

# **USER GUIDE**

## **Directive 2005/36/EC**

**Everything you need to know about the recognition of  
professional qualifications**

**66 QUESTIONS**

**66 ANSWERS**

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# INTRODUCTION

## CITIZENS' RIGHTS IN EUROPE

The rights of citizens to practise economic activities in another Member State is a fundamental right enshrined in the Treaty. However, within the limits of the Internal Market rules, each Member State is free to make access to a particular profession legally conditional upon the possession of a specific professional qualification which is traditionally the professional qualification issued on its national territory. This is an obstacle to the free movement of professionals in the European Union in so far as those qualified to practise the same profession in another Member State hold a different professional qualification, i.e. the qualification acquired in their own Member State.

Consequently, the European institutions have established rules to facilitate the mutual recognition of professional qualifications between the Member States. This is the aim of Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications. While this may facilitate recognition, in practice there is no one single solution for the recognition of professional qualifications within the European Union. Directive 2005/36/EC can be found at the following web address:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF>

This Directive was supplemented by a code of conduct approved by the group of coordinators for Directive 2005/36/EC (composed of representatives from the Member States). This code explains good and bad national administrative practices with regard to the recognition of professional qualifications. You can find this code at the following address:

[http://ec.europa.eu/internal\\_market/qualifications/future\\_en.htm#docs](http://ec.europa.eu/internal_market/qualifications/future_en.htm#docs)

## HOW DO YOU USE THIS GUIDE?

The aim of this guide is to use a simple question and answer format to explain your rights when you want to have your professional qualification recognised in another Member State. 66 questions are answered using the following structure.

First you should check if the rules of Directive 2005/36/EC apply in your case. To do this, please see the questions and answers under **point I** of this guide.

If you are covered by the rules of the Directive, you should then ask yourself if you wish to practise your profession in another Member State either temporarily or permanently by moving to another Member State (**see question 13**). In fact the rules of the Directive are not the same in the both cases. If you want to practise your profession temporarily in another Member State, see **point II.A** of this guide. If you want to establish yourself permanently on the territory of another Member State, see **point II.B** of this guide.

It is important to note that the rules of the Directive differ depending on the profession in question. There are three main categories of professions subject to different rules, i.e.:

- the professions for which the minimum training conditions were harmonised at European level: doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect. These professions are referred to in this guide as the 'sectoral professions';
- the professions in the fields of trade, industry or business referred to in Annex IV to Directive 2005/36/EC;
- all the other professions, which are referred to in this guide as the 'general system professions'.

It is thus essential to check what rules apply for the profession for which you are qualified and which you wish to practise in another Member State. The different rules are explained in **point II** of this guide.

Lastly, information on practical issues such as costs, appeals, language skills and who to contact in the event of a problem, can be found under points **III, IV, V** and **VI** respectively.

## **WHERE CAN YOU GET FURTHER INFORMATION?**

- 1) In general terms, you can find further information  
 Directive 2005/36/EC on the European Commission's website at the following address: [http://ec.europa.eu/internal\\_market/qualifications/index\\_en.htm](http://ec.europa.eu/internal_market/qualifications/index_en.htm)
- 2) The Member States are required to comply with Directive 2005/36/EC. They must transpose it into national law. This guide does not, however, provide information on the national rules intended to transpose Directive 2005/36/EC. You can get all the relevant information on the recognition procedure and the rules in force at national level (documents required, whether or not the profession is regulated, level of regulation, etc.) from the national contact points. In general, the latter are responsible for giving you all the relevant information with regard to the recognition of your qualification. You can find a list of contact points at the following address: [http://ec.europa.eu/internal\\_market/qualifications/contactpoints/index.htm](http://ec.europa.eu/internal_market/qualifications/contactpoints/index.htm)
- 3) For all the formalities to be carried out in the host Member State, you can consult the points of single contact established by Directive 2006/132/EC on services in the internal market<sup>1</sup>.

## **I. CAN YOU BENEFIT FROM THE ADVANTAGES CONFERRED BY THE DIRECTIVE 2005/36/EC?**

The following questions are intended to help you determine whether or not you can benefit from the rules of Directive 2005/36/EC. These rules apply only if certain conditions are met.

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<sup>1</sup> It is up to each Member State to decide whether it wants to use this method for health professionals and employees (with the exception of veterinarians) in so far as they are not covered by Directive 2006/123/EC.

### 1) **Do you want to work or study in another Member State?**

Directive 2005/36/EC is addressed only to professionals who are fully qualified to practise a profession in one Member State and who wish to practise the same profession in another Member State.

It does not apply to those who want to study in another Member State nor to those who are starting a training course in one Member State and want to continue it in another Member State. They should contact the National Academic Recognition Information Centres (NARIC) for information on the academic recognition of diplomas.

<http://www.enic-naric.net/>

### 2) **What profession do you want to practise?**

Directive 2005/36/EC does not apply to professions covered by specific directives, such as official auditors who are covered by the scope of Directive 2006/43/EC, insurance intermediaries who are covered by Directive 2002/92/EC, or lawyers wishing to work in another Member State under their home-country professional titles, who are covered by Directive 77/249/EEC and 98/5/EC.

There are also several specific directives in the transport sector.

*For example: If you are a Slovenian air traffic controller who wants to work in Italy, the recognition of your professional qualifications is covered by Directive 2006/23/EC; if you are a Czech airline pilot and you want to work in Poland, you come under Directive 91/670/EC; several professions in the maritime sector are covered by Directives 2005/45/EC and 2008/106/EC.*

Directive 2005/36/EC applies to all the professions that are not covered by a specific directive. You can find a non-exhaustive list of the professions covered by Directive 2005/36/EC by consulting the database at the following web address:

[http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?newlang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?newlang=en)

If you want more information on the professions covered by Directive 2005/36/EC, you can also contact the host Member State's contact point:

[http://ec.europa.eu/internal\\_market/qualifications/contactpoints/](http://ec.europa.eu/internal_market/qualifications/contactpoints/)

### 3) **What is your nationality?**

Directive 2005/36/EC applies to nationals of 30 countries: the 27 Member States of the European Union and Iceland, Norway and Liechtenstein.

It applies to people who, at the time of requesting recognition, have the nationality of one of these 30 countries, even if they used to have a different nationality. It also applies to people with dual nationality. *Thus, for example, it can apply to an Argentine national who also has Italian nationality.*



It must be noted that specific rules apply for Switzerland with regard to the recognition of professional qualifications.

**4) Can you benefit from the advantages conferred by the Directive if you are a national of a third country<sup>2</sup>?**

The Directive also applies to nationals from third countries who are members of the family of an EU citizen exercising his or her right to free movement within the European Union<sup>3</sup>.

*For example: An American doctor who holds a British diploma is married to a British citizen. The couple lives in the United Kingdom, then decides to move to Germany. In this case, the British diploma of the doctor of medicine held by the American doctor should be recognised in Germany in accordance with the rules of Directive 2005/36/EC.*

The Directive also applies to nationals of third countries who have the status of long-term residents<sup>4</sup>. However, the rights of long-term residents are more limited than those of the family members of an EU citizen. Thus, the Directive does not apply to the United Kingdom, Ireland and Denmark and only covers permanent establishment. It does not apply to the temporary provision of services (see question 13).

