

EUROPEAN PARLIAMENT

2004



2009

Committee on Petitions

3 July 2006

NOTICE TO MEMBERS

Petition 623/2003 by Dimitrios Karakasis (Greek), on behalf of the Hellenic Association of Oral and Maxillofacial Surgery, on alleged lack of clarity regarding the list of titles of diplomas, certificates and other evidence of formal qualifications in dentistry in Directive 2001/19/EC

1. Summary of petition

The petitioner complains of lack of clarity in Annex II of Directive 2001/19/EEC of the European Parliament and of the Council on the general system for the recognition of professional qualifications where maxillofacial surgery is placed on the same footing as oral surgery, wrongly in the opinion of the petitioner, who is seeking an amendment to the annex in question.

2. Admissibility

Declared admissible on 18 December 2003. Information requested from Commission under Rule 175(4).

3. Commission reply, received on 23 March 2004

The petitioner complains of lack of clarity in Annex II to Directive 2001/19/EEC¹, which inter alia establishes the list of qualifications in oral surgery which should be recognised automatically under Directive 78/686/EEC² concerning the mutual recognition of diplomas of practitioners of dentistry. He maintains that maxillofacial surgery is wrongly placed on the same footing as oral surgery.

The Commission would like to make the following observations regarding this petition:

The Greek specialisation to which the petitioner refers (“Gnathochirurgiki”) was

¹ OJ L 206 of 31.07.2001

² OJ L 233 of 24.08.1978

incorporated into Annex B to Directive 78/686/EEC as a result of the adoption of the above-mentioned Directive 2001/19/EC, at the specific request of the Greek authorities. The national legislation (Presidential Decree 200/1988, FEK A87/1993) which justified the request for the inclusion in the list of relevant specialisation diplomas met the appropriate requirements set by Directive 78/687/EEC¹ concerning the coordination of the training of dental practitioners. However, in 2001, the Greek authorities changed the conditions of access to the specialisation concerned (Presidential Decree 273/2001, FEK A195/2001). The petitioner wrote to the Commission on 8 April 2003 informing it of this change.

As a result of Presidential Decree 273/2001, access to the specialisation concerned in Greece is now conditional on being in possession of the basic doctor's qualification in addition to the authorisation to practise dentistry. In contrast to this, the specialisation in oral surgery referred to by Directives 78/686/EEC and 78/687/EEC only requires training in dentistry. The specialisation in dental, oral and maxillofacial surgery is based on parallel basic training in medicine and dentistry and as such falls within the scope of Directive 93/16/EEC² on doctors.

Given that the conditions for gaining access to the specialisation concerned no longer correspond to those set out in Directive 78/687/EEC on dentists, the specialisation concerned should, in the light of the new Greek legislation, be deleted from Annex B to Directive 78/686/EEC. Pursuant to the procedure under Article 23a of Directive 78/686/EEC, it is the responsibility of the Greek authorities to officially communicate the new legislation and, on that basis, request that the specialisation concerned be removed from Directive 78/686/EEC. The Greek authorities could then, at the same time, communicate the specialisation concerned in relation to Directive 93/16/EEC on doctors (Article 42a). This has been pointed out to the Greek authorities by letters of 7 May and 23 October 2003.

By letters of 10 October and 5 November 2003, the Greek authorities communicated their intention, once the necessary internal consultations were completed, to request the removal of the specialisation concerned from Directive 78/686/EEC and to notify the Commission with regard to its inclusion in Annex C to the directive on doctors.

On 31 December 2003, the Commission wrote to the Greek authorities asking for an approximate timetable for the completion of the requisite internal procedures. A reminder will be sent in view of the lack of a reply.'

4. Commission reply, received on 30 April 2004

The petitioner complains of lack of clarity in Annex II to Directive 2001/19/EEC³, which inter alia establishes the list of qualifications in oral surgery which should be recognised automatically under Directive 78/686/EEC⁴ concerning the mutual recognition of diplomas of practitioners of dentistry. He maintains that maxillofacial surgery is wrongly placed on the same footing as oral surgery.

