

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive on a general system for the recognition of higher education diplomas awarded on completion of vocational courses of at least three years' duration ⁽¹⁾

COM(86) 257 final

(Submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty on 13 May 1986)

(86/C 143/04)

⁽¹⁾ OJ No C 217, 28. 8. 1985, p. 3.

INITIAL PROPOSAL

AMENDED PROPOSAL

Title

Council Directive on a general system for the recognition of higher education diplomas

Title

Council Directive on a general system for the recognition of higher education diplomas *awarded on completion of vocational courses of at least three years' duration*

Citations unchanged

First three recitals unchanged

Fourth recital

Whereas the objective can be achieved by the introduction of a general system for the recognition of higher education diplomas;

Fourth recital

Whereas the objective can be achieved by the introduction of a general system for the recognition of higher education diplomas **awarded on completion of vocational courses of at least three years' duration**;

Fifth to seventh recitals unchanged

Eight recital

Whereas, moreover, in addition to conditions relating to the professional qualifications necessary to the pursuit of a professional activity, conditions relating to personal qualities such as good repute may be imposed if required in the host Member State;

Eight recital

Whereas, moreover, **the general system for the recognition of higher education diplomas is not intended either to modify the rules applicable to any person pursuing a professional activity in the territory of a Member State or to exclude migrants from the application of those rules; whereas that system is confined to providing special arrangements to enable migrants to comply in a different manner with the professional rules of the host Member State, including those relating to professional ethics**;

Ninth recital

Whereas, Articles 49, 57 (1) and 66 of the Treaty empower the Community to adopt provisions necessary to introduce and operate such a system for the general recognition of higher education diplomas;

Ninth recital

Whereas, Articles 49, 57 (1) and 66 of the Treaty empower the Community to adopt the provisions necessary for the introduction and operation of such a system;

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Tenth and eleventh recitals unchanged

Article 1

For the purposes of this Directive the following definitions shall apply:

- (a) higher education diploma: any diploma, certificate or other evidence of formal qualifications awarded by a university or other higher education establishment following a course of at least three years' study open, as a general rule, only to persons holding a certificate awarded on successful completion of a full course of upper secondary education;

Article 1

For the purposes of this Directive the following definitions shall apply:

- (a) higher education diploma: any diploma, certificate, or other evidence of formal qualifications **awarded in recognition of vocational study at the level of university or non-university higher education by a competent authority of a Member State**, following a course of at least three years' **duration** open, as a general rule, only to persons holding a certificate awarded on successful completion of a full course of upper secondary education;

Points (b) and (c) unchanged

- (d) period of supervised practice for the purpose of qualification adjustment: the pursuit of a profession in the host Member State under the supervision of a qualified member of that profession, it being understood that such supervised practice may be accompanied by a period of further training and shall be subject to rules laid down by the host Member State.

- (d) period of supervised practice for the purpose of qualification adjustment: the pursuit of a profession in the host Member State under the supervision of a qualified member of that profession, it being understood that such supervised practice may be accompanied by a period of further training. **This period of supervised practice shall form the subject of an assessment relating to the work performed by the person under supervision. The detailed rules shall be laid down by the host Member State.**

Article 2

This Directive shall apply to any national of a Member State wishing to pursue a profession in a host Member State as an employed person or in a self-employed capacity.

This Directive shall not apply to professions which are the subject of a Directive establishing arrangements for the mutual recognition of higher education diplomas by Member States.

Article 2

This Directive shall apply to any national of a Member State wishing to pursue a profession in a host Member State as an employed person or in a self-employed capacity **who has not benefited from recognition of his professional qualifications under other provisions of Community law.**

Article 3 unchanged

*Article 4**Article 4*

Paragraph 1 (a) unchanged

Paragraph 1 (b), first indent unchanged

Second indent

Second indent

- where, in the case referred to in Article 3 (a), the profession as regulated in the host Member State covers a range of professional activities differing in part from those regulated in the Member State from which the applicant comes and that difference corresponds to a specific higher education programme required only in the host Member State;

- where, in the case referred to in Article 3 (a), the profession as regulated in the host Member State covers a range of professional activities differing in part from those regulated in the Member State from which the applicant comes and that difference corresponds to a specific higher education programme required only in the host Member State **and covering subjects which differ substantially from those covered by the higher education diploma or diplomas adduced by the applicant;**

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Third indent

- where, in the case referred to in Article 3 (b), the profession as regulated in the host Member State covers a range of professional activities differing in part from those pursued by the applicant in the Member State from which he comes, and that difference corresponds to a specific higher education programme required in the host Member State and not covered by the higher education diploma or diplomas adduced by the applicant;

Paragraph 1 (c)

- (c) to undergo the period of supervised practice required in the host Member State, or provide evidence of having completed in another Member State a period of professional experience equal in duration to that required period of supervised practice where the host Member State makes the taking up or pursuit of a profession subject to possession of a certificate awarded on completion of a period of supervised practice undergone after the required higher education diplomas have been obtained.

