

Recognition of professional qualifications

2002/0061(COD) - 20/04/2004 - Modified legislative proposal

Of the 125 amendments proposed by the European Parliament the Commission can accept 55 either in their entirety, in a redrafted form or for formal purposes. The remaining 70 amendments have been rejected. Below is a summary of the Commission's position vis-à-vis the amendments proposed by the European Parliament.

1) Scope of the Directive : the Commission accepted the general objective of the Directive. The provision stating that professions whose activities are connected with the exercise of official authority should be excluded from the scope of the Directive; the recognition by a Member State under national regulations of educational qualifications acquired in a third country does not entitle the holder of those qualifications to perform the professional activity in question in another Member State.

On the other hand, the Commission has rejected a reference to a high level of human health and consumer protection; initiatives to bring national legislation on education and training closer together; encouraging young people to learn another language at an early age; exclusion of notaries from the scope of the Directive; provisions extending the scope by including non- EU countries' citizens; references to the "liberal professions".

2) Freedom to provide services (temporary and occasional) : on this controversial issue, the Commission has accepted a requirement applicable to all professions subject to a special professional liability regime in the host Member State, for automatic temporary registration with, or pro forma membership of, a professional organisation or body in the host Member State in order to ensure compliance with the professional or administrative rules applying in that Member State. The Commission can accept such a requirement only for healthcare professionals, and only in cases where the service-provider travels to provide services; to supply information on his/her service to consumers in a user-friendly manner; reinforces exchange of information between Member States on the legal establishment of the service-provider.

The Commission has rejected the following amendments : provision to oblige service providers to register with professional associations; obligation to make them temporarily register with the social security bodies of the host Member State; the scrapping of the 16-week deadline for the provision of temporary services. Obligation for Member States to systematically inform the competent body of the host Member State when a migrant registers with them; specification that service-providers must be able to guarantee safety in their professional environment; requirement for the competent body or professional association to provide proof of the service provider's competence.

3) General system of recognition : the Commission is maintaining its original position concerning the training conditions. Amendments accepted include the franchising agreements with teaching institutions located outside of the host Member State; reformulation of the measures concerning the levels of qualifications; compensatory measures if a Member State considers it necessary to derogate from the requirement, it should give the applicant a choice between an adaptation period and an aptitude test; the broadening of the "professional organisations".

The evaluation of the workability in practice of the level system five years after the entry into force of the Directive has been rejected as well as the amendment calling on the Commission to come forward with proposal for a points and credits system linked to the quality and contents of training in the Member States. - the idea of requiring migrant workers to pay social insurance in the host Member State.

4) Recognition of professional experience : the Commission accepts the amendment which increases the minimum time the activities in question must have been practised on a self-employed basis or as the manager of a business by one year (raising it from five to six years). As regards the recognition of the qualifications for sectoral professions, the Commission has accepted the transfer of the lists of knowledge and skills for general practitioners, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists into the body of the proposal, thereby deleting the relevant annexes. This is acceptable insofar as the content of the lists of knowledge and skills has not changed. The deletion of references to the exceptional nature of part-time training for midwives, nurses, doctors and general practitioners. It has, on the other hand, rejected the obligation to remunerate training of general practitioners and nurses; introduction of the principle of automatic recognition for psychotherapists; deletion of the use of the comitology procedure for updating the minimum periods for specialist medical training courses; facilitate the automatic recognition of medical specialisations and dental specialisations common to certain Member States; provide for external audits of veterinary schools; a specialisation in hospital pharmacy be created; re-introduces a derogation from the automatic recognition of evidence of training as a pharmacist in cases where a new pharmacy is being set up.

On a general level, the Commission has accepted the introduction, for all professions concerned, of a provision on the exchange of information between Member States of information on any serious circumstances that arose when the individual in question was established on their territory; the creation of a database is not envisaged at this stage, neither is the European professional card which was proposed by the Parliament; the introduction of a provision allowing Member States to ask migrants to provide proof of language proficiency prior to granting access to the profession. This provision must be applied proportionately, which rules out the systematic imposition of language tests before a professional activity can be practiced; increasing the transparency of the system of recognition by establishing a network of contact points with the task of providing assisting and informing the citizens of the Member States.

The Commission has rejected the setting up of two comitology committees; setting up a group of experts from Member States whose role would be to assist in the implementation of the Directive and to put in place a flexible method of consultation with the European associations that represent the professions and with educational establishments. The Commission supports these two instruments, but the Directive is not the appropriate legal instrument for implementing them.