It also applies to nationals of third countries who have refugee status in a Member State<sup>5</sup>. The refugee should be treated as a national of the Member State in which he or she has been granted refugee status. If a refugee has a professional qualification awarded in another EU Member State, the Member State that granted him or her refugee status should recognise this professional qualification pursuant to Directive 2005/36/EC.

*For example: If you are an Iraqi citizen who holds a diploma in pharmacy awarded in the Netherlands and you have refugee status in Belgium, you should have your diploma in pharmacy recognised in Belgium in line with the rules of Directive 2005/36/EC. However, if you decide to move to Denmark, the rules of Directive 2005/36/EC will not apply.*

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<sup>2</sup> This refers to countries other than the abovementioned 30 countries, with the exception of Switzerland for which special rules apply.

<sup>3</sup> Directive 2004/38/EC on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States, (OJ L 158, 30.4.2004).

<sup>4</sup> Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004)

<sup>5</sup> Directive 2004/83/EC on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304, 30.9.2004).

From 19 June 2011<sup>6</sup>, the Directive will also apply to nationals of third countries who have a higher education diploma and a job offer (holders of an EU blue card), but only for activities exercised as an employee. However, this will not apply to the United Kingdom, Ireland or Denmark.

**5) In which country do you want to have your professional qualification recognised?**

Directive 2005/36/EC applies to the 30 countries mentioned in question 3<sup>7</sup>:

It applies to persons who want to exercise a professional activity in another Member State. This means that the Member State or country in which you want to practise your profession is not the same one in which you obtained your qualifications. The existence of a 'cross-border' element is indispensable. Consequently, it does not apply to situations that are purely internal to a country.

*For example: The Directive applies if you are an engineer of Italian nationality, fully qualified in Italy, and you want to work as an engineer in Spain; if you are a physiotherapist of French nationality, fully qualified in Belgium, and you want to work as a physiotherapist in France; but it does not apply if you are a doctor of Hungarian nationality who obtained your qualifications in Hungary and you want to work in Hungary.*

**6) In which country did you obtain your professional qualification?**

Directive 2005/36/EC applies if you obtained your professional qualification in one of the 30 countries mentioned in question 3.

If you obtained your professional qualification in a third country<sup>8</sup>, Directive 2005/36/EC does not apply to a Member State receiving an application for recognition of your professional qualification for the first time within the European Union ('the first application for recognition').

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<sup>6</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (*OJ L 155 of 18.6.2009*)

<sup>7</sup> Specific rules apply for Switzerland.

<sup>8</sup> This refers to countries other than the abovementioned 30 countries, with the exception of Switzerland for which special rules apply.

*For example: You are a French national who has obtained a professional qualification as a speech therapist in Canada. The 'first' recognition of this qualification in an EU country (for example, France) is not covered by Directive 2005/36/EC but by the national legislation of that country.*

Directive 2005/36/EC applies only as of the second application for recognition if the conditions for benefiting from this recognition are met.

*For example: After obtaining recognition for your Canadian speech therapist diploma in France, you want to work in Belgium.*

**7) How do you know if you have obtained your qualification in a Member State or in a third country<sup>9</sup>?**

You obtained your qualification in a Member State if your qualification was awarded by the competent authority of a Member State and if you completed the whole of your professional training in a Member State or if you obtained most of your professional training in a Member State.

*For example: If you trained as an engineer for five years, two of which were in the United States and three of which were in Denmark, and your qualification was awarded by a Danish authority, you have a Danish qualification, i.e. a qualification from a Member State. On the other hand, if you trained for three years in the United States and two years in Denmark, you have a US qualification, i.e. a qualification from a third country. Lastly, if you trained for three years in Denmark and the other two years in the United States, but your qualification was awarded by a US authority, you have a US diploma. (See also question 6)*

However, this does not apply to the professions for which the minimum training requirements were harmonised at European level (doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists). For these professions, if the diploma is a national diploma awarded by a Member State, that always counts as a diploma from that Member State, regardless of the length of training undertaken in a third country. Indeed, the Member State may not award a national diploma unless the minimum requirements for training set by the directive have been met.

**8) Does the Directive apply if you did a distance-learning course or a course in a franchised establishment?**

Directive 2005/36/EC does not make it compulsory for you to have undertaken your training in the Member State in which your qualification was awarded. Thus, you can have taken a distance-learning training course or a course in a franchised

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<sup>9</sup> This refers to countries other than the abovementioned 30 countries, with the exception of Switzerland for which special rules apply.

establishment. A franchised establishment is an establishment which has concluded a franchise agreement with a training institution in another Member State. Under the terms of this agreement, the training is provided in the franchised establishment, but is validated by the training institution situated in the other Member State and the qualification is awarded by that institution. Thus it is indeed a qualification from another Member State.

*For example: Several British universities have concluded franchise agreements with Greek training establishments. A Greek citizen who, for example, trains as an engineer in Greece in one of these franchised establishments will, after following the training course and passing the exams, be the holder of an qualification in engineering from the British university. Therefore, it is indeed a qualification from another Member State.*

For the Directive to apply to a 'franchised diploma', the training given in the franchised establishment must have been formally validated by the institution that awards the diploma. The 'franchised' diploma must also be the same as the diploma awarded when the training is undertaken completely within the Member State where the establishment that awards the diploma is situated. Lastly, the 'franchised' diploma must give the same access rights to the profession in the Member State where the establishment that awards the diploma is situated.

**9) Is the profession you want to practise in another Member State regulated in this Member State (the host Member State)?**

Directive 2005/36/EC applies only to regulated professions in the host Member State, that is, professions to which access or practise in the host Member State is, by law or regulation or administrative provision, conditional upon the possession of certain fixed professional qualifications. Directive 2005/36/EC will therefore apply to you if the profession you want to practise in a host Member State is regulated in that Member State.

*For example: In France, a law provides that only people who are state-certified ski instructors can work as ski instructors on French territory; the profession of ski instructor is thus regulated in France and as a result Directive 2005/36/EC will apply if you want to work as a ski instructor in France.*

To find out if the profession is regulated in the host Member State, you can consult the contact point of that host Member State:

[http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf). You can find the list (indicative and non-exhaustive) of regulated professions covered by Directive 2005/36/EC at the following web address: [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?newlang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?newlang=en)

Note that the professions of doctor, nurse responsible for general care, midwife, pharmacist, veterinary surgeon and dental practitioner are regulated in all the Member States.

**10) What happens if the profession you want to practise is not regulated in the host Member State?**

In that case, you can take it up without further formality and you do not need to apply for recognition of your professional qualifications. You can begin practising in the host Member State, subject to the same conditions as its nationals. You do not need to submit a certificate of recognition issued by an official authority. In this case, the value to be attributed to your qualification depends on the situation of the employment market and on the way this market behaves, not on legal rules.

However, while your profession may not be regulated as such in the host Member State, this does not necessarily mean that anyone can exercise it. In fact, it is possible that your profession does not exist as such as an independent profession in the host Member State because the activities belonging to your profession in your Member State of origin are part of another profession in the host Member State and are, for this reason, reserved for those professionals. In this case, you may be given partial access to the profession if you request it.

*Example 1: You are a maths teacher in France and you want to work as one in Germany; however, in Germany, teachers must teach two subjects; in this case, the German authorities should allow you partial access to the profession, i.e. authorise you to teach only maths.*

*Example 2: You qualified as a psychotherapist in one Member State and wish to work as a psychotherapist in another Member State in which psychotherapy is not an independent profession but belongs to medicine and is restricted to psychiatrists. You cannot practise this profession if you are not a psychiatrist yourself.*

**11) Is the regulated profession that you want to practise the same as the one for which you are qualified?**

Directive 2005/36/EC applies only if the profession you want to practise in a host Member State is the same as the profession for which you are fully qualified in your Member State of origin.

