

**Evaluating the
Professional Qualifications Directive
(Directive 2005/36/EC)**

FIRST PHASE

**Experience in Member States with regard to
other regulated professions**

**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

16. HUNGARY

**Experience report from national coordinators
with regard to other regulated professions**

Evaluating the Professional Qualifications Directive
Experience reports established with the assistance of Co-ordinators

HUNGARY

POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS, PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES, SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

A. Recognition procedure in case of migration on a permanent basis

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

Under Hungarian law there is no possibility to submit an application via regular e-mail, it must be submitted in person, by mail or after registering at the official governmental customer portal (called "ügyfélkapu" in Hungarian).

The reason is that for the recognition of the qualification, certified copies of the original qualification and other documents testifying the completed requirements have to be submitted, and although it is possible to send these electronically through the designated proxy, applicants find this complicated.

Certified copies of the original documents are not required if the application is handed in in person and the applicants presents the original documents when submitting the application.

2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We have only limited experiences so far.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

The levels indicated in Article 11 are referred to when a professional qualification is submitted for recognition in order to practice the profession testified by the qualification and the qualification obtained enables the person to practice the given profession in the Member State.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?

We had no such experience with professional qualifications obtained in higher education and there is limited experience with secondary or tertiary level qualifications.

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

No such request has been encountered up until today.

B. Recognition of professional experience based on Annex IV

6. Does the mechanism in place work smoothly in practice?

The mechanism of professional recognition based on professional experience seems to be working smoothly.

Some competent authorities occasionally find it difficult to verify if the document submitted is certified, or whether the institution issuing the certificate is entitled to issue such document.

7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

Yes, the general system is applied each time the conditions for automatic recognition are not met.

During the recognition procedure, based on the available documents, the authority examines the practice of which professional activity the qualification entitles its holder to pursue in the home Member State. When there are significant differences in terms of either length or content of the training the authority brings an interim decision in which it requires the fulfilment of compensation measures (adaptation period or aptitude test). In such cases the applicant is given a two-year period to complete additional requirements.

The applicant has to pay a fee for the recognition procedure determined by law, but there are additional costs (e.g. the costs of a certified translation in the case of some languages).

C. Temporary mobility (of a self-employed or an employed worker)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

In Hungary the law does not prescribe automatic notification if a service provider established in another EU member state wishes to provide temporary services in Hungary. There are only selected areas where such notification is necessary.

We have received limited amount of request for information concerning the provision of temporary services in Hungary. These professional activities covered the following areas: aircraft serviceman, geologist, tourist guide, personal dosimetry, retail sale of detergents.

Since notification is not prescribed by law in these areas of activities, we have no information on the exact number of service providers.

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- **How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?**

- **How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?**

We do not have much experience in this field.

10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

Prior declaration system could be tool for monitoring professional activity.

We have very limited experience since the number of the notifications concerning temporary mobility is very low.

It is probable that that the service providers do not inform the competent authority because they do not know about this obligation.

In case of healthcare the prior declaration/notification is essential, because it could guarantee the supervision of the service.

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

We do not have such information.

D. Administrative cooperation

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals

Administrative cooperation simplifies the situation of the applicants. Competent authorities have good working relationship with competent authorities in other member states and the staffs of partner institutions deliver the necessary information upon request.

13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

All competent authorities responsible for the professions put on IMI are registered with IMI.

The IMI system is frequently used concerning health professions and teacher qualifications thus regularly send and receive requests. In these cases IMI proves to be a good way of gaining information not only about the qualification, but also about professional rights.

The number of requests received concerning other qualifications is not significant, and it is seldom used to request information on foreign qualifications. Competent authorities often prefer to use e-mails as first means of contact.

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

As a possible upside a professional card could make the monitoring of temporary service easier.

In Hungary a professional card exists with regards all the healthcare professionals but this card does not give any information about their training requirements.

E. Other observations

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

The Act on Recognition does not stipulate the verification of the necessary language skills of migrants; therefore, it is not examined by the competent authority in charge of the recognition procedure.

Nevertheless, in cases falling under the general system, when the applicant has to complete a compensation measure (adaptation period, aptitude test) the sufficient knowledge of Hungarian language is essential.

No complaints with respect to insufficient language skills were received.

**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

17. MALTA

**Experience report from national coordinators
with regard to other regulated professions**

EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS	Accountancy Board
<u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u>	
1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	Yes the Board does accept submission of foreign diplomas sent by email (very limited – less than 10). These certificates are then passed on to the Malta Qualifications Council for verification.
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?	None so far.
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?	Referred to, however the Board requires that certain subjects areas are covered and that the necessary experience is obtained.
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?	None so far.
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?	None so far.
<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	
6. Does the mechanism in place work smoothly in practice?	Yes
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general	Yes the general system is applied. No major difficulties noted.

<p>system? Please include any comments on implementation of the implementation of compensation measures.</p>	
<p><u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u></p>	
<p>8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?</p>	<p>So far had no such requests. However the Board has enacted regulations in this regard – Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations 2010.</p>
<p>9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:</p> <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	<p>Article 5 of the Accountancy Profession (Provision of Accountancy Services on a Temporary and Occasional Basis) Regulations 2010 states:</p> <p>(1) The determination of whether accountancy services are being provided on a temporary and occasional basis in Malta, shall be assessed by the Board by reference to all the particular circumstances of the relevant accountancy services including, but not limited to, the duration, frequency, regularity and continuity of the accountancy service to be provided in Malta.</p> <p>(2) Where the Board determines that accountancy services shall not be, or are not being, provided on a temporary and occasional basis by a temporary service provider in Malta, such temporary service provider shall, upon notification by the Board of such a determination, be prohibited from providing such accountancy services unless in possession of a warrant issued in terms of the Act:</p> <p>Provided that a decision of the Board taken pursuant to</p>

	<p>this sub-regulation shall be subject to appeal in terms of article 15B of the Act.</p> <p>(3) Where a temporary service provider, notwithstanding being notified by the Board in terms of sub-regulation (2), provides accountancy services in Malta, without being in possession of a warrant, he shall be guilty of an offence and shall, on conviction, be liable to a fine (<i>multa</i>) of not more than six thousand euro (€6,000).</p>
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?	<p>Required by Directive</p> <p>So far no declarations have been received.</p> <p>No other possibilities available.</p>
11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?	None to my knowledge.
<i>D. ADMINISTRATIVE COOPERATION</i>	
12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?	So far have never had to contact another competent authority or request information as identified in Article 50.
13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?	Yes. IMI system has to date not been used.
14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?	Agree that professional cards could facilitate matters. These professional cards should be issued by the competent authorities of the member states. It would be important that this card is valid for a limited time to ensure correctness of data.

<u>E. OTHER OBSERVATIONS</u>	
15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?	None.

<p>EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS</p>	
<p><u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u></p>	
<p>1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?</p>	<p>The Council accepts applications from EU citizens generally in physical format, i.e. they either hand hard copy in personally or they send it via snail mail. Generally the generic email account is used for queries and requests for information by the applicants. The Council requests original translated documents and qualifications which are then verified and certified as 'true copies'.</p>
<p>2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?</p>	<p>To date, no such circumstance has been encountered.</p>
<p>3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?</p>	<p>Education levels are taken into consideration in certain cases.</p>
<p>4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?</p>	<p>Yes – In such situations the Council evaluates the transcript forwarded by the Professional and if the training does not meet the standard required by the Council, the Professional is offered to sit for an interview so as to assess his/her professional knowledge. If found lacking he/she is offered to undergo an adaptation period or an aptitude test</p>
<p>5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?</p>	

<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	Not applicable for the professions regulated by the Council for the Professions Complementary to Medicine
6. Does the mechanism in place work smoothly in practice?	
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on implementation of the implementation of compensation measures.	
<u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u>	
8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?	Yes. The Council has only received requests from EU professionals forming part of visiting medical teams who were to practice in the Government hospital for a few days
9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance: <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?	It is necessary since the Council has to verify the professional qualification and his/her status of registration with his/her home Member Status

