

Mutual recognition of diplomas and professional qualifications

European File

The founding Treaties of the European Community proclaim four fundamental freedoms which also form the basis of the Common Market: free movement of goods, people, services and capital. For the most part, the free movement of goods has been rapidly accomplished through the abolition of customs duties between Community countries, the implementation of a common external tariff, etc. Progress has been more difficult and slower in other areas, however. The free movement of persons and of services is hindered by a variety of obstacles:

- some of these obstacles are the result of nationalism itself, when legal provisions prohibit access for foreigners to a Member State's territory or restrict certain jobs to nationals. Since 1 January 1970, the European Treaties have prohibited all discrimination of this sort when it affects citizens of another Community country. Permitted under the watchful eye of the Community's Court of Justice are:
 - the expulsion or refusal of entry for reasons of public policy, security or health; this possibility is, however strictly limited by the Community in order to protect migrants and their families;
 - restricting to nationals certain activities carried out by public authorities.

Community regulations have rapidly brought about the application of the principles of free movement and equal treatment for wage-earning workers.¹ But what about the self-employed? Two famous decrees of the European Court of Justice — the *Reyners* and *Van Binsbergen* decrees of 1974 — took care of this. They resulted in rulings which decreed that, since the end of the transitional period fixed by the European Treaties, and in the absence of any other Community provisions, any citizen from a Member State has the individual right — guaranteed by the Treaties — to set up and work on a self-employed basis in any member country under the same conditions as nationals in the host country, no matter what his or her nationality or where professional domicile is located.

In consequence, the directives which the Community's Council of Ministers adopted before 1974 to open up specific activities to all European citizens, whatever their nationality, have become partially unnecessary. The assimilation of other Community citizens with nationals has become a recognized principle and special provisions in this area are no longer required. In addition, since the decrees of the European Court of Justice have supported the direct application of the Treaties' provisions relating to the right of establishment, citizens from a Community country who still suffer discriminatory behaviour can assert their rights before their national courts. Community rules prevail over contradictory national provisions in such a case.

These principles apply to all professions. Professional sportsmen are no exception, as was established by another decree of the European Court of Justice at the end of 1974 against the International Cyclists Union. Again in 1978, the European Commission, which was disturbed by restrictions imposed by certain football federations on the signing on of players from other Community countries, persuaded the federations to commit themselves to an immediate review of their statutes to bring about total freedom of recruitment. The Commission conceded that, during a transitional period, the number of foreign players participating in a first or second division match should be limited to two. But no derogation, even transitory, is permitted concerning the number of signings which a club can make.

□ Other obstacles to the free movement of persons arise through national provisions applicable to both nationals and foreigners which, in the general interest, link access to a profession to more or less strict conditions concerning guarantees of good repute, or practical or theoretical knowledge (the latter may require certain diplomas, certificates and other titles). In particular:

- for certain activities conducted as a self-employed person;
- for activities conducted on a wage-earning basis and which require a diploma identical to those of the self-employed (in the case, for example, of certain doctors).

¹ See *European file* No 9/80: 'The European Community and migrant workers'.

The specification of conditions necessary to practise a particular activity can vary considerably from one country to another. The issue is no longer one of nationality, but one of the nature of the diploma or degree permitting access to a profession. The result is almost the same: the differences existing between the various national systems can in fact create almost insurmountable obstacles to professional mobility.

It is here that certain elements (known as 'transitional') of the Community directives adopted before 1974 as well as the new European directives made since this period, demonstrate their usefulness and their force. These provisions indeed help facilitate the effective practice of an economic activity by recognizing the guarantees of good repute as well as the experience or the professional titles acquired in another Community country.

Why does the Community want to remove these obstacles ?

The elimination of obstacles to the freedom of establishment and the supply of services in the Community is needed for:

- economic reasons: the realization of the Common Market presupposes the mobility of various economic factors, and particularly of workers. Whilst it tries to remove the obstacles which still prevent the free movement of goods,¹ the Community has also to abolish those which hinder the movement of people;
- political reasons: the Community is increasingly moving towards closer union between the European peoples. It is therefore vital that all citizens from Community countries be dealt with as nationals and that, in particular, diplomas acquired in one Community country be accepted in the same way as national diplomas when they look for a job in a member country other than their own.

The free movement of members of the liberal professions has not resulted in great changes, statistically. One example is particularly noteworthy: that of doctors. In 1978, as in 1977, fewer than one thousand European doctors made use of the opportunity open to them to practise in another Member State. Most doctors have no intention of changing their country of practice. This possibility is, however, likely to promote a sense of solidarity: within the 'liberalized' professions, each knows (or should know) that all his European colleagues are veritable equals with equal rights, no matter where they obtained their diplomas.

How far have we got ?

