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Directorate General Internal Market and Services
KNOWLEDGE-BASED ECONOMY
Professional qualifications

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LIST OF JUDGMENTS OF THE COURT OF JUSTICE CONCERNING PROFESSIONAL RECOGNITION

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21.06.1974, **Reyners 2/74**, *ECR*, 1974, p. 00631. Lawyers

Right of establishment

Direct effect of Article 52 EC (now Article 43) after completion of the transition period (01.01.1970).

Official authority

The exception to Article 55 (1) EC (now Article 45 (1)) relating to the exercise of official authority must be restricted to activities which in themselves involve a direct and specific connection with the exercise of official authority; it is not possible to give this description to activities such as consultation and legal assistance or the defence of the parties in court even if the performance of these activities is compulsory or there is a legal monopoly in respect of it.

03.12.1974, **Van Binsbergen 33/74**, *ECR*, 1974, p. 01299. Legal advice

Provision of services.

Direct effect of Article 59 (now Article 49) after completion of the transition period (01.01.1970)

Host country legislation.

Application of rules justified by the general good (in particular rules relating to organisation, qualifications, professional ethics, supervision and liability).

12.12.1974, **Walrave 36/74**, *ECR*, 1974, p. 01405. Sport

- Having regard to the objectives of the Community, the practice of sport is subject to Community law only in so far as it constitutes an economic activity within the meaning of Article 2 of the EC Treaty.
- The prohibition on discrimination based on nationality does not affect the composition of sport teams, in particular national teams, the formation of which is a question of purely sporting interest and as such has nothing to do with economic activity.
- The prohibition on such discrimination does not only apply to the action of public authorities but extends likewise to rules of any other nature aimed at collectively regulating gainful employment and services.
- The rule on non-discrimination applies in judging all legal relationships in so far as these relationships, by reason either of the place where they are entered into or of the place where they take effect, can be located within the territory of the Community.

28.04.1977, **Thieffry 71/76**, *ECR*, 1977, p. 00765. Lawyers, Indirect discrimination The act of demanding the national diploma prescribed by the legislation of the state of establishment, even though the diploma obtained by the person concerned in his country of origin has been recognised as an equivalent qualification and has enabled him to sit and pass the special qualifying examination for the profession of lawyer constitutes, even in the absence of the directives provided for in Article 57 (now Article 47) EC, a restriction incompatible with Article 52 (now Article 43) EC.

28.06.1977, **Patrick 11/77**, *ECR*, 1977, p. 01199. Architects

A national of a new Member State who holds a qualification recognised by the competent

¹ Additional information on exercising a professional activity is available on other Commission websites, particularly with respect to: the freedom of movement for workers, financial activities, public contracts, transport, taxation, company law, the television industry, agriculture and fisheries.

authorities of the Member State of establishment as equivalent to the certificate issued and required in that State, enjoys the right to be admitted to the profession of architect and to practise it under the same conditions as nationals of the Member State of establishment, without being required to satisfy any additional conditions.

24.11.1977, **Razanatsimba 65/77**, *ECR*, 1977, p. 02229. Convention with African, Caribbean and Pacific States (ACP)

The convention does not give a national of an ACP State the right to establish himself in the territory of a Member State of the Union without any condition as to nationality, in so far as the right to practise professions reserved by the legislation of that State to its own nationals is concerned.

07.02.1979, **Knoors 115/78**, *ECR* 1979, p. 00399. "Crafts and Industries" Directive 64/427/EEC (now Directive 1999/42/EC)

Application to nationals of the host country.

07.02.1979, **Auer 136/78**, *ECR*, 1979, p. 00437. Veterinary surgeons

Freedom of establishment. Inapplicability of Article 52 EC (now Article 43) to nationals of the host country.

17.12.1980, **Commission v. Belgium 149/79**, *ECR*, 1980, p. 03881. Jobs in public administration, Article 48 (4), (now Article 39 (4)) EC

A Member State can only reserve for its nationals, under this exception, posts which involve direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interest of the State or other public authorities.

06.10.1981, **Broekmeulen 246/80**, *ECR*, 1981, p. 02311. "Doctors" Directive 75/362/EEC (now Directive 93/15/EEC)

Further training requirements. Inadmissibility.

26.05.1982, **Commission v. Belgium 149/79**, *ECR*, 1982, p. 01845. See Judgment of 17.12.1980.

22.09.1983, **Auer 271/82**, *ECR*, 1983, p. 02727. "Veterinary Surgeons" Directives 78/1026/EEC and 78/1027/EEC

Consequences of non-implementation

15.12.1983, **Rienks 5/83**, *ECR*, 1983, p. 04233. "Veterinary Surgeons" Directives 78/1026/EEC and 78/1027/EEC

Consequences of non-implementation

12.07.1984, **Klopp 107/83**, *ECR*, 1984, p. 02971. Lawyers

Freedom of establishment. Secondary establishment. The right to set up and maintain, subject to observance of the professional rules of conduct, more than one place of work within the Community.

