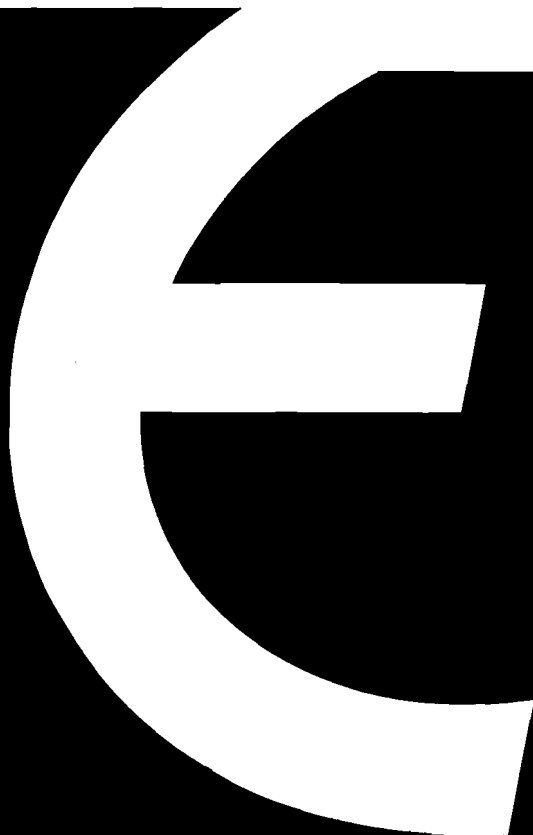


MOVING TO ANOTHER COUNTRY

Recognition of diplomas and professional qualifications



European File

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Four fundamental freedoms are enshrined in the European Treaties which founded the Community: the free movement of people, services, goods and capital. The free movement of goods has been eased considerably by the abolition of customs duties within the Community. But technical obstacles remain, as a result of divergences in taxation and national regulations which the Community is trying to eliminate. Progress has been more difficult and slower in other areas. The free movement of people and services face a wide range of difficulties.¹

- Such difficulties sometimes arise on the grounds of nationality. There are laws which forbid the entry of foreigners or reserve certain jobs for the local population. Since 1 January 1970, the European Treaties have forbidden discrimination of this kind against citizens from other Community countries. Restrictions are still permitted on the free movement of citizens from Greece, which joined the Community in 1981. But these apply only to salaried jobs for a transitional period, which expires at the beginning of 1988. A number of other special restrictions are permitted, under the watchful eye of the European Community's Court of Justice:

 - Expulsion or refusal of entry on the grounds of public order, safety or health. Use of this right is strictly limited by the Community in order to safeguard the rights of migrant workers and their families;
 - The restriction to nationals of certain jobs, involved, if only partially, in the administration of public authority and the protection of State or other public interests. Limits are also applied to the use of this right: it cannot be used to restrict the employment of drivers or guards on State-owned railways or nurses in public hospitals.

Community regulations have gradually been framed to enforce the principle of free movement and equal treatment of wage-earners.² But what about the self-employed? Two celebrated judgments of the European Court of Justice in 1974 – the *Reyners* and *Van Binsbergen* cases – tackle this problem. Essentially, since the lapsing of the transition period laid down in the Treaties, and in the absence of Community legislation to the contrary, all Community citizens have a right under the Treaties to make their home and set up business in any Member State. They have the right to equal treatment with citizens of the host nation, no matter what their nationality or business address.

As a result, the directives agreed by the Community Council of Ministers before 1974 to open up a number of specific occupations to all Community citizens, without discrimination on grounds of nationality, have lost part of their point. The equality of rights of citizens of other Community countries and those of a host nation have become a recognized principle. There is no longer

¹ This file updates and replaces our No 20/80.

² See *European File* No 9/80: 'The European Community and migrant workers'.

any need to draw up specific rules in this area. What is more, the Court judgments proclaiming the direct application of Treaty provisions on the right of establishment mean that any Community citizen who feels discriminated against can seek redress in the national courts. Community regulations have precedence over any national legislation which points in the opposite direction.