Paragraph 2 unchanged

Article 5

The provisions of Article 3 and Article 4 (1) (b) and (c) shall also apply where the host Member State makes the taking up or pursuit of a profession subject to possession of one or more diplomas which are not higher education diplomas within the meaning of this Directive but are awarded on completion of a course of study open as a general rule only to persons holding a certificate awarded on successful completion of a full course of upper secondary education.

Article 6

1. Where a host Member State requires of its nationals wishing to take up or pursue a profession proof of good character, good reputation, proof that they have not previously been declared bankrupt or proof of any one of these, that State shall accept as sufficient evidence, in respect of nationals of other Member States, the production of an extract from the 'judicial record' or, failing this, an equivalent document issued by a competent judicial or administrative authority in another Member State showing that those requirements are met.

Where the Member State from which the foreign national comes does not issue the documents referred to in the preceding paragraph, they may be replaced by a declaration on oath — or, in States where there is no provision for such declaration, by a solemn declaration — made before a competent judicial or administrative authority or, where appropriate, a notary in the host country.

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Third indent

- where, in the case referred to in Article 3 (b), the profession as regulated in the host Member State covers a range of professional activities differing in part from those regulated in the Member State from which the applicant comes and that difference corresponds to a specific higher education programme required only in the host Member State **and covering subjects which differ substantially from those covered by the higher education diploma or diplomas adduced by the applicant;**

Paragraph 1 (c)

- (c) to undergo the period of supervised practice **required in the host Member State of any person who has newly received authorization to pursue the profession in question, unless he is able to provide evidence of having completed in another Member State a period of professional experience equal in duration to that required period of supervised practice.**

Article 5

The provisions of Article 3 and Article 4 (1) (b) and (c) shall also apply where the host Member State makes the taking up or pursuit of a profession subject to possession of one or more diplomas which are not higher education diplomas within the meaning of this Directive.

Article 6

1. Where a host Member State requires of persons wishing to take up a profession proof that they are of good character or reputation or that they have not been declared bankrupt, or suspends or prohibits the pursuit of that profession in the case of persons convicted of certain criminal offences or breaches of professional discipline, that State shall accept as sufficient evidence, in respect of nationals of Member States wishing to pursue that profession in its territory, the production of documents issued by competent authorities in the Member State from which the foreign national comes showing that those requirements are met.

Where the documents referred to in the first subparagraph cannot be issued by the Member State from which the foreign national comes, they shall be replaced by a declaration on oath — or in States where there is no provision for such declaration, by a solemn declaration — made before a competent judicial or administrative authority or, where appropriate, a notary in the host country.

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Paragraph 2 unchanged

3. The documents and certificates referred to in paragraphs 1 and 2 may not be presented more than three months after their date of issue.

3. **Host Member States may require that** the documents and certificates referred to in paragraphs 1 and 2 are presented **no** more than three months after their date of issue.

Paragraph 4 unchanged

Article 7

1. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use their lawful academic title and, where appropriate, the abbreviation thereof. If the said academic title can be confused with an academic title conferred in the host Member State, the latter may require that it be followed by the name and location of the establishment or examining board which awarded it.

2. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use the same professional title as their own nationals.

Article 7

1. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use their lawful academic title and, where appropriate, the abbreviation thereof. If the said academic title can be confused with an academic title conferred in the host Member State, the latter may require that it be followed by the name and location of the establishment or examining board **of the country** which awarded it.

2. Host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a profession in their territory to use **the professional title corresponding to that profession.**

*Article 8**Article 8*

Paragraph 1 unchanged

2. The procedure for examining an application to pursue a profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than three months after presentation of all the documents relating to the person concerned, without prejudice to delays resulting from any appeal that may be made upon the termination of that procedure.

2. The procedure for examining an application to pursue a profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than three months after presentation of all documents relating to the person concerned. **A right of appeal shall lie to the courts of the host Member State in accordance with the national law of that State.**

*Article 9**Article 9*

1. The Member States shall designate, within the period provided for in Article 11, the competent authorities empowered to receive the applications and take the decisions referred to in this Directive. They shall communicate this information to the other Member States and to the Commission.

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They shall establish arrangements enabling the representatives of the professions concerned and of higher education establishments to take part in the decision-making process.

Paragraphs 2 and 3 unchanged

Articles 10 and 11 unchanged

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Article 12

Five years at the latest following the dates specified in Article 11, the Commission shall report to the Council on the state of application of the general system for the recognition of higher education diplomas.

After conducting all necessary consultations, the Commission shall, on this occasion, present its conclusions as to any changes that need to be made to the system as it stands.

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Article 12

Five years at the latest following the date specified in Article 11, the Commission shall report to the Council **and to the European Parliament** on the state of application of the general system for the recognition of higher education diplomas **awarded on completion of vocational courses of at least three years' duration.**

After conducting all necessary consultations, the Commission shall, on this occasion, present its conclusions as to any changes that need to be made to the system as it stands.

Article 13 unchanged