*For example: Directive 2005/36/EC does not apply if you are fully qualified to practise the profession of estate agent in Spain and you want to practise the profession of lawyer in France.*

**12) Is the profession that you want to practise or the training for this profession regulated in your Member State of origin?**

This question does not apply to the professions of doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, and pharmacist. The same applies to the professions in the fields of trade, industry or business referred to in Annex IV of Directive 2005/36/EC, as they benefit from automatic recognition in the

framework of the establishment system (see question 47), and to architects who benefit from automatic recognition in the framework of the establishment system (see question 43).

If neither the profession for which you are qualified nor the training for this profession are regulated in the Member State in which you received your qualification, the competent authority of the host Member State may require you to have practised the profession in question for at least two years in a Member State that does not regulate this profession (see question 9 for the definition of a regulated profession).

A training course is regulated when its level and content are determined or supervised by the Member State in which it takes place. For the definition of a regulated profession, see question 9.

To find out if the profession or the training for this profession is regulated, you can consult the contact point of the Member State of origin: [http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf). You can find the list (indicative and non-exhaustive) of regulated professions covered by Directive 2005/36/EC at the following web address: [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?newlang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?newlang=en)

## **II. WHAT ARE THE RULES OF DIRECTIVE 2005/36/EC THAT APPLY IN YOUR CASE?**

### **13) Do you want to practise a professional activity temporarily in another Member State or do you want to establish yourself there permanently?**

The rules that apply are different depending on whether you want to establish yourself in another Member State or just temporarily work in that Member State.

You establish yourself when you settle in a Member State in a stable and lasting way.

*For example: If you are a Belgian speech therapist who leaves Belgium and opens an office in France, you are establishing yourself in France. If you are a Slovak engineer and you are working in a Czech company on the basis of a permanent contract, you are established in the Czech Republic.*

In those cases, you benefit from the rules of Directive 2005/36/EC which apply with regard to establishment.

On the other hand, if you have already legally established in a Member State within the meaning of Directive 2005/36/EC (see question 15) and you temporarily wish to practise your profession in another Member State, you are providing a service in that Member State and, consequently, covered by the rules of Directive 2005/36/EC that

apply to the provision of services. The temporary nature of the service is assessed on a case-by-case basis.

*For example: A Spanish veterinary surgeon who is working as a locum for three months in a veterinary office in Portugal is providing a service in Portugal; an Estonian doctor who spends three days a month taking care of patients in Lithuania is providing a service in Lithuania; a Spanish professional diver who goes to work on an oil rig in the United Kingdom for four months is also providing a service.*

## **A. TEMPORARY PROVISION OF SERVICES**

If you wish to practise your profession in another Member State on a temporary basis, the rules that apply are more flexible than if you wish to establish yourself on a permanent basis, provided that you meet certain conditions. In most cases, you do not need to submit your qualifications for approval and you can practise your activity straight away. However, you may be obliged to provide a certain amount of information to the authority of the host Member State. The following questions are intended to indicate what formalities you may be asked to complete and to explain what your rights are if your qualifications are checked or if they are not.

### **A.1 Common rules**

#### **14) What conditions must you meet to benefit from the freedom to provide services?**

- You must be legally established in one of the 27 Member States of one of the following three countries: Norway, Iceland, Liechtenstein.

If the country in which you are established does not regulate the profession for which you are qualified nor the course preparatory to the pursuit of that profession (see questions 9 to 12), the host Member State may require you to have practised the profession in question for two years in the State of establishment. However, this requirement may not apply to you if you are an architect who enjoys automatic recognition (see question 43) or if you practise a profession in the fields of trade, industry or business referred to in Annex IV of Directive 2005/36/EC and you meet the conditions for benefiting from automatic recognition under the establishment system (see question 47).

- You are physically on the territory of the host Member State. On the other hand, if you provide a service in the host Member State without leaving your Member State of origin, this comes under Directive 2000/31/EC on electronic commerce or Directive 2006/123/EC on services in the internal market, not Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications.

## 15) What does 'to be legally established' mean?

You are legally established if you meet all the conditions for practising a profession in a Member State and you are not the subject of any – even temporary – ban on practising that profession. You can be legally established as an employee or self-employed. You do not necessarily have to be actually practising the profession in question at the time you plan to provide your service.

*Example 1: You are a French architect on the professional register; you are legally established in France even if you are not yet actually working as an architect in France; on the other hand, if you are not yet on the professional register, you are not legally established.*

*Example 2: You are employed as a veterinary surgeon in a veterinary clinic in Belgium. You are legally established in Belgium.*

## 16) Do you have to submit a declaration?

That depends on the national regulations.

The first time that you provide a service on the territory of another Member State, that Member State may require you to inform it thereof by submitting a declaration. This is in no way a request for approval to practise your profession. The Directive does not oblige the Member States to request any such declaration; it is an option that the Member States may only apply within the limits of the Directive and of the Treaty. If the Member State chooses to require a declaration of this type, this declaration is valid for one year. After a year, if you again wish to provide services on the territory of that Member State, it may require you to inform it thereof again by submitting another declaration valid for one year. Thus, you may have to submit a declaration once a year if you intend to provide services on the territory of that Member State during the year in question.

The declaration should be in writing, but you may submit it by any means: a simple letter, registered letter, fax, e-mail, etc.

You can submit this declaration at any time before providing the service for the first time. The host Member State may not require you to submit this declaration a certain number of months or days before you begin providing a service. However, you should know that, depending on your situation, it may take between 0-5 months to examine your declaration (see questions 23 and 31). You can also submit this declaration with a view to providing a service in that Member State, even if you do not yet know when. In any case, it is up to you to judge when is the best time for submitting the declaration with regard to your situation, before you begin to provide the service.



*For example: You are a German ski instructor and you want to practise your profession in Austria for the first time for two or three weeks during the next ski season, without yet knowing where and when. You can submit your declaration in the month of June or July of the previous year, in case your qualification will be checked, to be certain that you can start working in Austria when the time comes. If, on the other hand, you have already provided services in Austria, you cannot have your qualifications checked again and you can practise your profession as soon as you have submitted your declaration. From then on, you can submit your declaration a lot later, for example, in November or in December or even the day before you start providing your service.*

**17) How do you know to which authority you should submit your declaration?**

Through the contact point in the host Member State:  
[http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf)

However, if you so wish, you can submit your declaration directly to the point of single contact provided for in Directive 2006/123/EC on services in the internal market<sup>10</sup>. This point allows you to complete all the procedures and formalities required to practise your profession in the host Member State, including submitting your declaration. This point of single contact will be set up in the Member States from 28 December 2009 on.

**18) What information should you include in the declaration?**

You must provide your full name, contact information (address, telephone number, e-mail address, etc.), nationality, the profession for which you are qualified in the Member State in which you are legally established and the profession that you wish to practise in the host Member State.

You should also give information on your professional liability insurance: e.g. the name of your insurance company, contract number.

To facilitate the processing of your application, you could also mention if you are offering your services on the territory of the Member State in question for the first time or applying for an annual renewal.

