

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.12.1995  
COM(95) 672 final

REPORT FROM THE COMMISSION  
**ON THE DEROGATION PROVIDED FOR BY THE ARCHITECTS DIRECTIVE  
(85/384/EEC) CONCERNING THE DURATION OF TRAINING IN CERTAIN  
FACHHOCHSCHULEN IN GERMANY**

## I. LEGAL FRAMEWORK

Article 4 of Directive 85/384/EEC lays down that the minimum training in architecture required before a qualification can be recognized by the other Member States under Article 2 is four years of full-time studies at a university or comparable educational establishment (first subparagraph of Article 4(1)). German Fachhochschulen enjoy a derogation that is to be reviewed in 1995 (second subparagraph of Article 4(1)). Pursuant to the second subparagraph, the Commission, on the basis of the experience gained and bearing in mind developments in architectural training, must present a report on the application of the derogation and the appropriate proposals on which the Council is to decide in accordance with the procedure laid down by the Treaty within a period of six months. There is therefore no urgent time-limit on the derogation.

It should be pointed out that, in order for the qualification obtained on completion of three years' Fachhochschule training to be recognized under Directive 85/384/EEC, the holder must provide evidence of four years' professional experience in Germany sanctioned by a certificate issued by the professional body with which the architect is registered. The body must have established previously that the work carried out by the architect concerned in the field of architecture constitutes conclusive proof of the practical application of all the knowledge referred to in Article 3. In addition, in order to be registered as an architect in Germany, a practical period of training of two or three years, depending on the Land, is required after training in a Fachhochschule. The person concerned can migrate, therefore, only after seven, or even nine or ten years of study and practical experience in Germany. All this was the result of a political compromise reached in Council after seventeen years of negotiations by the Member States.

## II. EXPERIENCE GAINED

Experience of applying the derogation has not revealed any specific problems. On the whole, therefore, the derogation operated satisfactorily without posing any major difficulties for the Member States. One case arose where the interested party followed training in a Fachhochschule for three years but did not have four years' experience in Germany and so cannot make use of the provisions of Directive 85/384/EEC to gain access to the profession of architect in the host Member State.

To compensate for this drawback, it should be recalled that the Court's case-law on Article 52 of the EC Treaty (judgment of 7 May 1991, Case C-340/89 *Vlassopoulou* ECR I-2357) requires the host Member State to which an application for authorization to carry on a profession is made by a Community national who is already admitted to practise that profession in his country of origin to accept the knowledge and qualifications attested by the diploma obtained by the person concerned in his country of origin where they correspond to those required by the rules of the host Member State. In this judgment, the Court also held that the host Member State must take into account professional experience gained in the country of origin and in the host Member State. In addition, there must be procedural guarantees.

These principles also apply where there is a specific directive concerning recognition of qualifications applicable to the profession in question (judgment of 9 February 1994, Case C-319/92 *Haim* ECR I-425).

Another way of resolving this problem would be to amend Directive 85/384/EEC to allow professional experience to be acquired in another Member State or in an EEA country. However, this is not necessary in view of the Court's case-law referred to above and would, in any case, be disproportionate (there has been only one case on this point). Second, it could call into question the balance achieved after seventeen years of negotiations to adopt the Directive.

Thus, experience shows that there is no need to amend Directive 85/384/EEC on this point.

### III. DEVELOPMENTS IN TRAINING

The most important development has taken place in Germany, which at the start of 1995 communicated a list of architectural training in Fachhochschulen, with their respective durations (see Annex). This communication reveals that the duration of training given by Fachhochschulen in most Länder has risen, *de jure* or *de facto*, to four years (except for Rhineland-Palatinate and Schleswig-Holstein, and to a lesser degree, for Hesse, i.e. three out of sixteen Länder). That was confirmed for most Länder from 1987, 1988, 1990 and 1991 (see above communication).

