

## Free Movement of Persons

### Introduction

The Armenian legislation in the field of free movement of persons does not comply with the requirements of the EU legislation.

The EU legislation in this field establishes common legal basis for the recognition of qualifications as well as peculiarities of the recognition of qualifications related to separate professions (pharmacist, veterinary surgeons and etc). This chapter regulates also the legal status of persons working in other countries.

On 11 April 1997, the Republic of Armenia has ratified the Lisbon Convention<sup>1</sup> on the Recognition of Qualifications Concerning Higher Education in the European Region. However, the main legal acts of this field, i.e. the RoA laws on Education<sup>2</sup> and on Higher and Post-graduate Professional Education<sup>3</sup>, do not regulate the procedures for recognition of qualifications concerning higher-education, professional education and training. The sole legislative provision related to the regulation of the legal relations of this field is the Article 4 of the RoA Law on Higher and Post-graduate Professional Education, according to which the recognition of diplomas and comparison of qualification degrees of higher and post-graduate education of Armenia in European and other foreign countries is envisaged among the policy principles of higher and post-graduate professional education.

The Armenian legislation does not provide for the legal regulation of issues related to the free movement of doctors, pharmacists, lawyers, architects, veterinary surgeons, as well as the establishment of legal entities and provision of service by the above mentioned persons.

Apart from this, the Armenian legislation also does not envisage the regulation of issues related to the free movement of workers and their family members, as well as their residence in the territory of the country after having been employed.

Within the framework of the National Programme, it is envisaged to ensure the partial compliance of the Chapter on "Free Movement of Persons" with the requirements of the EU legislation by 2009.

The issue of approximation with the Council Directives<sup>4</sup> No. 94/80 of 6 December 1994 and No. 93/109 of 6 December 1993 shall be considered after 2008.

The Council Decision No. 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community is not subject to approximation under the National Programme, since it is not applicable in the Republic of Armenia.

### Y2006

For the regulation of issues relating to the free movement of foreign workers, the Council Regulation No. 1612/68 of 15 October 1968, Commission Regulation No. 1251/70 of 29 April 2004 and Directive No. 2004/38 of 29 April 2004 of the European Parliament and of the Council<sup>5</sup> shall be subjected to approximation.

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<sup>1</sup> Decree of the National Assembly, N-167-3, 14.12.2004

<sup>2</sup> HO-297, 14.04.1999

<sup>3</sup> HO-62, 14.12.2004

<sup>4</sup> Council Directive No. 94/80 of 6 December 1994 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals

Council Directive No. 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals

<sup>5</sup> Regulation (EEC) No. 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community

Regulation (EEC) No. 1251/70 of the Commission of 29 June 1970 on the right of workers to remain in the territory of a Member State after having been employed in that State

For regulation of the legal status of workers with foreign citizenship, rights of employees and their family members to remain in the country after having been employed, the draft RoA law on foreign nationals shall be amended and a draft Government Decree on the involvement and use of foreign labour force in the territory of Armenia shall be elaborated.

### Y2007

To ensure the free movement of persons practicing specific professions, the Armenian legislation shall be approximated with the Council Directive No. 86/653 of 16 December 1986<sup>6</sup>.

For legal regulation of the activities of commercial agents, the Civil Code of Armenia shall be amended, as well as a draft law on self-employed commercial agents shall be elaborated.

Given the necessity of introducing a reliable system for recognition of qualifications in the field of education, the Armenian legislation shall be approximated with the Council Directives No. 89/48 of 21 December 1988, No. 92/51 of 18 June 1992, Directive No. 1999/42 of 7 June 1999 of the European Parliament and of the Council, Council Directives No. 85/432 of 16 September 1985 and No. 85/433 of 16 September 1985 and No. 93/16 of 5 April 1993<sup>7</sup>.

For legislative formulation of the common legal basis for the qualifications recognition system, amendments shall be made to the Armenian laws on Education and on Higher and Post-graduate Professional Education.

Taking into account the expedience of individual regulation of separate fields, a draft Government Decree on the recognition of qualifications in the field of pharmacy shall be elaborated.

Based on the above-mentioned rationale, a draft Government Decree on the recognition of qualifications in the field of healthcare shall be elaborated.

The Council Directive 96/71 of 16 December 1996 shall be approximated with the purpose of regulating the issues relating to the posting of workers<sup>8</sup>. A draft Government Decree on posting of workers shall be elaborated in this field.

### Y2008

For ensuring the free movement of persons in terms of practicing special professions, the Armenian legislation shall also be approximated with the Directive 98/5 of 16 February 1998 of the European Parliament and of the Council, Council Directive No. 85/384 of 10 June 1985 as well as the Council Directive No. 78/1026 of 18 December 1978<sup>9</sup>.

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Directive No. 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives No. 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC

<sup>6</sup> Council Directive No. 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents

<sup>7</sup> Council Directive No. 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  
Council Directive No. 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC

Directive No. 1999/42/EC of 7 June 1999 of the European Parliament and of the Council establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications

Council Directive No. 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of certain activities in the field of pharmacy

Council Directive No. 85/433/EEC of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy

Council Directive No. 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications

<sup>8</sup> Directive No. 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

<sup>9</sup> Directive No. 98/5/EC of 16 February 1998 of the European Parliament and of the Council to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained

A draft Government Decree “On the practice of the profession of lawyer in a country other than that in which the qualification was obtained” shall be elaborated for legal regulation of the mentioned lawyers’ professional degree, registration and their activities.

