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<Commission>{PETI}Committee on Petitions</Commission>

<Date>{04/03/2024}4.3.2024</Date>

<TitreType>NOTICE TO MEMBERS</TitreType>

Subject: <TITRE>Petition No 1425/2020 by Giovanni Esposito (Italian), on behalf of the Italian National Council of Industrial Experts (the CNPI – Consiglio Nazionale dei Periti Industriali e dei Periti Industriali Laureati), on the incorrect transposition of Directive 2013/59/Euratom by the Italian Government

Petition No 1433/2020 by Guerino Ferri (Italian) on the alleged failure of Italy to implement in full Directive 2013/59/Euratom</TITRE>

1. Summary of petition

Petition 1425/2020

The petitioner says that Legislative Decree No 101 of 31 July 2020, which transposes Directive 2013/59/Euratom into Italian law, has infringed national legislation on professional expertise and professional bodies. Specifically, he says that the aforementioned Legislative Decree only recognises engineers, architects and building surveyors as having expertise in providing protection against radon, thereby excluding the professional categories of industrial experts and industrial experts with a construction degree. This creates discrimination between professions exercising similar activities and infringes the principle of proportionality and free competition.

Petition 1433/2020

The petitioner expresses concern at the fact that Legislative Decree No 101 of 31 July transposing Directive 2013/59/Euratom into Italian law, disqualifies industrial and graduate industrial building experts from engaging in radon decontamination work, reserving this area of activity exclusively for engineers, architects and surveyors. He argues that, by virtue of their university studies, industrial experts have the same level of qualifications as engineers, architects and surveyors and are just as able to carry out operations such as radon decontamination in buildings. He indicates that the provision in question is accordingly resulting in unlawful discrimination between professional categories with equivalent qualifications and skills engaged in exactly the same areas of activity, thereby undermining the internal market in services, not to mention consumers’ rights.

2. Admissibility

Petition 1425/2020 declared admissible on 23 March 2021.

Petition 1433/2020 declared admissible on 26 March 2021.

Information requested from Commission under Rule 227(6).

3. Commission reply, received on 23 September 2021

The petitioners claim that the recently adopted Legislative Decree No 101 of 31 July 2020 which transposes Directive 2013/59/Euratom[[1]](#footnote-1), laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, into Italian law, has infringed national legislation on professional expertise and professional bodies, by depriving the so-called ‘industrial experts’ and ‘qualified industrial experts’ from the right to be recognised as ‘radon remediation experts’.

While it is not for the Commission to assess the compatibility of the above-mentioned Decree with existing national legislation, based on the analysis performed by the responsible Commission services, the petitioners’ claims seem to relate to Definition 40 (‘Radon remediation expert’), Article 15 (‘Radon remediation experts’) and Section I of Annex II (‘Exposure to radon’) to Legislative Decree No 101 of 31 July 2020, which set out the education, training, and expertise requirements for the recognition of such experts, who are tasked with providing technical advice for the adoption of remedial measures for the reduction of radon concentration in buildings.

In this context, it should be highlighted that while the Directive does require Member States to take radon-reducing measures in buildings, it does not impose an obligation on them to recognize ‘radon remediation experts’ or any other equivalent concept. It is therefore for the Italian authorities to decide on the education, training and recognition requirements of such experts.

Conclusion

In light of the above, the Commission considers that the information included in the petitions does not give grounds for any action to be taken by the Commission in the present case. Any conflict between the above-mentioned Decree and existing national legislation should be brought to the attention of the national administrative and/or judicial authorities, as necessary.

4. Commission reply (REV I), received on 22 July 2022

The petitioners claim that the Legislative Decree No 101 of 31 July 2020 which transposes Council Directive 2013/59/Euratom[[2]](#footnote-2), laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, into Italian law, goes against the existing national legislation on professional expertise and professional bodies, by depriving the so-called ‘industrial experts’ and ‘qualified industrial experts’ from the right to be recognised as ‘radon remediation experts’. According to the Italian Decree, only professionals registered in the professional register of engineers, architects and surveyors can pursue the activity of ‘radon remediation experts’. The petitioners highlight that all professions in question are subject to the same level of educational and training requirements corresponding to the level of the European Qualifications Framework (EQF) 6. In addition, professionals from other Member States having an EQF 6 level and performing the activities of ‘radon remediation experts’ will also have to register in Italy in the professional register of engineers, architects and surveyors.

While it is not for the Commission to assess the compatibility of the above-mentioned Decree with existing national legislation, based on the analysis performed by the responsible Commission services, the petitioners’ claims seem to relate to Definition 40 (‘radon remediation expert’), Article 15 (‘radon remediation experts’) and Section I of Annex II (‘exposure to radon’) of Legislative Decree No 101 of 31 July 2020, which set out the education, training, and expertise requirements for the recognition of such experts, who are tasked with providing technical advice for the adoption of remedial measures for the reduction of radon concentration in buildings.

