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31 January 1997      A4-0029/97

## **REPORT**

on the Commission report to the European Parliament and the Council on the state of application of the general system for the recognition of higher education diplomas (made in accordance with Article 13 of Directive 89/48/EEC)  
(COM(96)0046 - C4-0194/96)

Committee on Legal Affairs and Citizens' Rights

Rapporteur: Mrs Nicole Fontaine

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By letter of 16 February 1996 the Commission submitted to the European Parliament and the Council a report on the state of application of the general system for the recognition of higher education diplomas (made in accordance with Article 13 of Directive 89/48/EEC).

At the sitting of 27 March 1996 the President of Parliament announced that he had referred this report to the Committee on Legal Affairs and Citizens' Rights as the committee responsible and to the Committee on Social Affairs and Employment and the Committee on Culture, Youth, Education and the Media for their opinions.

At its meeting of 18 and 19 March 1996 the Committee on Legal Affairs and Citizens' Rights appointed Mrs Fontaine rapporteur.

At its meetings of 8 and 9 July, 22, 23 and 24 July and 2 and 3 October 1996 and 27 and 28 January 1997 it considered the Commission report and the draft report.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: De Clercq, chairman; Rothley and Mosiek-Urbahn, vice-chairmen; Fontaine, rapporteur; Alber, Berger, Gebhardt, Hory, Janssen van Raay, McIntosh, Thors, Ullmann and Wijsenbeek

The opinion of the Committee on Culture, Youth, Education and the Media is attached; on 7 May 1996 the Committee on Social Affairs and Employment decided not to deliver an opinion.

The report was tabled on 31 January 1997.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A  
**MOTION FOR A RESOLUTION**

**Resolution of the European Parliament on the Commission report to the European Parliament and the Council on the state of application of the general system for the recognition of higher education diplomas (made in accordance with Article 13 of Directive 89/48/EEC)  
(COM(96)0046 - C4-0194/96)**

The European Parliament,

- having regard to the Commission report to the European Parliament and the Council (COM(96)0046 - C4-0194/96)
  - having regard to the report of the Committee on Legal Affairs and Citizens' Rights and the opinion of the Committee on Culture, Youth, Education and the Media (A4-0029/97),
- A. whereas Directive 89/48/EEC<sup>1</sup> is the first instrument intended to establish, on the basis of a horizontal approach, a general system for the recognition of higher education diplomas with a view to facilitating the freedom of movement and establishment and the freedom to provide services of the Community citizens concerned,
- B. whereas the general system has been supplemented by Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training<sup>2</sup>, and whereas the Commission is proposing a further modification, by means of its proposal for a directive instituting a mechanism for the recognition of professional activities covered by the liberalizing directives, introducing transitional measures and 'fine-tuning' the general system<sup>3</sup>,
- C. whereas the Commission's report is invaluable for those wishing to follow the evolution of the practical application of the general system for the recognition of diplomas and understand the problems it raises;
1. Welcomes the quality of the Commission's report, whose essential merit lies in its setting out of the main problems of implementation of Directive 89/48/EEC, while stressing the specific cases of certain professions raising particular questions of a certain complexity; appreciates, furthermore, its endeavours to propose solutions with a view to improving the operation of the general system, some of which will later form the basis of amendments to Directive 89/48/EEC;

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<sup>1</sup> OJ L 19, 24.1.1989, p. 16

<sup>2</sup> OJ L 209, 24.7.1992, p. 25

<sup>3</sup> COM(96)0022, 8.2.1996

2. Recognizes that significant progress has been made in the past seven years in achieving mutual recognition of academic and professional qualifications between the Member States, thus steadily increasing the opportunities for EU citizens who wish to do so, to use the

qualifications and professional experience they have gained in one country in order to practise their profession in other Member States; calls therefore on the Commission to continue its task of persuading the Member States and their universities and professional organizations to remove any remaining legal or practical obstacles to full mutual recognition;

