



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 0251/2018 by D.P. (Romanian) on discrimination of migrants in the field of recognition of qualifications and employment in Spain

1. Summary of petition

The petitioner, a Romanian national residing in Spain, claims that migrants are systematically discriminated by the Spanish public administration in relation to their right to work and the recognition of their qualifications obtained in another country. She affirms that the Spanish authorities have not properly recognized her qualifications and have intentionally and repeatedly blocked her access to the labour market because of her migrant status. She feels that her treatment has been unfairly discriminatory at her local unemployment office, which continues to list her as lacking primary studies despite the fact that she has university and master's level studies.

2. Admissibility

Declared admissible on 3 September 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 November 2018

According to information given by the petitioner, the Commission understands that the petitioner has introduced three applications for recognition of two different qualifications:

- Two applications for recognition before the Ministry of Education and Sport (one for the qualification of agronomic engineer specialising in Horticulture and one for the qualification of technical Agricultural engineer specialising in Fruit Farming and Gardening).
- One application before the Ministry of Agriculture, Fisheries and Food (for the qualification of technical Agricultural engineer specialising in Fruit Farming and Gardening).

The competent authority for examining recognition of professional qualifications of agricultural engineers from other Member States with a view to exercise this regulated

profession in Spain is the Ministry of Agriculture, Fisheries and Food. This Ministry must examine applications for recognition introduced in line with the provisions of Directive 2005/36/EC as amended by Directive 2013/55/EU.

Applications for recognition of qualifications from other Member State submitted in Spain to the Ministry of Education do not fall within the scope of Directive 2005/36/EC as amended. Those applications are introduced for academic purposes (e.g in order to pursue studies or simply to have an academic equivalence which means that the diploma from the other Member State will be fully assimilated to the Spanish diploma). Academic recognition procedures fall within the competence of the host Member State. Therefore problems faced with regard to that type of recognitions should be addressed at national level.

Concerning the application introduced before the Ministry of Agriculture, Fisheries and Food, the Commission understands that it took three years to have the qualification recognised despite the fact that evidence of recognition of this qualification by the Ministry of Education was transmitted. In accordance with Article 51(2) of Directive 2005/36/EC as amended, the procedure for deciding on an application for recognition should not exceed four months as from the moment the applicant's complete file was submitted. In the present case, no information was provided with regard to the reasons of the delay. Moreover, it appears that the petitioner has indicated that the qualification was awarded by the University of la Coruña which is a Spanish University. The Commission is therefore unsure that the qualification at stake is a qualification from another Member State, and why recognition was sought.

Finally, the Commission has not received similar complaints against Spain.

Conclusion

Given the above, the Commission cannot identify any infringement to Directive 2005/36/EC as amended by the Spanish authorities.