

EPSU POSITION ON THE REPORT OF THE MOBILITY GROUP TO THE DIRECTORS-GENERAL FOR PUBLIC ADMINISTRATION

in Strasbourg, November 2000

*ADOPTED BY THE
STANDING COMMITTEE ON NATIONAL AND EUROPEAN ADMINISTRATION
LUXEMBOURG, 15 OCTOBER 2001
AND BY THE EXECUTIVE COMMITTEE, 28-29 NOVEMBER 2001*

The EPSU Standing Committee on National and European Administration (EPSU/ NEA) has discussed the report from the Mobility Working Group of the Directors-General. The Standing Committee commends the solid work undertaken by the Group. The Standing Committee refers to EPSU's earlier contributions to the debate on mobility, notably at the Hague Round Table in November 1999 and the Social Forum in Strasbourg November 2000.

EPSU/ NEA would like to express its wish to continue discussing and exchanging experiences on mobility, with the view to eventually reaching a joint statement with the Directors-General. This could for example be with regard to the planned Commission's Communication on tackling the remaining problems on free movement in the public sector in 2002. EPSU also regards the issues raised as good subjects for negotiations in the future social dialogue.

1. Opening of the public service

EPSU welcomes that developments taking place, and proposals made by the Mobility Group, are leading to a convergence of the conditions for opening the public service to employment for EU nationals. EPSU believes that the free movement of workers, which is one of the key principles of the European Treaty, should be equally applicable to civil servants and workers treated as such, as to other workers.

2. Nationality condition

EPSU's primary position has been to abolish art. 39(4). We do, however, alternatively support the increasingly restricted and uniform interpretation of art. 39(4). EPSU agrees in the recommendations from the Mobility Group to open up all levels of posts in the public service which do not involve public authority, extending beyond the sectors mentioned in the Communication of 1988; and that Member States should adopt all the necessary rules of application. We further think that in the occurrence of a case-by-case approach, the social partners should be consulted as to whether posts reserved for nationals really fall within the public authority exception.

3. Conditions of access to the public sector

The problems that are raised give an adequate description of obstacles that need to be overcome. EPSU finds that the proposed solutions point in the right direction, and would like to emphasise the need for consulting the trade unions in ironing out the details. EPSU agrees in the following proposed solutions:

Recognition of diplomas

- Diplomas attesting to a certain level of education without the contents being specified and diplomas attesting to a level of training meeting certain content-related criteria without the contents being deemed to constitute professional training within the meaning

of 89/48/EEC and 92/51/EEC should in both cases give access to selection procedures for equivalent posts in other Member States when qualifying for this in the Member State of origin.

- A potential applicant should be able to submit a request for recognition at any time before deciding to submit an application and entering a selection procedure.
- All of the information needed by an applicant from another Member State should be made easily available whether this is information related to a specific post/ competition or related to the procedure for recognition of diplomas. In this context EPSU welcomes the planned web-site on Mobility with national links.

Recognition of professional experience in the absence of the diploma required

The question is whether an individual who has entered the civil service at a lower grade in the Member State of origin, and enjoyed a career development, can use the higher position as a departure point for entering in a selection procedure for a post of the same higher grade in another Member State, without having the required diploma. Safeguards would have to be taken in order not to abuse the system. EPSU agrees with the representatives who favour this solution. EPSU notes that a number of countries are not in favour of this proposal because it would discriminate their own citizens who do not themselves have this right.

Professional experience as a condition of access and awarding of points within the competition procedure for professional experience and/ or the subject matter of a diploma

Professional experience as a condition for access is treated below with the recognition of professional experience for determining professional advantages. On the second issue on subject matter EPSU agrees that within a competition procedure points must be awarded for a comparable subject matter of diploma if it had been acquired in another Member State.

4. Mutual recognition of professional experience and seniority acquired in the public sector of another Member State for determining professional advantages

This issue concerns the determination of (wage) grade and seniority when a person is entering the services of another Member State than the one(s) where experience has been gained, while the first part of the above issue concerns access. This is encompassed in the proposed recommendations to which EPSU has the following comments:

- EPSU agrees that there is a need for further action by amending national legislation and/or administrative practices in order to bring them into conformity with EC law on equal treatment of Community workers (Art. 39 EC and Art. 7(1) of Reg. 1612/68).
- EPSU agrees that common principles for the recognition of professional experience should be developed. EPSU do not think such principles should be regulated by a directive. The principles and rules should be developed by the Member States through the social dialogue at the European level, with the objective of reaching a joint agreement, and taking into consideration the necessary flexibility.

5. Further Work of the Mobility Group

EPSU has been informed that the mandate of the Mobility Group has been extended in order to continue the work on the elimination of the obstacles commented on above, as well as taking further initiatives on among others human resources policy and creating the network of national contact points.

EPSU/ NEA would like to continue to work with the Directors-General on these issues, and refer to the theme paper delivered at the Social Forum in Strasbourg, where we list a number of obstacles roughly equivalent to those discussed by the Mobility Group, as well as other practical measures which can support increased mobility. In this paper EPSU also raises the issue of co-ordination of social security and pensions, and recommends that joint work is undertaken to uncover all obstacles with a view to finding sustainable practices and fair and effective implementation.