3. Welcomes, in particular, the Commission's adoption of the solutions arising from Court of Justice case-law, notably the Vlassopoulou judgment of 7 May 1991<sup>4</sup>; considers that the Court's reasoning in that case represents a considerable advance for the entire problem of the recognition of diplomas, since its scope includes professions not covered by the general system and those not covered by the 'sectoral' systems;
4. Draws the Commission's attention to the difficulties resulting from the absence of an accurate definition of the level of higher education and hopes that this question will be considered in greater depth;
5. Reiterates its attachment to the principle of mutual confidence, as embodied in Article 3 of Directive 89/48/EEC; stresses, however, that this principle can be seriously jeopardized by the ill-considered or, indeed, abusive recourse by national authorities to the compensation mechanisms provided for in Article 4 of the Directive, whose application is not always justifiable;
6. Calls, in this connection, for greater vigilance from the Commission when examining complaints from Community citizens; expresses its conviction that the effective operation of the general system for the recognition of higher education diplomas existing under Directive 89/48/EEC must rest primarily on a reasonable balance between its Articles 3 and 4 and in the search for simpler and more flexible solutions;
7. Is particularly pleased that in its report the Commission defends the view that Article 3 of Directive 89/48/EEC is sufficiently clear, precise and unconditional to give rise to direct effect and points out that the Court of First Instance also ruled in the Panayotopoulou judgment (Case T-16/90) of 11 February 1992 that this article is directly applicable;
8. Is concerned to note, like the Commission, that migrants are unaware of the mechanics of the general system; calls for a closer dialogue between the national authorities and the Commission, a genuine system of providing appropriate information and greater transparency at all levels;
9. Welcomes, in this context, the function of the national coordinators - whose appointment is provided for in Article 9 of Directive 89/48/EEC - and endorses the Commission's initiatives aimed at strengthening their role;
10. Is aware, on the other hand, that the Directive applies only to Community nationals; considers, nonetheless, that its provisions on education and training partially acquired in third countries are contradictory; considers that the persistence of this contradiction is

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<sup>4</sup> Case C-340/89, ECJ Reports 1991, p. I-2357

preventing any solution to a problem which is taking on worrying dimensions in some Member States;

11. Notes the Commission's intention not to propose any substantial changes to Directive 89/48/EEC, but invites it to submit to Parliament as soon as possible limited amendments, particularly to Article 4, to improve the present system;
12. Notes with interest the Commission's undertaking to submit a review of Directive 92/51/EEC by 1999, which will enable it to re-examine the workings of the general system as a whole; reserves the right, nonetheless, to make regular checks between now and then on the Commission's work, via the usual channels of parliamentary scrutiny;
13. Notes that the numerus clausus rule in force in certain Member States of the Union may, with the development of Community mobility, eventually pose a problem; calls on the Commission to undertake a study of this aspect;
14. Instructs its President to forward this resolution to the Council, the Commission and the Governments of the Member States.

**B**  
**EXPLANATORY STATEMENT**

I. INTRODUCTION

1. The Commission has submitted this report to Parliament and the Council (COM(96)0046) under Article 13 of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration<sup>5</sup>. This article obliges the Commission to submit such a report no later than five years after the date of entry into force of the Directive - i.e. no later than five years after 4 January 1991 (see, in this connection, Article 12 of Directive 89/48/EEC).
2. The objective of the report is determined by the above-mentioned Article 13; the Commission is obliged to describe the 'state of application of the general system for the recognition of higher-education diplomas' introduced by the Directive (see Article 13(1)), and, if relevant, to submit its conclusions 'as to any changes that need to be made to the system as it stands' (see Article 13(2)). This double objective is, in your rapporteur's opinion, evidence of the importance of this report, given that Directive 89/48/EEC lies at the heart of the system introduced by the EC Treaty for freedom of movement and establishment and freedom to provide services. This does not, obviously, mean that it was necessary to wait for this directive to be able to speak of the freedoms set out in Articles 52 and 59 of the EC Treaty; there is no question of belittling the importance of the case-law deriving from the *Reyners*<sup>6</sup> and *van Binsbergen*<sup>7</sup> judgments, which recognized the provisions concerned as having direct effect. It must, however, be admitted, quite simply, that the mechanisms introduced by Directive 89/48/EEC (the principle of mutual confidence; the detailed regulation of compensation mechanisms; and the endeavours to achieve phased harmonization of the work of the national authorities dealing with requests for authorization to exercise a regulated profession, via the designation of national coordinators) have provided the Community's citizens with a practical instrument enabling them to benefit directly and concretely from the conditions of implementation of Articles 48, 52 and 57 of the EC Treaty.

