



27.6.2012

## NOTICE TO MEMBERS

**Subject:** Petition 1233/2010, by Ramona Chiritescu (Romanian), concerning the compulsory CELI 5 DOC language test

### 1. Summary of petition

The petitioner, who has been seeking recognition of her teaching qualifications in Italy indicates that she holds a Romanian (four year) and an Italian (three-year) university degree in foreign languages. She therefore wishes to know why it is necessary for her also to sit the CELI 5 DOC language test, arguing that it is a waste of time and money. However, the Italian Ministry for Education insists that the petitioner must sit the test, despite the fact that she holds an Italian University degree.

### 2. Admissibility

Declared admissible on 19 January 2011. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 29 March 2011.

The petitioner graduated in foreign languages in Romania and completed a three-year degree language course in Italy. The petitioner applied for recognition of her teaching qualifications in Italy. She was informed that she has to attest her knowledge of the Italian language with the CELI 5 DOC, even though she holds a degree obtained in Italy.

In addition to this petition and petition 1069/2008, the Commission has received more complaints concerning the language proficiency requirements for teachers in Italy.

*The Commission's comments*

Concerning language knowledge, the relevant provision in Directive 2005/36/EC is Article 53: Member States can require that persons benefiting from the recognition of professional qualifications shall have knowledge of languages necessary for practicing the profession in the host Member State. The testing of the language knowledge should however not be part of any recognition procedure. A need for testing is subject to the principle of proportionality as has been confirmed by the jurisprudence of the ECJ (C-424/97 *Haim II*).

As mentioned in Petition 1069/2008, in 2009 the Commission has opened a case against Italy to inquire about the legal basis of the CELI 5 DOC and asking for further explanations on the application of the relevant provisions to the teaching profession.

Italy implemented Directive 2005/36/EC by means of decreto legislativo of 9 November 2007, n. 206. Article 7 of the decreto legislativo expressly regulates language knowledge and seems prima facie to transpose Art. 53 of Directive 2005/36/EC.

As concerns the testing of the knowledge of the Italian language of qualified EU teachers, Italy adopted Ministerial circular n° 39, Ref. 2447, of 21.3.2005. According to this circular, EU qualified teachers had to obtain the "CELI 5" certificate from the University of Foreigners in Perugia which is an indispensable requirement for the recognition of qualifications for the purposes of teaching in Italian schools where the language of teaching is Italian.

There were five exemptions listed in this Ministerial circular which however were limited to persons who obtained education and training in Italy or who obtained a degree in teaching Italian as a foreign language abroad (not expressly limited to the EU).

In response to the Commission's enquiry, the Italian authorities informed the Commission on 21 July 2009 as follows: in order to guarantee the possibility of obtaining linguistic knowledge throughout the national territory and not only at the University for Foreigners in Perugia, the Ministry was in contact with other Universities for Foreigners in Italy (for example the University in Siena) to examine the preparation of tests and specific assessment criteria for teachers.

The Italian authorities also informed the Commission that the language knowledge may be verified only at the same time as recognition of the qualification to exercise the profession. This is because there is no other time in the juridical process when such knowledge can be assessed.

The Commission received a further letter from the Italian Ministry of Education, Universities and Research, dated 24 August 2010. The Ministry informed the Italian Legislative Office about a draft memorandum of understanding between the Ministry and the University of Siena for the issue of other certification (other than the one from the University for Foreigners in Perugia) attesting to the knowledge of the Italian language. Furthermore the University of Perugia had indicated its readiness to decentralise throughout the country the work of setting and assessing the relevant certification, thereby increasing the number of actual locations where it is possible to obtain the certification in question.

On 15 October 2010 the Permanent Representation of Italy sent the Commission a copy of a letter (dated 23 September 2010,) which the Italian Ministry of Education, Universities and Research sent to the Italian Legislative Office referring to the Memorandum of Understanding signed between the Ministry and the University of Siena and with a copy of the Memorandum attached.

