

EUROPEAN FILE

The European Community and recognition of diplomas for professional purposes

From January 1991, a new European Community system for the recognition of higher education diplomas will make it easier for Community citizens to practise their profession in the member country of their choice. Members of a number of professions already enjoy this right; work is in hand to make it available to all, as part of the completion of the large area without frontiers of 1992.¹

Free movement of persons is one of the Community's central objectives. Important though trade is to Europe, the transfer of people from one country to another is more vital still. As well as the free movement of goods and services, therefore, there must be free movement of persons and ideas. That means in particular that citizens of the Community must be free to exercise their profession in the member country of their choice. This freedom must be unhindered by any barrier that might ultimately complicate or discourage migration.

- Over and above its immediate economic aims, the European Community has a human and social purpose. This is clear from the first lines of the Treaty which instituted the Community, with the objectives of an ever closer union of its peoples, their economic and social progress, and the constant improvement of their living and working conditions. The Treaty contains articles to abolish discrimination on grounds of nationality, to provide for the free circulation of wage earners, and to allow others to work in another Member State, either permanently (right of establishment) or by supplying services across frontiers.
- In 1987 the Single European Act came into force, supplementing the Treaty. It gave the Community the means to establish, by the end of 1992, a large European internal market — an area with no frontiers between the Member States. To that end a range of technical, physical and fiscal barriers, which interfere with the free movement of persons, goods, services and capital, must be eliminated. Among those barriers are the divergences which exist in conditions imposed for the exercise of many professions.

Since 1970 European law has forbidden any job discrimination against Community citizens on grounds of nationality, with the exception of certain work involving the administration of public authority and the protection of the general interests of the State. Community rules soon followed to apply the principle of free movement and equal treatment of wage earners. As regards self-employed persons, the European Court of Justice ruled in 1974, in the *Reyners* and *Van Binsbergen* cases, that in the absence of specific Community rules the self-employed had the right under the Treaty itself to establish themselves and to work in the member country of their choice, under the same conditions pertaining for nationals of the host country, regardless of their nationality or business address.

There was still an obstacle to be overcome. Without any discrimination on grounds of nationality, to obtain and carry out certain kinds of work one must still

¹ This file replaces our No 13/84.

have guarantees of professional standing or levels of practical or theoretical knowledge, backed by diplomas, certificates and other formal qualifications, which vary from one country to another. To facilitate the practice of a range of professions throughout the member countries, the Community has been concerned from the outset to arrange for the mutual recognition of these conditions for access to a profession. Some 60 Community directives have been drawn up and adopted to this end. Member States are legally bound by these measures as regards the result to be obtained, but are allowed to choose their own ways and means. In the event of a conflict between a directive and a national measure, the former always has precedence, and interested parties can cite it before the national courts.

Sectoral directives

Before the Single Act was adopted, supplementing the Community Treaties, the Community drew up many directives, profession by profession; the content varied according to the type of activity in question.

- Access to most industrial jobs, tradesmen's work and commercial activities was liberalized. Measures were taken where necessary to facilitate such access, through recognition in the host country of work experience acquired in the country of origin — over a certain number of years, in most cases. Directives of this kind, based on recognition of work experience, related to:
 - Wholesale trade and intermediaries in trade, industry and crafts (directive adopted in 1964).
 - Industry and crafts (directive adopted in 1964).
 - Retail trade (1968).
 - Personal services: restaurants, bars, hotels (1968).
 - Food industries and drinks production (1968).
 - Wholesale trade in coal (1970).
 - Trade in toxic products (1974).
 - Various activities (1975).
 - Itinerant activities (1975).
 - Insurance agents and brokers (1976).

- Transport agents (1982).
 - Hairdressers (1982).
- For other occupations more complex measures were required, harmonizing the conditions under which they could be exercised, especially as regards training. This applied particularly to a number of professions in the field of health.

