



News – 28/09/10

2005/36 EC Directive of the European Parliament and of the Council of 7 September 2005 on the Recognition of Professional Qualifications

1. INTRODUCTION

As you know, the **2005/36 EC Directive of the European Parliament and of the Council on the Recognition of Professional Qualifications** was adopted the 7th of September 2005, after a long discussion process, thus becoming Community Law.

Under all EU treaties, **Community law is superior to national law**, and thus all EU Member States are obliged to transpose EU Directives into national legislation, abolishing at the same time any existing national law contradicting the Directives' provisions or spirit. The European Commission, acting as guardian of the Treaties, can – and in fact is – bringing in front of the European Court of Justice all Member States that do not comply with that obligation. Condemnation by the said Court can cost a national government enormous amount of money.

A Directive's "period of life" is normally between 8 and 12 years. The Commission has launched this year the process of evaluation and revision of the 2005/36 EC Directive in order to incorporate changes and good/bad practice experience after all these years of application.

2. RE-EVALUATION PROCESS

Regarding the evolution of the current text of 2005/36 EC Directive, the Commission has decided to consult separately national competent authorities (most of which are regulatory bodies) of all professions concerned by the Directive in question, on the one hand, and with the professional organisations on the other hand to evaluate the Directive on professional qualifications.

Thus the 17th March, DG Internal Market and Services (DG Markt – Unit D4) met with representatives of 48 European professional associations, including EURETA, to discuss their points of view on the way the Directive is being applied, identifying weaknesses and strong points. A report of this meeting has been published on the 13th September 2010 and can be consulted by clicking on the following e-link: http://ec.europa.eu/internal_market/qualifications/docs/03082010_evaluation_directive_en.pdf

A second meeting with the professional associations is scheduled to be held the 29th of this coming October in Brussels, and EURETA will be again actively present.

At the same time, a series of meeting with competent authorities was held for each profession with the same objective. It is interesting to note that the Commission trusted the chairing of these meetings to one of the national competent authorities, and a different one for each profession.

At this current stage of the Consultation, the Commission is not seeking for proposals for amendments but rather the identification of issues of difficulty in the current text. The consultation phase for the revision process will be launched once the current one is completed (probably in December or January).

3. REVISION PROCESS

- **First step:** Once the evaluation process is completed, the Commission will launch an **open consultation** on the basis of a document discussing amendments to the current text. Each European citizen, but especially every organization representing stakeholders like EURETA, will be called to give their opinion. This open consultation can last several months to enable all stakeholders to consult their membership before answering. However, the danger for it to be too brief cannot be excluded.
- **Second step:** Once the Commission has studied all answers to the Consultation, it will finalize its own paper, the “Directive proposal”, and will present it along with the results of the Consultation at a **Conference** bringing together all stakeholders.
- **Third step:** The EESC (**European Economic and Social Committee**), which is constituted of representatives of the various social and economic aspects of society, will be called to give an “**Opinion**” on the Commission’s text. The member of the EESC are proposed by the Member States and appointed by the European Council. They are divided into three groups, representing employers (Group 1), employees (Group 2) and various economic and social interests (Group 3). Under the Treaties, the EESC has a consultative role but is an integral part of European decision-making: it must be consulted before any decision involving economic and social policy and its remarks must be seriously taken into consideration. So, the EESC must be viewed as an opportunity for EURETA and our links with it must be discussed in Copenhagen.
- **The adoption of the new Directive:** Once the directive proposal is in the hands of the **European Parliament**, the relevant Committees of the latter (**Internal Market and Consumer protection Committee, Legal Affairs and**

Internal Market Committee) will also organize **public hearings** calling upon stakeholders such as EURETA to explain their opinion on the text once more. The European Parliament is as much a key player in that as the European Council, since they both share legislative power (the Commission can only propose). Hence, the process is called **Co-decision**. Once the European Parliament adopts its own version of the text - and it is important to note that it can dramatically change the Commission's proposal-, the future Directive reaches the **Council**. In the co-decision procedure, if the latter seriously disagrees with the European Parliament, a conciliation committee is set up, composed of equal numbers of Council and Parliament representatives. Once this committee has reached an agreement, the text is sent once again to Parliament and the Council so that they can finally adopt it as law. In case of course the European Council has only minor amendments to make, the text is adopted, then returned to the European Parliament for final vote ("second reading") and it becomes law soon after that.

In order to have an idea on the time it takes for this process to be completed, please note that for the currently applying Directive on professional qualifications, the European Commission published its "Directive proposal" on the 30th of July, 2002. On February, 12th, 2004, the European Parliament approved at first reading the proposed Directive. Then, on the 18th May 2004, the Council reached political agreement by qualified majority (with Germany and Greece voting against), on the Parliament's proposal for a Directive on the recognition of professional qualifications. The text was then formally submitted to the European Parliament for second reading. On June, the 6th 2005, the Council adopted the final text of the Directive. And finally, on September 7th, 2005, the Parliament did the same thus making the text an EU law. Member States were afterwards given a specific time for its transposition into national law.

EFPA Secretariat is of course at your disposal for any clarification or further information on the above.