

Case C-330/03

Colegio de Ingenieros de Caminos, Canales y Puertos

v

Administración del Estado

(Reference for a preliminary ruling from the Tribunal Supremo)

(Freedom of movement for workers — Recognition of diplomas — Directive 89/48/EEC — Profession of engineer — Partial, restricted recognition of professional qualifications — Articles 39 EC and 43 EC)

Opinion of Advocate General Léger delivered on 30 June 2005 I - 803
Judgment of the Court (First Chamber), 19 January 2006 I - 826

Summary of the Judgment

1. *Freedom of movement for persons — Freedom of establishment — Workers — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration — Directive 89/48 (Council Directive 89/48)*

2. *Freedom of movement for persons — Freedom of establishment — Workers — Recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration — Directive 89/48*
(Arts 39 EC and 43 EC; Council Directive 89/48, Art. 4(1))

1. When the holder of a diploma awarded in one Member State applies for permission to take up a regulated profession in another Member State, the competent authorities of that Member State are not precluded by Directive 89/48 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 from partly allowing that application, if the holder of the diploma so requests, by limiting the scope of the permission to those activities which that diploma allows to be taken up in the Member State in which it was obtained.

(see para. 26, operative part 1)

2. When the holder of a diploma awarded in one Member State applies for permission to take up a regulated profession in another Member State, Articles 39 EC and 43 EC do not preclude a Member State from not allowing partial taking-up of a profession, restricted to the pursuit of one or more activities covered by that profession, where shortcomings in the

education or training of the party concerned in relation to that required in the host Member State may be effectively made up for through the application of the compensatory measures provided for in Article 4(1) of Directive 89/48 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.

However, Articles 39 EC and 43 EC do preclude a Member State from not allowing that partial taking-up when the party concerned so requests and the differences between the fields of activity are so great that in reality a full programme of education and training is required, unless the refusal for that partial taking-up is justified by overriding reasons based on the general interest, suitable for securing the attainment of the objective which they pursue and not going beyond what is necessary in order to attain that objective.

(see paras 27, 39, operative part 2)