In any case, the first architects to make use of the derogation finished the seven years' training and experience provided for by the Directive in 1994 (Directive 85/384/EEC should have been transposed by 5 August 1987), provided that the Länder did not impose an additional period of practical training of two or three years. No particular problems arose during this first year. It should be pointed out that in 1987 all the Länder in the then Federal Republic made use of the derogation. Subsequently, as indicated in the table annexed to the communication, the Länder gradually amended their legislation to increase the duration of training to four years. The first to do so was Baden-Württemberg for the academic year 1988-89, and the last Mecklenburg-Western

Pomerania in 1994. Account should be taken of the fact that the new Länder were unable to adopt such legislation before 1990, taking effect for the academic year 1991-92 at the earliest.


This development had already been anticipated in the *Egle* and *Bauer* cases, judgments of the Court of Justice of 21 January and 8 April 1992 respectively in Cases C-310/90 (Article 4(1)(a) of the Directive) and C-166/91 (third indent of Article 11(a) of the Directive). In paragraphs 9 to 15 of the *Egle* judgment, the Court clarified the scope of Article 4(1) and the conditions to be met so that the practical semesters comply with the Directive, which was the case in the two judgments in question concerning the four years of training acquired in Baden-Württemberg.

It should also be pointed out that in the other Member States, the duration of architectural training is between four and six years, supplemented in some Member States by compulsory practical training. Against this background, in 1992 the Advisory Committee on education and training in the field of architecture adopted a recommendation in which it called on the Member States to raise the duration of training to a minimum of five years followed by two years' compulsory practical training before gaining access to the profession of architect. In 1993 the Member States discussed the recommendation in the Ad Hoc Group of Senior Officials responsible for the free movement of architects. The discussion showed that there was no majority in favour of accepting such a recommendation; this highlights the sensitive and delicate nature of the question. This question of the duration of training is covered by the review of the Directive provided for by Article 30 and which could be the subject of a communication from the Commission.

#### IV. CONCLUSION

In view of the experience gained and developments in training, there is no need to propose an amendment to Directive 85/384/EEC regarding the derogation for Fachhochschulen because:

- (1) the training provided for by the derogation is balanced since it makes up for the missing year by four years' professional experience sanctioned by a certificate issued by the professional body which must establish that the work carried out by the architect constitutes conclusive proof of all the knowledge required for normal architectural training;
- (2) application of the derogation has not given rise to any problems;
- (3) the cases that are possibly not covered by Directive 85/384/EEC (professional experience acquired outside Germany) are resolved by the *Vlassopoulou* case-law;
- (4) even though the duration of the training at Fachhochschulen has been increased, in general, to four years, the derogation remains valid for the few Länder where that has not occurred.



**Communication**  
**from the Government of the Federal Republic of Germany**  
**to the Commission of the European Communities**  
**dated 5 January 1995**

Subject: Architects Directive 85/384/EEC

Re: duration of training in architecture in the new Länder

Ref.: Commission letter dated 23 February 1993 (002321/III/F/2-TZ/cb)

The Government of the Federal Republic of Germany would inform the Commission of the European Communities that:

Annex 1 to this communication contains a list of universities and Fachhochschulen in the new Länder that offer courses in architecture.

The list in Annex 2 provides an overview of the duration of studies and the practical semester in the field of architecture at Fachhochschulen in the new Länder.

The overall table (Annex 3) gives the length of studies and the practical semester at German Fachhochschulen for the field of architecture, classified according to Länder.

The practical semesters in question are those included in the respective courses and which are included in the final examination at the end of the course.

At the moment, Rhineland-Palatinate is preparing an amendment to the Universities Law which would lay down a standard duration of studies for Fachhochschule courses of four years, including one or two practical semesters.

Lastly, the German Government reserves the right to add to the list of universities in Germany offering courses in architecture.

I would ask you to forward the enclosed communication to the Secretariat-General with a copy to DG XV.