The Commission would like to make the following observations regarding this petition:

¹ OJ L 233 of 24.08.1978

² OJ L 165 of 07.07.1993

³ OJ L 206 of 31.07.2001

⁴ OJ L 233 of 24.08.1978

The Greek specialisation to which the petitioner refers (“Gnathochirurgiki”) was incorporated into Annex B to Directive 78/686/EEC as a result of the adoption of the above-mentioned Directive 2001/19/EC, at the specific request of the Greek authorities. The national legislation (Presidential Decree 200/1988, FEK A87/1993) which justified the request for the inclusion in the list of relevant specialisation diplomas met the appropriate requirements set by Directive 78/687/EEC¹ concerning the coordination of the training of dental practitioners. However, in 2001, the Greek authorities changed the conditions of access to the specialisation concerned (Presidential Decree 273/2001, FEK A195/2001). The petitioner wrote to the Commission on 8 April 2003 informing it of this change.

As a result of Presidential Decree 273/2001, access to the specialisation concerned in Greece is now conditional on being in possession of the basic doctor's qualification in addition to the authorisation to practise dentistry. In contrast to this, the specialisation in oral surgery referred to by Directives 78/686/EEC and 78/687/EEC only requires training in dentistry. The specialisation in dental, oral and maxillofacial surgery is based on parallel basic training in medicine and dentistry and as such falls within the scope of Directive 93/16/EEC² on doctors.

Given that the conditions for gaining access to the specialisation concerned no longer correspond to those set out in Directive 78/687/EEC on dentists, the specialisation concerned should, in the light of the new Greek legislation, be deleted from Annex B to Directive 78/686/EEC. Pursuant to the procedure under Article 23a of Directive 78/686/EEC, it is the responsibility of the Greek authorities to officially communicate the new legislation and, on that basis, request that the specialisation concerned be removed from Directive 78/686/EEC. The Greek authorities could then, at the same time, communicate the specialisation concerned in relation to Directive 93/16/EEC on doctors (Article 42a). This was pointed out to the Greek authorities by letters of 7 May and 23 October 2003.

By letters of 10 October and 5 November 2003, the Greek authorities communicated their intention, once the necessary internal consultations were completed, to request the removal of the specialisation concerned from Directive 78/686/EEC and to notify the Commission with regard to its inclusion in Annex C to the directive on doctors.

On 31 December 2003, the Commission wrote to the Greek authorities asking for an approximate timetable for the completion of the requisite internal procedures. A reminder will be sent in view of the lack of a reply.'

5. Further Commission reply, received on 6 July 2004

The Committee on Petitions asked the Commission for further information on this petition concerning the Greek specialisation in maxillofacial surgery which, by Directive 2001/19/EC³, was incorporated into Annex B to Directive 78/686/EEC concerning the mutual recognition of diplomas of practitioners of dentistry⁴.

¹ OJ L 233 of 24.08.1978, p. 10.

² OJ L 165 of 07.07.1993, p.1.

³ OJ L 206 of 31.07.2001, p. 1

⁴ OJ L 233 of 24.8.1978, p.1.

As indicated in the previous reply, and given that the conditions governing access to the specialisation concerned as laid down by Greek law (Presidential Decree 273/2001) no longer corresponded to those laid down by Directive 78/687/EEC concerning the coordination of the activities of dental practitioners¹, due to the parallel basic training in medicine and dentistry, the Commission contacted the Greek authorities to discuss the matter.

The Greek authorities communicated their intention (letters of 10 October and 5 November 2003), once the necessary internal consultations were completed, to request the removal of the specialisation concerned from Directive 78/686/EEC and to notify the Commission with regard to its inclusion in Annex C to Directive 93/16/EC on doctors². They then forwarded to the Commission, by letter of 22 March 2004, Law 3209/2003, which changed the name of the specialisation concerned to "oral and maxillofacial surgery". Subsequently, in a note dated 10 May 2004, the Greek authorities requested that the Commission remove the specialisation concerned from Annex B.2 to Directive 78/686/EEC and incorporate the specialisation in oral and maxillofacial surgery into Annex C to Directive 93/16/EEC on doctors. These requests will be included in the next update (to be published in the OJ, C series) of the lists of diplomas relating to sectoral directives, scheduled for the second half of 2004.

