



22.8.2024

NOTICE TO MEMBERS

Subject: Petition No 0276/2024 by Fernando Hontangas Molina (Spanish), on behalf of CSIF – Health, on the recognition of the qualifications of certain health professionals

1. Summary of petition

The petitioner calls for the health qualifications of certain health professionals to be recognised in Spain in the framework of the Bologna Process: clinical and biomedical laboratory technicians, higher technicians in anatomical pathology and cytodiagnosis, higher imaging technicians for diagnostics and nuclear medicine, and higher technicians in radiotherapy and dosimetry. In total, there are more than 40 000 of these professionals working in the national health system, in addition to those working in the private sector. Although that number cannot be confirmed, as there is no corresponding data, the CSIF estimates that there are between 12 000 and 13 000 higher technicians working in the private sphere, in biomedical research laboratories, and in public and private universities. The petitioner notes that the issue has already been raised with the Spanish Ministry of Universities (28 December 2021) and with the Ministry of Health, although no response has been obtained. He states that the Bologna Process, launched in 1999, aims to create a harmonised European Higher Education Area by promoting mobility, transparency and quality assurance in higher education systems across Europe. Whilst considerable progress has been made in achieving those objectives, significant challenges remain, in particular as regards the recognition of health qualifications for certain categories of health professionals. In his view, these barriers undermine the principles of free movement and equal opportunities within the European Union, and make it difficult for these qualified professionals to contribute effectively to cross-border health systems. The current discrepancies and inconsistencies in recognition procedures create unnecessary bureaucratic obstacles and perpetuate inequalities among healthcare workers. The petitioner asks the Committee on Petitions for its support and guidance in dealing with this matter.

2. Admissibility

Declared admissible on 6 June 2024. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 22 August 2024

This petition concerns the organisation and level of professional training for certain health-related professions¹ in Spain and the recognition of these professional qualifications in other Member States. It should be clarified from the outset that the Bologna process, which the petitioner refers to, does not regulate the cross-border recognition of professional qualifications. The Bologna process is a voluntary intergovernmental higher education cooperation covering 49 countries. The goals of the Bologna process are to facilitate student and staff mobility, make higher education more inclusive and accessible, and make European higher education more attractive and competitive worldwide. Among the key commitments of the process is the compliance with the Lisbon Recognition Convention on recognition of qualifications² for academic purposes. The process improves transparency between higher education systems; facilitates comparison between study cycles; and implements tools to encourage easier recognition of degrees and academic qualifications, mobility, and exchanges between institutions.

Given that the Bologna process does not fall within the EU legal framework, the Commission does not have the powers to interfere with the Member States' implementation of the process. Nevertheless, since the objectives of the Bologna Process correspond to those of the EU, in particular in terms of student mobility³, the Commission has actively encouraged Member States to promote academic mobility and to practice wide recognition of appropriate academic qualifications.⁴ Additionally, in order to ease the practical difficulties related to the recognition of qualifications across EU borders without recourse to legal proceedings, the EU has encouraged the Member States to put in place National Academic Recognition Information Centres (NARIC Network)⁵, which can often help to solve academic recognition problems through direct contacts between the centres of the countries concerned. It must be emphasized, however, that the work of the centers relies primarily on the national law and that the final decision on recognition still remains within the purview of the national authorities.

The rules on cross-border recognition of professional qualifications are set out in Directive

¹ Technicians of clinical and biomedical laboratories, senior technicians of pathological anatomy and cytopathology, senior imaging technicians for diagnostic and nuclear medicine and senior technicians in radiotherapy and dosimetry.

² <https://www.coe.int/en/web/higher-education-and-research/lisbon-recognition-convention>

³ Article 165(2) of the Treaty on the Functioning of the EU lists “encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study” as one of the objectives of the EU action in the field of education. Seeking to achieve this objective, the Commission has, inter alia, put in place the [European Education Area strategic framework](#).

⁴ See e.g. [Council Recommendation of 26 November 2018 on promoting automatic mutual recognition of higher education and upper secondary education and training qualifications and the outcomes of learning periods abroad \(OJ C 444, 10.12.2018, p. 1\)](#), adopted on the proposal from the Commission; as well as the recent Commission Proposal for a [Council Recommendation on a European Quality Assurance and Recognition System in Higher Education, COM/2024/147 final](#)

⁵ More information about the governance of the ENIC-NARIC Networks is available here: <https://www.enic-naric.net/about-the-governance-of-the-enic-naric-networks.aspx>

