

REPORT 9/2016 OF THE JOINT COMMITTEE ON THE EUROPEAN UNION OF 27 APRIL 2016 ON THE APPLICATION OF THE SUBSIDIARITY PRINCIPLE TO THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS AND INLAND NAVIGATION AND REPEALING COUNCIL DIRECTIVE 96/50/EC AND COUNCIL DIRECTIVE 91/672/EEC (TEXT WITH EEA RELEVANCE) [COM(2016) 82 FINAL] [2016/0050 (COD)] [SWD (2016) 35 FINAL] [SWD (2016) 36 FINAL]

BACKGROUND

A. The Protocol on the application of the principles of subsidiarity and proportionality annexed to the 2007 Treaty of Lisbon, which entered into force on 1 December 2009, establishes a system for national Parliaments to monitor whether European draft legislative acts comply with the principle of subsidiarity. This Protocol has been transposed in Spain by Law 24/2009 of 22 December 2009, amending Law 8/1994 of 19 May 1994. In particular, the new Articles 3(j), 5 and 6 in Law 8/1994 form the legal basis of this report.

B. The proposal for a Directive of the European Parliament and Council on the recognition of professional qualifications in inland navigation repealing Council Directives 96/50/EC and 91/672/EEC has been approved by the European Commission and forwarded to national Parliaments, giving them eight weeks to monitor this draft legislative act's compliance with the principle of subsidiary by 18 May 2016.

C. On 5 April 2016, the Bureau and the spokespersons of the Joint Committee on the European Union agreed to examine the European draft legislative acts concerned, appointing MP Ms Anna María Surra Spadea as rapporteur and requesting that the Government provide a report in accordance with Article 3(j) of Law 8/1994.

D. We have received this Government report: it states that the objectives of the proposed action cannot be achieved by measures at national, regional or local level and concluding that the Proposal complies with the principle of subsidiarity.

E. The Joint Committee on the European Union approved this report in its meeting of 27 April 2016.

REPORT

1. Article 5.1 of the Treaty on European Union states that *'the use of Union competences is governed by the principles of subsidiarity and proportionality'*. Article 5.3 of this Treaty states that *'under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level'*.

2. The draft legislative acts under examination are based on Articles 91 and 294 of the Treaty on the Functioning of the European Union as follows:

'Article 91

1. *For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:*

- a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;*
- b) the conditions under which non-resident carriers may operate transport services within a Member State;*
- c) measures to improve transport safety;*
- d) any other appropriate provisions.*

2. *When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.*

Article 294

- 1. *Where reference is made in the Treaties to the ordinary legislative procedure for the adoption of an act, the following procedure shall apply.*
- 2. *The Commission shall submit a proposal to the European Parliament and the Council.*

SPANISH PARLIAMENT

First reading

3. *The European Parliament shall adopt its position at first reading and communicate it to the Council.*
4. *If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.*
5. *If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.*
6. *The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.*

Second reading

7. *If, within three months of such communication, the European Parliament:*
 - a) *approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;*
 - b) *rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;*
 - c) *proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.*
8. *If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:*
 - a) *approves all those amendments, the act in question shall be deemed to have been adopted;*
 - b) *does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.*
9. *The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.*

Conciliation

10. *The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened,*

SPANISH PARLIAMENT

on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Special provisions

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.'

3. The objective of the Proposal for a Directive of the European Parliament and Council on the recognition of professional qualifications in inland navigation repealing Council Directives 96/50/EC and 91/672/EEC (hereinafter 'the Proposal') is to facilitate labour mobility in the inland waterway transport sector by ensuring that skilled workers' qualifications are recognised throughout the Union.

4. The Proposal is addressed to the Member States and contains 37 Articles which set out in great detail the requirements that need to be met

in order to obtain the specific qualifications for taking part in navigation operations throughout the Union's inland waterway network. The core aspects of this Proposal are set out in Article 9, which states that all certificates of qualification issued in the Union and all service record books and logbooks that meet the requirements set out in the Directive will be valid on all Union inland waterways. This will facilitate the free movement of labour in the inland waterway transport sector by ensuring that skilled workers in this field can provide their services in different Member States. This in turn will facilitate the free circulation of goods as it will speed up their transport on all European Union inland waterways.

5. The Proposal is justified under the principle of subsidiarity as, in general, all aspects of transporting goods over the Union's inland waterway network are transnational. Moreover, the reality is that there are differences in the national legislation of Member States that undermine the functioning of the internal goods and labour markets.

The differences in the various legal arrangements governing professional qualifications in the internal navigation sector throughout the European Union cannot be entirely resolved by the Member States individually or in the framework of international conventions. What is needed are legal provisions that ensure that all national laws comply with common standards that would eliminate any barriers to the recognition of navigation certificates issued by the competent authorities. We can therefore conclude that the Proposal under examination complies with the principle of subsidiarity.

CONCLUSION

For the aforementioned reasons, the Joint Committee on the European Union finds that the Proposal for a Directive of the European Parliament and Council on the recognition of professional qualifications in inland navigation repealing Council Directives 96/50/EC and 91/672/EEC complies with principle of subsidiarity laid down in the Treaty on European Union currently in force.