(complimentary close)

**Universities  
(new Länder, architecture studies)**

**Technische Universität Dresden  
Mommsenstraße 13  
01069 Dresden (SN)**

**Technische Universität Cottbus  
Karl-Marx-Straße 17  
Postfach 10 13 44  
03013 Cottbus (BB)**

**Hochschule für Architektur  
und Bauwesen Weimar  
Geschwister-Scholl-Straße 8  
99423 Weimar (TH)**

**Fachhochschulen**  
**(new Länder, architecture studies)**

Hochschule für Technik  
und Wirtschaft Dresden  
Friedrich-List-Platz 1  
**01069 Dresden (SN)**

Fachhochschule Erfurt  
Schlüterstraße 1  
**99089 Erfurt (TH)**

Fachhochschule Anhalt  
Bernburg-Dessau-Köthen  
Bernburger Straße 52-57  
**06366 Köthen (ST)**

Hochschule für Technik,  
Wirtschaft und Kultur Leipzig  
Eichendorffstraße 2  
Postfach 66  
**04251 Leipzig (SN)**

Fachhochschule Potsdam  
Friedrich-Ebert-Straße 4  
**14467 Potsdam (BB)**

Fachhochschule Lausitz  
(Cottbus/Senftenberg)  
Großenhainer Straße 57  
**01969 Senftenberg (BB)**

Hochschule Wismar  
Fachhochschule für Technik,  
Wirtschaft und Gestaltung  
Philipp-Müller-Straße  
Postfach 12 10  
**23952 Wismar (MV)**

## Annex 2

### Duration of studies and practical semesters at Fachhochschulen Architecture studies in the new Länder

Land	Uni/FHSchule Law of	Article	Semesters	Practical semesters	Duration of studies
BE	12.10.1990	23(2)	7	1-2	4 years
MV	09.02.1994	8(3)	7/8	2/1	4 years
SN	25.07.1991	10(4)	7 6	1 2	4 years
ST	31.07.1991	10(4)	7 6	1 2	4 years
TH	provisional Order* 18.09.1990	8(4)	7 6	1 2	4 years

\* Note from Translation Service: replaced by Hochschulgesetz on 7 July 1992.

BW: Baden-Württemberg	HE: Hesse	SN: Saxony
BY: Bavaria	MV: Mecklenburg-Western Pomerania	ST: Saxony-Anhalt
BE: Berlin	NI: Lower Saxony	SH: Schleswig-Holstein
BB: Brandenburg	NW: North Rhine-Westphalia	TH: Thuringia
HB: Bremen	RP: Rhineland-Palatinate	
HH: Hamburg	SL: Saarland	



Duration of studies and practical semesters at Fachhochschulen

Land	Abbreviation	Uni/FHSchule Law of	Article	Semesters	Practical semesters	Duration of studies	Comments
BW	88010	30.10.1987	31	6	2	4 years	
BY	88015	08.12.1988	76(6)	6	2	4 years	
BE	88016	12.10.1990	23(2)	7	1-2	4 years	
BB	88023 88024	01.07.1991	10(4)	6	2	4 years	All previously authorized exam regulations. FHSchule 8 semesters, mainly 3.5 + 0.5
HB	88025	(20.12.1988) 25.12.1982	57(4)	6	2	4 year	Conversion of exam regulations to 4 years (3 + 1 or 3.5 + 0.5)
HH	88026	02.07.1991 (16.07.1991)	47(3)	6	2	4 years	Possible, but not necessary
HE	88028	06.06.1978 26.06.1990	45(4/5)	6	2	4 years	Conversion phase to 3.5 + 0.5
MV	88029	09.02.1994	8(3)	7/8	2/1	4 years	
NI	88030	14.06.1989	16(4)	6	2	4 years	
NW	88032	15.08.1988	55(3)	7	1 (opt)	4 years	
RP	88034	13.11.1987 10.09.1987	18	6-7	1 + exam	3 years	Conversion under way to 4 years (3.5 (statutory) (theory and 0.5 project in firms)
SL	88035	27.08.1991 15.05.1991	57(9)	7	1-2	4 years	
SN	88036 88037	25.07.1991	10(4)	7 6	1 2	4 years	
ST	88038	31.07.1991	10(4)	7 6	1 2	4 years	
SH	88041	28.02.1990	83(4)	6			Conversion of exam. regulations to 3.5 + 0.5
TH	88042	provisional Order* 18.09.1990	8(4)	7 6	1 2	4 years	

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