JUDGMENT OF THE COURT (Second Chamber)
2 July 1998 *

In Joined Cases C-225/95, C-226/95 and C-227/95,

REFERENCE to the Court under Article 177 of the EC Treaty by the Diikitiko Protodikio, Athens, for a preliminary ruling in the proceedings pending before that court between

Anestis Kapasakalis,

Dimitris Skiathitis,

Antonis Kougiankas

and

Greek State

on the interpretation of 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),

* Language of the case: Greek.

THE COURT (Second Chamber),

composed of: R. Schintgen, President of the Chamber, G. F. Mancini (Rapporteur) and G. Hirsch, Judges,

Advocate General: C. O. Lenz,
Registrar: L. Hewlett, Administrator,

after considering the written observations submitted on behalf of:

— Mr Kapasakalis, Mr Skiathitis and Mr Kougiankas, by I. D. Pagoropoulos, of the Athens Bar,

— the Greek Government, by F. P. Georgakopoulos, Assistant Legal Adviser, and V. Pelekou, legal representative, both of the State Legal Service, and S. Vodina, specialist technical assistant in the Community Legal Affairs Department, Ministry of Foreign Affairs, acting as Agents,

— the Commission of the European Communities, by D. Gouloussis, Legal Adviser, and B. J. Drijber, of its Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of Mr Kapasakalis, Mr Skiathitis and Mr Kougiankas, represented by I. D. Pagoropoulos, the Greek Government, represented by S. Vodina and V. Kyriazopoulos, legal representative in the State Legal Service, acting as Agent, and the Commission, represented by D. Gouloussis and B. J. Drijber, at the hearing on 14 November 1996,

after hearing the Opinion of the Advocate General at the sitting on 9 January 1997,

gives the following

Judgment

1 By decisions of 30 March 1995, received at the Court on 28 June 1995, the Diikitiko Protodikio (Administrative Court of First Instance), Athens, referred to the Court for a preliminary ruling under Article 177 of the EC Treaty three questions on the interpretation of 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, hereinafter 'the Directive').

2 Those questions arose in proceedings between Mr Kapasakalis, Mr Skiathitis and Mr Kougiankas and the Greek State concerning compensation for damage allegedly caused by the latter's failure to adopt the presidential decrees provided for by national and Community law to protect the professional interests of graduates of institutes of technology.

Community law

3 The Directive sets out the circumstances in which a Member State is obliged to recognise higher-education diplomas awarded on completion of professional education and training of at least three years' duration, issued by the authorities of another Member State, as equivalent to higher-education diplomas awarded on completion of education and training in its own territory.

4 According to the tenth recital in the preamble to the Directive, the general system for the recognition of higher-education diplomas is intended neither to amend the rules, including those relating to professional ethics, applicable to any person pursuing a profession in the territory of a Member State nor to exclude migrants from the application of those rules; that system is confined to laying down appropriate arrangements to ensure that migrants comply with the professional rules of the host Member State.

5 Article 1(b) of the Directive defines 'host Member State' as any Member State in which a national of a Member State applies to pursue a profession subject to regulation in that Member State, other than the State in which he obtained his diploma or first pursued the profession in question. Article 1(d) defines 'regulated professional activity' as a professional activity, in so far as the taking up or pursuit of such activity or one of its modes of pursuit in a Member State is subject, directly or indirectly by virtue of laws, regulations or administrative provisions, to the possession of a diploma.

6 According to the first paragraph of Article 2, the Directive is to apply to any national of a Member State wishing to pursue a regulated profession in a host Member State in a self-employed capacity or as an employed person.

7 Under the first paragraph of Article 12, Member States were to take the measures necessary to comply with the directive within two years of its notification and forthwith inform the Commission thereof.

National law

8 It appears from the observations submitted to the Court that institutes of technology (hereinafter 'TEIs') are legal persons of public law set up by Law No 1404/1983 on the structure and functioning of the TEIs. They form part of the professional higher education system and are under the supervision of the Ministry of National Education and Religion, and their task is to provide an adequate theoretical and practical education for the professional application of scientific, technical, artistic or other knowledge and skills.

9 Article 25(2)(c) of Law No 1404/1983 provides that graduates of TEIs are to be recognised as having the professional rights laid down by presidential decrees issued six months at the latest before graduation of the first TEI students in existing specialisations and in the case of new specialisations at the time they are set up or when the appropriate departments are established. The same presidential decrees are to lay down the conditions and all further details of the grant of authorisation to pursue a profession where that is required.

10 Before their abolition by Law No 1404/1983, centres of higher technical and professional education (hereinafter 'KATEEs') were governed by Law No 576/1977. They were constituted of several public technical and professional colleges, with the aim of providing their students with the theoretical and practical knowledge needed to become senior managers capable of contributing to the development of a particular sector of the national economy.

