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Mr. Robertus Cornelissen,  
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**Subject: Discriminatory treatment of Community doctoral students at the Max-Planck Society**

Bonn, 10.05.2004

The Max-Planck Society in Germany offers two types of financial support for doctoral work:

- 1) a standard contract BAT IIa/2 that sets up a true work relation, or
- 2) a fellowship, or "Stipendium", under which the student is not bound to any official duty toward the institute. The Stipendium provides a lower net payment, is tax-free and not subject to social security contributions.

On the basis of the internal rules of the Max Planck Society, foreign doctoral students, unlike their German colleagues, do not have access to the regular employment contract BAT IIa/2. Foreign students are systematically granted a Stipendium for their doctoral work, although in practice they perform the same type of work of their German colleagues.

I was a PhD student at the Max-Planck Institute for Radioastronomy in Bonn until July 2003 and received a Stipendium, following the rules of the Max-Planck Society. I was therefore financially disadvantaged by this discrimination policy. According to statistics collected in March 2003 this difference of treatment affects several hundred foreign students. Those students are not party to this petition in some cases because of the worry of possible consequences from the Max-Planck Society as they are still completing their doctoral work.

The central administration of the Society admits the existence of this difference of treatment. They claim that there exists a rule set by the Bund-Länder-Kommission that justifies their policy, although they declined to provide a copy of the rule or an official reference.

The difference in contractual treatment on the basis of nationality for scientific staff, and in particular for doctoral students, is formally stated in the pages of the Personalhandbuch of the Max-Planck Society, "G02/Anlage A II d 1" and "G02/Anlage B I d" respectively for Germans and foreigners, of which I enclose copies.

**This policy is a manifest discrimination toward community citizens for what concerns the equal opportunity and access to job openings, and therefore qualifies as a violation of article 39 of the Treaty.**

For these reasons I ask the Commission to intervene with the German authorities to restore the equal treatment of community citizens violated by the behavior of the Max-Planck Society and to solicit a financial compensation for the losses experienced by the foreign doctoral students.

I enclose documentation that proves the discrimination claimed above.

It is worth noting that this issue was raised at the Europarliament with a written question (E62/2004) to which the Commission gave an interlocutory answer. The answer is being followed up with this petition to provide the requested evidence and with a new question, which has been submitted.

I look forward to an intervention of the Commission.

Sincerely,

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Occupation: physicist  
Citizenship: Italian

## **List of annexes.**

**A.** Page "G02/Anlage A II d 1" of the Personalhanbuch of the Max-Planck Society, regarding the rules for the contractual treatment of German scientific personnel. It is stated that German doctoral students shall have a regular BAT IIA/2 contract.

**B.** Page "G02/Anlage B I d" of the Personalhanbuch of the Max-Planck Society, regarding the rules for the contractual treatment of foreign scientific personnel. It is stated that foreign doctoral student shall have a Stipendium.

**C.** Letter written by the representatives of the students of the Max-Planck Institute for Molecular Genetics in Berlin to the president of the Max-Planck Society, Professor Peter Gruss. Among other issues the students raised the problem of different contractual conditions given on the basis of nationality.

**D.** Answer of Professor Gruss to the letter described at point C. Regarding the different treatment of foreign students, the president claims the existence of a rule set by the Bund-Länder-Kommission and states the impossibility of the Society to intervene.

**E.** Circular 82/2002 of the Max-Planck Society. The Society invites the institute's directors to discuss and evaluate the possibility of granting regular contracts BAT IIA/2 to foreign doctoral students as well. This invitation seems to be in conflict with the statement of impossibility of the Society to intervene on the matter. New upper limits for the net payment of the Stipendia are set. Nevertheless, these new limits do not compensate for the lack of social security nor match the net wage paid with a regular contract.

**F.** Report of the first national meeting of the network of PhD students at Max-Planck Institutes, held in April 2003 in Heidelberg. At page 5 the problem of different contractual conditions of doctoral students on the basis of nationality is addressed.

**G.** Answer of Prof. Gruss to the report described at point F, addressed to the spokesperson of the network in 2003. Regarding the discrimination of foreign doctoral students, Prof. Gruss repeats the impossibility to intervene.

**H.** Article published by "The Scientist" and available on the internet at:

<http://www.biomedcentral.com/news/20040303/03/>

The central administration of the Max-Planck Society answered to the article and admitted the difference of treatment of the students on the basis of nationality.

**I.** Circular 35/2004 of the Max-Planck Society. At the end, it states that regarding the possibility to give regular contracts also to foreign students and Stipendia also to German students, no decision has yet been taken.

**J.** Copies of the web pages of two Max-Planck Institutes where a difference of treatment for doctoral students on the basis of nationality is explicitly stated.