**19) What information may you not be asked to provide?**

The host Member State may not in any case ask you to specify in your declaration the place and/or date and/or duration of the service on its territory, or even the number of

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<sup>10</sup> It is up to each Member State to decide whether it wants to use this method for health professionals and employees (with the exception of veterinarians) in so far as they are not covered by Directive 2006/123/EC.

participants in your group if you are accompanying a group of clients in the host Member State. Nor may it ask you to provide an address in the host Member State.

## 20) What documents may you be asked to include with your declaration?

The host Member State may require you to annex the following documents to your declaration before you begin to provide your services or if there is a change in relation to the situation established by one of these documents.

### **- Proof of your nationality**

### **- A document proving that you are legally established in a Member State and that you are not prohibited from practising, even temporarily**

*Example of documents proving legal establishment: If the profession is regulated in the Member State in which you are legally established: attestation from the competent authority, from the competent professional body, copy of your professional licence. If the profession is not regulated in the Member State in which you are legally established: copy of your professional licence, extract from the trade register, certificate from the professional association, certificate from your employer accompanied by a social security or tax document.*

This document must clearly mention the profession concerned.

If the document submitted does not stipulate whether or not you are prohibited from practising, temporarily or permanently, you must include a second document attesting to the absence of any temporary prohibition.

*For example: an extract from the 'judicial record', certificate from a judicial or police authority, etc.*

### **- Evidence of professional qualifications**

This is the qualification entitling you to exercise the profession if this is regulated in the Member State in which you acquired the qualification or of your professional experience. If the profession is not regulated, it is the qualification that certifies training that prepared you to practise this profession or, in the absence of a qualification, your professional experience (see following indent).

**- Proof that you have practised the profession in question for at least two years during the last ten years when neither the profession nor the training for it were regulated in the Member State in which you were legally established** (see questions 9 and 12). You can use any means to prove that: reference from your employer, tax statement, etc.

**- Proof that you have never been convicted of any serious criminal offence if you work in the field of security** (e.g.: private security agent) and the host Member State requires the same of its own nationals.

**21) Can the competent authority of the host Member State require you to provide the original documents or certified copies of those documents?**

The competent authority of the host Member State may not require you to submit the original documents; however, it may request certified copies of essential documents such as your professional qualifications and the documents proving your professional experience.

If you cannot provide certified copies of one or more of these documents, the competent authority must itself verify the authenticity of the document with the competent authority of the Member State in which you are legally established.

**22) Do all the documents have to be translated and do the translations have to be certified?**

The competent authority of the host Member State may not require the documents to be translated unless it is really necessary for processing your application.

Certified translations may only be required for the essential documents.

*For example: Professional qualifications, certificates relating to the length of the professional experience.*

However, if you are a doctor, a nurse responsible for general care, a dental practitioner, a midwife, a veterinary surgeon, a pharmacist or an architect whose qualification is included in Annex V to Directive 2005/36/EC, a certified translation of your professional qualification may not be required as this is not essential to the processing of your application for recognition. Indeed, the competent authority may easily check whether the name of your qualification corresponds to the name given in the annex.

Nor may the host Member State authority require certified translations of standard documents such as identity cards, passports, etc.

You are free to choose to have your translations certified by a competent authority of your Member State of origin or of the host Member State anyway. The host Member State authority is, in any case, obliged to accept translations certified by a competent authority of your Member State of authority.

**A.2 General arrangements**

**23) Once you have submitted your declaration, when can you start to work?**

You can start working on the territory of the host Member State immediately; you do not have to wait for the host Member State authority to give you the green light (unless you are covered by the derogation under point A.3 below).

**A.3 Derogation applicable if your profession involves a potential threat to public health or safety**

**24) Does the answer to question 23 apply in all of these scenarios?**

If the profession you want to practise involves a potential threat to public health or safety, the host Member State authority may verify your qualification, which could delay when you may start to work.

**25) What are the professions concerned that involve a potential risk to public health or safety?**

You can consult the contact point for the host Member State to find out what professions that Member State defines as posing a potential threat to public health or safety.

[http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf)

**26) Are the sectoral professions affected?**

The Member States may not apply derogations to doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects if they enjoy automatic recognition in the framework of the establishment system (see questions 42-45). They may begin work immediately (see point A.2, question 23).

*Example 1: If you are a Portuguese doctor with the qualification 'Carta de Curso de licenciatura em medicina', you enjoy automatic recognition and you may not have your qualification checked.*

*Example 2: If you are an architect and your qualification does not attest to a training course in conformance with Directive 2005/36/EC, you do not enjoy automatic recognition and you may thus have your qualifications examined.*

**27) Are checks systematic?**

No, your qualification may only be checked the first time that you are in the host Member State to provide a service there.

*For example: You are a Spanish physiotherapist who worked in France for four months in 2002 before having your professional qualification recognised in that Member State and you wish to work in France again for a limited period. Your qualification cannot be checked as it was already checked in 2002.*

**28) If your qualifications are checked, must you provide additional information and documentation?**

The authority responsible for checking your qualification may ask you to provide the following information on your training: total duration of studies, subjects studied and to what extent, ratio of theory to practice. It may also ask you to provide information on your professional experience and on any further training, seminars and other courses you may have taken in addition to your initial training.

It is in your best interest to provide this type of information as it may facilitate the checking of your qualification and save you from having to take additional measures (see question 30).

If you do not provide this information, the authority is still obliged to take a decision but will do so on the basis of the information available to it.

**29) What decision can the competent authority take?**

There are several possibilities.

- The competent authority may decide, after examining your file, not to check your qualifications.

*For example: The competent authority has already checked similar qualifications and considers that the holders of these qualifications cannot pose a serious threat to the health or safety of the beneficiary of the service.*

The competent authority may decide, after examining your file, to check your qualifications and after this check to authorise you to provide the service or to prohibit you from providing the service. (*For example: You are prohibited from practising in your Member State of establishment*) or to require you to take additional measures (see question 30).

If it requires you to take additional measures, it is only after you have complied with these measures that you will learn the final decision of the authority, which will be

either to authorise you to provide services (if your application is successful) or not to (if your application is unsuccessful).

If you are practising a profession in trade, industry or business that involves a potential threat to public health or safety, the competent authority may check whether you have the required years of professional experience to benefit from automatic recognition in the framework of the establishment system (see questions 45 to 47). If not, it should authorise you to provide the service. No additional check is possible and you may not be obliged to take any further action.

**30) What additional measures can the competent authority make you take and in what circumstances?**

The competent authority may make you take additional measures if there are substantial differences between your training and the training of the host Member State and these differences are liable to be harmful to the health or safety of the beneficiaries of the service.

Before making you take additional measures, it must check whether your professional experience, your further training and any other training you may have taken could make up for these differences. However, it may not proceed with this check before deciding whether you have provided it with this type of information.

If the competent authority did not have this information at the time it took the decision to make you take additional measures, it must first give you the opportunity to show that your professional experience, further or additional training allowed to gain the lacking knowledge.

If you cannot provide proof of this, then the competent authority may require you to do an aptitude test or a very short traineeship.

If you fail this, then you should have the opportunity to retake the test or to do the traineeship again.

**31) Within what period should the competent authority make its decision?**

In the best case scenario, the decision to authorise you to provide the service or not to authorise you to provide the service or to make you take additional measures will be taken one month after receipt of your application and the supporting documentation (if no problems are encountered in processing your file) and, in the worst case scenario, four months after receipt of your application and the supporting documentation (if problems are encountered in processing your file).