11 Article 5(1) of Law No 1865/1989 provides that diplomas from KATEEs obtained after studies of three years' duration (six semesters) are equivalent to diplomas of the corresponding specialisations of TEIs.

The main proceedings

12 Mr Kapasakalis, Mr Skiathitis and Mr Kougiankas are Greek nationals, graduates of TEIs and KATEEs, who pursue the profession of technical engineer in Greece, Mr Kapasakalis and Mr Skiathitis specialising in mechanical engineering and Mr Kougiankas in construction.

13 By documents of 12 June 1993 they brought actions in the Diikitiko Protodikio, Athens, against the Greek State for damages on account of the failure to adopt the presidential decrees to protect their professional interests provided for by Article 25(2)(c) of Law No 1404/1983, and the failure to fulfil the obligation to take the necessary measures to comply with the Directive within two years. The Court of Justice held, in a judgment of 23 March 1995 (Case C-365/93 *Commission* v *Greece* [1995] ECR I-499), that Greece had failed to comply with that obligation.

14 They submit, in support of their claims, that that failure to act has had the consequence of depriving them essentially of their right to work in Greek territory in their specialist fields or to make profitable use of their diplomas.

The questions referred for a preliminary ruling

15 By decision of 30 March 1995 the Diikitiko Protodikio dismissed the actions as unfounded in so far as they concerned breach of an obligation under provisions of national law.

16 For the rest, since the national court considered that the outcome of the main proceedings depended on the interpretation of provisions of Community law, in particular the Directive, it stayed the proceedings and referred the following questions to the Court for a preliminary ruling:

'1. Does the result to be achieved by Council Directive 89/48/EEC entail the recognition of rights in favour of the individuals to whom it relates?

2. Is the content of those rights sufficiently precise to enable them to be deduced solely on the basis of the framework laid down in the provisions of that Directive?

3. Is there a causal link between the infringement by the Greek State of the obligation flowing from the provisions of Article 12 of the Directive and the damage which the applicant claims to have suffered?'

The first question

17 By its first question, the national court essentially seeks to ascertain whether a national of a Member State who is in a situation such as that of the plaintiffs in the main proceedings may rely on the rights conferred by the Directive.

18 It must be observed, first, that the Directive, which is based on Articles 49, 57(1) and 66 of the Treaty, aims to facilitate freedom of movement of persons and services by allowing nationals of the Member States to pursue a profession, on a self-employed or employed basis, in a Member State other than that in which they have obtained their professional qualifications.

19 Second, it is clear from the tenth recital in the preamble and the first paragraph of Article 2 that the Directive applies only to nationals of a Member State who

wish to pursue, on a self-employed or employed basis, a regulated profession in a Member State other than their Member State of origin, and that it is not intended to amend the rules applicable to persons pursuing a profession in the territory of a Member State.

20 In the present case, it is apparent from the decisions making the references and the observations submitted to the Court that the main proceedings concern Greek nationals working in Greece.

21 Moreover, as the Advocate General observes in point 2 of his Opinion, the plaintiffs in the main proceedings have neither worked nor studied nor obtained a diploma on completion of university or professional education in a Member State of the Community other than their country of origin.

22 Finally, it has consistently been held that the Treaty rules governing freedom of movement and acts adopted to implement them cannot be applied to activities which have no factor linking them with any of the situations governed by Community law and which are confined in all respects within a single Member State (Joined Cases C-64/96 and C-65/96 *Land Nordrhein-Westfalen* v *Uecker and Jacquet* v *Land Nordrhein-Westfalen* [1997] ECR I-3171, paragraph 16; Case C-134/95 *USSL No 47 di Biella* v *INAIL* [1997] ECR I-195, paragraph 19, and Case C-332/90 *Steen* v *Deutsche Bundespost* [1992] ECR I-341, paragraph 9).

23 It appears from the foregoing that the situation of the plaintiffs in the main proceedings has no connection whatever with any of the situations envisaged by Community law in the area of freedom of movement for persons and services, nor with the scope of the Directive.

24 In those circumstances, the answer to the first question must be that a national of a Member State in a situation which is confined in all respects within that one Member State may not rely on the rights conferred by the Directive.

The second and third questions

25 In view of the answer given to the first question, there is no need for a ruling on the second and third questions.

Costs

26 The costs incurred by the Greek Government and by the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Second Chamber),

in answer to the questions referred to it by the Diikitiko Protodikio, Athens, by decisions of 30 March 1995, hereby rules:

A national of a Member State in a situation which is confined in all respects within that one Member State may not rely on the rights conferred by 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.

Schintgen Mancini Hirsch

Delivered in open court in Luxembourg on 2 July 1998.

R. Grass R. Schintgen

Registrar President of the Second Chamber