30.04.1986, **Commission v. France 96/85**, *ECR*, 1986, p. 01475. Doctors, Dentists

Prohibition of enrolment in a professional association on the ground of enrolment in another Member State. Incompatibility with Articles 48 (now Article 39), 52 (now

Article 43) and 59 (now Article 49).

12.06.1986, **Bertini 98, 162 and 258/85**, *ECR*, 1986, p. 01885

No provision of Community law requires the Member States to limit the number of students admitted to medical faculties by introducing a *numerus clausus* system.

15.10.1986, **Commission v. Italy 168/85**, *ECR*, 1986, p. 02945. Tourism, Journalism, Pharmacy

Condition of reciprocity or nationality incompatible with Article 52 (now Article 43) EC.

15.10.1987, **Heylens 222/86**, *ECR*, 1987, p. 04097. Trainer

It must be possible for a decision refusing to recognise the equivalence of a diploma to be made the subject of judicial proceedings. The person concerned must be able to ascertain the reasons for the decision.

19.01.1988, **Gullung 292/86**, *ECR*, 1988, p. 00111. Lawyers, "Provision of Services" Directive 77/249/EEC

Provision of services

- Dual nationality. A person who is a national of two Member States and who has been admitted to a legal profession in one of those States may rely, in the territory of the other State, upon the provisions of Directive 77/249/EEC, where the conditions for the application of that Directive, as defined therein, are satisfied.

-Professional ethics. The provisions of the Directive may not be relied upon by a lawyer established in one Member State with a view to pursuing his activities as a provider of services in the territory of another Member State where he had been barred from access to the profession of lawyer in the latter Member State for reasons relating to dignity, good repute and integrity.

Establishment

A Member State whose legislation requires lawyers to be registered at a Bar may impose the same requirement on lawyers from other Member States who take advantage of the right of establishment guaranteed by the Treaty in order to establish themselves as members of a legal profession in the territory of the first Member State.

25.02.1988, **Commission v. Germany 427/85**, *ECR*, 1988, p. 01123. Lawyers, "Provision of Services" Directive 77/249/EEC

Requirement to act in conjunction with a lawyer established on German territory, even where under German law there is no requirement of representation by a lawyer. Requirement that the German lawyer must himself be the authorised representative or defending counsel in the case. Reduction of the role of the lawyer providing the service to that of a subordinate assistant. Making lawyers providing services subject to the rule of territorial exclusivity. Infringement of Article 59 (now Article 49) EC and the "lawyers" Directive 77/249/EEC

15.03.1988, **Commission v. Greece C-147/86**, *ECR*, 1988, p. 01637. Private Education

The requirement of nationality for setting up private education is incompatible with Articles 39 (ex-article 48), 43 (ex-article 52) and 49 (ex-article 59) EC.

14.07.1988, **Commission v. Greece 38/87**, *ECR*, 1988, p. 04415. Lawyers, Architects, Civil engineers, Geodetic surveyors.

The requirement of Greek nationality for access to the profession is an infringement of Articles 52 (now Article 43) and 59 (now Article 49) EC.

27.09.1988, **Humbel 263/86**, *ECR*, 1988, p. 05365. Secondary education

Provision of services. Courses taught in a technical institute which form part of the secondary education provided under the national education system do not constitute a service within the meaning of Article 59 (now Article 49) EC.

30.05.1989, **Commission v. Greece 305/87**, *ECR*, 1989, p. 01461. Property transactions

The prohibition on legal acts in respect of immovable property situated in border regions is an infringement of Articles 12 (ex-article 6), 39 (ex-article 48), 43 (ex-article 52) and 49 (ex-article 59).

30.05.1989, **Allué 33/88**, *ECR*, 1989, p. 01591. Foreign language assistants

Employment as a foreign-language assistant at a university does not fall within the exception relating to employment in the public service.

27.09.1989, **van de Bijl 130/88**, *ECR*, 1989, p. 03039. "Crafts and Industries"

Directive 64/427/EEC (now Directive 1999/42/CE), House painter

Actual duration of professional experience in another Member State. The granting of authorisation to take up an activity on the basis of a certificate drawn up by the competent authority of the Member State from which the person concerned comes. Training may have been received in a Member State other than that in which the activities in question were actually pursued.

28.11.1989, **Groener 379/87**, *ECR*, 1989, p. 03967. Language knowledge

The requirement of linguistic knowledge for a permanent full-time post as lecturer in public vocational education institutions is compliant with Community law.

03.10.1990, **Bouchoucha C-61/89**, *ECR*, 1990, p. I-03551. Paramedical professions (osteopathy)

In the absence of harmonisation at Community level, a Member State may restrict an activity ancillary to medicine exclusively to persons holding the qualification of doctor of medicine.