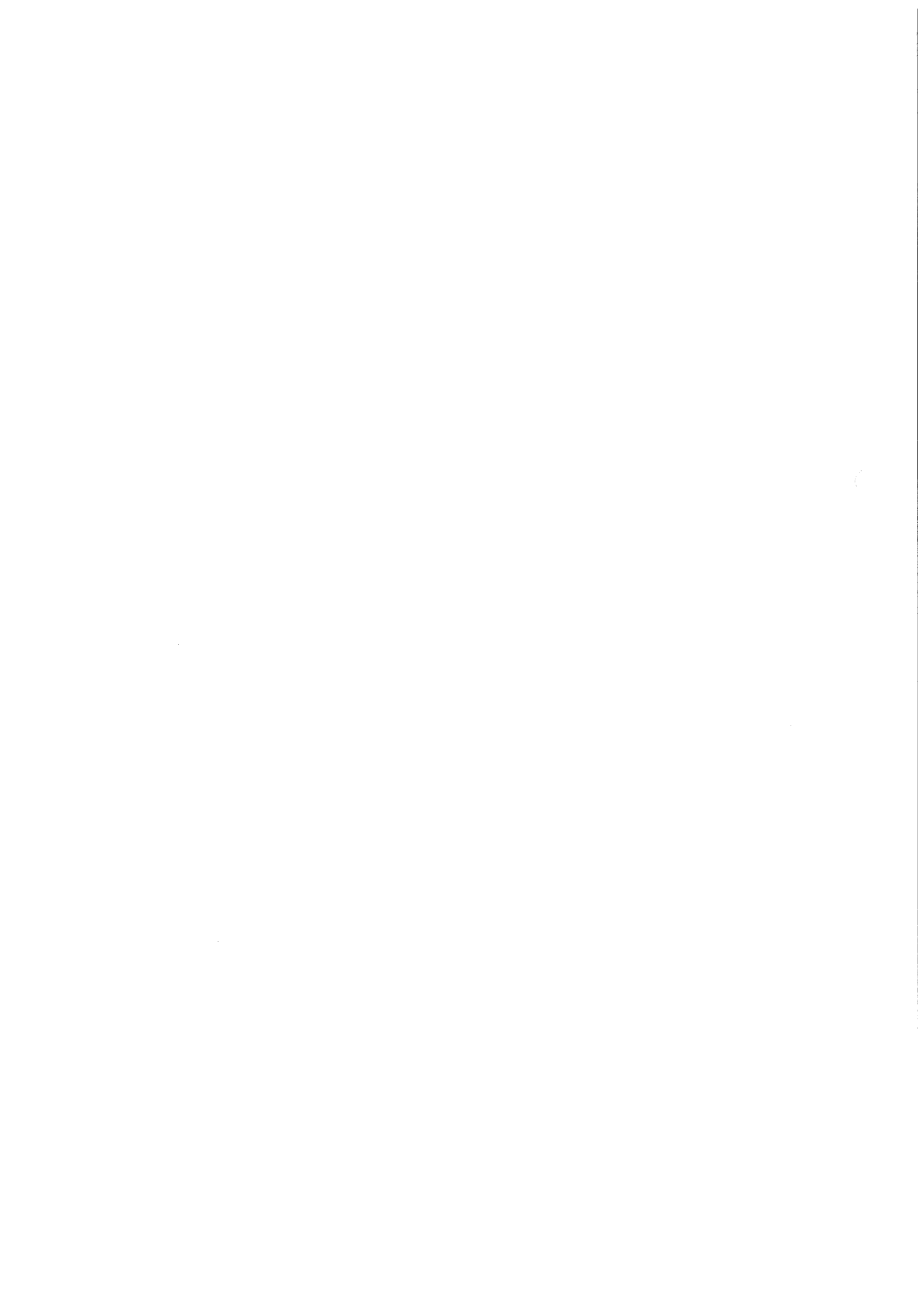
<p>11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?</p>	<p>Not aware.</p>
<p><u>D. ADMINISTRATIVE COOPERATION</u></p>	
<p>12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?</p>	<p>Administrative cooperation does simplify and help the migrant Professional and this is a positive step towards good regulation of the Profession within the EU. However there are some countries that have not yet established certain important procedures and verification documents vis-à-vis registration of certain health care professionals. In these countries there is no legal obligation for a professional to be registered and thus when migrating to a country where his/her Profession is regulated, he/she pretend that 'registration' is granted with 'no questions asked' process.</p>
<p>13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?</p>	<p>The Council for the Professions Complementary to Medicine is registered with the IMI. The system was never used till now – the Council never received any request and there was never the need to contact the counterparts</p>
<p>14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?</p>	<p>A professional card helps people identify the professional. This card serves also as their portable registration certificate. The possession of a valid professional card could also guarantee that the practitioner is effectively registered. Having this card as an electronic card would also assist competent authorities to get information with regards to the qualification and professional activity of the professional in different countries. Such a professional card must be issued by the Competent Authority regulating the respective Profession and/or the Professional Association after being granted permission by the</p>

	Competent Authority.
<i>E. OTHER OBSERVATIONS</i>	
15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?	In cases involving professionals like speech language pathologists, where language skills are part of the qualification, Competent Authority insists that the applicant can communicate satisfactorily in at least one of the official languages. However language skills vis-à-vis employment falls under the competence of the employer.

EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS	<u>COUNCIL FOR THE TEACHING PROFESSION</u>
<u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u>	
1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	No specific mechanism.
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?	Never encountered such requests.
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?	The Council for the Teaching Profession complies with education levels outlined in the Education Act, Chapter 327 of the Laws of Malta.
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?	No
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?	No experience.
<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	
6. Does the mechanism in place work smoothly in practice?	Annexe IV has no relevance to the Council for the Teaching Profession
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major	Yes there are major difficulties related to cost in the recognition procedure.

<p>difficulties (costs) in the recognition procedure under the general system? Please include any comments on implementation of the implementation of compensation measures.</p>	
<p><u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u></p>	
<p>8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?</p>	<p>EU citizen are not interested in using new provisions on a temporary basis.</p>
<p>9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:</p> <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	<p>Applicants are not after temporary mobility.</p>
<p>10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?</p>	<p>Information received is confidential and in accordance with the Data Protection Act.</p>
<p>11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?</p>	<p>Never encountered such situations.</p>
<p><u>D. ADMINISTRATIVE COOPERATION</u></p>	
<p>12. To which extent does administrative cooperation, as outlined in</p>	<p>The Council for the Teaching Profession uses the</p>

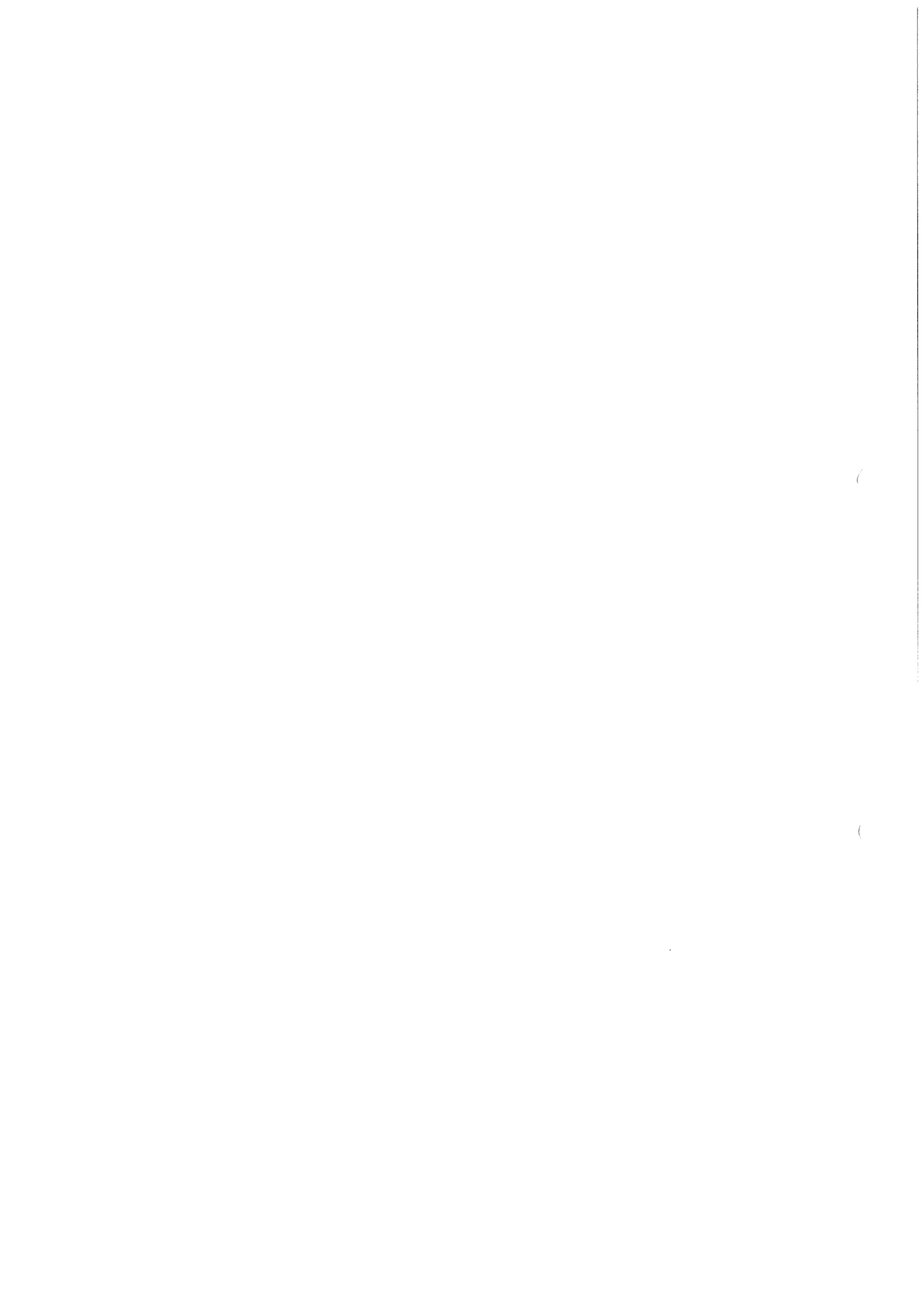
<p>Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?</p>	<p>services offered by the EC Internal Market Information System. However, this is only available for Secondary Schools.</p>
<p>13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?</p>	<p>The Council for the Teaching Profession uses the services offered by the IMI to enquire about professional practice experience and legal capacity of applicant in other Member States. Please refer to Question 12 above.</p>
<p>14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?</p>	<p>This professional card will facilitate mobility and ensure quality standards. Professional associations should identify common criteria underlying the issue of this card.</p>
<p><u>E. OTHER OBSERVATIONS</u></p>	
<p>15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?</p>	<p>Applicants are requested to obtain an ordinary level certificate in our mother tongue and second language. These applicants are usually tested during their interview for the post.</p>



EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS	ENGINEERING BOARD
<u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u>	
1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	We accept applications sent by email to commence proceedings for the grant of a warrant.
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?	No experience to-date
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?	We apply all the time.
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?	--
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?	
<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	
6. Does the mechanism in place work smoothly in practice?	Mechanism works smoothly
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on implementation of the implementation of compensation measures.	No

<u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u>	
8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?	We have a special licence for members of 3 rd states.
<p>9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:</p> <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	No experience yet.
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?	The declaration is important as it keeps the host state informed. However, the Board needs to be provided more resources to cope with all obligations under the Directive.
11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?	No information on this aspect.
<u>D. ADMINISTRATIVE COOPERATION</u>	
12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?	We liaise with Malta Qualifications Council and the relative University.
13. Is the competent authority in your country registered with IMI?	We are registered with IMI.

