



# CEPLIS TELEGRAM

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## The European Court of Justice adopts a decision with relation to the free movement of persons within the EU

The 18<sup>th</sup> of January, the European Court of Justice (ECJ) has published in its Official Journal a judgment on a case submitted by a German court on the freedom of movement for workers. The case opposed Mr. Krzysztof Pesla to the Justiz ministerium Mecklenburg-Vorpommern. Mr. Pesla wanted to have access to a legal traineeship in Germany with a law diploma obtained in another EU Member State. This access has been refused and Mr. Pesla decided to refer the issue to the court advocating the non respect of the Article 39 of the European Communities Treaty (freedom of movement for workers).

The German court has required the competences of the ECJ in order to obtain its advice on the complain introduced by Mr. Pesla and its interpretation of the Article 39. In its judgment ECJ has underlined the following:

- “the equivalences of training needed for the access to the legal traineeship for the legal professions are those required in the Member State in which the candidate seeks to be admitted”

- “where the competent authorities of a Member State consider an application of a national of another Member State to be admitted to serve a practical training period, such as a legal traineeship for the legal professions in Germany, with a view to exercising a regulated legal profession at a later date, that article does not of itself oblige those authorities to require from the candidate, in the examination of equivalence required by Community law, merely a level of legal knowledge which is lower than that attested by the qualification required in that Member State for access to such a period of practical training”.

*For further information on this judgment please contact our Secretariat*

## **The European Court of Justice takes a position concerning the age of retirement of panel dentists.**

The 12<sup>th</sup> of January 2010, the European Court of Justice has published its decision on the “Petersen case”. Mrs Domnica Petersen is a panel dentist who works in Germany. She reached the age of 68 in April 2007 and following the German Social Security Code, she had to stop practicing at the end of the calendar quarter in which the dentist completed his or her 68<sup>th</sup> year.

This case relates to the European **Directive 2000/78/EC** establishing a general framework for equal treatment in employment and occupation. The Directive in question prohibits discrimination on grounds of age.

Mrs. Petersen went to the Administrative Court of Dortmund and challenged the decision of the relevant Admissions Board for Dentists to put an end to her practice. The German Court asked the European Court of Justice if the age limit provided by the German law was compatible with the aim of the Directive. The answer of the Court is the following: “According to the Federal Social Court, the age limit does not constitute prohibited discrimination on grounds of age, only if the limit is an appropriate and consistent response to an objective of protection of health or employment”.

The European Court of Justice considers that a Member State may legitimately consider necessary to set an age limit for a medical profession such as panel dentists in order to protect the patients. But, the Directive seems not to exclude the possibility to set an age limit aiming at regulating the employment opportunities within the profession of panel dentist.

Thus, the European Court of Justice lets the National Courts identify the aim pursued by the establishment of such an age limit and only gives the scope within which the European Directive must be applied by the Member States.

*For further information, please refer to:*

<http://europa.eu/rapid/pressReleasesAction.do?reference=CJE/10/1&format=HTML&aged=0&language=FR&quiLanguage=fr>

## Commissioner designated, Michel Barnier to fight for consumers and SMEs

In accordance with the nomination procedure provided for by the EU Treaty (see *CEPLIS Telegram 02/10*) the Commissioner designated in charge of the Internal Market, Mr. Barnier, has successfully passed last Wednesday, 13<sup>th</sup> January his nomination hearing at the European Parliament.



The hearing was an opportunity for Mr. Barnier to stress a number of important issues with regard to his mandate of five years (2010-2014).

Concerning counterfeiting, the candidate committed himself to develop a strict copyright law to protect both consumers and rights holders. In that sense, he declared that he wanted to conclude negotiations on patent litigation and eradicate counterfeiting of patents.

Mr. Barnier focused also his attention on Small and Medium sized Enterprises (SME). In order to bring down SME expenditures and facilitate their access to public procurement markets, he promised to reduce the EU's administrative burden by seven billion Euros and to lighten current rules on public procurements.

Regarding financial services and markets regulation, the candidate Commissioner revealed his intention to create a legal framework for crisis management, revise provisions on the level of capital held by banks and limit bankers excessive bonuses.

Overall, Mr. Barnier convinced most of the MEPs present at the hearing that he will be a pragmatic force and an active Internal Market Commissioner.

A more detailed article on Mr. Barnier's program will be soon published on our website: <http://www.ceplis.org>

## The European Commission improves its lobby Register after one year review

As you know, the European Commission has launched more than a year ago a voluntary Register for Interest representatives (see *CEPLIS Telegram 12.08, 06.09, 11.09 & 14.09*). To date, around 2 100 associations, firms and organisations have signed up with the Register. Two months ago the Commission has published a communication drawing from the lessons of the first year of this Register.

The review in question clarifies the scope of activities covered by the Register by **revising the definition of eligible activities**. Henceforth **it includes direct lobbying as well as all indirect means of lobbying such as think-tank reports,**

**platforms, forums, campaigns.** By doing so, the Commission hopes to facilitate the registration of several organizations that were still hesitant to do so.

The European executive highlights also two specific categories that do not fully participate in the project:

**“Law firms are still largely hiding behind the bar claiming registration is against the bar rules”.** In order to tackle this objection, in its communication the Commission clarifies the distinction between legal advice and lobbying.

Think tanks are also invited in the review to join the Register. According to the College of Commissioners “the indirect influence often pursued via events and publications organized by think tanks is to be considered as lobbying activities”. As a consequence a new category is added in the Register to enhance the distinct character of this group in comparison with other interest representatives.

At the same time, the Commission is currently working closely with the European Parliament on establishing a common Register and Code of Conduct for persons representing interest to both institutions. In that respect, a meeting was held on the 12<sup>th</sup> of November between the former Vice-president of the Commission, Mr. Kallas, and 4 MEPs. The newly named College of Commissioners should resume these negotiations in the coming months.

*The Secretariat of CEPLIS will keep you updated on any further evolution.*

## News from our Members



A few weeks ago, **Mr. Armand Gersanois**, President of the European Federation of Osteopaths (EFO), one of our Active Members, and Treasurer of CEPLIS, was invited to participate to a meeting organised by the “Registre des Ostéopathes du Québec” and the Osteopaths Association of Quebec in Montreal. His intervention concerned the professionalization of Osteopathy in the European framework. He underlined the action of CEPLIS at the Community level and the importance of representing the values of the Liberal Professions.

## Conferences and Events to come

- **The General Assembly meeting of EFO** will be held in the premises of the European Economic and Social Committee (EESC).  
Monday **8 February 2010**- one-day (9.30 to 17.30)  
Salle JDE 63,Rue Bélliard n°99, 1040 Brussels.  
For more information : <http://www.efo.eu/portal/>