start a subsequent level of studies and change the profile or field of study. The recent data show a growing interest of foreign students in Polish higher education institutions although in this respect Poland is still behind other European countries¹⁷. It indicates that the legal framework is not an adequate means to make young people from other countries interested in studying in Polish academic centres. What also

¹⁵ Report *Szkoły wyższe i ich finanse 2007* (Higher Education institutions and their finances 2007) http://www.stat.gov.pl/gus/5840_657_PLK_HTML.htm.

¹⁶ http://www.stat.gov.pl/gus/edukacja_PLK_HTML.htm.

¹⁷ In Germany, there are about 250 thousands of foreign students pursuant to the book „Niemcy w świetle faktów i liczb” („Germany in facts and figures”) <http://www.tatsachen-ueber-deutschland.de/pl/edukacja-i-nauka/main-content-07/studenci-zagraniczni.html>.

matters is the attractiveness of studying in a given country. Therefore, higher education institutions should do everything to encourage foreigners to study in our country by offering them attractive programs, a high quality education and friendly living and studying conditions.

Literature:

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