



24.6.2010

## NOTICE TO MEMBERS

**Subject:** Petition 0067/2010 by Zhelyazko Dimitrov (Bulgarian), on failure to implement in Greece Council Directive 2006/100/EC adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania

### **1. Summary of petition**

The petitioner claims that the Greek authorities have not yet implemented Council Directive 2006/100/EC adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania. He stresses that, because of that, he has unsuccessfully sought authorisation since January 2007 to work as a lawyer in Thessaloniki. The petitioner therefore calls on the European Parliament to ensure that the provisions of the abovementioned directive are transposed into Greek national law immediately.

### **2. Admissibility**

Declared admissible on 27 April 2010. Information requested from Commission under Rule 202(6).

### **3. Commission reply, received on 24 June 2010.**

The petitioner, a Bulgarian citizen, holds the "professional qualification of lawyer" attested to by a university diploma in law awarded by a Bulgarian university and states that he meets "all requirements pursuant to the legislation of the Republic of Bulgaria for the practice of the profession of lawyer."

As of 1 January 2007 the petitioner has been planning to practice as a lawyer in the city of Thessaloniki, Greece. The petitioner indicates that pursuant to the national legislation currently in force in that Member State he is not entitled to practice as a lawyer there, and that

the competent authorities have refused to recognise his professional qualifications. The petitioner alleges that this situation is due to the failure of Greece to implement Directive 2006/100/EC<sup>1</sup>.

The Commission services have been notified that with Presidential Decree 86 of 2008<sup>2</sup> Greece transposed Council Directive 2006/100/EC by adapting the national legislation which had previously transposed Directives 98/5/EC<sup>3</sup> and 77/249/EEC.<sup>4</sup>

The Commission notes that Directives 98/5/EC and 77/249/EEC set out the modalities for the practice of the legal profession in another Member State – establishment or provision of services. A lawyer who wishes to practice on a permanent basis in a Member State other than that in which he obtained his professional qualification (which is the case of the petitioner), is required to register with the competent authority in that State (Article 3(1) of Directive 98/5/EC). The competent authority in the host Member State shall register the lawyer upon presentation of a certificate of his registration with the competent authority in the home Member State (Article 3(2) Directive 98/5/EC). The "competent authority" is usually the professional body (law society or professional association of lawyers) that is competent to admit to practice those who satisfy certain requirements and/or have passed an examination.

The Commission has analysed the petition on the basis of the information provided therein. It is not immediately clear from the petition whether the competent Greek authority has denied recognition of the petitioner's certificate of registration with a professional association of lawyers in Bulgaria, or, if indeed the alleged refusal of recognition has arisen from another set of circumstances. The SOLVIT network would be particularly well suited to facilitate the resolution of this matter.<sup>5</sup>

The petitioner's allegation that Greece has not yet implemented Directive 2006/100/EC, in particular to the extent that it relates to provisions regulating the practice of the profession of lawyer, is unfounded. However, on the basis of the information presented in the petition at hand, it cannot be excluded that the competent Greek authority failed to properly examine the merits of the petitioner's application for recognition of his Bulgarian qualifications, nor can it be excluded that the authority failed to correctly apply the relevant national legislation. Should the petitioner consider that such failures on the part of the competent authority could be at issue, he might consider contacting SOLVIT.

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<sup>1</sup> Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania (OJ L 363, 20.12.2006, p. 141). Article 2(1) sets out that Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by the date of accession of Bulgaria and Romania to the European Union at the latest.

<sup>2</sup> Published in the Official Journal of the Hellenic Republic, Issue 125 of 1 July 2008.

<sup>3</sup> Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77, 14.3.1998, p. 36).

<sup>4</sup> Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ L 78, 26.3.1977, p. 17).

<sup>5</sup> SOLVIT homepage: <http://ec.europa.eu/solvit/>