- But obstacles to the free movement of people also arise from national regulations which apply to local citizens and foreigners alike. The difficulty stems, not from nationality as such, but from other factors, such as the nature of the diploma, title or training certificate or practical experience demanded in a Member State for access to certain jobs or senior posts. The effect is obvious: the divergences between national requirements can create almost insurmountable obstacles to job mobility.
- In the case of most wage-earning jobs, the problem is caused by the recognition of professional qualifications. In order to help workers to get jobs with qualifications from another Community country, the European Commission has laid down Community guidelines for levels of training. It has been assisted in this work by the consultative committee on professional training and Cedefop, the European Centre for the Development of Vocational Training, based in Berlin. Standards have already been worked out, based on the common professional requirements throughout the Community, for a range of skilled jobs, including seven types of electrician, five types of car mechanic, 24 hotel and restaurant trades and 16 trades in the building industry. The description laid down establishes the parameters for recognition of professional qualifications in all Member States. The Commission has asked the Council of Ministers to ratify this work to allow it to be extended into other areas. It has also suggested the creation of national coordination and information offices, empowered, amongst other things, to issue certificates of recognition of qualifications.
- For a range of other occupations, especially self-employed professions and salaried jobs requiring diplomas identical to those for the self-employed, obstacles to free movement are created by national regulations. Access to these forms of employment is often restricted, in the public interest, by the need to fulfil certain requirements, with varying degrees of strictness. These range from guarantees of professional standing to levels of practical and theoretical knowledge, backed by diplomas, certificates and other formal qualifications. Thus certain aspects (especially the transitional measures) in Community directives adopted both before and after the Court judgments of 1974 retain their importance and validity. These measures apply in all Member States.¹ They aim to permit Community citizens to practise their occupation freely by providing for the recognition of guarantees of professional standing and qualifications attained in other Member States.

¹ Apart from the restrictions on Greek wage-earners up to the beginning of 1988.

Why does the Community wish to remove these obstacles?

The elimination of barriers to the right of establishment and the right to offer services throughout the Community can be justified:

- For economic reasons: the Common Market is a force for economic and social progress; the creation of such a market presupposes economic mobility, including the mobility of workers. While continuing its efforts to remove obstacles to the free movement of goods,¹ the Community must also abolish barriers to the free movement of people.
- For political reasons: the Community seeks to achieve an ever-closer union amongst the peoples of Europe. It is therefore essential that all Community citizens are accorded equal rights and, above all, that diplomas and qualifications achieved in one Community country are recognized when they seek employment or offer a service in another country.

Statistically speaking, the free movement of the liberal professions need not cause great upheavals. One example stands out: the medical profession. In 1982 and 1981, less than 2 000 doctors made use of the opportunity, recently available, to practise where they wished. Most doctors have no wish to change countries. But the fact that the opportunity exists will promote a sense of solidarity. From now on, the liberal professionals know, or ought to know, that their European colleagues are colleagues indeed, with equal rights whatever the colour of their practising certificate.

Before detailing the measures taken by the Community in this area, it is worth pointing out that free movement is made easier, in practice, by Community regulations which guarantee equal social security rights. Thus it is possible to consolidate, in the calculation of pension rights, insurance payments made in a number of Member States and then claim the pension in the country of one's choice. From 1982, this right, previously available only to wage-earners, was extended to the self-employed. An exception was, however, made for family allowances.

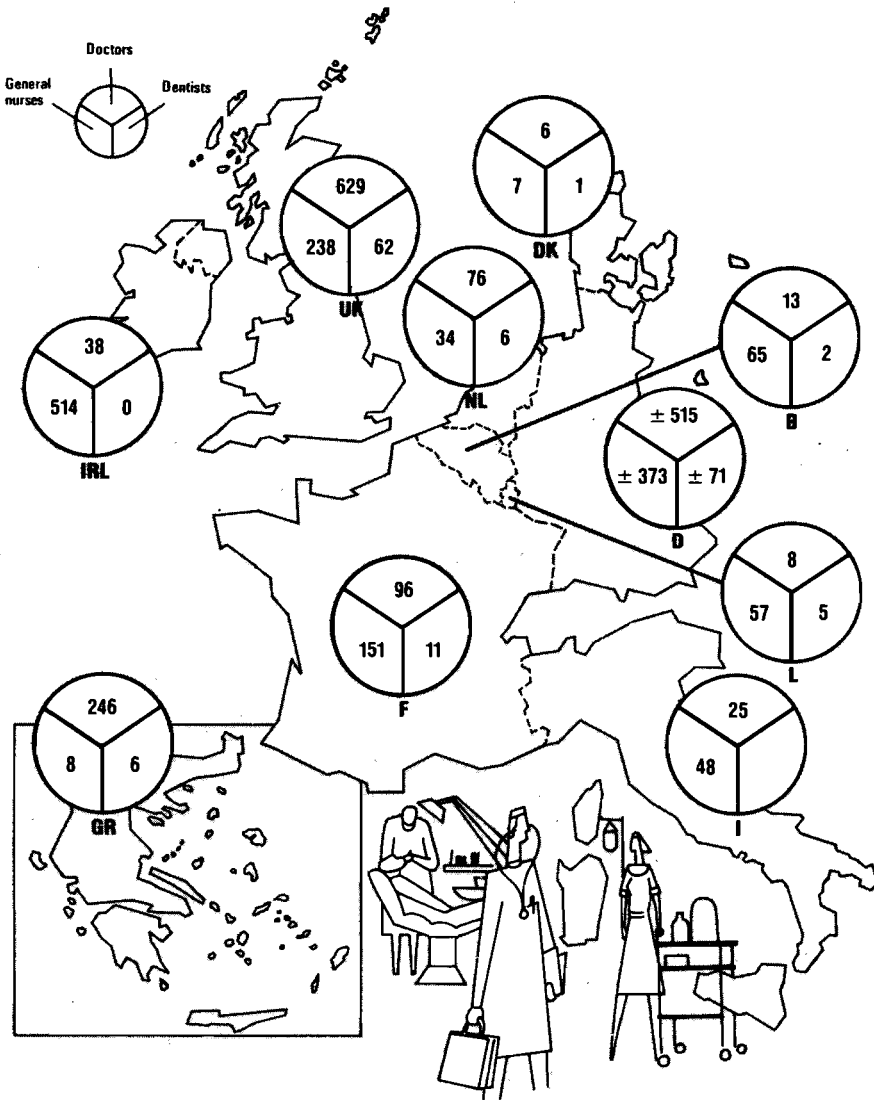
How far have we got?