II. GENERAL PRINCIPLES FOR THE IMPLEMENTATION OF DIRECTIVE 89/48/EEC

3. The report is carefully structured, and therefore easy to read. Apart from the preliminary matter - an introduction and a historical outline of the Directive - it consists of four main parts, concerning respectively:
  - implementation of the Directive: general information on the progress made on incorporation, the difficulties in the way of implementation in certain Member States and the dialogue between both Member States and the Commission and citizens and the Commission (especially concerning complaints) with respect to the problems or lacunae related to implementation;

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<sup>5</sup> OJ L 19, 24.1.1989, pp. 16-23

<sup>6</sup> Decision of 21 June 1994, Case 2/74, ECJ Reports 1974, pp. 631 et seq.

<sup>7</sup> Decision of 3 December 1994, Case 33/74, ECJ Reports 1974, pp. 1299 et seq.

- an article-by-article examination of the Directive: this provides a basis for evaluating both the progress made and the problems arising from specific aspects;
  - re-examination of the main professions covered by the Directive: this concerns health professionals, engineers, teachers, lawyers, accountants and the public service. This part of the report is of particular interest, since it draws attention to the differences between the various national concepts of a 'regulated profession' and the different rules in the Member States concerning access to professions and language requirements. These elements are fundamental to implementation of the Directive;
  - conclusions: the Commission summarizes the main elements of the evaluation it has made throughout the report. It stresses its intention not to 'propose any fundamental changes to Directive 89/48/EEC'<sup>8</sup>, while emphasizing that the 'review of Directive 92/51/EEC ... which is scheduled to take place in 1999'<sup>9</sup> will offer it an opportunity to review the workings of the system as a whole. It proposes, however, to table 'certain limited amendments to the directive' before that date<sup>10</sup>. These would include: the possibility of incorporating into Directive 89/48/EEC the obligation to take post-diploma experience into consideration; the possibility of introducing the concept of 'regulated education and training'; and proposals for developing the role of the 'national coordinators' introduced by Article 9(2) of the Directive<sup>11</sup>.
4. As is stressed in the report, the implementation of the Directive has not been problem-free: 'of the then 12 Member States, only Ireland had adopted the necessary measures by 4 January 1991; the three new Member States [Austria, Finland and Sweden] had all adopted implementing measures by the time of accession'<sup>12</sup>. The delays in other Member States had even given rise to a number of infringement proceedings, of which two had led to adverse judgments against the Member States concerned for failing to fulfil their obligations under the Treaty<sup>13</sup>. However, according to the statistics, it would seem that 'at least 11 000 persons obtained recognition of their diplomas in accordance with Directive 89/48/EEC between 4 January 1991 and 31 December 1994'. The Commission considers this figure to fall short of the reality, as complete figures from the Member States have not been supplied, but notes that 6000 of those diplomas were recognized in the UK (the vast majority of these being teachers' diplomas, a circumstance reflecting the UK's teacher shortage, which is more acute than in other Member States)<sup>14</sup>.
5. The main elements which characterize, or have hitherto characterized, the implementation of the Directive may be summarized as follows:

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<sup>8</sup> COM(96)0046, p. 35

<sup>9</sup> Directive 92/51/EEC on a second general system for the recognition of professional education and training, complementing Directive 89/48/EEC -OJ L 209, 24.7.1992, pp. 25 et seq.

