



Press and Information

Court of Justice of the European Union

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Judgment in Case C-940/19

Les chirurgiens-dentistes de France and Others v Ministre des Solidarités et de la Santé and Others

Member States may authorise partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications, which include certain healthcare professions

A distinction must be drawn between the ‘professionals’ benefiting from automatic recognition and the ‘professions’ for which partial access may be introduced

A dispute arose between a number of professional organisations in the healthcare sector,¹ on the one hand, and the Ministre des Solidarités et de la Santé (Minister for Solidarity and Health), the Ministre de l’Enseignement supérieur, de la Recherche et de l’Innovation (Minister for Higher Education, Research and Innovation) and the Premier ministre (Prime Minister), on the other hand, relating to the regulatory measures concerning certain aspects of the partial access to healthcare professions. They provide for the possibility of partial access to all healthcare professions, including professions to which the mechanism for the automatic recognition of professional qualifications applies.

The Conseil d’État (Council of State, France) asks the Court of Justice to rule on the question whether the directive on the recognition of professional qualifications² precludes a Member State from introducing the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by that directive.

In its judgment delivered today, the Court recalls, first of all, that the directive, with regard to the evidence of formal qualifications of doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists, for a system of automatic recognition of the evidence of formal qualifications based on coordinated minimum training conditions. It specifies, however, that **it is the professionals benefiting from the automatic recognition of their professional qualifications, and not the professions which are concerned by such automatic recognition, which are excluded from the partial access provided for in the directive. Thus, the EU legislature intended to distinguish between the use of the term ‘professions’ and that of ‘professionals’.**

The Court recalls, next, that where there are overriding reasons of general interest, a Member State should be able to refuse partial access, in particular for health professions if they have public health or patient safety implications. Health professions include, inter alia, professions concerned by the automatic recognition of professional qualifications, such as those of doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists which benefit from automatic recognition. Therefore, the fact that partial access to those professions may be refused presupposes that, as a rule, partial access to those professions is not excluded.

¹ The association Les Chirurgiens-Dentistes de France, the Confédération des syndicats médicaux français, the Fédération des syndicats pharmaceutiques de France, the Syndicat des biologistes, the syndicat des laboratoires de biologie clinique, the Syndicat des médecins libéraux and the Union dentaire as well as the Conseil national de l’ordre des chirurgiens-dentistes, the Conseil national de l’ordre des masseurs-kinésithérapeutes and the Conseil national de l’ordre des infirmiers.

² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22), as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 (OJ 2013 L 354, p. 132).

According to the Court, such a partial access satisfies, first, the general objective of the abolition, as between Member States, of obstacles to the free movement of persons and services and, second, to more specific objective of granting professionals who request it partial access where, in the host Member State, the activities concerned are part of a profession with a larger scope of activities than in the home Member State and the differences between the fields of activity are so large that a full programme of education and training would be required from the professionals to compensate for shortcomings.

The Court also finds that, **in the absence of the possibility of partial access to the health professions listed above, many health professionals qualified in a Member State in order to pursue certain activities that are covered by one of those professions** but do not correspond, in the host Member State, to an existing profession, **would continue to face obstacles to mobility.**

Consequently, the directive implies that professionals benefiting from the automatic recognition of their professional qualifications are to have access to all of the activities covered by the corresponding profession in the host Member State and that they are therefore not concerned by partial access. By contrast, that provision does not imply that the professions are not concerned by partial access.

The Court concludes that **the directive does not preclude legislation allowing for the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by that directive.**

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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