If the competent authority decides to make you take additional measures, it will not make its final decision until after you have complied with these measures, so this

period is extended. The additional measures should be taken in the month following the decision to impose them.

Consequently, if you must take additional measures and you do so satisfactorily, you may provide the service, in the best case scenario, two months after the competent authority receives your application and the supporting documentation (if no problems are encountered in processing your file) and, in the worst case scenario, five months after the competent authority receives your application and the supporting documentation (if problems are encountered in processing your file).

For more information on the deadlines see the Code of Conduct (point 8, in particular): [http://ec.europa.eu/internal\\_market/qualifications/future\\_en.htm#docs](http://ec.europa.eu/internal_market/qualifications/future_en.htm#docs)

**32) What happens if the competent authority does not respond within the set period?**

If you meet the conditions for benefiting from the rules of the Directive relating to the freedom to provide services (see question 14) and the competent authority does not respond within the required period, after that period has elapsed you can provide your service on the territory of the host Member State.

## **A.4 Rules**

**33) What rules must you respect when exercising your activity?**

You must respect the professional rules of conduct directly related to the professional qualifications in force in the host Member State: for example, use of titles, rules relating to professional misconduct, relevant disciplinary provisions, etc.

**34) From what rules are you exempt?**

The following:

- authorisation from and registration with or membership of a professional organisation or body; a temporary or pro forma registration may nevertheless be required, provided that it does not delay or complicate the provision of your service. This registration is not your responsibility but should be made by the competent authorities of the host Member State, if necessary;
- registration with a social security organisation: you must, however, inform this organisation of your service beforehand or in the event of an emergency, afterwards.

## B. ESTABLISHMENT

When you establish yourself in another Member State to practise a regulated profession, your qualifications will be checked. You therefore have a certain number of formalities to complete and a procedure to follow. The aim of the following questions is to explain what these formalities are and what your rights are in the context of the recognition procedure.

### **B.1 Points common to all the professions**

#### **35) How do you find out where to submit your application for recognition?**

The contact points ([http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf)) can tell you where to submit your application for recognition and give you information on the procedure to follow.

However, if you so wish, you can submit your application for recognition directly to the point of single contact provided for in Directive 2006/123/EC on services in the internal market<sup>11</sup>. This point allows you to complete all the procedures and formalities required to practise your profession in the host Member State, including submitting your application for recognition. This point of single contact will be set up in the Member States from 28 December 2009 on.

#### **36) What documents can the competent authority of the Member State in which you wish to work ask you to submit?**

##### ***36. a. Documents concerning all the professions***

The competent authority of the Member State in which you wish to exercise a professional activity can ask you to submit the following documents:

- **proof of your nationality**, for example, a copy of your identity card;
- **proof that you have the attestation of professional competence or qualification** that prepares you for or gives access to the profession in question (for example, a copy of the attestation or qualification); however, you may not be asked to provide this if you meet the conditions for enjoying automatic recognition based on professional experience alone (see questions 47 to 49).
- **proof of your professional experience** if you hold a qualification obtained in a third country and this qualification was already recognised by another Member State; in this

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<sup>11</sup> It is up to each Member State to decide whether it wants to use this method for health professionals and employees (with the exception of veterinarians) in so far as they are not covered by Directive 2006/123/EC.



case, the competent authority of the Member State in which you wish to exercise a professional activity may require a certificate, issued by the Member State which recognised your qualification, attesting that you did indeed exercise that profession for at least three years on its territory (see question 6);

- If also required of the Member State nationals:

- **proof of your good character, repute, no declaration of bankruptcy** or the fact that you have not been suspended or prohibited from practising the profession concerned for serious professional misconduct or a criminal offence;

- **a medical certificate of fitness** from a competent authority, which can be a non-contracted doctor (general practitioner or specialist, depending on the type of certificate required);

- **proof of your financial standing and of your insurance cover.**

### ***36.b. Documents exclusive to the sectoral professions***

The competent authority of the Member State in which you wish to exercise a professional activity may require:

- **a certificate of compliance:** this is a certificate issued by the Member State of origin attesting that your qualification is indeed that provided for in the Directive;

- **a certificate of change of denomination** (except for architects): this is assuming that the name of your qualification which meets the minimum criteria for training does not correspond to the name given in the corresponding annex to the Directive;

- **an attestation of professional experience of at least one year** if you are a midwife who has trained as a nurse responsible for general care and then trained as a midwife for 18 months, or **an attestation of professional experience of at least two years** if you trained as a midwife for at least three years, access to which was not conditional on having a diploma, certificate or other qualification providing access to university or institution of higher education;

- **an attestation from the Member State of origin on the effective and lawful exercise of the profession concerned (generally for at least three consecutive years during the five years prior to the issuing of the attestation):**

- If you are a doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife or pharmacist who qualified before the reference date set out in Annex V to the Directive and your qualification does not meet the minimum requirements for training, and in other specific situations provided for in the Directive (for example, qualifications obtained in the former Yugoslavia or medical qualifications in stomatology obtained in certain Member States for recognition as a dental practitioner).

- If you are an architect without the qualifications set out in Annex V or in Annex VI, and in other specific situations provided for in the Directive (for example, qualifications obtained in the former Yugoslavia). In certain cases, the attestation must also stipulate that you were authorised to use the professional title of architect in the Member State of origin before the date specified in the Directive for the Member State concerned.

### ***36.c. Documents exclusive to the professions in the fields of trade, industry or business***

The competent authority of the Member State in which you wish to exercise a professional activity may require:

- **an attestation from the competent body of the Member State of origin indicating the nature and the duration in which you exercised the activity concerned;**
- in certain cases, you may also be asked to provide **proof of your training.**

### ***36.d. Documents exclusive to the general system professions***

The competent authority of the Member State in which you wish to exercise a professional activity may require:

- **proof that you have professional experience of at least two years for the profession concerned:** this proof may be requested if neither the profession nor the training are regulated in your Member State of origin but the profession is regulated in the host Member State (see questions 9 and 12), all the documents should be taken into consideration. Thus, you do not have to submit a certificate from a competent authority. For example, pay slips or attestations from employers must be accepted by the host Member State, though it remains essential that the document clearly identifies your professional activity;
- **information on your training** but only to the extent necessary to determine the possible existence of substantial differences with the national training required; as a general rule, you only need to provide the following information: information on the total duration of your studies, subjects studied and to what extent, ratio of theory to practice.

### **37) Can you provide additional documents on your own initiative and is this desirable?**

If your profession comes under the general system, it is in your interest to provide as much information as possible to the competent authority in the following areas: professional experience, further professional training, seminars and other courses taken in addition to the initial training. This could in fact facilitate the recognition of your qualification and help you to avoid, completely or partly, having to take an

aptitude test or complete an adaptation traineeship before your qualification is recognised (see questions 51 and 52).

If you do not provide this information, the authority is still obliged to take a decision but will do so on the basis of the information available to it.

**38) Can the competent authority of the host Member State require you to provide the original documents or certified copies of those documents?**

The competent authority of the host Member State may not require you to submit the original documents; however, it may request certified copies of essential documents such as your professional qualifications and the documents proving your professional experience.

If you cannot provide certified copies of one or more of these documents, the competent authority must itself verify the authenticity of the document with the competent authority of the Member State in which you are legally established.