Nearly 80 Community directives have been tabled and adopted since the early 1960s to ease freedom of movement in jobs and professions with training and other requirements. They break down as follows:

- Ten in the agriculture sector, forestry and horticulture;
- Three in the mining, electricity, gas, oil and water industries;

¹ See *European File* No 12/83: 'From the European customs union to the internal market'.

Health workers authorized in 1982 to practise in a Member State after gaining their basic qualifications in another Community country*



* The figures include local citizens trained abroad (Irish nurses for example) as well as a number of citizens from other Member States undertaking specialized training. On the other hand, except in Germany, they do not include citizens from other Member States who received their qualifications in the host country. Other comments:

- Doctors: In Germany, does not include the Hesse Province; in Luxembourg, does not include local citizens trained abroad.
- Dentists: The directive was not applicable in Italy in 1982; in Germany does not include the Schleswig Holstein province.

- Five in manufacturing industry;
- Four in the cinema sector;
- Four in transport;
- Four covering public works;
- Eleven in the banking, finance and insurance sector;
- Seven in commerce;
- Three for service industries;
- Seven in company law;
- Thirteen in the liberal professions;
- Six for various other activities.

In many cases, especially for industrial, craft and commercial activities, it proved sufficient to open up access to the jobs in question and take the necessary steps to ensure the recognition by the host country of relevant professional experience, often gained over a certain number of years in the country of origin.

For other professions, however, it proved necessary to introduce more complex measures, involving a harmonization of professional qualifications, and especially training. This was true, in particular, of a range of activities in the health sector.

Towards a European health industry

In all European countries, access to the medical and paramedical professions is subject to strict training and the acquisition of national diplomas.

To facilitate access to these professions for citizens from other Community countries, the provisions adopted by Community ministers call for mutual recognition of national diplomas on the basis of minimum standards of training which will guarantee the preservation of traditional qualities of health care. Five professions in the health sector are covered by these Community directives:

- Doctors: under Community directives, first proposed in 1969, adopted in 1975 and operational since 1976, the 600 000 doctors in the Community – whether specialists or general practitioners, self-employed or salaried – can 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 or practical study. The contents of the training course are not laid down. Specialists must have followed an additional three- to five-year training course.

- Nurses: directives, first tabled in 1969, adopted in 1977 and operational since June 1979, allow the 800 000 nurses in the Community to work in all Member States. Their training must consist of at least 10 years of primary and secondary education and three years or 4 600 hours of professional study, comprising a minimum training programme which is the same throughout the Community.
- Dentists: directives, first tabled in 1969, adopted in 1978 and operational since December 1979, oblige Member States to recognize dental diplomas. These measures, affecting about 107 000 dentists in the Community, provide for a common body of teaching material in all Member States and at least five years of higher education. Since specific dental diplomas did not exist in Italy, this country was allowed an additional period of four and a half years to set up satisfactory training facilities. The directives were therefore not applied in Italy until June 1984, when they introduced for the first time a clear distinction between dentistry and general medicine.
- Veterinarians: directives tabled in 1970, adopted in 1978 and applicable since December 1980 have obliged all Member States to recognize the qualifications of the 44 000 vets in the Community. The training of vets must contain at least five years of higher education, including fundamentals such as chemistry, biology and physics and a number of specific areas of study.
- Midwives: directives tabled in 1970, adopted in 1980 and applicable since January 1983 mean that the 50 000 midwives in the Community can practise throughout all Member States if they have undergone special training of between 18 months and three years. This must be accompanied by a nursing diploma and a certain period of professional experience. The special training must include a number of fundamentals but can be replaced by professional experience of at least three years, during a period of transition designed to protect existing rights. These variants have helped to surmount the difficulties created by differences between national training systems, while guaranteeing freedom of movement and the proper qualification of foreign staff.

