

A general system
for the recognition of
higher education diplomas

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by the Commission on 9 July 1985**

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Introduction

1. In spite of the wide diversity of national traditions, the existence of cultural unity within Europe is a fact which is nowhere called into question, but which in the law of the Member States of the Community only makes its presence felt in sporadic and feeble fashion.

One expression of this cultural unity is the university, which is an institution common to all the Member States and in particular the primary means of transmitting professional skills which are provided via courses of training of comparable level in each of the Member States.

However, the natural development of the professions and their regulation via more and more complicated legislation took place in the 19th and 20th centuries within the structures of the nation States.

The result has been that the professions have become cut off from each other and locked within the individual countries, in spite of the existence of a common cultural heritage from which each of them continues to draw.

The Community cannot rest content with such a situation. If the peoples who make up the Community want it to assert itself, then one way of doing this is for each citizen to have the opportunity of exercising — if he so wishes and feels able to make the necessary effort to adapt — his professional activities in a Member State other than the one in which he acquired his professional training.

This aim can be realized by the mutual recognition of training courses and diplomas and by cooperation between the national authorities responsible for higher education and the supervision of the professions. Such cooperation also constitutes an important aspect of the common vocational training policy in the Community, which contributes to the attainment of freedom of movement and to the improvement of living and working conditions.

In this way it will be possible to establish harmony between national laws, and this in turn will give legal expression to that cultural unity which has

The inadequate nature of what has been attained

2. Although the aim which is being pursued is far from being attained, nevertheless it has begun to take shape.

Already at the present time, any national of a Member State has an individual, clearly defined and guaranteed right under the Treaties to exercise his professional activities, whether in a self-employed or employed capacity, in any Member State on the same conditions as the nationals of the host country and without any distinction being made as regards his nationality, nor the place where he chooses to establish his professional domicile.

Nevertheless, other obstacles to the free movement of individuals continue to exist. They arise from the national provisions applicable to both nationals and foreigners.

It is no longer the nationality or place of residence of individuals which is in question, but other factors such as the nature and content of the diploma, certificate or other evidence of formal qualifications giving access to a profession. Indeed, in order to guarantee the quality of certain services provided on their territory, the Member States subject the existence of the professions concerned to certain conditions as regards qualifications and in order to determine these qualifications refer only to diplomas awarded under their national education system, without taking into account qualifications acquired in another Member State or ascertaining whether they correspond to those required.

In order to deal with these problems, in respect of certain professions, access to which is dependent on university-level training and which virtually all belong to the health sector only, relatively complex measures have been provided for, involving in most cases the harmonization of the conditions governing these courses of training.

In the process only those citizens who come into the privileged categories concerned have been provided with the means of exercising their professional activities in a Member State other than

that in which they acquired the necessary qualifications.

A new political will

3. At its meeting on 25 and 26 June 1984, the European Council in Fontainebleau, deeming it indispensable to respond to the expectations of the peoples of Europe, asked the Council to take a series of specific measures before the end of the first half of 1985 and to examine various suggestions. Among them were measures which could facilitate the introduction of: *'a general system for ensuring the equivalence of university diplomas in order to bring about the effective freedom of establishment within the Community'*.

At the same time the Council decided to set up an *ad hoc* committee composed of representatives of the Heads of State or Government charged with the task of preparing and coordinating these measures.

On 24 September 1984, in a communication to the Council,¹ the Commission expressed its satisfaction concerning the will of the European Council and declared itself to have reached the conviction 'that it was necessary to devise a more flexible overall approach to achieve any real breakthrough as regards freedom of establishment'. The Commission recommended the mutual recognition of diplomas without any previous harmonization of education and training, accompanied by a system of compensation via relevant professional experience.

