



30.8.2017

NOTICE TO MEMBERS

Subject: Petition 1423/2016 by Juan Carlos Rodríguez (Spanish), on behalf of the Spanish Association of Laboratory Technicians, on the equivalence of qualifications as a laboratory technician

1. Summary of petition

The petitioner calls for qualifications and the level of training for laboratory technicians to be brought into line with the levels of training required in the EU, and also calls for harmonised rules governing these professional qualifications in order to foster the free movement of people in the EU.

2. Admissibility

Declared admissible on 12 April 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 August 2017

The Commission's observations

Petition 0539/2015 concerned the same subject.

The regulation of the level of education required to exercise a professional activity is within the Member States' competence. Every Member State can decide within the limits of Union law, especially concerning the freedom of establishment and the freedom to provide services and the principle of proportionality, whether or not to introduce a profession into its legal system and how to regulate it. Member States can therefore choose whether or not to require: vocational training or a university-level diploma to access or exercise a certain profession, how to regulate the content of the education required, or to decide if the service is eligible for reimbursement by the national social security system.

In doing so, Member States need to ensure that the regulation governing the taking-up and the pursuit of a professional activity is justified by public interest objectives, such as those within the meaning of the Treaty on the Functioning of the European Union, namely public policy, public security and public health, or by overriding reasons of general interest, recognised as such in the case-law of the Court of Justice. It is important to ensure that public interest objectives are adequately identified in order to determine the intensity of the regulation and to ensure that the regulation is proportionate to achieving these objectives, in particular with a view to the fact that the regulation of a profession has an impact on professional access and mobility between Member States.

The fact that the level of education required to access the profession of laboratory technician is regulated differently in Spain compared to how it is generally regulated in other Member States, might indeed make access to the profession in another Member State more difficult. In order to help to overcome these difficulties, there are agreed EU level rules laid down in Directive 2005/36/EC¹ in order to allow for the recognition of professional qualifications obtained in another Member State even if the level of qualification or education between the host and home Member State differs.

This so-called general system of recognition² under this Directive applies to laboratory technicians. Where this profession is regulated in a Member State, the general system requires the host Member State to assess the equivalence of the qualifications of the incoming professional against its own national requirements to exercise that profession, taking into account any evidence related to the studies, training and professional experience of the applicant. The host Member State can impose compensatory measures on the professional in case there are substantial differences between the level of qualification of the professional and its own system. These can take the form of an adaptation period³ or an aptitude test.

Conclusion

In view of the above, the Commission considers that regulating the level of education for the profession of laboratory technician is a matter for the Member States which have to respect the limits of Union law and in particular the principle of proportionality. Directive 2005/36/EC sets a framework for the recognition of professional qualifications obtained in another Member State if the level of qualifications or education required to access or exercise a professional activity differs between the host and the home Member State. The Commission is therefore not able to intervene on behalf of the petitioner as no reasons can be detected to conclude that the regulation of the profession in the given case does not comply with EU law or the proportionality principle.

¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') OJ L 354, 28.12.2013.

² Under Chapter I of Title III of Directive 2005/36/EC.

³ Or period of supervised practice.