12.12.1990, **Commission v. France C-263/88**, *ECR*, 1990, p. I-04611. Overseas Countries and Territories (OCT), Medical professions.

A Member State must allow nationals of other Member States in possession of the requisite qualifications to establish themselves or provide services in its overseas countries and territories.

12.12.1990, **Kaefer C-100/89 et C-101/89**, *ECR*, 1990, p. I-04647. Overseas Countries and Territories (OCT), Equal treatment, Reciprocity.

The prohibition of discrimination may be relied on (before the relevant authorities of a country or a territory) by a national of a Member State other than the one with which with which that country or territory maintains special relations, for the purpose of establishing himself or providing services there, provided that the person concerned satisfies the conditions required of nationals not established in that country or territory and if the Member State of which he is a national accords the same treatment to persons from the country or territory in question.

26.02.1991, **Commission v. France C-154/89, Italy C-180/89 and Greece C-198/89**, *ECR*, 1991, p. I-00659. Tourist guides

Provision of services. Professional qualification prescribed under national law. Disproportionate measure.

23.04.1991, **Höfner C-41/90**, *ECR*, 1991, p. I-01979. Executive recruitment consultants

Provision of services. Internal situation. A firm in a Member State may not rely on Articles 12 (ex-article 6) and 49 (ex-article 59) of the Treaty regarding the procurement of nationals of that Member State for posts in undertakings in the same State.

07.05.1991, **Vlassopoulou C-340/89**, *ECR*, 1991, p. I-02357. Lawyers

Requirement for the host 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 these 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.

10.07.1991, **Commission v. France C-294/89**, *ECR*, 1991, p. I-03591. Lawyers

Provision of services. Exclusion of nationals practising as lawyers in another Member State from the provision of services. The obligation to work in conjunction with a local lawyer in certain cases. Rule applicable to local lawyers concerning the territorial exclusivity of the right to plead. Infringement of Article 59 (now Article 49) EC and the "lawyers" Directive 77/249/EEC.

25.07.1991, **Commission v. Italy C-58/90**, *ECR*, 1991, p. I-04193. Auxilliary occupations in the field of health care

Restriction to Italian nationals of the possibility of obtaining recognition in Italy of foreign qualifications which entitle holders to pursue these occupations. Incompatibility with Articles 48 (now Article 39), 52 (now Article 43) and 59 (now Article 49) EC.

27.07.1991, **Säger C-76/90**, *ECR*, 1991, p. I-04221. Activities relating to the maintenance of industrial property rights

Requirement of a professional qualification that is quite specific and disproportionate to need. Incompatibility with Article 59 (now Article 49) EC.

27.11.1991, **Bleis C-4/91**, *ECR*, 1991, p. I-05627. Secondary education

Employment as a secondary school teacher does not come within the exemption relating to employment in the public service (Article 39 (4) ex-article 48 (4)) EC.

21.01.1992, **Egle C-310/90**, *ECR*, 1992, p. I-00177. "Architects" Directive 85/384/EEC (Article 4(1)(a))

Education and training which last for four years and which include practical semesters organised and supervised by the *Fachhochschule* must be regarded as four years of full-time studies.

28.01.1992, **Brea C- 330/90 and Palacios C-331/90**, *ECR*, 1992, p. I-00323. "Real estate" and "business services not elsewhere classified)Directive 67/43/EEC (now Directive 1999/42/EC)

Activities reserved in the real estate sector to persons practising as estate agents within a regulated profession. Compatibility with the Directive.

07.05.1992, **Borrell C-104/91**, *ECR*, 1992, p. I-03003. Estate agents

Obligation on the Member State to study the comparability of knowledge and qualifications. Prohibition upon the illegal exercise of an occupation. Compatibility with Article 52 (now Article 43) EC.

20.05.1992, **Ramrath C-106/91**, *ECR*, 1992, p. I-03351. Auditors

Articles 48 (now Article 39) and 59 (now Article 49) EC do not preclude a Member State, in its own territory, from making practice as an auditor by a person already authorised so to practise in another Member State subject to conditions which are objectively necessary for ensuring compliance with professional rules and which relate to a permanent infrastructure for carrying out the work, actual presence in that Member State and supervision of compliance with practice rules, unless compliance with such rules and conditions is already ensured through an auditor, whether a natural or legal person, who is established and authorised in that State's territory and in whose service the person who intends to practise as an auditor is employed for the duration of his work.

16.06.1992, **Commission v. Luxembourg C-351/90**, *ECR*, 1992, p. I-03945.

Doctors, Dentists, Veterinary surgeons

Right of a person established in a Member State or performing an employed activity there, to set himself up or to take up employment in another Member State whilst maintaining his employment in the first Member State.

