

Recognition of professional qualifications

2002/0061(COD) - 27/11/2003

The committee adopted the report by Stefano ZAPPALA' (EPP-ED, I) amending the proposal under the 1st reading of the codecision procedure: - Article 3 (definitions of the terms used in the directive) should be amended and fleshed out for greater clarity. The committee added new definitions such as "liberal profession", "regulated intellectual profession", "regulated training", "diploma", etc.; - the committee introduced a new article (4a) seeking to clarify the distinction between free provision of services and freedom of establishment in line with the case-law of the Court of Justice. It specified inter alia that Member States may introduce restrictions on the freedom to provide services and freedom of establishment on grounds of "public order, public security and public health"; - the strict time-limit (16 weeks) introduced by the Commission for determining what constitutes a temporary provision of services in a Member State by a professional established in another Member State should be replaced by a more flexible criterion. MEPs therefore proposed that the temporary nature of the services provided should be evaluated taking into account the "presence of infrastructure, the duration and main purpose of the activity, and its frequency, regularity and continuity"; - whereas the proposal provided that the host Member State should exempt service providers established in another Member State from the authorisation and registration requirements incumbent on professionals established in its territory, the committee wanted to make it possible for Member States to require these service providers to register temporarily with the relevant authority or professional body and the relevant social security bodies in the host Member State. This would ensure that they were covered by the same professional and disciplinary framework as equivalent professionals established in the host Member State. MEPs also said that Member States should be able to require such service providers to take out a suitable insurance policy to cover damages arising from their activities; - the committee was opposed to the provision in the proposal which - in the case of a regulated profession depending on possession of specific professional qualifications - would allow someone with qualifications obtained in one Member State to be allowed access to the profession in a second Member State, even if the level of that person's qualification was a level below that required in the second Member State. MEPs said that access to the profession should be allowed only where the qualifications were of the same level, in order to discourage 'qualification shopping' (i.e. qualifying in a Member State where requirements are less demanding and then providing services elsewhere). They also wanted to ensure compliance with social insurance obligations; - whereas the Commission was proposing to allow access to and pursuit of a regulated profession for applicants who have practised the profession on a full-time basis for two years during the previous ten years in another Member State which does not regulate that profession, the committee stipulated that such applicants must have practised the profession on a full-time basis "for two consecutive years during the previous five years". MEPs also proposed a series of changes to the sections dealing with the details of individual professions, specifying, for example, that the equivalent of five years of full-time university study would be required of architects making use of the directive's provisions, rather than the four years proposed by the Commission. They also added a new article dealing with the training of engineers, specifying that such training should involve at least four years of full-time university study. Another amendment proposed setting up a database to enable Member States to exchange information about healthcare professionals who have been struck off or on whom professional restrictions have been imposed in a Member States. Lastly, the committee wanted to tighten up the requirements relating to knowledge of languages for the purposes of performing a professional activity in the host Member State and said that the Member State should be allowed to require a migrant to demonstrate language proficiency prior to awarding registration.