It is explained that persons who wish to practise the teaching profession in Italian schools with Italian as the teaching medium may obtain either of the following two language certificates: the CELI 5 Doc certificate from the Centro per la Valutazione e le Certificazioni Linguistiche of the Università per Stranieri di Perugia or the CILS-DIT/C2 certificate from the Università per Stranieri di Siena. Both certificates can be obtained also from other universities approved for this purpose.

Furthermore, candidates wishing to practise the teaching profession in primary schools and secondary schools (competition categories 43/A, 50/A, 51/A, 52/A), for which the Italian language is not only the language in which teaching lessons should be given but also the actual subject matter of the work involved, need to pass the specific 'supplementary oral test' in respect of both certificates, referred to in the procedural information for the CELI 5 Doc and the CILS-DIT/C2.

So far it seems that Italy has started a process to make it possible to have Italian language exams in more than only one university in Italy (the University of Foreigners in Perugia). However, it is still necessary to pass the exam on Italian territory. There is no possibility to prove knowledge of the Italian language by any other means, for example a certificate attesting the knowledge of the Italian language obtained in another Member State. Furthermore the language test is still part of the recognition process and the testing does not seem to take into account the specific circumstances in which teachers exercise their profession.

#### *Conclusion*

Following further contacts with the Italian authorities, the Commission is considering opening an infringement procedure against Italy. The Commission will keep the Petitions Committee informed about progress.

#### **4. Commission reply (REV), received on 6 September 2011.**

On 16 March 2011 the Commission asked the Italian authorities additional questions via EU-pilot concerning the requirement of knowledge of the Italian language to practise the teaching profession in Italy.

Directive 2005/36/EC on the recognition of professional qualifications provides in its Article 53 that Member States can require that persons benefiting from the recognition of professional qualifications shall have the knowledge of languages necessary for practicing the profession in the host Member State.

The arguments submitted by the Italian authorities via EU-pilot are not sufficient for the

Commission to conclude that Article 53 of Directive 2005/36/EC is applied in a proportional manner. Italy still requires a level of knowledge of the Italian language without taking into account the specific circumstances in which teachers exercise their profession and without accepting other evidence of language competencies. Moreover, language testing is still an integral part of the recognition process.

### Conclusion

The Commission is planning to open an infringement case as quickly as possible. The Petitions Committee will be informed about the progress.

#### **5. Commission reply (REV.II), received on 17 February 2012.**

Directive 2005/36/EC on the recognition of professional qualifications provides in its Article 53 that Member States can require that persons benefiting from the recognition of professional qualifications shall have knowledge of languages necessary for practicing the profession in the host Member State.

In addition to this petition and petition 1069/2008, the Commission has received a number of complaints concerning the language proficiency requirements for teachers in Italy.

The arguments submitted by the Italian authorities following the Commission's enquiry were not sufficient for its services to conclude that Article 53 of Directive 2005/36/EC is applied in a proportionate manner.

On 30 September 2011 the Commission sent a letter of formal notice to the Italian authorities. A reply to the letter of formal notice was received on 13 January 2012.

### Conclusion

The Commission is currently analysing the reply of the Italian authorities and will keep the Petitions Committee informed on the progress in this matter.

#### **6. Commission reply (REV.III), received on 27 June 2012.**

On 30 September 2011 the Commission sent a letter of formal notice to the Italian authorities. In their reply of 13 January 2012 the Italian authorities informed the Commission that the Directorate-General for Organisational Arrangements in the National Education System and for School Autonomy, Education Department of the Ministry of Education, Universities and Research, would formulate as soon as possible new detailed rules for assessing Italian language knowledge.

By letter of 1 February 2012 the Commission asked the Italian authorities to provide the Commission with a timetable for the implementation of the new rules. This request has been repeated in a meeting with the Italian authorities in Italy on 29 and 30 March.

By letter of 5 April 2012, the Italian authorities sent the Commission the requested timetable. It is expected that the new rules can be implemented within five months, starting mid-April.

The authorities set up a working party to draft a proposal, draft the decree and to request the necessary opinions.

### Conclusion

The Commission expects to receive a notification of the new rules in mid-September 2012. Based on the information received from the Italian authorities, the new rules should be in line with the Directive. However, if this is not the case, the Commission will proceed with the infringement procedure. The Commission will keep the Petition Committee informed about the progress.