**39) Do you have to submit translations of all the documents?**

The competent authority of the host Member State may not require the documents to be translated unless it is really necessary for your application for recognition to be processed.

Certified translations can only be required for the essential documents.

*For example: Professional qualifications, statements on the length of the professional experience.*

However, if you are a doctor, a nurse responsible for general care, a dental practitioner, a midwife, a veterinary surgeon, a pharmacist or an architect whose qualification is included in Annex V to Directive 2005/36/EC, a certified translation of your professional qualification may not be required as this is not essential to the processing of your application for recognition. Indeed, the competent authority may easily check whether the name of your qualification corresponds to the name given in the annex.

Nor may the host Member State authority require certified translations of standard documents such as identity cards, passports, etc.

You are free to choose to have your translations certified by a competent authority of your Member State of origin or of the host Member State anyway. The host Member State authority is, in any case, obliged to accept translations certified by a competent authority of your Member State of authority.

**40) Within what period should your application for recognition be processed?**

Firstly, the competent authority of the host Member State shall acknowledge receipt of your application within one month of receipt and inform you of any missing document.

The competent authority should take a duly substantiated decision as soon as possible following the submission of your complete application and no later than three months for cases covered by the rules for automatic recognition (see questions 42 to 45) and no later than four months for cases covered by the general rules on the recognition of diplomas (see questions 49 to 60) and the rules on the automatic recognition of professional experience (see questions 46 to 48). In the event of failure to observe the deadline, see question 63.

**41) What are your rights if you are granted recognition?**

Recognition gives you the right to practise the profession in question. You can begin practising the profession, subject to the same conditions that apply to the nationals of the host Member State. You can therefore practise the profession, subject to the same laws, regulations, administrative provisions and code of practice as nationals of the host Member State. In particular, you will need to ensure that your activities remain within the range covered by that profession there. If you practice your profession as a paid employee, you are entitled to apply for jobs offered in the host Member State and to participate in staff-selection procedures there (interviews, examination of application, competition, etc.) in the same way as holders of national qualifications.

## **B. 2 Sectoral professions**

These are the professions for which the minimum training conditions were harmonised at Community level: doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect.

**42) How is your application examined?**

In principle, your qualification comes under the rules on the automatic recognition of diplomas (see questions 43 and 44). This means that the competent authority of the host Member State may not check your training and may not ask you for documentation specifying the content of the training taken.

If your qualification was obtained in a non-EU country but already obtained initial recognition in another Member State and this Member State attests that you have practised the profession in question for at least three years on its territory, the recognition of your qualification is not automatic but comes under the general rules on the recognition of diplomas (see questions 45 and 49 to 60).

**43) What conditions must you meet to benefit from automatic recognition?**

- **Doctor, nurse responsible for general care, dental practitioner, veterinary surgeon and pharmacist**

You must hold the qualification stipulated by the Member State concerned in Annex V to Directive 2005/36/CE (i.e. the formal qualification and any certificate accompanying the latter). This qualification should attest to training that meets the minimum training requirements established by Directive 2005/36/CE. This is normally the case if your training began after the reference date mentioned in Annex V to the Directive for the qualification and Member State in question.

*For example: You are an Italian doctor with the formal qualification "Attestato di formazione specifica in medicina generale" and you obtained this qualification after 31 December 1994 (see Annex V, point 5.1.4); this qualification attests to training that complies with the Directive, so you benefit from automatic recognition.*

- **Midwife**

You must hold the qualification stipulated by the Member State concerned in Annex V to Directive 2005/36/CE (i.e. the formal qualification and any certificate accompanying the latter). This qualification should attest to training that meets the minimum training requirements established by Directive 2005/36/CE. This is normally the case if your training began after the reference date mentioned in Annex V to the Directive for the qualification and Member State in question.

Whether or not you benefit from automatic recognition depends on the type of training course you took.

So, if you took a full-time course in midwifery for at least two years or 3 600 hours, access to which was conditional on having a formal qualification as a nurse responsible for general care, then you benefit from automatic recognition.

By contrast, if you trained as a nurse responsible for general care, then trained as a midwife for 18 months, you will not benefit from automatic recognition unless you have at least one year of professional experience.

Lastly, if you took a full-time course in midwifery for at least three years, access to which was not conditional on having a diploma, certificate or other qualification offering access to universities or institutions of higher education, you will not benefit from automatic recognition unless you have at least two years of professional experience.

- **Architect**

Whether or not you benefit from automatic recognition depends on the type of training course you took.

To benefit from automatic recognition, you must hold the qualification named by the Member State concerned in Annex V to Directive 2005/36/CE (i.e. the formal qualification and any accompanying certificate thereof). This qualification should attest to training that meets the minimum training requirements established by Directive 2005/36/CE. This is normally the case if your training began no earlier than during the reference academic year mentioned in Annex V to the Directive for the qualification and Member State in question.

*For example: If you are a Spanish architect with the formal qualification 'Título oficial de arquitecto' obtained at the 'Universidad Europea de Madrid', having begun your training no earlier than during the 1998/1999 academic year (see Annex V, point 5.1.7), you can benefit from automatic recognition.*

*On the other hand, if you are an Italian architect with the formal qualification 'Laurea specialistica in architettura' obtained at the Politecnico di Bari', and you began your training no earlier than during the 1999/2000 academic year, but you have not yet obtained the 'Diploma di abilitazione all'esercizio indipendente della professione' required in Italy in addition to that qualification (see Annex V, point 5.1.7), you cannot benefit from automatic recognition.*

**44) Do you enjoy automatic recognition if you obtained your qualification before your country joined the European Union?**

- **Doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife and pharmacist**

If your qualification attests to a training course began before the reference date mentioned in Annex V to the Directive for the qualification and the Member State in question. (*For example: 1 May 2004 for a Czech nurse responsible for general care - Annex V, point 5.2.2, etc.*) and this training does not meet the minimum training requirements, you nevertheless enjoy automatic recognition if you can show, via an attestation from the Member State of origin, that you have been effectively and lawfully practising the profession in question for at least three consecutive years during the five years prior to the attestation being issued. However, if your qualification comes under one of the provisions concerning the acquired rights exclusive to the professions concerned by the Directive (for example, qualifications obtained in the former Yugoslavia or in the former GDR, etc.), you must meet the required conditions with regard to professional experience, supporting statements, to benefit from automatic recognition on this account.

## - **Architect**

If your qualification attests to a training course began before the reference academic year mentioned in Annex V to the Directive for the qualification and the Member State in question. (*For example: before 2007/2008 for a Maltese architect - Annex V, point 5.7.1*), and even if this training does not comply with the minimum requirements established by Directive 2005/36/EC, you can nevertheless benefit from automatic recognition on the basis of rights acquired on condition that you are in possession of the qualification mentioned by the Member State concerned in Annex VI to the Directive 2005/36/EC (that is, the formal qualification and any certificate accompanying the latter). Your training should have begun no earlier than during the reference academic year mentioned in Annex V to the Directive for the qualification and Member State in question.

Moreover, if your qualification attests to a training course that does not feature either in Annex V or Annex VI to the Directive, you may nevertheless enjoy automatic recognition if you can show, via an attestation from the Member State of origin, that you have been authorised to use the professional title of architect in that Member State before the date stipulated in the Directive and that you have effectively and lawfully practised the profession in question for at least three consecutive years during the five years prior to the attestation being issued. However, if your qualification comes under one of the provisions concerning the specific acquired rights of the Directive (for example, qualifications obtained in the former Yugoslavia or in the former GDR, etc.), you must meet the required conditions with regard to professional experience, supporting statements, to benefit from automatic recognition on this account.