Under this system, which is the most advanced, there are generally two directives for each occupation:

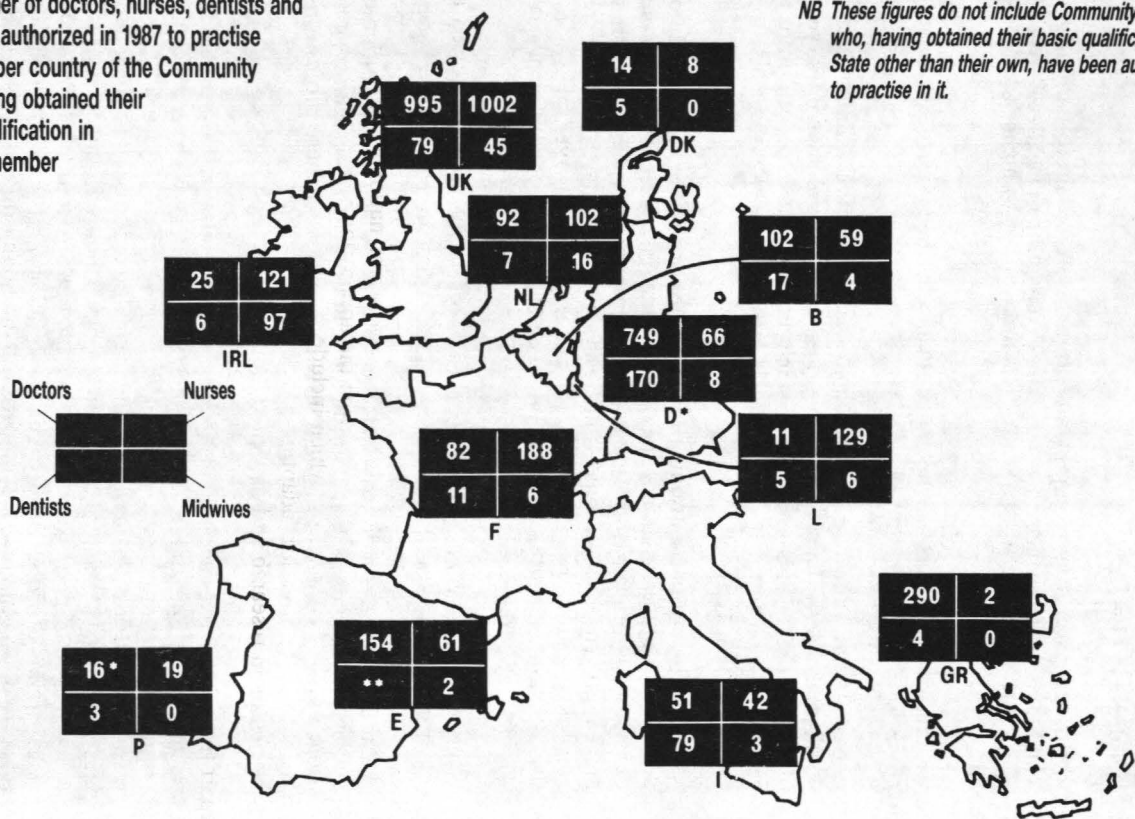
- A coordination directive, to coordinate and harmonize training. It sets qualitative criteria (content of training) as well as quantitative ones (years of study, number of course hours) which diplomas must meet in order to be awarded and mutually recognized. This coordination has three essential characteristics. It is:
 - (i) minimal: each member country may impose additional standards for qualifications acquired on its territory, but it must recognize diplomas awarded elsewhere in the Community without requiring that these additional standards be met.
 - (ii) binding: education and training must conform to the minimal rules set out in the directive.
 - (iii) flexible: the coordination does not go into the detail of education and training, so as not to interfere with the independence of universities.
- A mutual recognition directive, establishing the automatic recognition of diplomas. This means that, if a diploma conforms to Community standards, there is no need to go into its content any further.

In the health sector, directives adopted along these lines to date cover:

- Doctors. Directives adopted in 1975 and operational since 1976 enable the doctors of the Community (about 800 000 in number), whether specialists or general practitioners, self-employed or salaried, to practise in all member countries. The basic training of qualified doctors must include at least six years of higher education or 5 500 hours of theoretical and practical study. Specialists must have undergone an additional three to five years' training. More recently, specific training of at least two years has been established for general practitioners. Though the directives do not set out a detailed catalogue of subjects to be taught, they do specify the knowledge which the final diploma is understood to certify.
- Nurses. Directives adopted in 1977 and operational since 1979 allow the Community's 900 000-odd general nurses freedom to work throughout the

The number of doctors, nurses, dentists and midwives authorized in 1987 to practise in a member country of the Community after having obtained their basic qualification in another member country

NB These figures do not include Community citizens who, having obtained their basic qualification in a State other than their own, have been authorized to practise in it.