Within the course of this period, the fields of architecture and veterinary medicine shall be subjected to special legal regulation in terms of recognition of qualifications. For this purpose, draft Government decrees “On formal recognition of qualifications of architects” and “On recognition of qualifications in the field of veterinary medicine” shall be elaborated.

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Council Directive No. 78/1026/EEC of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services

Council Directive No. 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services

1.1.1 Legislative Compliance

0	1	2	3	4	5	6
NN	Measure	EU Legal Source	Responsible Institutions	Submission Date	Necessary Resources (man/day)	EU Technical Assistance
<b>2006</b>						
1.	<ul style="list-style-type: none"> <li>Amendments to the draft RoA law on foreign nationals</li> <li>Elaboration of a draft decree of the Government of Armenia on the involvement and use of foreign labour force in the territory of Armenia</li> </ul>	<p>Council Regulation (EEC) No. 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community</p> <p>Commission Regulation (EEC) No. 1251/70 of 29 June 1970 on the right of workers to remain in the territory of a Member State after having been employed in that State</p> <p>Directive No. 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC,</p>	<p>Ministry of Territorial Administration and Infrastructure of Armenia (with participation of the Ministry of Labour and Social Affairs)</p>	4 <sup>th</sup> quarter	93	Consultancy, provisional expertise

		68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC				
<b>TOTAL</b>					<b>93</b>	
<b>2007</b>						
2.	<ul style="list-style-type: none"> <li>• Elaboration of a draft law on making amendments to the RoA Law on Education</li> <li>• Elaboration of a draft law on making amendments to the RoA Law on Higher and Post-graduate Professional Education</li> </ul>	<p>Council Directive No. 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</p> <p>Council Directive No. 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC</p> <p>Directive No. 1999/42/EC of the European Parliament and of the Council of 7 June 1999 establishing a mechanism for the recognition of</p>	Ministry of Education and Science of Armenia	1 <sup>st</sup> quarter	43	Provisional expertise

		qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications				
3.	Elaboration of a draft decree of the Government of Armenia on posting of workers	Directive No. 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services	Ministry of Territorial Administration and Infrastructure of Armenia (with the participation of the Ministry of Labour and Social Affairs)	1 <sup>st</sup> quarter	15	Provisional expertise
4.	Elaboration of a draft decree of the Government of Armenia on recognition of qualifications in the field of healthcare	Council Directive No. 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications	Ministry of Education and Science of Armenia (with participation of the Ministry of Healthcare of Armenia )	2 <sup>nd</sup> quarter	48	Provisional expertise
5.	Elaboration of a draft decree of the Government of Armenia on recognition of qualifications in the field of pharmacy	Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in	Ministry of Education and Science of Armenia (with participation of the Ministry of Healthcare of Armenia )	2 <sup>nd</sup> quarter	28	Provisional expertise

		respect of certain activities in the field of pharmacy  Council Directive No. 85/433/EEC of 16 September 1985 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy, including measures to facilitate the effective exercise of the right of establishment relating to certain activities in the field of pharmacy				
6.	<ul style="list-style-type: none"> <li>• Elaboration of a draft law on making amendments to the Civil Code of Armenia</li> <li>• Elaboration of a draft law on self-employed commercial agents</li> </ul>	Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents	Ministry of Labour and Social Affairs of Armenia (with participation of the Ministry of Justice)	4 <sup>th</sup> quarter	30	Consultancy, provisional expertise
<b>TOTAL</b>					<b>164</b>	
<b>2008</b>						
7.	Elaboration of a draft decree of the Government of Armenia on recognition of qualifications of architects	Council Directive No. 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in	Ministry of Education and Science of Armenia (with participation of the Ministry of Urban Development of Armenia)	1 <sup>st</sup> quarter	34	Consultancy

		architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services				
8.	Elaboration of a draft decree of the Government of Armenia on practicing the profession of lawyer in a country other than that in which the qualification was obtained	Directive No. 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained	Ministry of Education and Science of Armenia (with the participation of the Ministry of Justice Armenia)	1 <sup>st</sup> quarter	19	Consultancy
9.	Elaboration of a draft decree of the Government of Armenia on the recognition of qualifications in the field of veterinary medicine	Council Directive No. 78/1026/EEC of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services	Ministry of Education and Science of Armenia (with participation of the Ministry of Agriculture of Armenia)	2 <sup>nd</sup> quarter	26	Consultancy
<b>TOTAL</b>					<b>79</b>	
<b>TOTAL</b>					<b>336</b>	



**1.1.2 Institutional Capacities**

<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>NN</b>	<b>Institution</b>	<b>Reorganization</b>	<b>Training Needs</b>	<b>Technical Assistance Needs</b>
1.	RoA Ministry of Education and Science	-	Training course on mutual recognition of qualifications and free movement of persons (5 days/ 2007)	Consultancy
2.	RoA Ministry of Territorial Administration and Infrastructure of Armenia Ministry of Labour and Social Affairs of Armenia	-	Training course on free movement of workers (5 days/2008)	Consultancy