<sup>10</sup> COM(96)0046, p. 35

<sup>11</sup> *ibid.*

<sup>12</sup> COM(96)0046, II(ii), p. 7

<sup>13</sup> Decision of 23 March 1995, Case C-365/93, Commission v. Greece; Decision of 13 July 1995, Case C-216/94, Commission v. Belgium

<sup>14</sup> COM(96)0046, I(viii), p. 5



- A. The principle of subsidiarity is respected. It is up to the Member States to decide whether or not a professional activity should be regulated, that is, 'made subject by law, regulation or administrative provision to the possession of a professional qualification', and, if so, 'what the level, structure and content of the education should be'<sup>15</sup>. This basic principle is in line with Article 2 of Directive 89/48/EEC.
- B. Directive 89/48/EEC, which itself represents a 'horizontal' approach to the recognition of diplomas, does not apply to 'professions which are the subject of a separate Directive establishing arrangements for mutual recognition of diplomas by Member States' (Article 2, second paragraph). However, this difference between 'horizontal' and 'sectoral' approaches should be qualified for the future, in view of the judgment of the Court of Justice in the Vlassopoulou case<sup>16</sup>.
- C. The Vlassopoulou case involved the interpretation of Article 52 of the EC Treaty, independently of any directive. When the judgment was made, Directive 89/48/EEC had just come into force; there is still no sectoral directive on the establishment of lawyers. The Court's response is thus of general interest. The text of the judgment states:

'Article 52 of the EEC Treaty must be interpreted as requiring the national authorities of a Member State to which an application for admission to the profession of lawyer is made by a Community subject who is already admitted to practise as a lawyer in his country of origin and who practises as a legal adviser in the first-mentioned Member State to examine to what extent the knowledge and qualifications attested by the diploma obtained by the person concerned in his country of origin correspond to those required by the rules of the host State; if those diplomas correspond only partially, the national authorities in question are entitled to require the person concerned to prove that he has acquired the knowledge and qualifications which are lacking.'<sup>17</sup>

The Commission considers that the case-law thus created could contribute to the resolution of a large number of problems - especially those relating to a legal vacuum - where certain forms of education and training are left outside the regulatory framework of a directive owing to the differences between national systems. A striking example here is provided by the profession of specialized nurse, whose status varies substantially from one Member State to another<sup>18</sup>.

- D. Concerning the scope of application, the Commission reiterates the principle of Article 2 of Directive 89/48/EEC, according to which only Community nationals are covered by its provisions. It nonetheless makes two clarifications in this connection:

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<sup>15</sup> *ibid*, I(iii), p. 3

<sup>16</sup> Decision of 7 May 1991, Case C-340/89, ECJ Reports 1991, p. I-2357

<sup>17</sup> *ibid.*, p I-2386

<sup>18</sup> For details, see COM(96)0046, III, Article 2, (iii), p. 16

- a) it considers that 'nothing prevents a third country national who subsequently acquires the nationality of one of the Member States from relying upon the Directive to obtain

recognition of a diploma which he or she acquired prior to the acquisition of Community citizenship<sup>19</sup>;

- b) the problem of the recognition of diplomas obtained by Community nationals in third countries is considered to be resolved - subject to certain conditions - by the first subparagraph of Article 1(a) of Directive 89/48/EEC. The Commission nonetheless notes Parliament's comments on this subject<sup>20</sup>, and recognizes that 'the absence of provisions governing the recognition of third country diplomas in the sectoral directives impedes the exercise by a potentially significant number of European citizens of their rights of free movement under the Treaty'<sup>21</sup>. It will, accordingly, examine this situation with a view to the possible adaptation of Article I(a) of Directive 89/48/EEC.

- E. The most important aspect of the implementation of Directive 89/48/EEC concerns striking the right balance between Articles 3 and 4. The first lays down the general rule that 'a person who is entitled to exercise a profession in the Member State of origin is entitled to recognition of his or her diploma for the purpose of taking up the same profession in the host Member State'<sup>22</sup>. This rule is based on the principle of the similarity of the professional activity which the migrant is qualified to exercise in his Member State of origin and that which he wishes to exercise in the host Member State. Article 4, however, specifies rules for the application of the 'compensation mechanisms', namely professional experience, the adaptation period and the aptitude test.