### **45) What procedure for recognition applies if you cannot be granted automatic recognition?**

When you cannot be granted automatic recognition, the recognition comes under the general system (see questions 49 to 60).

To the extent that the Directive does not provide for the subsidiary application of the general rules except in a limited number of cases, it is also possible that the recognition does not come under the general rules (Title III Chapter I). In this case, you are entitled to have your qualification recognised on the basis of Article 43 of the Treaty on freedom of establishment. In these cases, the competent authority is obliged, on the basis of the Treaty, to compare your training with the national training, taking into account your professional experience and any further training. If it identifies any differences, it may ask you to make up for these differences, for example by a test, a traineeship or an additional training course, depending on the national rules.

## **B.3 Professions in trade, industry or business**

If you wish to exercise an activity listed in Annex IV, you may benefit from automatic recognition of your qualifications on the basis of your professional experience, if you meet the conditions provided for in the Directive.

**46) How is your application examined?**

On the basis of the documents you submitted, the competent authority of the host Member State first checks whether you meet the conditions for benefiting from automatic recognition.

**47) What conditions must you meet to benefit from automatic recognition?**

Depending on the activity you wish to exercise, the conditions on professional experience (possibly accompanied by conditions related to the training) are defined in Article 17, 18 or 19 of the Directive. The professional experience in question should relate to the activity that you wish to exercise in the host Member State. The Directive defines this experience on the basis of the type (self-employed, employer, employee, etc.) and duration (number of years of experience, date on which this experience ended, etc.). In certain cases, the Directive also provides for the requirement of a recognised preliminary qualification.

For example, aesthetics-related activities come under list III, 4 of Annex IV to the Directive. Therefore Article 19 of the Directive applies. If you have at least three consecutive years of professional experience as a self-employed beautician in Germany and this experience did not end over ten years ago, you can benefit from automatic recognition in Greece on the basis of your professional experience alone.

On the other hand, hairdressing-related activities come under list I, 3 of Annex IV and Article 17 applies. If you have at least three consecutive years of professional experience as a self-employed hairdresser in Germany, this alone does not qualify you to benefit from automatic recognition in Greece. For this, you must also either be able to attest to prior training of at least three years that is recognised in Germany or prove that you have been employed as a hairdresser for at least five years. You can also benefit from automatic recognition if you have at least six consecutive years of experience, either as self-employed or as an employer, in the field of hairdressing in Germany or four years of experience of this nature preceded by at least two years of recognised training.

**48) What procedure applies if you cannot be granted automatic recognition?**

If the activity that you want to exercise in the host Member State is mentioned in Annex IV to the Directive, but you do not meet the conditions required for benefiting



from automatic recognition on the basis of professional experience, then the general rules on recognition apply (see questions 49 to 60).

*(For example: you are a beautician with just one year of experience), then the general rules on recognition apply (see questions 49 to 60).*

## **B.4 Professions covered by the general system**

This includes all the professions that cannot benefit from one of the two systems for automatic recognition described under points **B.2** and **B.3**.

### **49) How is your application examined?**

The competent authority responsible for checking your qualification will first check whether you obtained it in a Member State that regulates the profession for which you are applying for recognition of your qualification. If the Member State in which you obtained your qualification does not regulate this profession and if it does not regulate the preparatory training for this profession either, the competent authority is entitled to ask you to prove that you have practised the profession in question for at least two years during the last ten years (see questions 9 and 12). If you cannot provide this prove or if you do not have this professional experience, the competent authority is entitled to not apply the rules of Directive 2005/36/EC to your application for recognition.

If you obtained your qualification in a third country, the competent authority will check if you have really practised the profession in question for at least three years in the Member State that initially recognised your qualification. This professional experience should be attested by a certificate issued by that Member State. You can only benefit from the Directive on this condition.

2) The competent authority will then check the level of your qualification with regard to the criteria fixed by the Directive. Directive 2005/36/EC (Article 11) divides professional qualifications into 5 levels: a, b, c, d, e, depending on the duration and level of the training to which they correspond. Level a is the lowest and level 2 is the highest.

The Directive provides that the competent authority cannot refuse to recognise your qualification (subject to questions 50 to 52) if it is classed as the same level as the qualification required at national level or as the level immediately below.

*For example: The professional qualification required in the host Member State is classed as level c; if your professional qualification is classed as level c or level b; the Directive applies. if, on the other hand, your qualification is classed as level a, the Directive does not apply as the gap in level between your qualification and the host Member State qualification is too wide.*

However, there is an exception to this principle if the professional qualification required in the host Member State is awarded following a four-year training course and is classed as level e. In this case, the competent authority cannot refuse to recognise your qualification if it is classed in the level e, d, or c, that is, up to two levels below.

To find out what level your qualification is classed as or the level of the host Member State qualification, you can consult our database at the following address: [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?newlang=en](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?newlang=en)

You can also contact the national contact point at the following address: [http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf)

3) The competent authority will then compare your training with the national training to check whether there are any substantial differences. Substantial differences means major differences with regard to the subjects which are essential for the exercise of the profession.

If the competent authority identifies substantial differences between your training and the national training, it should then check whether these differences may not be compensated by your professional experience or any additional training you may have taken. This is why it is important to provide as much information as possible in this respect to the competent authority.

After performing these checks, the competent authority will take a decision which must be duly substantiated.

## **50) What decision can the competent authority take?**

1) It may decide to recognise your qualification (see also question 41).

2) It may refuse to recognise your qualification. However, it may only refuse in exceptional cases. For example, a refusal would be justified if it emerged that the profession for which you applied for recognition of your qualification was not the same as the one for which you are qualified.

On the other hand, a refusal would not be justified in the event that, for example, the gap between your qualification and the host Member State qualification was too wide, or in the event that you didn't have the two years of professional experience required, because you obtained your qualification in a Member State that does not regulate either the profession in question or the preparatory training for that profession. In these cases, the competent authority is not obliged to apply the Directive but it is obliged, on the basis of the Treaty, to compare your training with the national training, taking into account your professional experience and any further training. If it identifies any differences, it may ask you to make up for these differences, for example by a test, a traineeship or an additional training course.

3) The competent authority may also make you take additional measures before recognising your qualification (see also questions 51 and 52) in the event that it has

identified substantial differences between your training and the national training which cannot be compensated by your professional experience and/or additional training you have taken.

**51) What else can the competent authority require you to do?**

The competent authority can oblige you to take an aptitude test or to complete an adaptation traineeship of a maximum of three years.

**52) If you are required to complete either an adaptation traineeship or an aptitude test, does the choice rest with the authority?**

In principle, no. It is up to you to choose between the aptitude test and the adaptation traineeship. However, there are exceptions to this principle in the following cases:

- for the legal professions,
- for the professions for which the training conditions were harmonised but which do not benefit from automatic recognition, with the exception of specialist nurses (see questions 42 to 45),
- for the professions in the fields of trade, industry or business referred to in Annex IV to Directive 2005/36/EC that do not benefit from automatic recognition (see questions 46 to 48) and who wish to establish themselves as self-employed or employers, if their professional activity presupposes the knowledge and application of the specific national rules in force in so far as the same is also required of nationals;
- for the following professions, in the following Member States, the competent authority has the right to impose an aptitude test:
  - France: ski instructor, diving instructor, parachuting instructor, high-altitude mountain guide, potholing instructor;
  - Austria: alpine ski instructor, cross-country ski instructor, ski guide, mountain guide;
  - Italy: ski instructor, mountain guide;
  - Germany (Bavaria): ski instructor, cross-country ski instructor, ski guide and mountain guide;
  - Belgium: private detective.

