



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.11.1998  
COM(1998) 640 final

96/0031 (COD)

OPINION OF THE COMMISSION  
pursuant to Article 189 b (2) (d) of the EC Treaty,  
on the European Parliament's amendments  
to the Council's common position regarding the

proposal for a  
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

establishing a mechanism for the recognition of qualifications in respect of the  
professional activities covered by the Directives on liberalisation and transitional  
measures and supplementing the general systems for the recognition of qualifications

AMENDING THE PROPOSAL OF THE COMMISSION  
pursuant to Article 189 a (2) of the EC Treaty

## Explanatory memorandum

### **I. Background**

1. On 9 February 1996, the Commission submitted to the Parliament and the Council a proposal for a Directive establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications.
2. The Economic and Social Committee delivered its Opinion on 10 July 1996.
3. On 20 February 1997 Parliament adopted, at first reading, a favourable Opinion comprising 11 amendments to the Commission proposal (three of which concerned certain language versions only).
4. On 15 July 1997, pursuant to Article 189a(2) of the EC Treaty, the Commission adopted an amended proposal incorporating all of the amendments.
5. On 29 June 1998 the Council adopted a common position and communicated it to the European Parliament, where it was received on 16 July 1998.
6. On 8 July 1998 the Commission adopted a Communication on the common position of the Council and forwarded it to the European Parliament.
7. On 8 October 1998 the European Parliament adopted, at second reading, one amendment to the common position of the Council.

### **II. Purpose of the proposal**

The main purpose of the proposal is to establish a mechanism for the recognition of qualifications in respect of the professional activities not covered by the general system (Directives 89/48 and 92/51) and to review the 35 Directives on trade, the craft professions and certain services, in order to simplify Community law.

### **III. Analysis of the amendment**

This amendment, which gives migrants a choice between taking an aptitude test and completing an adaptation period, is more conducive to freedom of movement and for this reason already appears in the Council Directives concerning the general systems for the recognition of qualifications (89/48 and 92/51).

The initial Commission proposal did not specify with whom the choice lay and simply took over the Court's case law, because of reservations about aligning this third Directive on the general systems expressed during consultations with the relevant groups and the Member States.

The Council was anxious to specify who had the choice "for the sake of clarity and legal certainty" (statement of Council's reasons, point 2i), and gave that choice to the host Member State, adding that Member States "shall endeavour to take into consideration the beneficiary's preference" (Article 3(1)). The Council also limited the additional requirements to cases where there is a substantial difference between the migrant's training and the standard required by the host Member State. The Commission accepted the common position because of its overall positive nature.

#### **IV. Conclusions**

The Commission supports this European Parliament amendment.

Amended proposal for a

**EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE**

establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications

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(submitted by the Commission pursuant to Article 189a(2) of the EC Treaty

Common position	Amendment
<p>1. Without prejudice to Article 4, a Member State may not, on the grounds of inadequate qualifications, refuse to permit a national of another Member State to take up or pursue any of the activities listed in Part One of Annex A on the same conditions as apply to its own nationals, without having first compared the knowledge and skills certified by the diplomas, certificates or other evidence of formal qualifications obtained by the beneficiary with a view to pursuing the same activity elsewhere in the Community with those required under its own national rules. Where the comparative examination shows that the knowledge and skills certified by a diploma, certificate or other evidence of formal qualifications awarded by another Member State correspond to those required by the national rules, the host Member State cannot refuse the holder the right to pursue the activity in question. Where, however, the comparative examination shows a substantial difference, the host Member State shall give the beneficiary the opportunity to demonstrate that he has acquired the knowledge and skills which were lacking by, at the choice of the host Member State, attending an adaptation period or taking an aptitude test by analogy with Directives 89/48/EEC and 92/51/EEC. Member States shall endeavour to take into consideration the beneficiary's preference as between these alternatives.</p>	<p>1. Without prejudice to Article 4, a Member State may not, on the grounds of inadequate qualifications, refuse to permit a national of another Member State to take up or pursue any of the activities listed in Part One of Annex A on the same conditions as apply to its own nationals, without having first compared the knowledge and skills certified by the diplomas, certificates or other evidence of formal qualifications obtained by the beneficiary with a view to pursuing the same activity elsewhere in the Community with those required under its own national rules. Where the comparative examination shows that the knowledge and skills certified by a diploma, certificate or other evidence of formal qualifications awarded by another Member State correspond to those required by the national rules, the host Member State cannot refuse the holder the right to pursue the activity in question. Where, however, the comparative examination shows a substantial difference, the host Member State shall give the beneficiary the opportunity to demonstrate that he has acquired the knowledge and skills which were lacking. In this case, the host Member State shall give the applicant the right to choose between an adaptation period and an aptitude test by analogy with Directives 89/48/EEC and 92/51/EEC.</p>

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