* 1986.

** Deadline for application of the 'dentists' directive for Spain: 1991.

member countries. Their training must comprise at least 10 years of primary and secondary education and three years or 4 600 hours of training, based on an agreed minimum study programme.

- Dentists. Since 1979, directives adopted in 1978 oblige Member States to recognize each other's dental diplomas. (There are about 130 000 dentists in the Community.) The measures provide for a body of material to be taught in all member countries over at least five years of higher education. As specific dental diplomas did not exist in Italy and Spain, these countries were allowed an additional period to organize adequate training. This period expired in 1984 for Italy, and for Spain will expire in January 1991.
- Veterinary surgeons. Since 1980 the 58 000 or so vets in the Community have had their diplomas recognized in all member countries, as a result of directives adopted in 1978. Training of vets must include at least five years of higher education in a range of subjects.
- Midwives. Since 1983, directives adopted in 1980 have enabled the Community's 75 000 midwives to practise in all the Member States, if they have undergone special training of 18 months to 3 years — the duration depending on whether or not they have a nurse's diploma or professional experience. These variants have helped to surmount the difficulties due to great divergences in national training systems and guarantee both free movement and the proper qualification of migrant midwives.
- Pharmacists. Directives dating from 1985, in force since 1987, allow the 210 000 pharmacists in the Community freedom to set up in the member country of their choice and practise there. They must have followed a specific course of study lasting at least five years.

For these different professions, committees of senior national civil servants examine difficulties which may arise from the application of the directives. In addition, advisory committees, which include members of these professions, can make suggestions for adapting training courses to take account of developments in research and practice.

Apart from the health sector, the exercise of other regulated occupations has been made easier by directives on the recognition of titles or diplomas. This applies in particular to:

- Transport of goods and passengers by road. Directives adopted in 1974 and 1977 and amended in 1989 approximate criteria for access to this occupation. A system for the awarding of certificates by the authorities in the country of origin facilitates freedom of establishment. This became effective in 1979 and must be complemented between now and 1992 by the freedom to provide services in other Member States.
- Lawyers. Also since 1979, a directive adopted in 1977 allows European lawyers to plead cases jointly with a lawyer from the host country and,

single-handed or in groups, to provide other legal services, notably consultations. However, although there is recognition of national titles, diplomas are not similarly recognized; the directive confines itself to allowing the freedom to provide certain services without going as far as the right to set up business in a country without a diploma from that country.

- Architects. Since 1987, a directive adopted in 1985 enables those architects who hold one of a range of national diplomas (requiring at least four years of full-time higher education) to establish themselves in any of the member countries and exercise their profession. As Community harmonization is restricted to specific diplomas, member countries can retain other forms of training which, however, do not give the right to practise as an architect in the rest of the Community.

The general system for the recognition of diplomas

One of the key points of the programme to establish the large market without frontiers from 1992 is to give all Community citizens freedom of establishment throughout the Community. However, with the deadline only a few years away, it was not realistic to hope to achieve this aim by new sectoral measures (in the case of architects, for example, 17 years passed between the tabling of the proposed directive at the Council of Ministers and its eventual adoption!).

This explains why the European Commission proposed a directive for a general system for the recognition of diplomas. Adopted by the Council on 21 December 1988, this measure will start to be applied and produce results from the beginning of 1991.

This general system is not as 'sophisticated' as the mechanisms employed by the sectoral directives, but it has the major advantage of providing broad coverage. The 1988 directive covers all diplomas which are not affected by sectoral directives and which are awarded on completion of a course of higher education, at university level or higher, comprising at least three years' full-time study or the equivalent.

A complementary general system is in preparation. Proposed in July 1989 by the European Commission, it will cover education and training not affected by the 1988 directive: short courses (less than three years), and vocational training at secondary level.

The general system differs from the sectoral directives in several respects:

- It is general in character (a horizontal approach as opposed to a vertical or sectoral one). It applies to all regulated activities which require higher education and training of at least three years and which are not the subject of a specific directive. Examples of possible beneficiaries include teachers, engineers, opticians, kinesi therapists, chartered accountants or lawyers (who up to now have enjoyed only very limited rights).