2005/36/EC⁶, which facilitates the free movement of professionals within the EU. Directive 2005/36/EC is applicable when Member States regulate professions by making access to professional activities subject to the possession of specific professional qualifications.⁷ Within the scope of the Directive and within the limits of the principles of non-discrimination and proportionality, it is for Member States to decide if and how to regulate professions on their territory. Further, it is important to note that in line with Article 165 and 166 of the Treaty on the Functioning of the European Union, it falls within the competence of Member States to decide on the content and organisation of education systems. Therefore, while the EU can support and supplement the action of Member States, as well as encourage cooperation between Member States, the EU cannot harmonise educational systems. For certain specific professions, Directive 2005/36/EC sets out minimum training requirements on an EU level, and holders of qualifications compliant with these requirements benefit from automatic cross-border recognition of professional qualifications for access to regulated professions.⁸ There is a possibility under the Directive to introduce automatic cross-border recognition for additional professions under certain conditions, in particular, there must already be a substantial alignment in place in national education curricula, training standards and regulatory frameworks in at least nine EU Member States.⁹

The professions referred to in this petition do not benefit from automatic recognition. For these professions it is instead the general system of recognition that applies, which is set out in Chapter I of Title III of Directive 2005/36/EC. Under the general system of recognition, it is for the Member State in which a person wishes to practice a profession (the host Member State) to decide whether that person's qualifications can be recognised for access to the given profession regulated in that country, in accordance with the rules of the general system as set out in Directive 2005/36/EC. In that context, when comparing the qualifications of such person and the national requirements, the host Member State must take into account all the diplomas, certificates and other evidence of formal qualifications of the person concerned and that person's relevant experience. If the comparative examination of diplomas and professional experience results in the finding that the knowledge and qualifications of the person in question correspond to those required by the national provisions, the competent authorities of the host Member State must recognise that diploma and the professional experience as fulfilling the requirements laid down by its national provisions. In this regard it is noted that for qualifications to be recognised it is not necessary that the education of the person is of the same European Qualifications Framework¹⁰ (EQF) level as the education of the host Member State.

The European Qualifications Framework (EQF) is a common reference framework of eight levels of qualifications, expressed as learning outcomes with increasing levels of proficiency. They serve as a translation device between different qualifications systems and their levels. The purpose of the European Qualifications Framework for lifelong learning is to improve the transparency, comparability and portability of people's qualifications. Currently, 36 countries

⁶ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

⁷ For further information on Directive 2005/36/EC, please see the User Guide on Directive 2005/36/EC, which can be found here: https://single-market-economy.ec.europa.eu/single-market/services/free-movement-professionals/recognition-professional-qualifications-practice_en

⁸ The professions that benefit from automatic recognition are the following: nurses responsible for general care, midwives, doctors, dentists, pharmacists, architects, and veterinary surgeons.

⁹ [Common training frameworks - European Commission \(europa.eu\)](https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&code=sdg_8_4_10)

¹⁰ [The European Qualifications Framework \(EQF\) | Europass <https://europass.europa.eu/en/europass-digital-tools/european-qualifications-framework#:~:text=The%20EQF%20covers%20all%20types,and%208%20the%20highest%20level.>](https://europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&code=sdg_8_4_10)

have formally linked/referenced their national qualifications framework to the European Qualifications Framework. However, Spain has not yet linked its framework; consequently, Spanish qualifications do not have formal EQF levels. The Commission expects Spain to complete the referencing of the Spanish Qualifications Framework with the EQF in November this year. Further, it should be noted that the rules under Directive 2005/36/EC evolved since the petitions of 2007 that the petitioner refers to. They were changed by the amending Directive 2013/55/EC. Article 11 of Directive 2005/36/EC divides professional qualifications into 5 levels: a, b, c, d, e, depending on the duration and type of training to which they correspond. In line with Article 13(1) of the amended Directive 2005/36/EC, the host Member State must permit access to the regulated profession on its territory under the same conditions as apply to its nationals to applicants possessing formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory. An exception to this is a situation where an applicant's professional qualifications are classified under level a, while the professional qualifications required to exercise a profession in the host Member State are classified under level e, as set out in Article 13(4). Also please note that Member States can impose compensation measures in line with Article 14 of Directive 2005/36/EC (a knowledge test or an adaptation period) in case of substantial differences between the qualifications required in the host Member State and the qualifications of the applicant. However, before imposing compensation measures on the applicant, the host Member State must first verify if the knowledge, skills and competences acquired by the applicant in the course of their professional experience or through lifelong learning, are of such nature as to cover these substantial differences. Each decision imposing an adaptation period, or an aptitude test must be duly justified and subject to appeal. In cases where a professional considers that a Member State is not applying the above-mentioned rules under Directive 2005/36/EC correctly, they may want to use means of redress (administrative or judicial) available at the national level to challenge decisions taken by national authorities or to obtain compensation. In such cases, the professionals concerned may also want to consider contacting the assistance centre for Directive 2005/36/EC.¹¹

Conclusion

While Directive 2005/36/EC aims at facilitating cross-border mobility, the organisation of professional training and regulation of professions falls within the competence of Member States, within the limits of non-discrimination and proportionality. Therefore, any requests for changes to the national requirements for access to professions mentioned in this petition, including the required professional training, must be pursued on a national level with the Spanish competent authorities.

¹¹ The contact information of assistance centres can be found here: https://single-market-economy.ec.europa.eu/single-market/services/free-movement-professionals_en