25.06.1992, **Laderer C-147/91**, *ECR*, 1992, p. I-04097. Interpretation of the "Real estate" and "business activities not elsewhere classified" Directive 67/43/EEC (now Directive 1999/42/EC)

31.03.1993, **Kraus C-19/92**, *ECR*, 1993, p. I-01663. Post-graduate academic title

An authorisation procedure for the use of titles obtained in another Member State is not contrary to Community law, provided that it is intended solely to verify whether the postgraduate academic title was properly awarded, that the procedure is easily accessible and does not call for the payment of excessive administrative fees.

09.02.1994, **Haim C-319/92**, *ECR*, 1994, p. I-00425. "Dentists" Directive 78/686/EEC

- The Directive does not oblige Member States to recognise diplomas awarded following

training in a third country.

- The host Member State that requires a preparatory training period for dentists working for a health insurance company must take into account experience gained by the applicant in another Member State.

• 09.02.1994, **Tawil-Albertini C-154/93**, *ECR*, 1994, p. I-00451. "Dentists" Directive 78/686/EEC

The Directive does not oblige Member States to recognise diplomas awarded following training in a third country (see **Haim judgment 319/92** of the same date).

23.02.1994, **Scholz C-419/92**, *ECR*, 1994, p. I-00505. Recognition of professional activity

Obligation on the part of the host Member State to take into account the length of employment in the civil service of another Member State when awarding additional points with regard to the final grade of the candidate.

22.03.1994, **Commission v. Spain C-375/92**, *ECR*, 1994, p. I-00923. Tourist guides and guide-interpreters

Spain has failed to fulfil its obligations under Articles 48 (now Article 39), 52 (now Article 43), 59 (now Article 49) and 5 (now Article 10) EC

- by making access to the profession of tourist guide and guide-interpreter subject to the possession of Spanish nationality,

- by failing to establish a procedure for examining qualifications acquired by a Community national who holds a diploma as tourist guide or guide-interpreter issued in another Member State and comparing them with those required by Spain,

- by making the provision of services by tourist guides travelling with a group of tourists from another Member State, where those services consist in guiding such tourists in places other than museums and historical monuments which may be visited only with a specialised professional guide, subject to possession of a licence which requires specific training evidenced by a diploma,

- by failing to provide to the Commission the information requested concerning the regulations of the Autonomous Communities regarding the activities of tourist guide and guide-interpreter.

09.08.1994, **Dreessen C-447/93**, *ECR*, 1994, p. I-4087. "Architects" Directive 85/384/EEC, Article 11, a), fourth dash (indent?)

A diploma that is not included in the exhaustive list under the Directive cannot be recognised by Community law by virtue of acquired rights.

06.12.1994, **Commission v. Spain C-277/93**, *ECR*, 1994, p. I-05515. "Doctors" Directives 75/362/EEC and 75/363/EEC (now Directive 93/16/EEC)

By not providing remuneration for the periods of training necessary to obtain in Spain a formal qualification in Stomatology ("Estomatologia"), Spain has failed to fulfil its obligations under the Directives.

01.06.1995, **Commission v. Italy C-40/93**, *ECR*, 1995, p. I-1319. "Dentists" Directive 78/686/EEC

By deferring the final date set in the Directive, with regard to diplomas in medicine and

surgery, until the academic year 1984/1985, Italy failed to fulfil its obligations.

01.06.1995, **Commission v. Greece C-123/94**, ECR, 1995, p. I-01457. Private language schools

Maintaining in force provisions under which,

- the recruitment of foreign teachers requires authorisation by the Ministry for National Education and Religious Affairs,

- only persons possessing the qualifications required of teachers within public education may teach in a private school, the Minister being able to decide that the qualifications of Greek nationals who do not satisfy that condition are adequate,

constitutes a discrimination that is contrary to Community law.

30.11.1995, **Gebhard C-55/94**, ECR, 1995, p. I-04165. Lawyers

Provision of services

The temporary nature of the provision of services has to be determined in the light of its duration, regularity, periodicity and continuity. The provider of services may equip himself with some form of infrastructure in the host Member State for the purpose of performing the services in question.

Establishment

- A national of a Member State who pursues a professional activity on a stable and continuous basis in another Member State where he holds himself out from an established professional base to, amongst others, nationals of that State, comes under the right of establishment and not the provision of services.

- The possibility for a national of a Member State to exercise his right of establishment and the conditions for his exercise of that right, must be determined in the light of the activities which he intends to pursue on the territory of the host Member State.

- Where the taking-up of a specific activity is not subject to any rules in the host State, a national of any other Member State will be entitled to establish himself in the first State and pursue that activity there. On the other hand, where the taking-up or pursuit of a specific activity is subject to certain conditions in the host Member State, a national of another Member State intending to pursue that activity must in principle comply with them.

Fundamental freedoms

National measures liable to hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty must fulfil four conditions. 1. They must be applied in a non-discriminatory manner. 2. They must be justified by imperative requirements in the general interest. 3. They must be suitable for securing the attainment of the objective that they pursue. 4. They must not go beyond what is necessary in order to attain it.