<p>Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?</p>	
<p>14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?</p>	<p>N/A</p>
<p><i><u>E. OTHER OBSERVATIONS</u></i></p>	
<p>15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?</p>	<p>Not experienced yet. Applicants all speak English, so the Board had no difficulty in granting the warrant.</p>



EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS	Replies by Malta Tourism Authority (August 2010)
<u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u>	
1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	Yes, the MTA does accept applications from EU citizens for the recognition of their foreign qualifications. However the authority's experience in this area is still negligible and in the case it has already handled the scanned certificates and documents were sent via e-mail
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?	The Authority has not encountered such cases yet.
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?	The regulatory regime governing access to travel agents and operated by the MTA require training and/or experience levels of the type referred to Article 11 of the Directive.
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?	The Authority has not encountered such cases yet.
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?	The Authority has not encountered such cases yet.
<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	
6. Does the mechanism in place work smoothly in practice?	The MTA is the designated (competent) authority regulating access to activities falling under List III of Annex IV (generally referred to as restaurants and other

	catering establishments and Hotels and other accommodation establishments. It has not encountered any particular problems with this mechanism to date.
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on implementation of the implementation of compensation measures.	The MTA does not regulate professionals falling under the general system.
<u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u>	
8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?	Yes, there have been requests for information.
9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance: <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	<p>On the interpretation of “legal establishment”: the MTA is guided by the interpretation of “establishment” and therefore “ the actual pursuit of the [relevant] economic activity” is the professional’s home member state. The actual pursuit of the activity is then checked by means of the qualification and/or employment, testimonials, attestations of services rendered etc.</p> <p>On interpretation of “temporary and occasional basis”: the MTA recognises that this is a case by case assessment that it has to undertake since no explicit rules or time limit can be applied. Although this situation has not arisen to date, when it arises the authority shall be guided by the rulings of the ECJ in assessing the duration, frequency, regularity and continuity of the economic activity and whether a professional exercising his freedom to provide services is actually a case of establishment.</p>

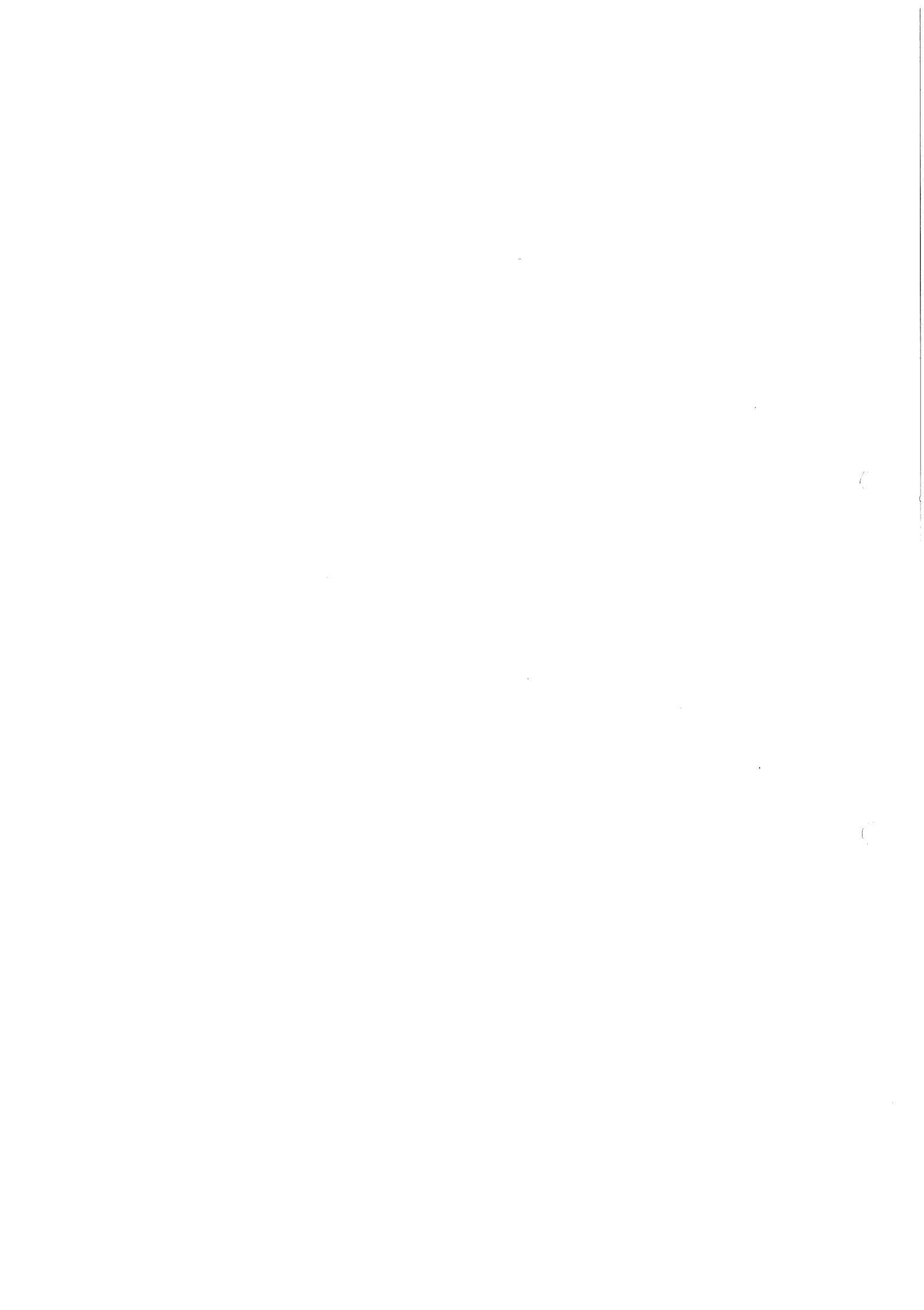
<p>10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?</p>	<p>The prior declaration is indeed necessary in order to check the qualifications and/or experience of the professional wishing to provide temporary tourism services in Malta. The Authority does not foresee any other use at this stage, although it is conceivable that the Authority may need to refer to it if infringements are suspected during its market surveillance activities.</p>
<p>11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?</p>	<p>The Authority is not aware of such situations.</p>
<p><u>D. ADMINISTRATIVE COOPERATION</u></p>	
<p>12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?</p>	<p>Despite the fact that no requests for information have been sent or received, the Authority believes that the administrative provisions of this Directive in conjunction with those under the Services directive will greatly facilitate procedures for the professionals.</p>
<p>13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?</p>	<p>Yes, the MTA is registered with IMI. However, as above, there have not yet been any requests for information through IMI [they were received through e-mail].</p>
<p>14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?</p>	<p>The MTA believes that if the professional card is issued and kept updated by the relevant competent authorities of the member states it could prove to be useful in facilitating recognition. However, it is considered essential that the competent authorities retain the right to check and obtain sufficient information and provided for by the Directive in order to conduct their checks especially in situations and professions that are covered by Article 11 and Annex IV; and those that are not regulated in all member states. The MTA also wishes to underline that such cards should be issued and updated</p>

	by the relevant competent authorities at law in the member states [which may be different from the professional associations].
<u>E. OTHER OBSERVATIONS</u>	
15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?	In its limited experience the MTA has not encountered any problems in this area. The applicant professional would have to provide sufficient proof of his proficiency in the required languages.

EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE – EXPERIENCE REPORTS ESTABLISHED WITH THE ASSISTANCE OF COORDINATORS	
<u>A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS</u>	
1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	Yes but if this instance should arise, details are referred to MQC for its opinion
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2 (2) and 3 (3))?	No experience as yet so the MFSA is not in a position to comment
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?	Regular use when required
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?	N/A
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?	N/A
<u>B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV</u>	
6. Does the mechanism in place work smoothly in practice?	N/A
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on implementation of the implementation of compensation measures.	The MFSA operates in line with directives that are issued specifically for the financial services sector and to rules issued by the three European Bodies covering Banking Insurance and Investment services. Therefore it is not in a position to respond to this particular question

<u>C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)</u>	
8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?	N/A
<p>9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:</p> <ul style="list-style-type: none"> • How is the “legal establishment” criteria foreseen by Article 5 (1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services? • How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria? 	N/A
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?	N/A
11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?	N/A
<u>D. ADMINISTRATIVE COOPERATION</u>	
12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?	N/A
13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use	No because the MFSA is a member of the networks established by the European Bodies regulating Banking

IMI? If not registered, why not and what would be the conditions for changing this situation?	Insurance and Investment services
14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?	N/A
<i><u>E. OTHER OBSERVATIONS</u></i>	
15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?	N/A



**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

18. THE NETHERLANDS

**Experience report from national coordinators
with regard to other regulated professions**

Evaluating the Professional Qualifications Directive
Experience reports established with the assistance of Co-ordinators

POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS,
PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES,
SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

No, applications will only be accepted when the right form is filled out and send to us by regular mail.

2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

We have had one or two applications with no problems.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

Until recently, we only used level D and E for the professions in education and culture professions (archaeology). We now also receive applications for the profession of childcare worker and the level of education can also be as described in B and C.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?

A situation like this has not yet occurred. The profession of childcare worker is recently regulated in the Netherlands. At the moment we are investigating via the NCP if this profession is regulated in other Member States. A situation like this might occur if this profession is not regulated in other EU countries.

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

We recently proceeded to recognize partial access in educational professions. This was the result of Court jurisprudence.

B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV

6. Does the mechanism in place work smoothly in practice?
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

Both questions are not relevant for the professions we recognize.

C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

Yes.

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

We store the information in our data system when a EU citizen gives notice of work on a temporary and occasional basis. In respond we send a letter to confirm this and inform the person that the data will be stored for one year. The Directive doesn't give us the position to refuse this application/notice and we have the indication that this procedure is used if the application for recognition will be refused. One school uses this possibility to give notice of work on a temporary and occasional basis instead of recognition. We have the indication that the school finds this easier than a complete application for recognition.

10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

We check if the application/notice is complete and only use the information for reports.

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

It hasn't occurred until now to ask for experience, because the professions we recognize are regulated in all EU countries.

It might happen in the near future with the recently regulated profession of childcare worker.

D. ADMINISTRATIVE COOPERATION

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

The Directive didn't simplify procedures. The procedure is almost the same as before.

13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

IMI makes it easier and is mainly used to verify degrees and to ask for explanations about that degree.

The profession of childcare worker is recently regulated en we don't know yet if IMI had information about this profession and if it is complete.

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

Professional cards are not used for the professions we recognise. Relevance is doubtful.

E. OTHER OBSERVATIONS

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

We do not have knowledge of any complaints about the language skills asked for by employers.

