



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Modernisation of the Single Market

Professional Qualifications and Skills

Brussels, 29/03/2019

Valcke & Associates

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Belgium

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Subject: Complaints CHAP(2018)2457 and CHAP (2018)2458.

Dear Mr Valcke,

Thank you for your mail of 26 November 2018 and your comments therein.

Indeed as we are outside the scope of the Directive 2005/36/EC, Italy is not bound by its rules.

However, in such a case, according to the *Morgenbesser* case-law¹: "It is therefore the duty of the competent authority to examine, in accordance with the principles set out by the Court of Justice in *Vlassopoulou* and *Fernández de Bobadilla*, whether, and to what extent, the knowledge certified by the diploma granted in another Member State and the qualifications or professional experience obtained there, together with the experience obtained in the Member State in which the candidate seeks enrolment, must be regarded as satisfying, even partially, the conditions required for access to the activity concerned."

That examination procedure must enable host Member State's authorities to assure themselves, on an objective basis, that the foreign diploma certifies that its holder has knowledge and qualifications which are, if not identical, at least equivalent to those certified by the national diploma. That assessment of the equivalence of the foreign diploma must be effected exclusively in the light of the level of knowledge and qualifications which its holder can be assumed to possess in the light of that diploma, having regard to the nature and duration of the studies and practical training to which the diploma relates.²

In light of the above, if Italian authorities consider Italians who have received training as teachers in another EU Member State not qualified to access directly the profession itself, they should nevertheless assess the knowledge and qualifications acquired. To the extent

¹ Case C-313/01, *Morgenbesser*, 13 November 2003, ECLI:EU:C:2003:612, paragraph 67.

² See Case C-222/86, 15 October 1987, *Unectef v Heylens*, ECLI:EU:C:1987:442, paragraph 13.

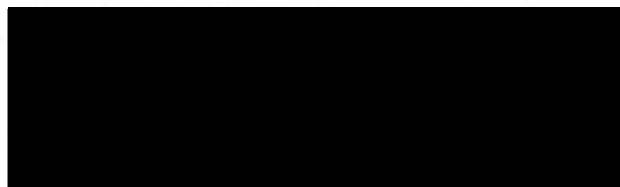
that this assessment leads to a decision of equivalence it should enable the Italians students to participate as appropriate in the competition in the relevant category in view to entering the practical teacher training (FIT). In fact, according to information enshrined in the law³, the possibility to access this training does not mean accessing the profession directly.

Finally, the examination made to determine whether the knowledge and qualifications certified by the foreign diploma and those required by the legislation of the host Member State correspond, must be carried out by the national authorities in accordance with a procedure which is in conformity with the requirements of European law concerning the effective protection of the fundamental rights conferred by the Treaty on Community nationals. It follows that any decision taken by the national authorities in connection with that examination must be capable of being made the subject of judicial proceedings in which its legality under European law can be reviewed and that the person concerned must be able to ascertain the reasons for the decision taken in his regard.⁴

In view of the above, it is clear that while EU law provides EU citizens with certain rights in situations as those described in previous paragraphs, it is not in the remit of the Commission to substitute national authorities in the relevant assessment. Any complaint against their decision and justifications should be addressed through the national redress mechanisms taking also into account the legal analysis mentioned above.

After having reviewed your additional comments/observations sent by mail on 26 November 2018, we confirm that we close the cases in subject, considering our previous preclosure letter informing of the results of the examination and of the elements added in this note.

Your sincerely,



Deputy Head of Unit

Contact:



³ Decreto legislativo n.59 13 Aprile 2017, Supplementario ordinario alla Gazzetta Ufficiale n.112 del 16 Maggio 2017 Seria generale.

⁴ See the judgment in *UNECTEF v Heylens*, cited above, paragraph 17, and in C-340/89, *Vlassopoulou*, 7 May 1991, ECLI:EU:C:1991:193, paragraph 22.