At the same time, the *ad hoc* Committee for a People's Europe began its work. The Commission participated in its activities, with which the European Parliament and the Economic and Social Committee were also associated. In the report, which the Committee presented to the European Council in Brussels on 29 and 30 March 1985² and which the Commission approved, it developed in particular the idea of an overall system of mutual recognition of diplomas or other examination certificates, without any preceding harmonization of training courses, diplomas or rules governing access to professional activities. It was also specified that the system, based on the principle of mutual confidence and comparability of training levels, and accompanied by a recognition procedure, could in cases where there was major structural differences between training courses, require compensation in the form of two to three years' professional experience.

On 29 and 30 March 1985 the European Council approved the proposals in this report suitable for immediate implementation and those relating to long-term objectives. The European Council requested the Council 'to take those decisions within its competence as quickly as possible' and requested the Commission to 'take the necessary steps for putting the report's proposals into practice'.³

This is the political context for the proposal for a Directive which the Commission is presenting.

Characteristics of the system proposed

4. The proposal for a Directive aims at introducing a system for the recognition of higher education diplomas which accords with principles and guidelines identified in the initial process of policy formulation. It is designed to facilitate the free movement of nationals of the Member States who wish to pursue in a Member State a profession which is subject to regulation and who hold higher education diplomas obtained in another Member State.

The system is general

It does not relate, as has been the case hitherto, to a specific professional activity, such as that of doctor, dentist or veterinary surgeon.

The traditional approach, which gives members of the professions in the Member States an opportunity to reorganize themselves and adapt to a new European situation, i.e. to give a European dimension to their professions, provides for the introduction of harmonized conditions, in particular as regards qualifications, for purposes of access to and exercise of specific activities; not until these preconditions are established will the mutual recognition of diplomas issued in the respective Member States become possible. The long period of time needed for sectoral work means that the tangible advantages which result are reserved for a limited number of citizens of Europe who are thus privileged.

¹ Bull. EC 9-1984, point 1.1.1 *et seq.*

² Supplement 7/85 — Bull. EC; Bull. EC 3-1985, point 3.6.1.

³ Bull. EC 3-1985, point 1.2.7.

On the other hand, the new 'horizontal' approach has a different aim, namely to respond rapidly and without preconditions to the individual and immediate requirements of all those who hold higher education diplomas and wish to exercise a professional activity away from where they received their training. The system thus applies equally to nationals of the host Member State who hold diplomas issued in other Member States (Articles 2, 3 and 5).

Finally, the general character of the system does not at all exclude, when it is justified, specific application of Articles 49, 57 (1) and (2), and 66 of the EEC Treaty to certain defined professional activities, even when their access or practice are controlled by diplomas of higher education.

The system is based on the comparability of training courses

The university-level training courses organized by the Member States are largely similar in character.

An individual can thus in principle be regarded as qualified to exercise a professional activity in a Member State other than that in which he received his training if he holds a higher education diploma awarded following at least three years' training in preparation for this activity (Article 3).

However, this principle cannot be regarded as absolute. Comparability does not in fact exclude special features and differences. These relate essentially to the length of training courses, the content of the subjects taught, the field of activity of the professions to which the courses relate and requirements as regards periods of supervised professional training. For this reason, where the host Member State demonstrates that these special characteristics and differences exist, compensatory measures are provided for (Article 4), i.e. a period of professional experience or completion of a period of supervised practice in the host country.

The system calls for mutual confidence between the Member States

To aid the host Member State in its task of assessing the qualifications offered and enable it to

determine whether these qualifications are adequate, or whether compensatory measures are needed, cooperation is necessary between the Member States.

The introduction of an information exchange and coordination procedure (Articles 8 (1), 9 and 10), both between the Member States and between the Member States and the Commission, would have only a limited effect and ultimately be of slight practical advantage to the citizens of Europe if its application were not based on the idea of reciprocal confidence.

The system includes guarantees for the citizens of Europe who wish to make use of it

These guarantees are of two kinds:

firstly, on the procedural level, since the power of the host Member State to assess qualifications is offset by its obligation to reach a decision rapidly and to justify its decision, i.e. to explain and support its content (Article 8 (2));

secondly, on an individual level, since at the conclusion of the procedure where the outcome is positive each person has the right (which is essential in this respect) to use the academic title in use in the host Member State (Article 7 (2)).