Equivalence of diplomas

The Member States must take account of the equivalence of diplomas and, if necessary, proceed to a comparison of the knowledge and qualifications required by their national rules and those of the person concerned.

15.12.1995, **Bosman C-415/93**, ECR, 1995, p. I-4921. Sport

- Article 48 (now Article 39) EC precludes the application of rules laid down by sporting

associations, under which a professional footballer who is a national of one Member State may not, on the expiry of his contract with a club, be employed by a club of another Member State unless the latter club has paid to the former club a transfer, training or development fee.

- Article 48 precludes the application of rules laid down by sporting associations under which, in matches in competitions which they organise, football clubs may field only a limited number of professional players who are nationals of other Member States.

01.02 1996, **Aranitis C-164/94**, ECR, 1996, p. I-00135. Geologist

"Higher education diplomas" Directive 89/48/EEC

Notion of regulated profession. A profession cannot be described as regulated when there are in the host Member State no laws, regulations or administrative provisions governing the taking-up or pursuit of that profession or of one of its modes of pursuit, even though the only education and training leading to it consists of at least four and a half years of higher-education studies on completion of which a diploma is awarded and, consequently only persons possessing that higher education diploma as a rule seek employment in, and pursue, that profession.

Non-regulated profession

The competent authorities of the host Member State are required to take into consideration the diplomas, knowledge, qualifications and other evidence of qualifications that the person concerned has obtained in order to pursue a profession in the Member State of origin or from which he comes.

29.02.1996, **Commission v. Italy C-307/94**, ECR, 1996, p. I-01011. "Pharmacists"
Directive 85/432/EEC

By postponing from 1 October 1987 to 1 November 1990 the time-limit laid down by the Directive and by retaining to the latter date curricula for training in pharmacy which are incompatible with the Directive, Italy failed to fulfil its obligations under the Directive.

30.04.1996, **Boukhalfa C-214/94**, ECR, 1996, p. I-02253. Professional activity in a third country

The prohibition of discrimination based on nationality applies to a national of a Member State who is permanently resident in a third country, who is employed by another Member State in its embassy in that non-member country and whose contract of employment was entered into and is permanently performed there, as regards all aspects of the employment relationship which are governed by the legislation of the employing Member State.

12.12.1996, **Kontogeorgas C-104/95**, ECR, 1996, p. I-06643. Interpretation of the "Commercial agents" Directive 86/653/EEC (now Directive 1999/42/EC)

05.06.1997, **Ergasias C-398/95**, ECR, 1997, p. I-03091. Tourist guides, provision of services

- the rules of a Member State which, by prescribing a mandatory legal form of employment relationship between the parties, prevent tourist and travel agents, wherever they are established, from concluding, in connection with the operation of tourist programmes organised by them in that Member State, a contract for the provision of services with a tourist guide from another Member State who is licensed to pursue his profession in the first State constitute a barrier for the purposes of Article 59 (now Article

49) EC.

- Such rules cannot be justified by reasons relating to the general interest in maintaining industrial peace as a means of bringing a collective labour dispute to an end and thereby preventing any adverse effects on an economic sector, and consequently on the economy of the State.

17.06.1997, **Sodemare C-70/95**, *ECR*, 1997, p. I-03395. Home for elderly persons. Non-profit making.

16.10.1997, **Garofalo C-69/96 to C-79/96**, *ECR*, 1997, p. I-05603. "Doctors" Directive 93/16/EC

A Member State may determine the acquired rights of practitioners of general medicine as regards situations prior to 1 January 1995, provided only that it recognises the right of doctors established in practice there before that date to practise general medicine under its national social security scheme, even if they have no specific training in general medical practice and have not established a service relationship with that State's social security scheme.

15.01.1998, **Schöning C-15/96**, *ECR*, 1998, p.I-00047. Previous professional activity taken into account

A collective agreement applicable to the public service of a Member State which provides for promotion on grounds of seniority for the employees of that service after eight years' employment in a salary group determined by that agreement, must take account of previous periods of comparable employment completed in the public service of another Member State.

07.05.1998, **Clean Car C-350/96**, *ECR*, 1998, p. I-02521. Manager, Residence Condition

Article 48 (now Article 39) EC precludes a Member State from providing that the owner of an undertaking exercising a trade on the territory of that State may not appoint as manager a person not resident there.

16.07.1998, **Fédération belge des chambres syndicales de médecins C-93/97**, *ECR*, 1998, p. I-04837. "Doctors" Directive 93/16/EEC, Specific training in general medical practice

- The Directive does not make access to specific training in general medical practice subject to the condition that a diploma, certificate or other evidence of formal qualifications referred to in that Directive must first be obtained.

- The nature of the activities that the candidate must pursue in the course of the specific training in general medical practice does not necessarily imply that he should have obtained a diploma, certificate or other evidence of formal qualifications referred to in the Directive before starting such training. It is for the Member States to determine whether, and if so to what extent, the participation of a person undergoing training in general medical practice in the activities and responsibilities of the persons with whom he works in his training means that he should hold the diploma, certificate or other evidence of formal qualifications referred to in the Directive.