6. Further Commission communication, received on 3 July 2006

As indicated in previous communications, the Commission has contacted the Greek authorities concerning the fact that, under Greek law (Presidential Decree 273/2001), the conditions for access to the specialisation in question no longer correspond to those set out in Directive 78/687/EEC concerning the coordination of training for dentists, given the need for parallel training in medicine and dentistry.

On 10 May 2004, the Greek authorities contacted the Commission formally requesting, on the one hand, the removal of the specialisation concerned from Annex B.2 of Directive 78/686/EEC and, on the other, the inclusion of the oral and maxillofacial surgery specialisation in Annex C of Directive 93/16/EC concerning doctors.

In the Official Journal of the European Union (OJ C 123 of 21 May 2005) the Greek specialisation 'Gnathochirurgiki' was effectively removed from Annex B.2 of Directive 78/686/EEC through the addition of the words '(until 31 December 2002)'. It was inserted under point 5.3.3 of Annex V.3 of Directive 2005/36/EC adopted on 7 September 2005.

The Greek specialisation in dental, oral and maxillofacial surgery has not been entered under Annex C of Directive 93/16/EEC concerning doctors.

Petition to the EP

By letter of 25 November 2005, the petitioner sought the reopening of consideration of his petition, which had been closed in 2004, on the grounds that neither of his requests, the withdrawal of the specialisation from Annex B.2 of Directive 78/686/EEC and its entry under Annex C of Directive 93/16/EEC had been met.

¹ OJ L 233 of 24.8.1978, p.10.

² OJ L 165, 7.7.1993, p.1.

In this connection, he refers to amendments 135 and 215 tabled by the European Parliament in the course of the codecision procedure leading to the adoption of Directive 2005/36/EC on recognition of professional qualifications, cancelling and replacing all directives concerning the recognition of qualifications for professional purposes (including Directives 78/686/EEC and 93/16/EEC) of 20 October 2007.

Commission observations regarding the petition

Regarding removal of the 'Gnathochirurgiki' specialisation from the list of specialist qualifications in oral surgery contained in Directive 78/686/EEC concerning dentists, this was effectively achieved through addition of the words '(until 31 December 2002)'. It was inserted under point 5.3.3 of Annex V.3 of Directive 2005/36/EC. While the Greek qualification in question is no longer awarded, this arrangement enables those who obtained it to continue where appropriate to benefit from automatic recognition under Directive 78/686/EEC in the other Member States.

Regarding the inclusion of the Greek specialist qualification in dental, oral and maxillofacial surgery under the corresponding entry in Annex C of Directive 93/16/EEC and under point 5.1.3 of Annex V.1 of Directive 2005/36/EC, closer consideration of the legislation notified by the Greek authorities showed that it specified the need for one or other of the two basic qualifications, but not both of them, for access to this specialist field. Under Greek legislation the two basic medical and dental qualifications are required only as a condition for admission to examinations for this specialist qualification, while the directive makes access to this specialist field dependent on the completion and authentication of two sets of basic training, that is to say medical and dental. This condition is not currently imposed under Greek law.

Since the condition established by Directives 93/16/EEC and 2005/36/EC had not been met, the specialist qualification in question could not be included in the above annexes. The Commission repeatedly drew the matter to the attention of the Greek authorities (on 23 March 2005 and 17 May 2005), pointing out that this specialist qualification could only be included in the relevant annexes following amendment to Greek legislation and further Commission notification. The Greek authorities did not reply.

Amendments 135 and 215 adopted on first reading by Parliament under the codecision procedure for the adoption of Directive 2005/36/EC were rejected by the Commission and were not reinstated by the Council. Furthermore, the Greek representatives attending Council deliberations on Directive 2005/36/EC raised no objection to Commission moves to delete the specialist qualification in question from point 5.3.3 of Annex V.3.

Conclusion

In conclusion, the Commission took the appropriate action in response to the notifications from Greece concerning removal of the Greek specialist qualification in question from the list of specialist oral surgery qualifications and inclusion of the specialist qualification in dental, oral and maxillofacial surgery in the corresponding list of medical qualifications.