The Commission stresses that genuine progress in the recognition of diplomas will depend on the balance struck between these two articles. It says it will be vigilant; the problems, however, are still very much present. Two points are of particular concern here, one concerning each article:

- with respect to Article 3, there is a disturbing tendency to approach the general system with habits of mind which are familiar in the context of academic recognition<sup>23</sup>;
- concerning Article 4, there is a tendency on the part of some authorities not to insist on strict respect for its conditions of implementation: the Commission is concerned at the frequently observed practice of justifying compensation mechanisms on the grounds of unspecified 'substantial' differences (see Article 4(b), second indent).

### III. CRITICAL APPRECIATION

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<sup>19</sup> *ibid.*, Article 2, (i), p. 15

<sup>20</sup> See report A4-99/95 on the amendment of Directive 93/16/EEC on doctors (Amendment 2)

<sup>21</sup> COM(96)0046, III, Article I, (iv), p. 9

<sup>22</sup> *ibid.*, III, Article 3, (i), p. 17

<sup>23</sup> *ibid.*, (ii), p. 17

6. We make no claim to have exhausted all the points raised by the Commission in its report. However, the present text does, we believe, encompass the most important aspects, and

should give a clear overview of the application of Directive 89/48/EEC. In the light of this, an attempt will now be made to analyse the report, in the hope of contributing to the Commission's work of practical monitoring.

7. Before undertaking this critical assessment, however, your rapporteur would like to take this opportunity to applaud what she considers a fine example of interinstitutional cooperation between the Commission and the European Parliament: the joint meeting held on 18 December 1996 between the Committee on Legal Affairs and Citizens' Rights and the 'coordinating group' set up under Article 9(2) of Directive 89/48/EEC. This meeting permitted a frank and direct exchange of views between the Members of the European Parliament and the members of this group, whose tasks and importance for the uniform application of the directive are described at greater length in paragraph 13. Such meetings are extremely informative and cannot but have a favourable impact on the operation of the system introduced by the directive, since they contribute to an understanding of the difficulties of enforcement and of the opportunities for future improvements.
8. Your rapporteur wishes to draw attention to two passages in the conclusions. Firstly, the Commission declares once more, while repeating its concern over the matter, that 'unfortunately, ... habits of mind, developed in the sphere of academic recognition, continue to prevail in some Member States'<sup>24</sup>. Secondly, it is stated that 'from the correspondence received by the Commission, it appears that many migrants are aware of the existence of the right to recognition but are ill-informed as to the mechanics of the general system'<sup>25</sup>.
9. In view of these two comments, we may legitimately fear that the Directive could lose its character as an instrument for the facilitation of freedom of movement and establishment and freedom to provide services within the Community. Such a danger is, it is true, hypothetical, and our fears may be exaggerated, given the dynamic nature of the legislative effort and the support provided by case-law, which may help create an irreversible momentum towards general acceptance of the procedures for recognition of diplomas. It remains the case, however, that vigilance must be the order of the day and the application of the Directive must be subject to regular monitoring.

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<sup>24</sup> COM(96)0046, V, p. 35

<sup>25</sup> *ibid.*

10. The confusion between academic recognition and recognition of professional training could - setting aside the possibility of a deliberate 'misinterpretation' by certain national authorities - certainly be seen as a real problem. The term 'diploma' is traditionally associated with formal education; this gives rise to problems over the interpretation of the definition of 'diploma' in Article 1(a) of Directive 89/48/EEC. Your rapporteur would certainly not go so far as to propose that this be modified (its complexity is a reflection of the differences among the Member States!); she would, however, encourage the Commission to make more effort to distribute information pamphlets for students, professionals and the general public, setting out the definition used in its report, according to which the word 'diploma' is 'intended to define the package of professional qualifications (for example, university

diploma, post-graduate professional training course and period of supervised practice) stipulated by national law for entry to a regulated profession<sup>26</sup>.