The system is evolutive

The provisions of this new system, in particular as regards its field of application and operating methods, may after a certain period of application appear inadequate or capable of improvement. For this reason, assessment is necessary (Article 12).

On this occasion it will be possible to examine, among other things, questions relating to the improvement of the procedures introduced. In the same way, the results of the operation of the system could lead to reconsideration of its field of application and, possibly, its extension to other categories of individuals who have not followed university-level training for a minimum of three years.

Proposal for a Council Directive

on a general system for the recognition of higher education diplomas

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 (1) and 66 thereof,

Having regard to the proposal from the Commission,¹

Having regard to the opinion of the European Parliament,²

Having regard to the opinion of the Economic and Social Committee,³

Whereas, pursuant to Article 3 (c) of the Treaty, the abolition, as between Member States, of obstacles to freedom of movement for persons and services constitutes one of the objectives of the Community; whereas, for nationals of the Member States, this means in particular the possibility of pursuing a professional activity, whether in a self-employed or employed capacity, in a Member State other than that in which they acquired their training;

Whereas the provisions so far adopted by the Council and pursuant to which the Member States recognize mutually and for professional purposes higher education diplomas issued within their territory concern only a few professions; whereas the level and duration of the training governing access to those professions have been regulated in a similar fashion in all the Member States or have been the subject of the minimal harmonization needed to establish sectoral systems for the mutual recognition of diplomas;

Whereas in order to provide a rapid response to the expectations of nationals of Community countries who hold higher education diplomas issued in a Member State other than that in which they wish to pursue their professional activity, another method of recognition of higher education diplomas should also be implemented such as to enable those concerned to pursue all those professional activities which in a host Member State are dependent on the possession of post-secondary education qualifica-

tions, provided they hold a higher education diploma preparing them for those activities awarded on completion of a course of studies lasting at least three years and issued in another Member State;

Whereas the objective can be achieved by the introduction of a general system for the recognition of higher education diplomas;

Whereas in relation to those professional activities in respect of the pursuit of which the Community has not laid down the necessary minimum level of qualification, the Member States reserve the option of fixing such a level with a view to guaranteeing the quality of services provided in their territory; whereas, however, they may not, without infringing their obligations laid down in Article 5 of the Treaty, require a national of a Member State to obtain those qualifications which in general they determine only by reference to diplomas issued under their own national education systems, where the person concerned has already acquired all or part of those qualifications in another Member State; whereas, as a result, any host Member State which regulates a professional activity is required to take account of qualifications acquired in another Member State and to determine whether those qualifications correspond to the qualifications which the Member State concerned requires;

Whereas collaboration between the Member State is appropriate in order to facilitate their compliance with those obligations; whereas, therefore, the means of organizing such collaboration should be established;

Whereas it is also necessary to determine the characteristics of the professional experience or supervised practice which the host Member State may require of the person concerned in addition to the higher education diploma, where the person's qualifications do not correspond to those laid down by national provisions;

Whereas, moreover, in addition to conditions relating to the professional qualifications necessary to the pursuit of a professional activity, conditions relating to personal qualities such as good repute may be imposed if required in the host Member State;

¹ OJ C 217, 28.8.1985.

² ...

³ ...