29.10.1998, **Commission v. Spain C-114/97**, *ECR*, 1998, p. I-06717. Private

security activities

A Member State cannot make the grant of authorisation to carry on private security services, in the case of security companies, subject to the requirement that they are nationals of that State and that their directors and managers should reside there and that security staff should possess that nationality.

25.02.1999, **Carbonari C-131/97**, *ECR*, 1999, p. I-01103. "Doctors" Directives 75/362/EEC and 75/363/EEC (now Directive 93/16/EEC)

- The obligation to provide appropriate remuneration for periods of training in specialised medicine is binding only in respect of the medical specialities which are common to all the Member States or to two or more of them and are mentioned in the Directive.
- That obligation is unconditional and sufficiently precise in so far as it requires, for a medical specialist to be able to benefit from the system of mutual recognition established by the Directive, that his training be full-time and remunerated.
- That obligation in itself does not, however, enable the national court to determine which body is liable to pay the appropriate remuneration or the level thereof.

08.07.1999, **Bobadilla C-234/97**, *ECR*, 1999, p. I-04773. Restorer of cultural property "Higher education diplomas" Directives 89/48/EEC and "professional and educational training" 92/51/EEC

- Article 48 (now Article 39) EC does not preclude the terms of a collective agreement which applies to a public body in a Member State and restricts the right to practise within that body a particular profession which is not regulated for the purposes of the Directives, solely to those in possession of a qualification awarded by an educational establishment in that Member State or of any other foreign qualification which has been officially recognised by the competent authorities of that Member State.
- The competent authorities of that Member State are, however, required to consider, in the case of diplomas awarded in another Member State, the extent to which the knowledge and qualifications certified by the diploma awarded to the person concerned correspond to those required under the legislation of the host Member State. Where they correspond only in part, it is also for these authorities to assess whether the knowledge acquired by the person concerned during a course of study or by way of practical experience is sufficient to show possession of knowledge to which the foreign diploma does not attest.

06.06.2000, **Angonese C-281/98**, *ECR*, 2000, p. I-04139. Language knowledge

Where an employer makes a person's admission to a recruitment competition subject to a requirement to prove evidence of his linguistic knowledge exclusively by means of one particular diploma, such as the Certificate, issued only in one particular province of a Member State, that requirement constitutes discrimination on grounds of nationality contrary to Article 39 (ex-article 48) EC.

04.07.2000, **Haim II C-424/97**, *ECR*, 2000, p. I-05123. "Dentists" Directive 78/686/EEC, Language requirements

The competent authorities of a Member State may make the appointment, as a dental practitioner, of a national of another Member State, who is established in the first Member State and authorised to practise there but has none of the qualifications mentioned in the Directive, conditional upon his having the linguistic knowledge

necessary for the exercise of his profession in the Member State of establishment (imperative reasons of general interest, subject, however, to respect for the principle of proportionality).

14.09.2000, **Erpelding C-16/99**, *ECR*, 2000, p. I-06821. "Doctors" Directive 93/16/EEC

- A doctor who has obtained in another Member State a diploma in specialised medicine which does not appear on the list of specialist training courses in the Directive, may not rely on Article 19 of that Directive to use the corresponding professional title of specialist in the host State.

- Interpretation of Article 10(1) of the Directive. This Article refers only to the right of beneficiaries of the system of mutual recognition of diplomas established by the Directive to use their academic title and if appropriate its abbreviation, in the language of the Member State of origin. It is for the host Member State to authorise the use in its territory of the academic title or an equivalent title in a language other than that of the Member State of origin.

14.09.2000, **Hocsman C-238/98**, *ECR*, 2000, p. I-06623. Article 43 EC (ex-article 52), "Doctors" Directive 93/16/EEC, Third country diploma

In the case of diplomas, certificates and other evidence of formal qualifications obtained in a third country and already recognised by a first Member State, the host Member State must take into consideration all the diplomas, certificates and other evidence of formal qualification of the person concerned and his relevant experience, by comparing the knowledge and abilities certified by those diplomas and that experience, both in the Community and in third countries, with the knowledge and qualification required by the national rules.

03.10.2000, **Corsten C-58/98**, *ECR*, 2000, p. I-07919. Free Provision of Services, Directive 64/427/EEC, Skilled services in the building trade

A Member State may not make the carrying out, on its territory, of skilled trade work by providers of services established in other Member States subject to an authorisation procedure which is likely to delay or complicate exercise of the right to freedom to provide services, where examination of the conditions governing access to the activities concerned has been carried out and it has been established that those conditions are satisfied. Furthermore, any requirement of entry on the trades register of the host Member State, assuming it were justified, should neither give rise to additional administrative expense nor entail compulsory payment of subscriptions to the chamber of trades.