In this context, it should be highlighted that while Council Directive 2013/59/Euratom requires Member States to take radon-reducing measures in buildings, it does not impose an obligation on them to recognise ‘radon remediation experts’ or any other equivalent concept, leaving it thus to the Italian authorities to determine the education, training and recognition requirements of such experts. However, when establishing which professions can carry out activities of ‘radon remediation experts’, Italy must comply with other applicable EU legislation in particular Directive 2005/36/EC[[3]](#footnote-3) on recognition of professional qualifications and with the fundamental freedoms guaranteed by Articles 49 and 56 of the Treaty on the Functioning of the EU (TFEU).

In that regard, the Commission services note that the petitioner did not provide any element showing a refusal of registration of a foreign professional having an EQF 6 level in the professional register of engineers, architects and surveyors. In addition, the question of whether activities of ‘radon remediation experts’ could also be open to ‘industrial experts’ and ‘qualified industrial experts’ working in Italy is a purely national matter and does not, as such, have any impact on foreign professionals. Furthermore, the fact that engineers, architects and surveyors are required to have the same level of training, i.e EQF 6, as ‘industrial experts’ and ‘qualified industrial experts’, is not decisive. The fact that ‘industrial experts’ and ‘qualified industrial experts’ have the same training level does not necessarily mean that they are also qualified to carry out the same activity.

Conclusion

In light of the above, the Commission considers that the information provided in the petitions does not give grounds for any action to be taken by the Commission on the basis of Directive 2005/36/EC on recognition of professional qualifications or Articles 49 and 56 TFEU.

There are no grounds to take any action on the basis of Council Directive 2013/59/Euratom either, for the reasons explained above.

5. Commission reply (REV II), received on 17 May 2023

**Petitions 1425/2020 (and linked petition 1433/20) – additional document sent by the petitioner**

The Commission’s observations

The petitioner claims that the Legislative Decree No 101 of 31 July 2020 which transposes Council Directive 2013/59/Euratom[[4]](#footnote-4), laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, into Italian law, breaches the EU internal market rules, and in particular the provisions of the Directive (EU) 2018/958[[5]](#footnote-5). This is because, according to the provisions of the Legislative Decree No 101, only professionals registered in the professional register of engineers, architects and surveyors can pursue the activity of ‘radon remediation experts’.

The present additional document provided by the petitioner is essentially based on the arguments already developed against the reservation of the activity of ‘radon remediation experts’ to engineers, architects and surveyors and the non-respect, by Italy, of rules stemming from Directive (EU) 2018/958.

Furthermore, the Commission has been informed by the Italian authorities on a planned amending of the legislation transposing Directive 2013/59/Euratom, for better compliance with the proportionality criteria. The planned amendment provides that the activities in question are reserved for all professionals with a professional qualification to carry out design activities for building works.

Conclusion

The Commission is of the opinion that the present petition is therefore without purpose. The Commission remains in contact with the Italian authorities and continues monitoring the adoption of new rules by Italy.

6. Commission reply (REV III), received on 04 March 2024

**Petitions 1425/2020 (and linked petition 1433/20)**

The Commission's observations

The petitioner claimed that the Legislative Decree No 101 of 31 July 2020 which transposes Council Directive 2013/59/Euratom[[6]](#footnote-6), laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation into Italian law, breaches the EU internal market rules, and in particular the provisions of the Directive (EU) 2018/958[[7]](#footnote-7). This is because, according to the provisions of the Legislative Decree No 101, only professionals registered in the professional register of engineers, architects and surveyors can pursue the activity of ‘radon remediation experts’.

As regards the professional categories allowed to work as ‘radon remediation experts’ in Italy, it should be recalled that Council Directive 2013/59/Euratom does not impose an obligation on Member States to recognise ‘radon remediation experts’ or any other equivalent concept, leaving it thus to the Italian authorities to determine their education, training, and recognition requirements.

Furthermore, on 25 November 2022, Legislative Decree No 203 was adopted (<https://www.gazzettaufficiale.it/eli/id/2023/01/03/22G00207/sg>) amending, among others, the provisions of the Annex II, Section I, paragraph 2 of the Legislative Decree No 101/2020 concerning the requirements for the recognition of radon remediation experts. With this amendment, the activity of ‘radon remediation experts’ is not reserved anymore solely to engineers, architects, and surveyors.

Conclusion

In light of the above, the Commission considers that the substantive grounds of the present petition are beyond the obligations under Council Directive 2013/59/Euratom and have been addressed by the Legislative Decree No 203 of 25 November 2022. Any perceived conflict between the above-mentioned Decrees and existing national legislation, if necessary, can be brought to the attention of the national administrative and/or judicial authorities.

1. Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, OJ L 13, 17.1.2014, p. 1–73. [↑](#footnote-ref-1)
2. Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, OJ L 13, 17.1.2014, p. 1–73. [↑](#footnote-ref-2)
3. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (Text with EEA relevance), OJ L 255, 30.9.2005, p. 22–142. [↑](#footnote-ref-3)
4. Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, OJ L 13, 17.1.2014, p. 1–73. [↑](#footnote-ref-4)
5. Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions OJ L 173, 9.7.2018, p. 25 [↑](#footnote-ref-5)
6. Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, OJ L 13, 17.1.2014, p. 1–73. [↑](#footnote-ref-6)
7. Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions OJ L 173, 9.7.2018, p. 25 [↑](#footnote-ref-7)