Whereas Articles 49, 57 (1) and 66 of the Treaty empower the Community to adopt provisions necessary to introduce and operate such a system for the general recognition of higher education diplomas;

Whereas such a system, by supporting the right of a Community national to use his professional skills in any Member State, supplements and supports his right to acquire such skills wherever he wishes;

Whereas this system should, after being in force for a certain time, be evaluated to determine in particular how its operation can be improved and its field of application extended,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive the following definitions shall apply:

(a) higher education diploma: any diploma, certificate, or other evidence of formal qualifications awarded by a university or other higher education establishment following a course of at least three years' study open, as a general rule, only to persons holding a certificate awarded on successful completion of a full course of upper secondary education;

(b) host Member State: any Member State in which a national of a Member State applies to pursue one or more activities subject to regulation in that Member State, not being the State in which he obtained the higher education diploma adduced in support of his application;

(c) professional experience: the knowledge acquired during actual and lawful pursuit of the profession concerned in a Member State;

(d) period of supervised practice for the purpose of qualification adjustment: the pursuit of a profession in the host Member State under the supervision of a qualified member of that profession, it being understood that such supervised practice may be accompanied by a period of further training and shall be subject to rules laid down by the host Member State.

Article 2

This Directive shall apply to any national of a Member State wishing to pursue a profession in a

host Member State as an employed person or in a self-employed capacity.

This Directive shall not apply to professions which are the subject of a Directive establishing arrangements for the mutual recognition of higher education diplomas by Member States.

Article 3

A host Member State which makes the taking up or pursuit of a profession subject to possession of one or more higher education diplomas shall not, on the grounds of inadequate qualifications, refuse to authorize a national of another Member State to take up or pursue that profession on the same conditions that apply to its own nationals,

(a) if the applicant holds the higher education diploma or diplomas required in another Member State for the taking up or pursuit of the profession in question in its territory, such diploma or diplomas having been awarded in a Member State, or,

(b) if the applicant has pursued the profession in question full-time for two years in another Member State which does not regulate that profession, having obtained in a Member State which does not regulate that profession one or more higher education diplomas preparing him for its pursuit.

Article 4

1. Notwithstanding the provisions of Article 3, the host Member State may also require the applicant:

(a) to provide evidence of professional experience, where the duration of the higher education adduced in support of his application is at least one year less than that required in the host Member State. In this event, the period of professional experience required may not exceed twice the shortfall in duration of higher education;

(b) to undertake a period of supervised practice, not exceeding three years for the purposes of qualification adjustment,

● where the subjects covered by the higher education he has received differ substantially from those covered by the higher education diplomas required in the host Member State;

● where, in the case referred to in Article 3 (a), the profession as regulated in the host Member State

covers a range of professional activities differing in part from those regulated in the Member State from which the applicant comes and that difference corresponds to a specific higher education programme required only in the host Member State;

- where, in the case referred to in Article 3 (b), the profession as regulated in the host Member State covers a range of professional activities differing in part from those pursued by the applicant in the Member State from which he comes, and that difference corresponds to a specific higher education programme required in the host Member State and not covered by the higher education diploma or diplomas adduced by the applicant;

(c) to undergo the period of supervised practice required in the host Member State, or provide evidence of having completed in another Member State a period of professional experience equal in duration to that required period of supervised practice where the host Member State makes the taking up or pursuit of a profession subject to possession of a certificate awarded on completion of a period of supervised practice undergone after the required higher education diplomas have been obtained.

2. The host Member State shall, however:

- neither apply cumulatively the provisions of points (a) and (b) of paragraph 1,
- nor require a total period of supervised practice exceeding four years where it applies cumulatively the provisions of points (b) and (c) of paragraph 1.

Article 5

The provisions of Article 3 and Article 4 (1) (b) and (c) shall also apply where the host Member State makes the taking up or pursuit of a profession subject to one or more diplomas which are not higher education diplomas within the meaning of this Directive but are awarded on completion of a course of study open as a general rule only to persons holding a certificate awarded on successful completion of a full course of upper secondary education.

Article 6

1. Where a host Member State requires of its nationals wishing to take up or pursue a profession proof of good character, proof of good repute,

proof that they have not previously been declared bankrupt or proof of any one of these, that State shall accept as sufficient evidence, in respect of nationals of other Member States, the production of an extract from the 'judicial record' or, failing this, an equivalent document issued by a competent judicial or administrative authority in another Member State showing that those requirements are met.