03.10.2000, **Gozza and others C-371/97**, *ECR*, 2000, p. I-07881. Remuneration for training in specialised medicine

Obligation by the Member States, under the supervision of the national court, to provide remuneration for doctors undergoing training in specialised medicine, even for the period prior to late transposal of the Directive into national law.

23.11.2000, **Commission v. Spain C-421/98**, *ECR*, 2000, p. I-10375. "Architects" 85/384/EEC

Incorrect transposal of Articles 2 and 10 of the Directive by Spanish provisions establishing a restriction - inadmissible since a Directive has established equivalence

between the Member States' professional qualifications - upon exercise of the profession of architect according to the definition of the profession within the Member State awarding the diploma, where this definition is narrower than that of the host State.

18.01.2001, **Commission v. Italy C-162/99**, ECR, 2001, p. I-00541. Dentists, Residence condition

The residence condition required by the Italian authorities for registration on the dentists' association constitutes a restriction upon the freedom of establishment and the free movement of workers.

Furthermore, the provision that only dentists of Italian nationality may remain registered with their professional association upon transferring their residence to another Member State constitutes discrimination based on nationality.

01.02.2001, **Mac Quen, C-108/96** ECR, 2001, p. I-00837. Opticians, Restriction of activity

Article 43 EC (ex-article 52) does not preclude a Member State from reserving, within the context of the correction of purely optical defects, the objective examination of a client's eyesight, that is to say, an examination which does not use a method under which the client alone determines the optical defects from which he is suffering, to a category of professionals holding specific qualifications, such as ophthalmologists, to the exclusion, in particular, of opticians that are not medical doctors, for reasons relating to the protection of public health.

29.11.2001, **Commission v. Italy C-202/99**, ECR, 2001, p. I-09319. "Dentists" Directive 78/687/EEC

- Incorrect transposal of the "dentists" Directive by maintaining a second system of training for entry into the dental profession (medical qualification combined with a specialist diploma as a dental practitioner).

- The possibility of double registration on the registers of medical and dental practitioners for doctors mentioned in Article 19 of the Directive.

22.01.2002, **Dreessen II C-31/00**, ECR, 2002, p. I-00663. "Architects" Directive 85/384/EEC, Diploma out of the scope of the Directive.

Obligation on the host Member State to take into consideration all the diplomas, certificates and other evidence of formal qualifications of the person concerned, and his relevant experience, by comparing the specialised knowledge and abilities so certified with the knowledge and qualifications required by the national legislation, even when a directive on the mutual recognition of diplomas has been adopted for the profession concerned, but where application of that Directive does not result in automatic recognition of the applicant's qualification or qualifications.

This judgment thus makes the "Vlassopoulou" case law explicitly applicable to all Community qualifications in architecture (and by extension to other professions covered by sectoral directives) which do not satisfy the minimum training criteria laid down by these directives.

19.02.2002, **Wouters C-309/99**, ECR, 2002, p. I-01577. Lawyers, Prohibition of multi-disciplinary partnerships between members of the Bar and accountants, Restriction of competition

Freedom of establishment and freedom to supply services

It is not contrary to Articles 43 and 49 of the EC Treaty (ex-articles 52 and 59) for a

national regulation to prohibit any multi-disciplinary partnerships between members of the Bar and accountants, since that regulation could reasonably be considered to be necessary for the proper practice of the legal profession, as organised in the country concerned.

Competition law

A professional regulation applicable to all members, which is adopted by the Bar of the Netherlands, as a body governing the profession, is to be treated as a decision adopted by an association of undertakings within the meaning of Community competition law. The Dutch regulation could, nevertheless, reasonably impose restrictive measures necessary for the proper practice of the legal profession, despite the inherent effects of competition restriction.

07.03.2002, **Commission v. Italy C-145/99**, *ECR*, 2002, p. I-02235. Lawyers

The following provisions are respectively contrary to Articles 49 and 43 EC (ex-articles 59 and 52) and to Directive 89/48/EEC:

- the general prohibition whereby lawyers established in other Member States and practising in Italy in the exercise of their freedom to provide services cannot have in that State the infrastructure needed to provide their services,
- the obligation of residence in the judicial district of the court to which the Bar at which they are enrolled is attached,
- the absence of rules regulating the conduct of the aptitude test for lawyers from other Member States.

21.03.2002, **Commission v. Italy C-298/99**, *ECR*, 2002, p. I-03129. "Architects"
Directive 85/384/EEC

Incorrect transposal of the Directive with respect to the mutual recognition of qualifications in the field of architecture and access to the profession of architect (as a result of the obligation to produce the original diploma or a certified copy thereof, the requirement to supply an official translation of all documents, the requirement to supply a certificate of nationality, the requirement for architects established in another Member State who wish to provide services in Italy to register with the professional body for architects in order to supply services, and the general prohibition whereby architects established in other Member States who wish to provide services in Italy under the freedom to provide services, cannot have the infrastructure needed to provide their services.