11. The questions raised by the terms 'regulated profession' and 'regulated professional activity' must absolutely be examined in the context of the principle of subsidiarity, as invoked in the text of the Directive. On this point, time will have to be allowed, as one might say, to do its work. In the long term, national systems will be brought closer to one and another and obstacles will be levelled out by the process of convergence in educational curricula and training programmes which is now coming into being, as if by stealth, in the wake of Directive 89/48/EEC<sup>27</sup>, and by the evolution of case-law, as in the Vlassopoulou case. In the meantime, one may note, as the Commission points out, that 'those Member States which regulate more widely have more "opportunities" for breaching the Directive'<sup>28</sup>.
12. This brings us, naturally enough, to the key provisions of the Directive, namely Articles 3 and 4. Your rapporteur agrees with the Commission's analysis, and endorses its concerns<sup>29</sup>. We are also worried that any attempt to make the rules clearer and more effective will, as far as practical application is concerned, be aborted by the large numbers of diverse cases and by their complexity. It should be noted that on this point the Commission is (if understandably) cautious. The problems are, however, considerable, and in many cases originate in the text of the Directive itself. Thus, Article 3 states that the education and training leading to an award of the evidence of formal qualifications must have been followed entirely within the Community. This is obviously in contradiction with the first subparagraph of Article 1(a), which states, on the subject of education and training leading to a diploma, that such education and training must have been acquired 'mainly in the Community', and, on the subject of a professional experience of three years, that such experience must have been 'certified by the Member State which recognized a third-country diploma, certificate, or other evidence of formal qualifications'. This contradiction, in our opinion, invalidates the more generous provision of the first subparagraph of Article 1(a)<sup>30</sup>. The Commission appears to recognize this in its report, but fails to draw the necessary conclusions<sup>31</sup>.
13. With a view to improving the mechanisms introduced by the Directive, the Commission proposes two approaches, relating respectively to the role of the national coordinators and to the tabling of amendments to the text of the Directive itself.

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<sup>26</sup> COM(96)0046, III - Article 1, (a), (i), p. 8

<sup>27</sup> This is mentioned in the report (COM(96)0046, I, xii, p. 6).

<sup>28</sup> *ibid.*, II(vii), p. 8

<sup>29</sup> See II(V)(E) above

<sup>30</sup> See also II(V)(D) above

<sup>31</sup> *loc. cit.*, III - Article 3(vi), p. 19

- The group of coordinators is instituted by Article 9(2) of Directive 89/48/EEC. Its tasks are to facilitate the implementation of the Directive and to collect any information likely to be useful for applying it in the Member States. The task of the individual coordinators is, in the Member State by which they are appointed, 'to promote uniform application of [the] Directive to all the professions concerned'. They thus occupy a pivotal role in the general system for the recognition of diplomas. The Commission is aware of this, and

intends to give the necessary impetus to ensure its reinforcement: its proposals concerning publicization of the deliberations of the group<sup>32</sup> and the possible amendment of the Directive in relation to the coordinators<sup>33</sup> clearly imply that their function will be strengthened. We can only approve of these initiatives.

- The option of amending Directive 89/48/EEC would obviously be the most radical and effective way of improving the system set up by it. We have briefly discussed this question above<sup>34</sup>. We believe, in this connection, that any such effort should come only after enough time has elapsed to enable any amendments to the Directive to have the effect, as far as possible, of consolidating the experience acquired by then at the appropriate moment. At all events, a proposal in this sense has recently been submitted by the Commission, in the shape of a proposal for a directive which Parliament will soon have the opportunity to examine. It will extend the recognition mechanism to professional activities which are not covered by the general system - using the Vlassopoulou case as a yardstick - and will simplify the legislation by repealing a number of directives on commercial and craft professions<sup>35</sup>.

#### IV. CONCLUSIONS

14. The Commission's report provides a clear and detailed overview of the state of implementation of Directive 89/48/EEC. Its main merit lies in the fact that it sets out the main implementation problems and does not hesitate, in many cases, to engage with the nuts and bolts of the situation. Despite exhibiting a certain caution, especially as regards the most crucial aspects of the text (e.g. Articles 3 and 4), the Commission even goes so far as to propose possible means of improving the workings of the system instituted by the Directive.