National implementation report for EU Directive 2005/36/EC

Physiotherapy profession

Country: **The Netherlands**

Please insert name of your country above

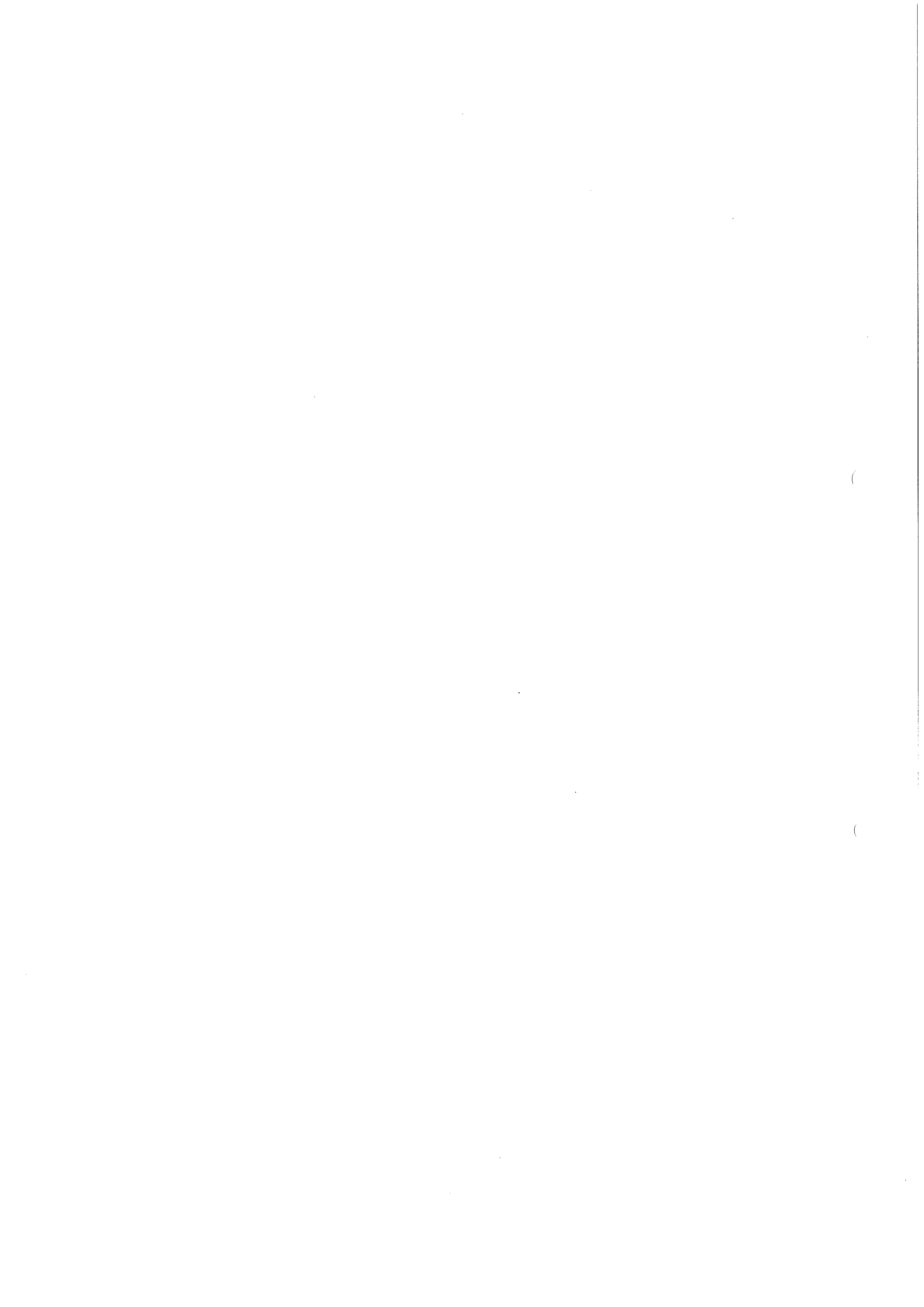
Organisation: Ministry of Health, Welfare and Sport
CIBG
(Central Information point Professions in Health Care)

Please insert name of your organisation above

Competent Authority in case of registration of professionals with a basic qualification.
Doctor, dentist, pharmacist, clinical psychologist, psychotherapist, physiotherapist, midwife and nurse

Please insert a short description of your organisation including main objectives; responsibilities; regulation of which professions: collaboration or share of authority with which other organisations

Contact details: Mr. H.J. Stoop L.L.M.
Ministry of Health Welfare and Sport,
CIBG
Post box 16114
2500 BC Den Haag, The Netherlands
hj.stoop@minvws.nl
phone 0031 (0)70-3407401
website www.bigregister.nl and www.cibg.nl
Please insert name, address, email and phone number of the lead contact + organisation website



**Evaluating the Professional Qualifications Directive
Experience reports established with the assistance of Co-ordinators**

QUESTIONNAIRE OF, TOURIST GUIDES, SPORT PROFESSIONS, AND
PHYSIOTHERAPISTS

QUESTIONNAIRE FOR PHYSIOTHERAPISTS

The Ministry of Health, Welfare and Sports do not have Competent Authorities for tourist guides or sport professions. So we only give answers about physiotherapists.

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

Applications for the recognition of foreign diplomas sent by e-mail or otherwise electronically submitted are not accepted. Only original diplomas or certified copies of the diploma are accepted. The application form needs to be signed by the applicant, a copy is not accepted.

These conditions are almost always met.

Only additional information can be submitted by e-mail.

2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

The Netherlands does not simply follow another member state in its recognition of a third country diploma. The case law supports this practice. Each state has its own recognition procedures.

There are immigrants that will file a request for recognition of their qualifications in multiple member states. There is a concern that these individuals try to use a recognition from a member state where they do not wish to settle, to get recognition in another member state.

Some member states issue ill defined declarations concerning the (educational) recognition of third country diplomas. Migrants rely on these declarations in the process of recognition.

Where third country diplomas are the issue, member states should clearly specify in their declarations whether it is a declaration as meant in article 2 (2) or article 3 (3) of the Directive.

The procedure for EU citizens with third country diplomas and at least three years professional experience in the member state that recognized the third country diploma, is clear: according to article 10(g) the general system is applicable in these cases. That is not the case if there is less than three years professional experience in the home member state: in those cases the general system is not applicable and the competent authority in the host member state can apply national law, but has to deal with the request considering the Hocsmann verdict. This should be more clear by the directive, for example with an article 42c of Directive 93/16/EEC.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

It is difficult to make use of the educational levels. For physiotherapists it is important to know: Does the physiotherapist work as an independent practitioner or does he or she work under the full responsibility of a doctor.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?

We did not have such a situation for physiotherapists.

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

We did not have such a situation for physiotherapists.

B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV

6. Does the mechanism in place work smoothly in practice?

For physiotherapists we do not make use of annex IV.

7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

There are no major difficulties in the recognition procedure under the general system. In the Netherlands we have a Manager International Programmes at the Amsterdam School of health professions, University of Applied Science. In case of an adaptation period or a aptitude tests we send the foreign physiotherapist to this manager.

C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

The Netherlands 06-10-2010

In the Netherlands there is another possibility for professionals who wish to exercise their activities on a temporary and occasional basis. A midwife can work by order of a Dutch midwife. This Dutch midwife is fully responsible for the foreign midwife.

Because of this, EU citizens do not use the 'temporary mobility' provisions to work in The Netherlands. In 2008 and 2009 there were no midwives who used these provisions.

The only instances known to us are the following; in 2006 doctors in service of the Tour de France asked about the provisions. In 2008 a doctor specialist from Czech Republic asked about the possibility, but he did not decide to use the provisions.

We agree with the answer of the General Medical Council of the UK. For "United Kingdom", you also can read "the Netherlands":

"We firmly believe that members of the public have a right to expect that the protection afforded to them by the regulatory system should be the same regardless of whether the doctor practises in the United Kingdom temporarily or permanently. We would wish to require them to provide the same information as other applicants, i.e. asking the applicant to complete a fitness to practice declaration, which enables us to follow-up any issues in relation to potential impairment. There is anecdotal information to suggest that Section 18 is seen as a 'back route' to gaining registration."

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

The migrant has to provide all the information as mentioned in Article 7 of the Directive. In The Netherlands there is an easier method in place; working under the direction of a Dutch physiotherapist. Many migrants prefer this to the process of temporary mobility.

- How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

The temporary and occasional nature of the provision of services is assessed case by case.

As mentioned above, the situation rarely occurs, so we have no experience to base our answer on.

10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

The Netherlands 06-10-2010

We prefer a system where a prior announcement is in place. The system in the Directive is very complicated. There are no cases in The Netherlands where the midwives have sent the declaration after the provision of services has taken place

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

We do not know.

D. ADMINISTRATIVE COOPERATION

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Administrative cooperation will likely speed up and simplify the procedure, and allows competent authorities to exchange information directly and safely – without any need for the migrant to send in his/her personal documents.

We also refer to our answer to question 13.

We prefer the direct communication between competent authorities, without involving the migrant in question. Especially where pending restrictions are concerned the IMI can perform a vital function.

13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

Yes, the BIG-register and the specialist registration committees – the Dutch competent authorities - are registered with IMI. In case of doubt or when additional information is needed, we refer to IMI.

Our opinion is that the IMI is a useful and reliable tool to communicate with other competent authorities. Use of IMI can speed up procedures and often negates the need for further correspondence with the migrant, or for the migrant having to submit documents; IMI allows communication with competent authorities that otherwise would be difficult to reach, that would not respond within certain time limits, or with whom no communication would be possible due to language barriers.

On the other hand, IMI is not always user-friendly, and national law and discrepancies between systems of recognition (many national competent authorities exist for one profession) sometimes make the use of IMI challenging.

Suggestions for improvement of the IMI:

- 1. Registration with IMI should be mandatory for all competent authorities.*
- 2. All competent authorities should be required to use IMI and respond within a given time limit.*

3. IMI could be made more user-friendly, by (i) improving the interface (clustering and highlighting questions - some questions are used more often than others); (ii) implementing a system to monitor incoming and outgoing requests; (iii) improving the translation tool; (iv) implementing the option to identify competent authorities by profession (in all languages).

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

In our opinion, a "professional card" does not have any added value to facilitate recognition of professional qualifications. The development of such a system would be very expensive, while keeping the information contained in the card up-to-date would be nearly impossible. Furthermore, developing a European database would be difficult and expensive when taking into account that every professional would need to get a card while only a few would practice their profession in another Member State.

It seems that professional cards are meant mainly to address problems at a national level that are not prevalent in all Member States. In the Netherlands, a public, online, current directory is made available: a professional may demonstrate his/her qualifications by submitting a registration number.

Two professional card systems are imaginable with regard to recognition of professional qualifications:

- 1. A card that contains data, or:*
- 2. a card that provides access to a database.*

With a card that contains data, the problem arises that data may not always be up-to-date. Also, this system would be more susceptible to data fraud. With a card that provides access to a database, the problem arises that competent authorities must maintain such a database. With a European database, a few problems would likely arise, such as: language barriers, the effort of keeping the data up-to-date, and differences in interpretation with regard to data. Furthermore, there is no added value when the card is meant to be used to access data through a closed network, because of the existence of the IMI. Member States are able to provide each other with information through use of the IMI, and may incorporate such data in a national database. Subsequently, employers and civilians or patients would be able to refer to such a national database.