11.07.2002, **Gräbner C-294/00** *ECR*, 2002, p. I-06515. Paramedical activity
(training, advertising)

- The restriction by a Member State of the exercise of the activity of a "Heilpraktiker" (non-medical practitioner) within the meaning of German legislation to persons with a doctor's qualification is not contrary to Community law.
- A Member State may prohibit the organisation of training in this activity by certain institutions in addition to advertising relating to the arrangements for such training.
- A Member State may not, however, prohibit advertising for training offered in another Member State, if this advertising states where the training is to take place and mentions the fact that the profession of Heilpraktiker may not be exercised in the first Member State.

13.02.2003, **Commission v. Italy C-131/01** *ECR*, 2003. Patent agents

A rule requiring patent agents established in other Member States to be enrolled on the

register of patent agents in the host Member State and to have a residence or place of business in that Member State in order to provide services is contrary to the freedom to provide services.

19.06.2003, **Tennah-Durez C-110/01**, *Recueil*, 2003. "Doctors" Directive 93/16/EEC, Article 23 (2) (only training given in a Member State university or under the supervision of the latter complies with minimum training requirements for automatic recognition), Member State diploma attesting training partially received in a third country.

Training received, even mainly in a third country, comprises medical training within the meaning of Article 23 (2) of Directive 93/16/EEC provided that the competent authority of the Member State awarding the diploma is in a position to validate the training and to conclude on that basis that it duly serves to meet the requirements for the training of doctors laid down by the directive.

The authorities of the host Member State are bound by a certificate issued by the competent authorities of another Member State to state that the training was awarded in accordance with the minimum requirements of the directive. In the event of new factors which give rise to serious doubts as to the authenticity or the compliance of the diploma, they can re-open the matter of verification with the authorities of the Member State awarding the relevant diploma.

9.9.2003, **Rinke C-25/02**. "Doctors" Directive 93/16/EEC, Obligation of completing full-time training periods. Equal treatment of men and women.

13.11.2003, **Neri C-153/02**, *ECR*, 2003. Freedom of establishment - Recognition of a degree issued by a university established in a Member State - Courses of study in preparation for a degree awarded in another Member State and by another educational establishment.

An administrative practice under which degrees awarded by a university of one Member State cannot be recognised in another Member State when the courses of preparation for those degrees were provided in the latter Member State by another educational establishment in accordance with an agreement made between the two establishments is incompatible with Article 43 EC.

13.11.2003, **Morgenbesser C-313/01**, *ECR*, 2003. Freedom of establishment - Recognition of diplomas - Access to activity of *praticante*

A trainee lawyer undertaking the necessary period of practice for admission to the bar (*praticante avvocato* in Italy) cannot be required to obtain recognition of his or her diplomas obtained in other Member State if this period includes activities for remuneration. In this case, it is the case-law on Articles 39 and 43 EC that applies: the national authorities must undertake a comparison of the knowledge (qualifications and professional experience) of the person in question with the requirements laid down by national law.

9.09.2003, **Burbaud C-285/01**, *ECR* 2003. Access to the profession of hospital manager in the public service - Directive 89/48/EEC – Entrance examination for a training establishment

Where a national of a Member State holds a diploma obtained in one Member State which is equivalent to the diploma required in another Member State in order to take up

employment in the public service, Community law precludes the authorities of the second Member State from making that national's access to the employment in question subject to his passing a competition such as the entrance examination for the *École nationale de la santé publique* [National School of Public Health] (Entrance examination for a training establishment).

29.4.2004, **Beuttenmüller C-102/02**: failing to transpose the Directive 92/51, the Member State cannot refuse to recognise a qualification or impose a compensatory measure. Confirmed by Peros C-141/04 and Aslanidou C-142/04

19.01.2006, **Colegio de Ingenieros C-330/03**: recognition for partial access to a profession

7.09.2006, **Price C-149/05**: legal profession for which the migrant has not the choice between the two compensating measures

19.9.2006, **Com v. Lux C-193/05** and **Wilson C-506/04**: incompatible language requirements for the establishment of lawyers under the professional title pursuant to Directive 98/5

24.11.2007, **Com v. Portugal C-43/06** architects: admission test to architects order

23.10.2008, **Com v. Spain C-286/06**: condemns the requirement of academic recognition

23.10.2008, **Com v. Greece C-274/05** franchised education Directive 89/48: it applies to diplomas issued in the host Member State but by the competent authorities of another Member State

4.12.2008, **Com v. Greece C-84/07** franchised education: same as for Directive 92/51

29.01.2009, **Cavallera C-311/06**: Directive 89/48 can not be invoked for a title that does not endorse any training and it is not based on an examination or a professional experience.

10.12.2009, **Pesla C-345/08** access to legal professions training, confirms and completes the judgment Morgenbesser of 13.11.2003

17.12.2009, **Rubino C-586/08** regulated profession (not): university teacher