- It operates on a case-by-case basis. Each Member State is obliged to examine the diplomas of a migrant candidate and to appraise his education and training *vis-à-vis* its requirements for its own nationals, without any list of automatically recognized diplomas being drawn up *a priori*. This approach is subject to general rules:
 - The system is based on mutual confidence between Member States and on assumed comparability between levels of education and training. A Member State is prohibited from refusing access to a regulated occupation to a national of another Member State, provided the person is qualified to practise in a Community country, and has obtained a diploma *and* undergone any additional training required (in-service training, etc.). The training and education for which the diploma has been awarded must have been received mainly within the Community. However, a diploma obtained in a third country is accepted if it is recognized by a Member State and supplemented by three years' professional experience in that State.
 - Where there are important differences between types of education and training, the host Member State may impose compensatory requirements:
 - (i) when there is a difference of more than a year in the length of courses, additional professional experience may be demanded. This is limited to twice the length of the missing training period (or even to the same duration if it is a question of completing a training period under a qualified professional).
 - (ii) when there are substantial differences in course content, the migrant may choose either an adaptation period of up to three years under the responsibility of a qualified professional or an aptitude test based on all or some of the missing material. As an exceptional measure, the host Member State may make the choice, and impose an examination, for the legal professions — members of which need a detailed knowledge of national law — and, with the agreement of the European Commission, for other occupations.
- The directive establishes procedural guarantees: the host State must give a ruling within four months on each application, it must give reasons for its decisions and provide opportunities for legal redress. In addition, a mechanism for cooperation is established with the creation, under the aegis of the European Commission, of a group of coordinators appointed by the Member States to be responsible for promoting a uniform application of the general system.

The introduction of this general system does not of course exclude the drawing up of new 'sectoral' directives, depending on future needs.

Beyond the professional recognition of diplomas

Until now, we have only dealt with the problem of the recognition of diplomas in terms of the exercise of a professional activity. This leaves the question of the academic recognition of diplomas or periods of study, to allow continuation of training and education, and the awarding of a diploma, in a Member State other than that in which the course was first started. The highly diversified educational systems of the Member States have given rise in this field to disparate and fragmentary procedures, often long and complex, without it being possible to introduce a Community mechanism.

The Community wishes to develop mutual academic recognition in order to encourage the free movement of students. Since 1987, its Erasmus programme has been stimulating this mobility by subsidizing, in particular, joint student and teacher exchange programmes, organized by universities in several member countries, as well as grants for a period of study in another member country. In addition, the programme includes a section specifically aimed at encouraging academic recognition, with the creation of a Community network of national information centres (whose activities will extend to professional recognition) and the launch by the end of 1989 of a pilot project involving some 80 university faculties. This should develop the opportunities for students to have study and training in another member country taken into account, by establishing systems of 'academic credits' or 'marketable units' which can be transferred from one educational institution to another, on the basis of freely established mutual confidence between these establishments.

Also launched in 1987, the Community's Comett programme for education and training in technology encourages students to follow recognized periods of study in other member countries. In particular, the programme finances university/business partnerships for training, transnational projects for further training and transnational in-service training for students in other Member States' companies. In the majority of cases, these training periods are an obligatory part of the courses and are recognized academically.¹

Finally, the Council of Ministers recently adopted a new programme known as Lingua. The essential aim of the activities envisaged (exchanges, scholarships, teacher training, preparation of teaching material, etc.) is to encourage the

¹ See *European File* No 7/88: 'For young people: Comett, Erasmus, YES for Europe'.

learning of languages in education and in economic life. Lingua should therefore help to lessen the linguistic barriers which hinder the mobility of students as much as that of professionals.



There have been clear advances in the mutual recognition of diplomas. The increase in the number of sectoral directives and, in particular, the recent and relatively rapid introduction of a general system for the recognition of diplomas are the most visible proof of this. It is true that, in the past, there was often a long delay between the tabling of the European Commission's proposals and their acceptance by the Council of Ministers. It is also true that, once the decisions had been taken, the member countries did not always apply the measures punctually. The Commission is aware of these difficulties; where necessary, it will not hesitate to bring a case before the European Court of Justice; individuals can claim their rights in the national courts.

Overall, though there are complex problems still to be resolved, definite progress has been made — reflecting the will of the Community to work for a people's Europe ■

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