Where the Member State from which the foreign national comes does not issue the documents referred to in the preceding paragraph, they may be replaced by a declaration on oath – or, in States where there is no provision for such declarations, by a solemn declaration – made before a competent judicial or administrative authority or, where appropriate, a notary in the host country.

2. Where a host Member State requires of its own nationals wishing to take up or pursue a profession a certificate of physical or mental health, that State shall accept as sufficient evidence thereof, in respect of nationals of another Member State, the production of the document required in that other Member State or, failing this, an equivalent certificate issued by a competent authority in that other Member State.

3. The documents and certificates referred to in paragraphs 1 and 2 may not be presented more than three months after their date of issue.

4. Where a Member State requires its own nationals wishing to take up or pursue a profession to take an oath or make a solemn declaration and where the form of such oath or declaration cannot be used by nationals of other Member States, that Member State shall ensure that an appropriate and equivalent form of oath or declaration is offered to the person concerned.

Article 7

1. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use their lawful academic title and, where appropriate, the abbreviation thereof. If the said academic title can be confused with an academic title conferred in the host Member State, the latter may require that it be followed by the name and location of the establishment or examining board which awarded it.

2. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use the same professional title as their own nationals.

Article 8

1. Proof that the conditions laid down in Articles 3, 4 and 6 are satisfied shall be established by the certificates and documents issued by the competent authorities in the Member States, which the person concerned shall submit in support of his application to pursue the profession concerned in the host Member State.

2. The procedure for examining an application to pursue a profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than three months after presentation of all the documents relating to the person concerned, without prejudice to delays resulting from any appeal that may be made upon the termination of that procedure.

Article 9

1. The Member States shall designate, within the period provided for in Article 11, the competent authorities empowered to receive the applications and take the decisions referred to in this Directive.

They shall communicate this information to the other Member States and to the Commission.

2. Each Member State shall designate a person responsible for coordinating the activities of the authorities referred to in paragraph 1. His role shall be to ensure the uniform application of this Directive to all the professional activities concerned.

Each Member State shall inform the other Member States and the Commission to this effect. The Commission shall take the necessary initiatives to help the coordinators to carry out their duties.

3. The Member States shall take measures to enable each information centre on the academic recognition of diplomas and periods of study established by the Member States within the framework of the Resolution of the Council and the Ministers of Education meeting within the Council of 9 February 1976 comprising an action programme in the field of education¹ also to provide the necessary information on the recognition of diplomas for professional purposes.

The Commission shall take the necessary initiatives to ensure the development and coordination of those activities of the centres which come within the field of application of this Directive.

Article 10

Following the expiry of the period provided for in Article 11, the Member States shall communicate to the Commission, every two years, a report on the application of the system introduced.

In addition to general remarks, this report shall contain a summary of the decisions taken, including in particular:

- references to such decisions and, in particular, the date thereof;
- the professional activity concerned;
- the diplomas concerned;
- the Member States concerned, other than the host Member State;
- the content of each decision.

Article 11

Member States shall take measures necessary to comply with this Directive by ...². They shall forthwith inform the Commission thereof.

Member States shall communicate to the Commission the texts of the main provisions of national law in the field governed by this Directive.

Article 12

Five years at the latest following the date specified in Article 11, the Commission shall report to the Council on the state of application of the general system for the recognition of higher education diplomas.

After conducting all necessary consultations, the Commission shall, on this occasion, present its conclusions as to any changes that need to be made to the system as it stands.

Article 13

This Directive is addressed to the Member States.

¹ OJ C 38, 19.2.1976.

² To be determined later (within 12 months of notification).

A general system for the recognition of higher education diplomas

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The proposal for a Directive reproduced in this supplement is an expression of the political resolve voiced by the Heads of State or Government, notably at Fontainebleau in June 1984, then at Brussels in March 1985 and at Milan in June 1985, to respond promptly to the expectations of the people of Europe by promoting the identity and image of the Community for its citizens.