Even a professional card will not prevent fraud and abuse. Furthermore, the card may imply the holder of that card to be qualified when this is not actually the case.

When taking into account the number of migrants vis-à-vis the number of residents, the costs versus the benefits of introducing and maintaining a card system linked to a European database would seem disproportionate.

Maintaining both a professional card system and a public online up-to-date database would be confusing and inefficient. Employers and civilians or patients

The Netherlands 06-10-2010

should use the register, while competent authorities should exchange information through IMI directly.

From the viewpoint of cost reductions and efficiency, we feel it would make more sense to invest in the development of public, central databases in each Member State, while using IMI for the direct exchange of data between Member States.

E. OTHER OBSERVATIONS

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

Language skills are considered an essential part of the work quality of a professional. When a doctor, nurse, dentist, midwife, physiotherapist or pharmacist has received recognition from the government, he or she may immediately start working in the Netherlands.

Complaints have been received by the BIG-register and the specialist registration committees about insufficient language skills of migrating health professionals who were granted registration under the Directive on a regular basis. It is incomprehensible to employers and insurance agencies that a migrant can be recognized and registered even though he or she does not speak the Dutch language.

Dutch Physiotherapy education is geared towards the Dutch physiotherapy system whereby the physiotherapist is an independent practitioner in his or her own right. To be able to work independently, the skill of being able to perform an independent health risk assessment by the physiotherapist of her/his clients is an integral part of the four year physiotherapy training. In many EU countries physiotherapists work under the responsibility of doctors and independent health risk assessment by midwives trained outside the Netherlands is therefore not an integral part of their initial physiotherapy training. This causes obvious constraints to EU trained physiotherapists who wish to provide safe physiotherapy care in the Netherlands.

HJS
2010-10-06.

**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

19. AUSTRIA

**Experience report from national coordinators
with regard to other regulated professions**

Evaluating the Professional Qualifications Directive

QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS, ~~Experience report Austria~~ PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES, SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

Vorbemerkung: Bei den Berufsgruppen Sozialberufe, Sportberufe und Lehrer gibt es mehrere zuständige Behörden sowie unterschiedliche Gesetzesgrundlagen in verschiedenen Bundesländern. Die wiedergegebenen Erfahrungberichte für diese Berufe decken nicht alle Anerkennungsverfahren und Gesetzesgrundlagen ab und sind möglicherweise nicht repräsentativ für das ganze Staatsgebiet. Insbesondere im Bereich der Sozialarbeit gibt es aufgrund von neuen Berufsregelungen nur vereinzelt Erfahrungswerte.

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?

**Under which conditions can they send documents and declarations
 electronically? What are your experiences in this respect?:**

Teacher/Lehrer:

Bewerbungen um eine Lehrerstelle werden durch die Personalstellen der Landesschulräte/dem Stadtschulrat für Wien an das zuständige Bundesministerium verwaltungsintern weitergeleitet. Ebenso Anträge von im Dienststand befindlichen Lehrkräften, welche eine Anerkennung gegebenenfalls zusätzlicher Ausbildungen für die Überprüfung Ihrer derzeitigen Einstufung begehren.

Engineers/Ingenieure:

In Entsprechung der Bestimmungen des Allgemeinen Verwaltungsverfahrensgesetzes können Anbringen in nahezu jeder technisch möglichen Form eingebracht werden. Es werden telefonische Anfragen und Anbringen als E-Mail

akzeptiert. Ungeachtet dessen bestehen keine Erfahrungen in dieser Hinsicht, da die Anbringen bei der zuständigen Behörde ausschließlich physisch im Wege der Post eingebracht wurden.

Annex IV, Tourist Guides/Fremdenführer:

Anträge auf Anerkennung werden elektronisch akzeptiert. Da ein Zertifizierungssystem für selbst erstellte und per Mail/Fax übermittelte Scans nicht besteht, ist die Papiervorlage von Dokumenten grundsätzlich unverzichtbar.

Sports professions/Sportberufe:

Anträge mittels E-government und per E-Mail werden akzeptiert. Teilweise können für das Anerkennungsverfahren benötigte Unterlagen im PDF-Format übermittelt werden. Formulare für Anerkennungsanträge können teilweise auch elektronisch abgerufen werden.

Physiotherapists/Physiotherapeuten:

Anträge auf Anerkennung von Berufsqualifikationen müssen auf dem Postweg eingebracht werden. Elektronische oder online übermittelte Anträge werden nicht akzeptiert. Der Antrag muss persönlich vom Migrant unterschrieben sein. Die bisherigen Erfahrungen zeigen, dass es erforderlich ist, beglaubigte Kopien von Originaldokumenten einzufordern, um Fälschungen ausschließen zu können.

Allgemeine Informationen über die verschiedenen Verfahren und die notwendigen Dokumente stehen online auf der Website des Bundesministeriums für Gesundheit zur Verfügung. Online Anfragen werden natürlich von der zuständigen Behörde beantwortet.

Social workers/Sozialarbeit:

Anträge können per E-Mail oder online im Rahmen des E-Government gestellt werden. Die erforderlichen Dokumente und Erklärungen können ebenfalls elektronisch übermittelt werden. Von der Antragstellung im Rahmen des E-Government wird selten Gebrauch gemacht, in der Regel wird der Schriftverkehr über E-Mail abgewickelt (Bundesland Wien). Bei einer anderen Behörde sind bei Sozialbetreuungsberufen die Dokumente im Original oder in beglaubigter Abschrift in Papierform vorzulegen.

2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

Teacher/Lehrer:

Allfällige bereits in anderen Mitgliedstaaten anerkannte Ausbildungen aus Drittstaaten werden gegebenenfalls berücksichtigt.

Engineers/Ingenieure:

Dazu gibt es keine Erfahrungen, da Anbringen mit "Drittstaatsdiplom" bisher nicht vorgelegt wurden.

Annex IV, Tourist Guides/Fremdenführer:

Ist bis dato nicht vorgekommen.

Sports professions/Sportberufe:

In einem Bundesland positive Erfahrungen, ansonsten keine derartigen Fälle.

Social workers/Sozialarbeit:

Bisher noch kein derartiger Fall.

Physiotherapists/Physiotherapeuten:

Bisher keine Erfahrungen.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

Teacher/Lehrer:

Die österreichische Lehramtsausbildung für allgemeinbildende Fächer für den Bereich mittlerer und höherer Schulen umfasst ein viereinhalbjähriges Lehramtsstudium und ein einjähriges Unterrichtspraktikum (im Sinne des Art. 11 lit. e der RL 2005/36/EG). Daneben sieht die Anlage 1 zum BDG 1979 spezifische Anstellungserfordernisse für den allgemeinbildenden Bereich (Kunststudien, musische Bachelorausbildungen, Fachtheologie) oder für den berufsbildenden Bereich (Masterstudien und entsprechende Berufspraxis) vor. In Bestätigungen

der Lehrbefähigungen für Absolventinnen und Absolventen von in Österreich absolvierten Studien für Bewerbungen in anderen EU-Ländern oder Vertragsstaaten des EWR wird regelmäßig das Niveau der jeweils absolvierten Ausbildung nach Art. 11 der Richtlinie angeführt.

Engineers/Ingenieure:

Da es bei Ingenieurkonsulenten wenig Migration gibt, wird auch von den Qualifikationsniveaus kaum Gebrauch gemacht.

Annex IV, Tourist Guides/Fremdenführer:

Lediglich aus HU und CZ gibt es Bescheinigungen, die diesem Kriterium Rechnung tragen. Erschwerend kommt hinzu, dass das österreichische Ausbildungsniveau und die Ausbildungsdauer nur bei den von § 373d Gewerbeordnung erfassten Gewerben festgeschrieben ist (dies sind Gewerbe, die dem allgemeinen Anerkennungssystem und nicht Anhang IV unterliegen).

Sports professions/Sportberufe:

Keine Angaben dazu.

Social workers/Sozialarbeit:

Die Anerkennungsgrundlage nach den Ausbildungsniveaus des Art. 11 der Richtlinie 2005/36/EG bildet die zentrale Grundlage für die Beurteilung der Gleichstellung von Ausbildungen im Bereich der Sozialarbeit.

Physiotherapists/Physiotherapeuten:

Die Niveaus des Art. 11 spielen eine sehr wichtige Rolle im allgemeinen Anerkennungssystem. Die Ausbildung der Physiotherapeuten in Österreich entspricht dem post-sekundären Niveau mit der Dauer von drei Jahren gemäß Art. 11(d). Somit werden vom Gesundheitsministerium Fremdausbildungen mit den Niveaus (c), (d), und (e) anerkannt. Antragsteller, die z.B. eine medizinische Ausbildung an einer vierjährigen Sekundarschule gemäß Art. 11 (b) besitzen, können in Österreich nicht als Physiotherapeuten anerkannt werden.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two

years of working experience wishes to work in your country? How do you deal with such applications?

Teacher/Lehrer:

Es liegen keine Erfahrungen vor.

Engineers/Ingenieure:

Nein.

Annex IV, Tourist Guides:

Es besteht kein Problem mit der Anerkennung, wenn eine reglementierte Ausbildung vorliegt.

Social workers/Sozialarbeit:

Bisher keine Erfahrungen.

Physiotherapists/Physiotherapeuten:

Es gibt bisher keine Erfahrungen mit derartigen Situationen.

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

Teacher/Lehrer:

Lehramtsausbildungen nur für ein Fach werden anerkannt und der Berufszugang als Lehrer für den Bereich mittlerer und höherer Schulen in Österreich gewährt.

Engineers/Ingenieure:

Keine diesbezüglichen Erfahrungen, da dieser Fall noch nicht vorgekommen ist.

Annex IV, Tourist Guides:

Da die Gewerbeabgrenzungen international nicht einheitlich sind, stellt sich diese Situation häufig und kann in der Regel durch einen eingeschränkten Zugang gelöst werden. Problematisch wird die Angelegenheit nur dann, wenn eine inhaltliche Zuordnung de facto nicht möglich ist (z.B. Deutschland: "Montage

genormter Baufertigteile", diese Tätigkeit würde in Österreich jedenfalls unter verschiedene Berufe fallen, wobei auch der Wortlaut nicht eindeutig ist.)

Sports professions/Sportberufe:

Bisher keine Erfahrungen.