**53) How can you prepare for the aptitude test or the adaptation traineeship?**

As far as the aptitude test is concerned, the competent authority or the contact point can give you information on any preparatory courses provided, lists of recommended reading and/or sample test papers (if there are any).

As far as the adaptation traineeship is concerned, the competent authority or the contact point can inform you of the lessons learned from traineeships that were completed successfully or give you a list of recommended reading (if there is one).

**54) Must you organise the adaptation traineeship yourself?**

The host Member State may confer responsibility for organising adaptation traineeships on authorised establishments and/or training supervisors. The competent authority should give you a list of establishments/people responsible for adaptation traineeships for the profession that you wish to practise. As far as possible, you should be free to choose a training supervisor and the place where the adaptation traineeship will be spent from this list.

In any case, the conditions of the adaptation traineeship should not be too restrictive. The location of the adaptation traineeship should not be at such a geographical distance that it creates an obstacle.

**55) What does the adaptation traineeship involve?**

The adaptation traineeship is supervised by a qualified professional and may be accompanied by additional training. At the end of this period, you are assessed.

**56) Can you be paid during your adaptation traineeship?**

Where this is possible within the host country's national structures, you may receive payment during the adaptation period. However, this does not constitute a right.

It is the host Member State that determines your statute, but if a statute for a trainee has been defined at national level, it must also apply to you.

**57) What does the aptitude test involve?**

The only aim of the aptitude test should be to check your professional knowledge and it may only cover the subjects which are essential for the exercise of the profession for which substantial differences have been established. These subjects must have been clearly identified in the decision taken by the competent authority; these subjects may include knowledge of the professional rules applicable to the profession in question.

The aptitude test may be theoretical (for example: a written exam) or practical (such as a skiing test on the slopes).

**58) How many aptitude tests should be organised per year?**

In principle, the number of aptitude tests should depend on the number of applications received. Regardless of this, at least two aptitude tests should be organised per year.

For seasonal activities, such as the activity of ski instructor, the tests should be mainly in the first half of the season.

**59) Can you take the aptitude test more than once?**

Yes, you should be allowed to re-take the test if you fail it. However, it is the host Member State that determines the number of times you may re-take it, taking into account the rules that apply at national level.

**60) Within what period should the competent authority make its decision following the aptitude test or adaptation traineeship?**

The Directive does not set any specific period but the competent authority must take the decision as quickly as possible.

### **III. COSTS**

**61) Can you be asked to contribute to the costs of processing your application?**

You cannot be asked for any financial contribution if you are covered by the declaration in the context of the freedom to provide services (see point A.2, question 23). In fact, in that case the authority of the host Member State does not have to process your application.

On the other hand, in other cases you may have to pay a fee for the processing of your application. However, this sum may not exceed the actual cost of the service provided and must be comparable with the fee paid by nationals in similar circumstances.

**62) Can you be asked to make a financial contribution for an aptitude test or an adaptation traineeship?**

You may be asked to pay a sum for the organisation of the aptitude test or the adaptation traineeship. However, this sum may not exceed the actual cost of the service provided and must be comparable with the fee paid by nationals in similar circumstances.

### **IV. APPEAL**

### **63) What are your rights with regard to lodging a judicial appeal?**

The decision to reject your application (or to make you take additional measures, such as an aptitude test or adaptation traineeship) must state the reasons for the rejection. If it does not, you are entitled to ask the competent authority to inform you of its reasons. If you are not informed of the reasons - or if you wish to dispute them - you have the right to lodge an appeal with a court or tribunal in the host Member State in order to verify whether the decision is in accordance with Community law.

Under the establishment rules (see **point II**), you can also lodge an appeal in the absence of a decision being taken within the prescribed period. In fact, you are not entitled to practise your profession on the territory of the host Member State before any decision has been taken. Under the rules on the freedom to provide services (see **point I**), however, it is not necessary to lodge an appeal in the absence of a decision being taken within the prescribed period, because you are entitled to provide the service.

In some Member States, you can also lodge an administrative appeal. The Contact Point can give you all the relevant information on the avenues of appeal in place at national level:

[http://ec.europa.eu/internal\\_market/qualifications/docs/contact-points/info-points\\_en.pdf](http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf)

## **V. LANGUAGE REQUIREMENTS**

### **64) Can you be required to know the language of the host Member State?**

The host Member State may require you to have a knowledge of its language where this is justified by the nature of the profession you wish to practise. In any case, the language requirements may not exceed what is objectively necessary for practising the profession in question (vocabulary, oral and/or written knowledge, active and/or passive).

It must also be noted that, whatever the regulated profession, your application will be processed in (one of) the official language(s) of the host Member State and any aptitude test which you are required to take (see questions 51 and 52) will likewise be in that language.

The procedure for the recognition of your qualification and any test of your language skills are two distinct procedures. The recognition of your professional qualification cannot be refused or postpone on the grounds that you do not have the appropriate language skills.

However, there is an exception to this rule where language skills are part of the qualification (*for example, for a speech therapist, teacher teaching the language of the host country*).

## 65) Can a language examination be imposed systematically?

The host Member State may not systematically make you sit a language examination. Each of the following documents constitutes sufficient proof of language skills:

- a copy of a qualification acquired in the language of the host Member State;
- a copy of a qualification attesting knowledge in the language(s) of the host Member State (for example, university degree, chamber of commerce qualification, qualifications awarded by a recognised language institution such as the Goethe Institute, etc.);
- evidence of previous professional experience in the host Member State territory;

If you cannot provide one of these documents, you may be required to do an interview or a test (oral and/or written).

## VI. WHO TO CONTACT IF THERE IS A PROBLEM

### 66) Who can help you at national level?

1) You can contact your national **contact point** if you encounter any difficulties in having your professional qualifications recognised.

2) You can also contact the **Citizens Signpost Service (CSS)**.

This service is a team of **independent legal experts** who provide free and personalised advice on your rights as a European citizen. The responses are given in your language and **within a week** of your request.

More information about this service can be found at the following web address:

[http://ec.europa.eu/citizensrights/front\\_end/index\\_en.htm](http://ec.europa.eu/citizensrights/front_end/index_en.htm)

You can also appeal to the **SOLVIT** network.

SOLVIT is an on-line problem-solving network: the EU Member States cooperate through this tool to find a pragmatic solution to problems resulting from the poor application of internal market legislation by the authorities. There is a SOLVIT centre in each EU Member State (and also in Norway, Iceland and Liechtenstein). These centres are part of the national administration and are committed to provide real solutions to real problems within a short deadline of ten weeks. SOLVIT works free of charge. Nevertheless, please note that the deadlines for appeals at national level are not suspended if you appeal to SOLVIT. On the other hand, if you decided to introduce an appeal at national level, you can no longer appeal to SOLVIT.

Information about SOLVIT can be found at the following web address:

[http://ec.europa.eu/solvit/site/index\\_en.htm](http://ec.europa.eu/solvit/site/index_en.htm)