Close on 75 European directives have been proposed and adopted since the beginning of the sixties to facilitate the practice of economic activities and of professions which are governed by or subject to training conditions. The European directives number as follows:

¹ See *European file* No 12/79: 'The removal of technical barriers to trade'.

- 10 covering the agricultural sector, forestry and horticulture;
- 3 for the extractive industries and the sectors of electricity, gas, oil and water;
- 5 for the manufacturing industries;
- 4 covering the film industry;
- 4 for the transport sector;
- 4 covering public works;
- 11 for the sectors of banking, finance and insurance;
- 7 for commercial activities;
- 3 for service industries;
- 4 for law societies;
- 14 for the liberal professions;
- 4 for various other activities.

In numerous cases, and particularly for the majority of industrial, craft and commercial activities, it was sufficient to open access to the jobs in question or to introduce transitional measures to facilitate such access, through the recognition in the host country of the professional experience acquired, usually over a period of a certain number of years, in the country of origin.

For other professions, however, it was necessary to introduce more complex measures involving the harmonization of the conditions for exercising the profession, particularly at the training level. This is the case for numerous professions in the health sector.

Towards a healthy Europe

In all European countries, the practice of the medical and paramedical professions is subject to strict conditions of study, backed up by the granting of national diplomas. To facilitate access to these professions for citizens from other member countries, the texts adopted by European ministers cater for the mutual recognition of national diplomas on the basis of minimum training standards which should guarantee the maintenance of the traditional quality of health care. Five professions from the health sector are covered by Community directives:

- doctors: since December 1976, European directives proposed in 1969 and adopted in 1975, permit some 500 000 Community doctors — specialists or general practitioners, self-employed or salaried — to set up and practise their profession anywhere in the Community. The basic training of qualified doctors should comprise at least six years of higher education or 5 500 hours of theoretical or practical education. The content of the programmes is not specified. As for the specialists, they should have followed an additional three to five-year training course;
- nurses: since June 1979, directives proposed in 1969 and adopted in 1977 permit some 700 000 nurses responsible for general health care to exercise freely their profession throughout the Community. Their training should comprise at least ten years of primary and secondary schooling, and three years or 4 600 hours of vocational training, including a minimum study programme which is the same throughout the Community;
- dentists: since December 1979, directives proposed in 1969 and adopted in 1978 require Member States to recognize the diplomas of some 100 000 practitioners of dentistry. The texts call for a common body of teaching material for all Community countries lasting for at least five years of higher study. As a specific dental diploma does not exist in Italy, an additional period of four and a half years has been permitted for this country to organize adequate training. These directives, therefore, will only apply to Italy in June 1984, when it will introduce a clear distinction between dentistry and general medicine;
- veterinarians: in December 1980, the Community's 40 000 vets will also have their degrees recognized throughout the Common Market, following the adoption in 1978 of the directives proposed in 1970. To this end, the training of veterinarians should comprise five years of advanced study covering a number of basic aspects (chemistry, biology, physics, etc.) and certain specific topics;
- midwives: in January 1983, thanks to directives proposed in 1970 and adopted at the beginning of 1980, midwives may also exercise their profession throughout the Community once they have followed specialist training courses for a period varying from 18 months to three years, according to whether they have a nursing diploma and a certain minimum length of professional experience. Such specialist training should comprise the teaching of a certain number of basic matters, but professional experience of at least three years could take the place of this during a transitional period which aims to protect existing rights. These variations have helped get round the obstacles created by the large divergences that exist between the different training systems, whilst guaranteeing freedom of establishment and the qualification of expatriated personnel at the same time.

Three general remarks should be made about these European directives:

- they comprise measures aimed at facilitating the mobility of those concerned whilst maintaining the guarantees concerning existing professional rules in the various member countries;

- they are accompanied by provisions creating consultative committees composed of experts: members of the profession, teachers, representatives from public authorities, etc. These committees are responsible for formulating suggestions aimed at adapting training courses covering research and the practice of the profession concerned. In addition, a committee of senior national public health officials has been created to study the difficulties which could arise in implementing these directives and to give its opinion on solutions;
- they only deal with the professional aspects of the recognition of diplomas, without involving academic recognition of diplomas or periods of study, which would enable students to get the most out of training undertaken in a number of Community countries. A solution to this problem has not yet been found at the European level and remains regulated by national provisions or by bilateral conventions. These European directives have however had direct effects in the educational field. Since they require a minimum three-year duration or a 'common body' of studies, they help coordinate the various educational systems, thereby creating situations which make the academic recognition of diplomas or study periods much easier. The introduction of consultative committees responsible for monitoring the maintenance of similar standards of training is designed to have the same effect. This coordination effort also helps improve teaching standards: the various consultative committees are responsible for promoting the modernization of common teaching criteria; the European directive concerning dentists should result in the introduction in Italy of a specific training programme and diploma; the directive on nurses has resulted in an extension from two to three years of the training period in France.