Three general remarks should be made about these Community directives:

- They aim to ease freedom of movement for those concerned, while guaranteeing respect for the professional rules in the Member States.
- They are accompanied by the creation of consultative expert committees, consisting of members of the profession, teachers, representatives of public authorities, etc. These committees have responsibility for suggesting changes in training requirements in line with the latest research and developments in professional practice. In addition, a committee of senior, national public health officials monitors any problems which might arise in applying the directives and suggests solutions.

The student problem: academic recognition of studies

Academic recognition of diplomas is an important precondition for the free movement of students within the Community. A young Frenchman who wishes to study at a German university, an Italian student wishing to prepare a doctoral thesis in France or a Briton living with his parents in Denmark but wishing to complete his higher education in his home country all face the same problem: finding recognition in the desired country of an existing diploma or period of study. Despite the progress in the professional recognition of diplomas, there is at present no Community machinery for automatic recognition of academic diplomas and study periods. Each case is treated individually by the authorities of the country where the student wishes to complete his or her education. Those concerned should make prior contact with the national information service on recognition of academic studies, which exists in each Member State. For the United Kingdom the address is National Equivalence Information Centre, The British Council, 10 Spring Gardens, London, SW1A 2BN; for Ireland the address is Department of Education, Headquarters section 3, Marlborough Street, Dublin 2.

The different procedure in each Community country for formally recognizing academic studies is unfortunately frequently long and complex. The Member States have very disparate education systems, controlled by different institutions and standards, whether for conditions of admission, the length and level of studies or their supervision by the State or other authorities. Many diplomas are given in some Member States but do not exist in others. For this reason, each case has to be examined individually by the national authorities responsible for the evaluation of diplomas issued by other Member States. This state of affairs is clearly far from ideal. The European Commission and the Member States are anxious to improve it. But progress will only be made gradually through the strengthening of cooperation between the relevant services in the Member States. In June 1983 the education ministers of the Member States agreed to make the existing procedures more flexible, to improve the availability of information and to provide easier access to the national centres for the recognition of diplomas.

- They deal only with professional recognition of diplomas. They do not imply any commitment to academic recognition of diplomas or periods of study which would allow students to consolidate periods of training in a number of Member States (see box). European directives on the right of establishment have nevertheless had certain effects in the educational field. By stipulating a minimum period or a common body of studies, they have helped to narrow gaps between the different educational systems, making the academic recognition of diplomas or study periods much easier. The creation of consultative committees to ensure the maintenance of a common educational standard has had a similar effect. Harmonization has also improved teaching standards: the various consultative committees are expected to encourage the common use of modern training methods. Specifically, the dentists' directive has led to the creation of a separate dental diploma in Italy and the nurses' directive has led to an extension of the training period in France from two years to three.

Other examples

Outside the health sector, a number of professions now find it easier to operate at European level. Here are two very different examples:

- Road haulage: directives, first tabled in 1967, 1968 and 1975 and adopted in 1974 and 1977, harmonize throughout the Community the conditions for starting up in this profession (professional and financial capacity, diplomas, certificates, guarantees of good standing and repute, etc.). A system of attestations, delivered by the authorities in the country of origin, has eased freedom of establishment in other Community countries since January 1979.
- Lawyers: a European directive adopted in 1977 and applicable since March 1979 allows the more than 125 000 European lawyers to plead cases jointly with a lawyer from another Community country and provide single-handed or in groups other legal services, notably consultations. Unlike the measures taken for the medical profession, the lawyers' directive does not allow them freedom of establishment in countries for which they do not hold a diploma. It covers only the freedom to offer certain services and does not provide for mutual recognition of diplomas. Few things are more disparate than national laws, legal practices and jurisprudence and, as a result, the different forms of national legal training. The rainbow of legal approaches has widened in the Community with the accession of new Member States. The directive, first tabled in 1969 but revised in 1975 to take account of the situations in Denmark, the United Kingdom and Ireland, is based on mutual recognition of the title of advocate (*advocate*, *barrister* or *solicitor* in the United Kingdom, *barrister* or *solicitor* in Ireland) according to the definition in each Community country.



Progress in achieving mutual recognition of diplomas and professional qualifications in the Community has been regrettably slow. It is a fact that long periods have elapsed between the tabling of proposals by the Commission and their adoption by the Council of Ministers. The problems to be solved, especially in the field of training, were often complex. It is also true to say that, once the decisions were taken, Member States have not always implemented them within the period laid down. In these cases, the European Commission has launched proceedings in the Court of Justice. Individuals also have a right to seek redress in national courts, which if necessary, especially if the case cannot be referred to a higher national court, will seek a preliminary ruling from the European Court.

Nevertheless, definite progress has been made in recent years and has helped to give Europe a human face for a growing number of Community citizens ■

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