



Professional activities subject to rules issued by a private organisation recognised by a Member State are to be regarded as activities not regulated by that Member State

Recognition, in another Member State, of qualifications relating to those activities must be based on continuous and regular professional experience, covering a range of activities characteristic of the profession

The directive for the recognition of higher education diplomas¹ provides for two mechanisms of recognition of higher education diplomas, according to whether the applicant holds a diploma issued in a Member State which regulates that profession, or whether the applicant has pursued the profession in question full-time for two years in another Member State which does not regulate that profession.

While in Greece the profession of environmental engineer is regulated by the State, it is not in the United Kingdom. The pursuit there of that profession is regulated to a certain extent by the Engineering Council (a private organisation expressly referred to in Directive 89/48). Membership of that organisation is not obligatory in order to pursue the engineering profession.

Ms Christina Toki, a Greek national, obtained Bachelor of Engineering and Master of Science degrees in environmental engineering at the end of the 1990s in the United Kingdom. From 1999 to 2002 she worked for the University of Portsmouth, in the Department of Civil Engineering. Her activities included research work, assisting the work of students and assessing the effectiveness of a pioneering method of waste processing in collaboration with a private undertaking which specialised in that field.

She then applied for recognition in Greece of her right to pursue there the profession of environmental engineer, on the basis of the qualifications and experience acquired in the United Kingdom. Her application was rejected in 2005 by the Council for the Recognition of the Equivalence of Higher Education Diplomas (Symvoulío Anagnōrīsis Epangelmatikīs Isotīmias Titlōn Tritovathmīas Ekpaidefsīs), because she was not a full member of the Engineering Council and consequently did not hold the title of Chartered Engineer.

Mme Toki brought an action against that decision before the Symvoulío tis Epikrateias (Greece), and that court seeks from the Court of Justice clarification of the conditions established by the general system for the recognition of higher education diplomas where a profession is regulated by a private organisation such as the Engineering Council and where the applicant for recognition is not a full member of such an organisation.

The Court notes, first, that the Greek legislation transposing the directive has the effect of excluding the application of the **mechanism of recognition** based on professional experience where the person has acquired his/her education and training in a Member State in which the

¹ Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989 L 19, p. 16).

pursuit of that profession is regulated not by the Member State itself but by private organisations recognised by that Member State.

In respect of the professions concerned, the Court holds that **solely the mechanism of recognition which requires full-time pursuit of the profession for at least two years is applicable**. That mechanism of recognition is applicable **irrespective of whether the person concerned is, or is not, a member, of the organisation concerned**.

The Court then states the three requisite conditions governing whether **professional experience** should be taken into account.

First, the professional experience must consist of **full-time work for at least two years during the previous ten years**. That test enables the host Member State to have the benefit of safeguards comparable to those in place where the profession is regulated by the Member State of origin. The organisational and regulatory framework, or whether the institution where the profession was pursued was profit making, are not relevant factors. Whether the profession was pursued in a self employed capacity or as an employed person is also not relevant.

Second, **the work must have consisted of the continuous and regular pursuit of a range of professional activities which characterise the profession concerned in the Member State of origin**. That work need not encompass all activities characteristic of the profession. The question of which professional activities are characteristic of a specific profession is a question of fact which must be resolved by the competent authorities of the host Member State, subject to review by the national courts and tribunals. If the profession is not a regulated profession in the Member State of origin, reference should be made to the professional activities normally pursued by the members of that profession in that Member State.

Third, **the profession, as it is normally pursued in the Member State of origin, must be equivalent, in respect of the activities which it covers, to the profession which the person has sought authorisation to pursue in the host Member State**. The directive covers professions which, in the Member State of origin and the host Member State, are identical or analogous or, in some cases, simply equivalent in terms of the activities they cover.

The Court considers that the activities pursued by Ms Toki, such as research work or assisting the work of students, do not constitute actual pursuit of the profession of environmental engineer: they do not therefore constitute professional experience which should be taken into account for the recognition in Greece of the British qualifications. On the other hand, the work of assessment carried out in collaboration with a private company which specialised in technology relating to liquid waste processing might constitute actual pursuit of the profession concerned. If it were to be established that Ms Toki actually pursued the profession of environmental engineer in the United Kingdom, it would then be necessary to determine whether that profession constitutes the same profession as that which she has sought to pursue in Greece. **It is for the competent authorities of the host Member State to verify those matters of fact.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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