Other examples

Outside the health sector, numerous professions will find it easier to practise at the European level. Here are two very different examples:

- road haulage: directives proposed in 1967, 1968 and 1975 and adopted in 1974 and 1977, harmonize throughout the Community the criteria governing access to a profession (professional and financial capacities, diplomas, certificates, titles of standing and repute, etc.). An attestation system issued by the authorities of the country of origin has been implemented to facilitate the freedom of establishment which became effective in January 1979.
- lawyers: since March 1979, a European directive adopted in 1977 enables some 125 000 European lawyers to plead jointly with a lawyer from the host country and provide as individuals or as a group, other legal services (in particular consultation). In contrast to the provisions introduced for the medical profession, the European directive relating to lawyers does not provide for the free professional establishment in the countries for which they do not have a diploma. It concerns only the free offer of certain services and does not comprise measures relating to the mutual recognition of diplomas. Nothing is more disparate, however, than the laws, legal traditions, national jurisprudence, and the different training given in the legal field. The disparity existing at

the Community level is becoming larger still since the Community has admitted more Member States. Lacking the recognition of these diplomas, the directive whose draft was presented in 1969 and revised in 1975 to take into account the situations existing in Denmark, Italy and the United Kingdom, is based on the mutual recognition of the title of lawyer (in the UK, of *advocate*, of *barrister* or of *solicitor*, in Ireland of *barrister* or *solicitor*) as it has been defined in each Community country.



Progress in achieving the mutual recognition of diplomas and professional qualifications in the Community has been regrettably slow. It is true that, in many cases, a long delay has lapsed between proposals being put forward by the European Commission and their being accepted by the Council of Ministers. The problems to be resolved, particularly at the level of training, have often been very complex. Certain progress has, however, been recorded over the past few years and this helps to give Europe a more human face by benefiting a growing number of its citizens, both in terms of the professional categories concerned and also the number of countries affected. The majority of European directives which have been adopted so far will also apply to Greece when it joins the Community on 1 January 1981 ■

The contents of this publication do not necessarily reflect the official views of the Institutions of the Community.

Commission of the European Communities

Information offices (countries fully or partially English speaking*)

Ireland 39 Molesworth Street, Dublin 2 — Tel. 71 22 44

United Kingdom 20 Kensington Palace Gardens, London W8 4QQ — Tel. 727 80 90
— 4 Cathedral Road, Cardiff CF1 9SG — Tel. 37 16 31
— 7 Alva Street, Edinburgh EH2 4PH — Tel. 225 20 58
— Windsor House, 9/15 Bedford Street,
Belfast BT2 7 EG — Tel. 40 708

Canada Association House (suite 1110), 350 Sparks Street,
Ottawa Ont. K1R 7S8 — Tel. 238 64 64

USA 2100 M. Street, N.W. Suite 707,
Washington D.C 20037-USA — Tel. 202-862-9500
— 245 East 47th Street, 1 Dag Hammarskjöld Plaza,
New York, N.Y. 10017 - U.S.A. — Tel. 212-371-3804

* Offices also exist in other countries including all Member States.

'European file' published in 1979 and 1980:

- 1979
- 1/79 A European Community – Why ?
 - 2/79 The institutions of the European Community
 - 3/79 The Community's industrial policy
 - 4/79 The European Community and the environment
 - 5/79 The enlargement of the European Community
 - 6/79 A steel policy for Europe
 - 7/79 The European Monetary System
 - 8/79 Towards a European energy policy
 - 9/79 Europe's common agricultural policy
 - 10/79 Regional development and the European Community
 - 11/79 Science, research and the European Community
 - 12/79 The removal of technical barriers to trade
 - 13/79 The European Community and consumers
 - 14/79 European competition policy
 - 15/79 Community action in nuclear safety
 - 16/79 Economic growth and energy conservation
 - 17/79 Community aid to the Third World: the Lomé Convention
 - 18/79 The European Community and education
 - 19/79 The European Social Fund
 - 20/79 The common transport policy
- 1980
- 1/80 The European Community in the 1980s
 - 2/80 New energy sources for the Community
 - 3/80 Europe and the new information technology
 - 4/80 How the European Commission is tackling dairy surpluses
 - 5/80 Equal opportunity for working women
 - 6/80 The European Community and water
 - 7/80 The European Community in the world
 - 8/80 The European Community and the handicapped
 - 9/80 The European Community and migrant workers
 - 10/80 The European Community and waste recycling
 - 11/80 Tomorrow's bio-society
 - 12/80 A future for Europe's wine
 - 13-14/80 True or false ? Questions about the European Community
 - 15/80 European energy demonstration projects
 - 16/80 Micro-electronics and employment
 - 17-18/80 The Community of Ten: welcome to Greece
 - 19/80 The European Community and small- and medium-sized industry
 - 20/80 Mutual recognition of diplomas and professional qualifications