Social workers/Sozialarbeit:

Bisher keine Erfahrungen.

Physiotherapists/Physiotherapeuten:

Bisher keine Erfahrungen.

B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV

6. Does the mechanism in place work smoothly in practice?

Der Mechanismus funktioniert nur dann, wenn der Heimatstaat bei der Ausstellung der nach der Richtlinie vorgesehenen Bescheinigungen über die Berufsqualifikation und -praxis entsprechend mitwirkt. Gut eingespielt ist die Angelegenheit bei CZ, HU und SK, mit Einschränkungen in D. Bei den meisten "Altmitgliedstaaten" stößt dieser Punkt auf Unverständnis.

7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

Ja, eine derartiges Anerkennungsverfahren ist gemäß § 373d GewO 1994 auch für Berufe des Anhangs IV der RL vorgesehen.

C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

Teacher/Lehrer:

Es liegen keine Erfahrungen mit vorübergehender und gelegentlicher Dienstleistung vor. Das Vertragsbedienstetengesetz 1948 erlaubt zwar befristete Anstellungen (Art. X der 32. Vertragsbedienstetengesetz-Novelle 1982 bzw. Sonderverträge gemäß § 36 VBG); und diese sind bei Neueinstellungen der dienstrechtliche Regelfall, es handelt sich jedoch um längerfristige Verträge, die über die vorübergehende und gelegentliche Dienstleistung hinausgehen. Daher auch keine weitere Stellungnahme zu den Fragen 8-11.

Engineers/Ingenieure:

Im Bereich der Ziviltechniker wird keine vorherige Meldung der Dienstleistung verlangt, daher hat die zuständige Behörde keine Informationen über das Ausmaß der grenzüberschreitenden Dienstleistung. Zu den Fragen 8 - 11 kann daher für den Bereich der Ingenieure, die als Ziviltechniker tätig werden (Ingenieurkonsulenten) keine Information gegeben werden. Im Bereich der gewerblichen Ingenieure gibt es jährlich ca. 10 bis 20 Dienstleistungsanzeigen. Für die gewerblichen Ingenieure gelten die gleichen Regelungen wie für Berufe des Annex IV und Fremdenführer, die Antworten für diese Berufe sind daher auch für die Ingenieurbüros nach der Gewerbeordnung gültig.

Annex IV, Tourist Guides:

Ja, es gibt starkes Interesse daran.

Sports professions/Sportberufe:

Ja, es besteht Interesse. Unionsbürger werden im Rahmen des sogenannten "Ausflugsverkehrs" vorübergehend in Österreich tätig. Im Bundesland Tirol melden die Schischulen den Ausflugsverkehr dabei über den Tiroler Schilehrerverband an, es kommt dabei zu einer Überprüfung der Berufsqualifikation der Schilehrer. Auch in anderen Bundesländern ist eine vorherige Meldung der Dienstleistung vorgesehen. Das Bundesland Vorarlberg berichtet von 4 Verfahren für Schilehrer, und 6 für Canyoningführer im Jahre 2008. Im

Jahr 2009 wurden ebenfalls 4 Verfahren für Bergführer, und 1 Verfahren für Canyoningführer geführt. Alle Anträge wurden positiv erledigt. Im Jahr 2008 gab es in diesem Bundesland insgesamt 46 und im Jahr 2009 insgesamt 136 einschlägige Anfragen. Kärnten berichtet vom Interesse slowenischer und britischer Schilehrer an vorübergehender Dienstleistung.

Social workers/Sozialarbeit:

Bisher keine Erfahrungen, daher ist auch keine Stellungnahme zu den Fragen 8 - 11 möglich.

Physiotherapists/Physiotherapeuten:

Für Physiotherapeuten wurde in Österreich das Verfahren gemäß Art. 7 Abs. 4 RL 2005/36/EG umgesetzt. Die zuständige Behörden in den Bundesländern dürfen die Qualifikation des Dienstleisters vor der erstmaligen Dienstleistungserbringung überprüfen. Laut den zuständigen Behörden sind in den Jahren 2008 und 2009 keine Meldungen über die Erbringung vorübergehender und gelegentlicher Dienstleistungen eingegangen. Es können daher auch keine weiteren Informationen zu den Fragen 9-11 gegeben werden.

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- **How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice?**
- **What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?**

Annex IV, Tourist Guides:

Es ist eine Bescheinigung gemäß § 373a Abs. 4 Z. 2 GewO 1994 vorzulegen, welche der Bescheinigung gemäß Art. 7 Abs. 2 lit. b) der RL 2005/36/EG entspricht.

Sports Professions/Sportberufe:

Die beabsichtigte erstmalige Ausübung im Dienstleistungsverkehr ist in Kärnten unter Vorlage der gemäß § 15 KBQAG geforderten Nachweise vorher der Landesregierung anzuzeigen. Diese Nachweise entsprechen den Dokumenten, die in Art. 7 Abs. 2 der RL 2005/36/EG angegeben sind. Die Landesregierung kann anlässlich der erstmaligen Erbringung der Dienstleistung die Berufsqualifikation des Dienstleisters bzw. gegebenenfalls der eingesetzten Dienstnehmer daraufhin überprüfen, ob die vom Dienstleister vorgelegten Ausbildungsnachweise oder Nachweise der tatsächlichen Ausübung im Hinblick auf die durch diese erworbenen Fähigkeiten und Kenntnisse von dem in Kärnten erforderlichen Ausbildungsnachweis derart abweichen, dass zu befürchten ist, dass dadurch eine schwerwiegende Gefährdung der Gesundheit oder Sicherheit der Dienstleistungsempfänger oder der Öffentlichkeit eintreten kann.

• **How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?**

Annex IV, Tourist Guides:

Die Frage nach der Auslegung von "vorübergehend" und/oder "gelegentlich" stellt sich insofern nicht, als die tatsächliche Dauer der Dienstleistungserbringung im Rahmen der Dienstleistungsanzeige ohnehin nicht zu kontrollieren ist (wenn überhaupt, wäre das nur in einem nachträglichen Verwaltungsstrafverfahren zu relevieren).

Sports professions/Sportberufe:

Aufgrund der Gesetzeslage im Bundesland Kärnten erfolgt die Prüfung der Frage des Vorliegens einer Dienstleistung nach den durch Art. 5 Abs. 2 zweiter Unterabsatz Berufsqualifikations-RL festgelegten Kriterien, wobei im Einklang mit § 2 lit. m K-BQAG zu berücksichtigen ist, dass die Ausübung von Schiunterricht nur saisonal möglich ist. Aufgrund des § 1a Abs. 4 K-SSchG wird jedoch überhaupt keine Einzelfallprüfung vorgenommen, wenn die Dauer der Ausübung im Einzelfall 14 Tage oder während einer Schisaison 28 Tage nicht überschreitet. In allen zeitlich darüber hinausgehenden Fällen ist eine Einzelfallprüfung auf der

Grundlage der gesetzlich festgelegten Kriterien vorzunehmen. Eine Verwaltungspraxis zu dieser Frage liegt allerdings noch nicht vor.

10. Why is a prior declaration system necessary?

Annex IV, Tourist Guides:

Gerade im Bereich der selbständigen Gewerbetreibenden ist die vorherige Meldung wichtig, um die Umgehung von Qualifikationsvorschriften, arbeitsrechtlichen und sozialrechtlichen Vorschriften zu verhindern (Verhinderung von Scheinselbständigen, der Gewerbetreibende oder gewerberechtliche Geschäftsführer ist auch für die fachliche Tätigkeit der Arbeitnehmer verantwortlich).

Sports professions/Sportberufe:

Die Sportberufe eines Schilehrers, Bergführers oder Canyoningführers verlangen insbesondere aufgrund der alpinen Gefahren ein besonderes Maß an Verantwortung für die Sicherheit und Unversehrtheit der anvertrauten Personen. Eine Vorwegabklärung der fachlichen Eignung ist unumgänglich. Die so über die ausländischen Berufsqualifikationen gewonnenen Informationen ermöglichen es auf Dauer, allfällig notwendige Überprüfungen der Berufsqualifikationen in Zukunft zu vermeiden.

What do competent authorities do with the information received?

Annex IV, Tourist Guides:

Es erfolgt die Eintragung in ein Dienstleisterregister.

Are other possibilities conceivable?

Annex IV, Tourist Guides:

Ja - z.B. Regelung wie bei den Ziviltechnikern, bei denen auf eine vorherige Meldung verzichtet wurde.

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

Teacher/Lehrer:

Es liegen keine Erfahrungen vor

Engineers/Ingenieure:

Es liegen keine Erfahrungen vor.

Annex IV, Tourist Guides:

Ja.

D. ADMINISTRATIVE COOPERATION

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Teacher/Lehrer:

Es liegen keine Erfahrungen vor.

Engineers/Ingenieure:

Bisher keine wesentliche Vereinfachung.

Annex IV, Tourist Guides:

Nach Einschätzung der Behörde hat die Verwaltungszusammenarbeit keine wesentliche Auswirkung. Ein einheitliches Formular (mehrsprachig wie beim internationalen Unfallbericht), wie es zu Zeiten der Übergangs- und Liberalisierungsrichtlinien vorgesehen war, würde bei geringerem Aufwand wesentlich mehr bringen.

Sports professions/Sportberufe:

Es gibt unterschiedliche Ansichten der zuständigen Behörden. Die Behörden in Vorarlberg erklären, dass die geschaffenen Möglichkeiten der Verwaltungszusammenarbeit einer raschen Verfahrensabwicklung dienen und somit den Antragstellern direkt zu Gute kommen. Nach den bisherigen Erfahrungen der Kärntner Behörden ist das Auffinden der zuständigen Behörde im Heimatstaat

und die damit verbundene Auskunftleistung durch diese gar nicht oder nur sehr schwer möglich. Ein einheitliches europaweites Formular wäre sehr hilfreich. Nach Ansicht der Kärntner Behörden ist es für die Verwaltungszusammenarbeit nach Art. 56 erforderlich, dass die zuständigen Behörden in dem System IMI registriert und als solche auch aufgefunden werden können. Nach der bisherigen Erfahrung war die Zusammenarbeit mit Polen sehr gut. Z.B. aus UK konnte zum Thema Schischulen keine zufriedenstellende Antwort erreicht werden. Es angeregt, dass die Mitgliedsstaaten berufsspezifisch die zuständigen Behörden ergänzen.

