



31.10.2018

NOTICE TO MEMBERS

Subject: Petition No 0155/2018 by Paolo Calarco (Italian) on the recognition of the Italian architectural engineering qualification in Spain

1. Summary of petition

The petitioner is an architectural engineer and holds a degree in that subject, which was obtained in Italy. He has been living in Barcelona for more than three years and is working as a project manager for an architectural firm. In order to set up his own business, he requested the recognition of his professional qualification in Spain. The petitioner notes that his degree in architectural engineering from the University of Calabria allows him to practice as an engineer or architect in Italy and is also recognised under Directive 2005/36/EC. His recognition request was denied in Spain on the grounds that he had not sat the state architecture examination. He was also told that an appeal of that decision would most likely be rejected. He has called for his professional architectural degree to be recognised in Spain in accordance with the right to establishment and freedom to provide services recognised by Directive 85/384/EEC.

2. Admissibility

Declared admissible on 12 June 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 31 October 2018

Directive 2005/36/EC as amended by Directive 2013/55/EU¹ applies only to professionals qualified to exercise a profession in a Member State and who wish to exercise the same profession in another Member State.

¹ 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) n° 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') OJEU L354/132 of 28/12/2013.

The petitioner holds a diploma in building engineering - architecture "Laurea Specialistica in Ingegneria Edile - Architettura" of the school "Universita degli studi della Calabria". In accordance with Annex V.7.1 of Directive 2005/36/EC, holders of this qualification can benefit from automatic recognition of their qualification as architect throughout the European Union only if they have also completed a State exam in architecture in Italy. In other words, qualification as architect in Italy depends upon the completion of relevant studies and the successful completion of a subsequent State exam in architecture.

According to the information available in the petition, upon completion of his studies in Italy the petitioner chose not to take the architecture exam but to take the State exam to be qualified as civil and environmental engineer ("Ingegnere Civile e Ambientale"). He is therefore not qualified to practice under the professional title of an architect in Italy and thus does not fulfil the conditions enshrined in Annex V.7.1 of Directive 2005/36/EC for recognition as architect in other Member States. The petitioner's argument that the state exams for architects and civil engineers in Italy are closely comparable, does not affect this conclusion.

The petitioner equally cannot benefit from recognition based on acquired rights foreseen in Article 49(1) and Annex VI of Directive 2005/36/EC, since those rules only apply to trainings starting before or in the academic year 1987/1988. The petitioner has started his training in 2001 and obtained the above-mentioned degree in 2011. As a result, he does not fulfil the conditions of Article 49(1) and Annex VI, and cannot benefit from automatic recognition based on acquired rights.

Furthermore, the petitioner holds a master's degree in "Progettista di Architetture sostenibili" from the National Institute of Architecture in Rome. This degree does not entitle its holders to practice under the professional title of 'architect' in Italy, nor is it listed in Annex V of the Directive. In view of the above and taking into account the fact that the petitioner is not qualified as 'architect' in his home Member State, he cannot benefit from the mutual recognition rules of Directive 2005/36/EC for the purposes of accessing the professional activities of architects in Spain.

Finally, while the petitioner refers to Directive 85/384/EC¹, the rules of this Directive have been repealed with effect from 20 October 2007 and replaced by those of Directive 2005/36/EC. All references to the repealed Directive shall be understood as references to this latter one.

Conclusion

Given the above, the Commission cannot identify any infringement to the Directive by the Spanish authorities.

¹ Council Directive of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services OJEC L223/15 of 21/08/1985.