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<sup>32</sup> *ibid.*, III - Article 9, (iv), p. 26

<sup>33</sup> *ibid.*, V, p. 35

<sup>34</sup> see Part II, (3) above

<sup>35</sup> Proposal for a directive establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalization and transitional measures and supplementing the general systems for the recognition of qualifications (COM(96)0022, 8 February 1996)

16 July 1996

**OPINION**  
(Rule 147)

for the Committee on Legal Affairs and Citizens' Rights

on the state of application of the general system for the recognition of higher education diplomas  
(COM(96)0046 - C4-0194/96)

Committee on Culture, Youth, Education and the Media

Draftsman: Mr Michael ELLIOTT

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**PROCEDURE**

At its meeting of 23 April 1996 the Committee on Culture, Youth, Education and the Media appointed Mr Elliott draftsman.

At its meetings of 24 April 1996, 1 July 1996 and 16 July 1996 it considered the draft opinion.

At the last meeting, it adopted the conclusions unanimously.

The following were present for the vote: Castellina, chairman; Banotti, Sanz Fernández, vice-chairmen; Elliott, draftsman; Ahlqvist, Añoveros Trias de Bes, Aparico Sánchez, Bennasar (for Escudero), Bianco, Daskalaki (for Arroni), De Coene, Elchlepp (for Augias, pursuant to Rule 138(2)), Evans, Gröner, Guinebertière, Heinisch, Larive (for Monfils), Manisco (for Castellina), Mohamed Ali, Morgan, Mouskouri, Murphy (for Kuhne), Ryyänen, Todini, Tongue, Vaz da Silva, Whitehead (for Junker).

**Introduction**

This is a crucial area of activity by the Commission and by the Member States, if the goal of free movement of peoples coupled with the right to live and work in other countries of the European Union, is to become a reality.

True mobility of people cannot be achieved, notwithstanding the removal of frontier controls, unless private employers together with academic and professional institutions and the public sector either adopt common qualifications, or achieve mutual recognition and acceptance of existing national higher educational qualifications.

Other the years, harmonisation of professional qualifications between Member States has been achieved under specific sectoral Directives for nurses, midwives, dentists, veterinary surgeons, architects, pharmacists and medical doctors, but it has proved to be a slow and limited process. To extend this approach more widely would be extremely difficult and take a great deal of time.

However, a major breakthrough was achieved with the adoption in December 1988 of a general system of mutual recognition of professional qualifications obtained after three or more years of higher education studies (Directive 89/48/EEC). This is based on the principle of mutual trust in the quality of the outputs of each national system. A second complementary Directive (92/51/EEC) was adopted later, which applies to Community nationals who have received short higher education diplomas (of less than three years) holders of secondary education diplomas and certain persons without diplomas who have had professional experience.

With respect to academic recognition the Commission's approach has been to seek to achieve a system of voluntary recognition based on greater understanding between the higher education institutions themselves, assisted by the activities of the Commission's National Academic Recognition Information Centres (NARICS), and by inter-university co-operation.

Total harmonisation of qualifications is not only unachievable, but in fact undesirable as a degree of diversity as far as course structures and teaching methods is concerned is beneficial. Ideally we should seek an appropriate balance between the twin aims of curricula diversity and mutual recognition of periods of study and terminal qualifications. Nevertheless some reconciliation of higher education courses may have to be sought, since at present the length of first degree courses varies considerably between Member States. There are also problems over the comparability of entrance requirements for such courses.

These are of course largely matters for the Member States and the higher education institutions to resolve as part of the inter-institutional dialogue arising from existing Community programmes.

The current Commission Report - COM(96)0046 final - reviews the progress made by January 1996 in implementing the aims of the two above Directives and any changes that need to be made to improve the system and sustains the momentum towards the goal of full mutual recognition. Such a report was in fact a requirement of the 1989 Directive.

Considerable progress has clearly been made towards these objectives, though it must be recognised that serious problems still exist in certain Member States and within some areas of academic study and in some professions. The Commission considers that because of the huge scale of the exercise being undertaken there has been insufficient time to fully evaluate its success. In consequence their report does not recommend any fundamental changes to the Directive 89/48/EEC at the present time, though it does propose that a number of limited amendments should be made.