Social workers/Sozialarbeit:

Die Zusammenarbeit mit den zuständigen Behörden in den Herkunftsländern gestaltet sich überwiegend positiv. Für das Anerkennungsverfahren sind insbesondere die Bestätigungen der Herkunftsländer förderlich, die erläutern, in welchem Rahmen und in welchem Ausmaß die Berufsqualifikationen im Herkunftsland reglementiert sind.

Physiotherapists/Physiotherapeuten:

Verwaltungszusammenarbeit kann sicherlich Verfahren vereinfachen. Diese kann auf verschiedenen Wegen stattfinden (telefonisch, E-Mail). Die Art der Zusammenarbeit sollte vom Einzelfall und der auftretenden Frage abhängig sein. An erster Stelle sollte der Antragsteller die notwendigen Informationen beibringen. Nur im Falle von ernsthaften Zweifeln sollte die Verwaltungszusammenarbeit eingesetzt werden.

**13. Is the competent authority in your country registered with IMI?
Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?**

Teacher/Lehrer:

Nein, die Behörde nimmt nicht an IMI teil. Die durchzuführenden Anerkennungsverfahren ergeben sich aus dem Bewerbungsprozess und der allfälligen dienstrechtlichen Überprüfung von Einstufungen.

Engineers/Ingenieure:

Ja, die Behörde ist in IMI registriert. Es wurde bisher davon kein Gebrauch gemacht.

Annex IV, Tourist Guides/Fremdenführer:

Die Behörde ist in IMI registriert. Bisher wurden Anfragen aus anderen Mitgliedstaaten beantwortet.

Sports professions/Sportberufe:

IMI wird von einigen zuständigen Behörden angewendet, für andere war Verwaltungszusammenarbeit bisher nicht erforderlich. Ein Bundesland macht darauf aufmerksam, dass die Registrierung der für Sportberufe zuständigen Behörden in IMI nur für den Bereich der Dienstleistungs-RL, jedoch nicht für die Berufsanerkennung erfolgt ist.

Social workers/Sozialarbeit:

Derzeit keine Registrierung in IMI.

Physiotherapists/Physiotherapeuten:

Ja, das Bundesministerium für Gesundheit ist in IMI-System registriert. In Ermangelung eines Registers für Physiotherapeuten können jedoch einige Fragen nicht oder nur ungenügend beantwortet werden. Es werden positive Effekte von IMI gesehen, IMI wurde jedoch erst in wenigen Fällen benutzt. Es werden andere Kommunikationsformen bevorzugt.

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

Teacher/Lehrer:

Es liegen keine Erfahrungen vor.

Engineers/Ingenieure:

Keine diesbezüglichen Erfahrungswerte.

Annex IV, Tourist Guides:

Ein europaweit einheitlicher Berufsausweis würde im Vorfeld eine Einigung über Berufsumfänge, Reglementierungen und Qualifikationsniveaus (ähnlich wie im Kraftfahrrecht) erfordern. In diesem Fall wäre die Richtlinie 2005/36/EG weitgehend verzichtbar.

Sports professions/Sportberufe:

Berufsausweise können nur bedingt die Anerkennung erleichtern, da ihnen oft nicht die zugrunde liegenden konkreten Qualifikationsmaßnahmen entnommen werden können. Ein Berufsausweis müsste ähnlich wie ein Personalausweis die ausstellende Behörde erkennen lassen, sodass im Zweifelsfalle fehlende Informationen rasch und unbürokratisch durch diese Stelle eingeholt werden könnten.

Physiotherapists/Physiotherapeuten:

Zunächst müsste klargestellt werden, welche Behörde oder Organisation den Berufsausweis herausgibt. Es wird betont, dass es keine gesetzlich anerkannte Berufsorganisation für Physiotherapeuten in Österreich gibt. Ein Berufsausweis könnte nützliche Informationen zu Beruf, Weiterbildung und der Berufserfahrung des Migranten liefern (entsprechend den Nachweisen gemäß Anhang VII der RL). Der Ausweis sollte jedoch keinen Ersatz für die Vorlage der formale Ausbildung und der Nachweises über die Zuverlässigkeit und Gesundheit sein. Nach Meinung des Gesundheitsministeriums wäre es nützlich, europaweite Berufsausweise mit den nationalen Berufsausweisen zu verbinden, wobei die nationale Ausweise die relevanten Informationen hinsichtlich des derzeitigen Rechts zur Berufsausübung im Herkunftsland enthalten sollen. Die Entschließung des Europäischen Parlaments zu Berufsausweisen vom 19. 2. 2009 (2010/C 76 E/08) , RZ 18, erklärt, dass die im EUROPASS-CV enthaltene Information betreffend das derzeitige Recht des Berufsangehörigen zur Ausübung der Berufs im Herkunftsland auch in den Europäischen Berufsausweis einbezogen werden könnte. Dadurch wird der Wert des EUROPASS-CV in Frage gestellt.

E. OTHER OBSERVATIONS

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

Teacher/Lehrer:

Es wird auf das Anstellungserfordernis des § 4 Abs. 1a BDG 1979 (§ 3 Abs. 1a VBG) verwiesen („Das Erfordernis der fachlichen Eignung gemäß Abs. 1 Z 3 umfaßt auch die Beherrschung der deutschen Sprache in Wort und Schrift. Bei Verwendungen, für deren Ausübung die Beherrschung der deutschen Sprache in geringerem Umfang genügt, ist ihre Beherrschung in dem für diese Verwendung erforderlichen Ausmaß nachzuweisen.“). Die Überprüfung von Sprachkenntnissen erfolgt bei der Aufnahme durch die Landesschulräte/ Stadtschulrat für Wien und nicht bei der Anerkennung von Ausbildungsnachweisen. Beim Einsatz von sog. „native speakern“ (fremdsprachlicher Unterricht udgl.) wird auf die Ausnahmebestimmung in § 4 Abs. 1a zweiter Satz BDG 1979 (§ 3 Abs. 1a VBG) verwiesen.

Annex IV, Tourist Guides:

Die zuständige Behörde führt keine derartigen Überprüfungen durch, auch im Gewerberecht sind keine derartigen Überprüfungen vorgesehen.

Sports Professions/Sportberufe:

Beschwerden im Zusammenhang mit dem Nachweis von Deutschkenntnissen sind bislang keine bekannt. Nach der Novelle zum Tiroler Schischulgesetz 1995 werden Sprachkenntnisse in diesem Bundesland nicht mehr im Rahmen des Anerkennungsverfahrens, sondern erst beim eigentlichen Berufszugang geprüft.

Social workers/Sozialarbeit:

Bei der Gleichstellung von Ausbildungen im Bereich der Sozialarbeit sind die erforderlichen Kenntnisse im Bereich des österreichischen Familien- und Jugendwohlfahrtsrechts nachzuweisen. Der Nachweis dieser Kenntnisse wird im Bundesland Wien in der Regel durch das Ablegen einer Prüfung erbracht, die in deutscher Sprache durchgeführt wird. Wenn diese Prüfung bestanden wird, wurden damit de facto auch deutsche Sprachkenntnisse nachgewiesen. In einem

Fall gab es die Rückmeldung (im Bereich der Jugendamtssozialarbeit), dass sich die Sprachkenntnisse für die spätere Berufsausübung als nicht ausreichend erwiesen haben.

Physiotherapists/Physiotherapeuten:

Physiotherapeuten sind in täglichem und engem Kontakt mit Patienten. Im Interesse der Patientensicherheit und auch der interdisziplinären Zusammenarbeit ist die Beherrschung der Sprache des Aufnahmestaats unerlässlich. In seiner Entschließung vom 23. Mai 2007 über "Die Auswirkungen und Folgen der Ausklammerung von Gesundheitsdiensten aus der Dienstleistungsrichtlinie" (2006/2275 (INI)) hält es das Europäische Parlament für sehr wichtig, dass Erbringer von Gesundheitsdienstleistungen, die in direktem Kontakt zu Patienten stehen, über ausreichende Kenntnisse der Sprache des betreffenden Aufnahmemitgliedstaats verfügen. Die Kenntnisse der deutschen Sprache sind eine Voraussetzung für die Ausübung des Berufs der Physiotherapeuten und die Aufnahme der Ausbildung in Österreich. Einerseits ist der Berufsangehörige für den Erwerb der nötigen Sprachkenntnisse verantwortlich. Andererseits ist der Arbeitgeber dafür verantwortlich, nur Arbeitnehmer mit ausreichenden Kenntnissen der deutschen Sprache einzusetzen. Dem Gesundheitsministerium sind keine Beschwerden von Arbeitgebern über ungenügende Sprachkenntnisse von migrierenden Berufsangehörigen bekannt.

Evaluating the Professional Qualifications Directive

Experience report Austria

QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS, PROFESSIONAL ACTIVITIES COMING UNDER ANNEX IV, TOURIST GUIDES, SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

Preliminary remark: For the groups comprising the social, sports and teaching professions there are several competent authorities and differing legal bases in various provinces. The reports on experience in these professions do not cover all recognition processes and legal bases and may not be representative of the country as a whole. In social work in particular, there is only very limited experience to draw on because of the new rules governing these professions.

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line?

Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?:

Teachers:

Applications for teaching positions are forwarded to the competent federal ministry through internal administration channels by the human resource units of the provincial schools councils/City School Council for Vienna. This also applies to applications from teachers already in employment who are seeking recognition of additional training for the purposes of reviewing their current classification.

Engineers:

In accordance with the provisions of the *Allgemeines Verwaltungsverfahrensgesetz* (General Administrative Procedures Act), applications may be submitted in virtually any form that is technically possible. Enquiries by telephone and applications in the form of e-mails are

accepted. Nevertheless, we cannot report any experience in this matter, as applications to the competent authorities have so far been submitted exclusively by post.

Annex IV, tourist guides:

Applications for recognition are accepted electronically. As there is no certification system for self-produced scans forwarded by e-mail/fax, it is indispensable for documents to be submitted in paper form.

Sports professions:

Applications via e-government and by e-mail are accepted. In some cases the documents required for the recognition procedures may be submitted in PDF format. Some application forms for recognition can also be downloaded electronically.

Physiotherapists:

Applications for recognition of professional qualifications must be submitted by post. No electronic or online applications are accepted. The application must be signed personally by the migrant. Experience to date shows that certified copies of original documents need to be requested in order to be able to rule out forgeries.

General information on the various procedures and the documents required is available online at the website of the *Bundesministerium für Gesundheit* (Federal Ministry of Health). Online enquiries are, of course, answered by the competent authority.