One important consequence of the adoption of these Directives has been that whilst respecting the principle of subsidiarity - most of the actual measures necessary to implement their aims have been introduced by incorporation into the laws of individual Member States - they have obliged each EU country to acquire a more positive attitude towards mutual recognition of each other's qualifications and to set up the necessary administrative structures and procedures to accomplish this. Moreover the necessity for greater contact and collaboration between academic institutions and professional bodies in all Member States has been beneficial in a great many ways.

## **Conclusions**

On the basis of the above, the Committee on Culture, Youth, Education and the Media calls on the Committee on Legal Affairs and Citizens' Rights as the responsible Committee, to include the following conclusions in its report:

1. Recognises that significant progress has been made in the past seven years in achieving mutual recognition of academic and professional qualifications between the Member States, thus steadily increasing the opportunities for EU citizens who wish to do so, to use the qualifications and professional experience they have gained in one country in order to practice their profession in other Member States.

Calls therefore on the Commission to continue its task of persuading all Member States to remove any remaining legal or practical obstacles to full mutual recognition.

2. Considers however that the Commission may have initially underestimated the extent of the entrenched resistance of some academic institutions and professional bodies in certain Member States to accepting recognition of qualifications and professional experience gained in other countries. There are well documented instances of obstinate refusal - even in the face of pressure from the national government concerned and rulings of national Courts - to comply fully with the concept of mutual recognition.

Calls therefore on the Commission, on the one hand not to shrink from taking infringement proceedings wherever justified, but also to undertake a campaign to persuade reluctant bodies and institutions that traditional protective and often narrow nationalistic attitudes towards recognition of qualifications from other countries, are totally inappropriate in the context of membership of a Union of States based on an open market economy and the concept of free movement of peoples. Also to remind such bodies and institutions that if they persist with these attitudes, they may in the longer run endanger their own status and reputation in the eyes of all concerned.

3. In the light of this situation calls on the Commission to conduct a thorough survey of the numbers and occupations (or training courses) of people who have encountered serious difficulties and obstacles in exercising the right to have their qualifications recognised and to practice their profession in another Member State. It should also be mentioned that the difficulties referred to, which experience shows occur in certain sectors, are clearly defined. The results of this survey to be presented to Member State governments and parliaments, the European Parliament and subsequently to be made public.
4. Also calls on the Commission to do more to ensure greater awareness of the existence and detailed provisions of the general system for the recognition of qualifications by:
  - a) production and distribution, in all relevant places in every Member State and in all official Community languages, of a comprehensive users guide to the provisions and working of the general system.
  - b) encouraging national governments, as well as academic institutions and professional bodies, to assist in this awareness process by disseminating the proposed Commission



guide and where appropriate producing their own information publications, it is important in this context to call on the Member States to observe and publish the rules.

5. Supports the three specific proposals made in the Conclusions of the Commission Report COM(96)0046 final, for detailed amendments to the 1989 Directive prior to the major review of the whole General Recognition System due in 1999.
6.
  - a) Notes the constructive work carried out by CEDEFOP and notes its deep regret at the way in which this organisation was moved from Germany to Greece without any consultation with the people who worked in this organisation.
  - b) Supports the Commission in its declared aim of ensuring that the right to impose the compensation mechanisms of adaptation periods and aptitude tests, contained in Article 4 of Directive 89/48/EEC are not applied unnecessarily or excessively and that those seeking to practice their profession in another Member State are made fully aware of their rights under the Directive.
7. Concerned that there are a considerable number of citizens and legal residents of Member States holding qualifications obtained in third countries and with professional experience acquired possibly in a third country, but often in the State in which they are now resident. These individuals are not currently covered by the Directives and are often unable to practice their profession within the EU, other than in the one country they are living in.

Calls therefore on the Commission to propose amendments to the Directives to properly regulate the position of these people, on the basis that where the Authorities of the Member State in which they are residing have accepted their third country qualifications and professional experience as adequate for them to be allowed to practice their profession, this decision should be accepted by other Member States thus allowing the provisions of Directives to operate.