Social workers:

Applications may be submitted by e-mail or online via the e-government system. The documents and declarations required can also be forwarded electronically. Little use is made of the option to apply via the e-government system and, as a rule, correspondence is via e-mail (Vienna). Another authority requires documents for social care professions to be submitted as originals or certified paper copies.

2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

Teachers:

Any training in third countries already recognised in other Member States is accepted where appropriate.

Engineers:

We have no experience in this matter as no applications from persons with third country qualifications have been submitted.

Annex IV, tourist guides:

No such cases have occurred yet.

Sports professions:

Experience in one province has been positive, otherwise no such cases have occurred yet.

Social workers:

No such cases have occurred yet.

Physiotherapists:

We have no experience with this to date.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

Teachers:

Training for intermediate and secondary school teachers in general education in Austria comprises four and a half years of study and one year of teaching practice (in accordance with Article 11(e) of Directive 2005/36/EC). Annex 1 to the *BDG (Bundesdienstgesetz – Federal Civil Service Act) 1979* also provides for specific requirements for employment in general education (art studies, bachelor of music, theology) or in vocational training (masters degree and corresponding professional experience). The level of qualification in accordance with Article 11 of the Directive is invariably entered in teaching certificates for persons having completed their studies in Austria for applications in other EU or EEA countries.

Engineers:

As there is little migration in consulting engineering the levels of qualification are hardly used.

Annex IV, tourist guides:

There are certificates only from HU and CZ which take account of this criterion. Moreover, the Austrian level of qualification and duration of training is laid down only for professions listed in §373d *Gewerbeordnung* (Industrial Code), which are subject to the general system of recognition rather than Annex IV.

Sports professions:

We have no information on this matter.

Social workers:

The basis for recognition according to the level of qualification under Article 11 of Directive 2005/36/EC is the main parameter for assessing the equal treatment of training qualifications in social work.

Physiotherapists:

The level under Article 11 plays a very important part in the general recognition system. Training of physiotherapists in Austria comprises a three-year post-secondary level course in accordance with Article 11(d). The Ministry of Health recognises external qualifications for levels (c), (d), and (e). Applicants who, for example, have received four-year secondary level medical training in accordance with Article 11(b) cannot be recognised as physiotherapists in Austria.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?

Teachers:

We have no such experience.

Engineers:

No.

Annex IV, tourist guides:

There is no problem with recognition if a regulated qualification exists.

Social workers:

We have no experience of this yet.

Physiotherapists:

We have no experience of such situations to date.

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

Teachers:

Teacher training in a single subject is recognised, and access to the profession is granted as an intermediate and secondary school teacher in Austria.

Engineers:

We have no experience in this matter.

Annex IV, tourist guides:

As there are no internationally standardised definitions of occupations, this situation arises frequently and can, as a rule, be resolved by granting limited access. Problems arise only when it is not possible to assign the occupation in practice (for example the occupation "Assembly of standard prefabricated construction components" in Germany would come under various occupations in Austria and the wording is also not entirely clear).

Sports professions:

We have no experience in this matter to date.

Social workers:

We have no experience in this matter to date.

Physiotherapists:

We have no experience in this matter to date.

B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV

6. Does the mechanism in place work smoothly in practice?

The mechanism works only when the country of origin cooperates in issuing the certificates of professional qualifications and experience provided for in the Directive. It works smoothly with CZ, HU and SK, and, with some restrictions, in D. In most of the "old Member States" this point is met with incomprehension.

7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

Yes, a recognition system is in place in accordance with §373d *GewO* 1994, which also includes occupations in Annex IV to the Directive.

C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

Teachers:

We have no experience with temporary and occasional services. The *Vertragsbedienstetengesetz* 1948 (Contractual Employees Act) permits fixed-term contracts (under Article X of the 32nd Amendment to the *Vertragsbedienstetengesetz* 1982 or special contracts in accordance with §36 *VBG*) and these are the standard terms of employment for new recruits, but they cover a longer period than temporary and occasional services. We cannot therefore make any further comments on questions 8 to 11 .

Engineers:

For civil engineers no prior declaration of services is required, and the competent authority therefore no has information on the extent of cross-border services. No information is available with regard to questions 8 to 11 for engineers who are working as civil engineers (consulting engineering). Some 10 to 20 declarations of services are received each year for industrial engineers. The same rules as for Annex IV occupations and tourist guides apply to industrial engineers, and the replies with respect to these occupations also apply for engineering companies in accordance with the *Gewerbeordnung*.

Annex IV, tourist guides:

Yes, there is considerable interest in this.

Sports professions:

Yes, there is some interest. There are citizens of the Union who work on a temporary basis in local tourism in Austria. In Tyrol province the ski schools report local tourist traffic via the Tyrol Ski Instructors Association, and the professional qualifications of ski instructors are checked. In other provinces too, a prior declaration of services is required. Vorarlberg reported four procedures for skiing instructors and six for canyoning guides in 2008. In 2009 there were four procedures for mountain guides and one for canyoning guides. All the applications were approved. In 2008 there were a total of 46 and in 2009 a total of 136 relevant enquiries in this province. Carinthia reports Slovenian and British ski instructors' interest in temporary work.

Social workers:

We have no experience on this matter to date and therefore cannot make any comments on questions 8 to 11.

Physiotherapists:

For physiotherapists, the procedure in accordance with Article 7(4) of Directive 2005/36/EC has been implemented in Austria. The competent authorities in the provinces may check the qualifications of the service provider before services are first provided. According to the competent authorities, no declarations of temporary and occasional services were received in the years 2008 and 2009. No further information can therefore be provided on questions 9 to 11.

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- **How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice?**
- **What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?**

Annex IV, tourist guides:

An attestation in accordance with §373a(4) line 2 *GewO* 1994 is to be submitted, which corresponds to that in accordance with Article 7(2)(b) of Directive 2005/36/EC.

Sports professions:

In Carinthia the provincial government requires a prior declaration that professional activities are to be exercised for the first time, accompanied by the evidence required under §15 *K-BQAG (Käntner Berufsqualifikations-Anerkennungsgesetz – Carinthian Recognition of Professional Qualifications Act)*. This evidence corresponds to the documents indicated in Article 7(2) of Directive 2005/36/EC. The provincial government may, when the services are provided for the first time, check the professional qualifications of the service provider or, as the case may be, the employees, to establish whether the certificates of training or of actual professional experience submitted by the service provider and attesting to the skills and knowledge acquired differ from the certificate of training required in Carinthia to such an extent that it is to be feared that a serious threat to the health or safety of the recipients of the service or the public may arise.

- **How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?**

Annex IV, tourist guides:

The question of interpreting "temporary" and/or "occasional" does not arise in as much as the actual duration of the services under the declaration does not need to be checked (if at all, this would be raised only in subsequent administrative penalty proceedings).

Sports professions:

Due to the legal situation in Carinthia the question of whether a service is being provided is examined in accordance with the criteria laid down in the second paragraph of Article 5(2) of the Professional Qualifications Directive whereby, under §2(m) *K-BQAG*, it is to be taken into account that ski instruction is only possible on a seasonal basis. However, no individual checks are carried out under §1a(4) *K-SSchG* (*Kärntner Schischulgesetz* – Carinthian Ski Schools Act) if the duration in individual cases does not exceed 14 days or 28 days during the skiing season. In all cases involving longer periods, individual checks are to be carried out on the basis of the statutory criteria. However, as yet there is no administrative practice with regard to this matter.

10. Why is a prior declaration system necessary?

Annex IV, tourist guides:

Particularly in the sphere of self-employed workers it is important to have a prior declaration in order to prevent qualifications, labour and social legislation from being bypassed (to prevent false self-employment, and to ensure that the operator of the business or the manager under commercial law is also responsible for the employees' work).

Sports professions:

In view of the risks posed by the Alpine region, professional skiing instructors, mountain guides or canyoning guides must bear particular responsibility for the safety and wellbeing of the persons in their care. Prior declaration of professional qualification is indispensable. The information acquired on foreign professional qualifications in this manner obviates the need to check the qualifications later on.

What do competent authorities do with the information received?

Annex IV, tourist guides:

It is entered in the services register.

Are other possibilities conceivable?

Annex IV, tourist guides:

Yes – for example arrangements as for civil engineers, where a prior declaration is dispensed with.

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

Teachers:

We have no experience in this matter.

Engineers:

We have no experience in this matter.

Annex IV, tourist guides:

Yes.

D. ADMINISTRATIVE COOPERATION

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Teachers:

We have no experience in this matter.

Engineers:

This has not simplified procedures much yet.

Annex IV, tourist guides:

The authorities take the view that administration cooperation has not had any significant impact. A standard form (in several languages, as is the case for the international accident report), as was provided in the time of the transitional and liberalisation directives, would be much more effective and cost less time and money.

Sports professions:

The competent authorities' views differ. Those in Vorarlberg declared that the options created by administrative cooperation help to process applications quickly and are thus of direct benefit to applicants. In the experience of the Carinthian authorities it is very difficult, if not impossible, to locate the competent authority in the country of origin and to obtain information from it. A standard European form would be very helpful. According to the Carinthian authorities, Article 56 requires that, for the purposes of administrative cooperation, the competent authorities need to be registered in the IMI system so that they can be located. Experience to date showed that cooperation with Poland worked very well. From the UK, for example, no satisfactory response could be obtained with regard to ski schools. It is suggested that the Member States supplement the information on the authorities, indicating which occupations they are competent for.

Social workers:

Cooperation with the competent authorities in the countries of origin is largely positive. For the recognition procedures, confirmation from the countries of origin, explaining how and to what extent they regulate professional qualifications, is particularly helpful.

Physiotherapists:

Administrative cooperation can certainly simplify procedures. This can be done in different ways (by telephone or e-mail). The type of cooperation should depend on the individual case and issue in question. Initially, it is the applicant who should supply the required information. Only if there are serious doubts should administrative cooperation be resorted to.

13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

Teachers:

No, the authorities do not participate in the IMI. The recognition processes depend on the application process and any checks or classifications which may be required under employment law.

Engineers:

Yes, the authority is registered in the IMI. But this has not been used yet.

Annex IV, tourist guides:

The authority is registered in the IMI. So far only enquiries from other Member States have been answered.

Sports professions:

Some of the competent authorities use the IMI but others have not had any need for administrative cooperation yet. One province notes that registration of the authorities competent for sports professions in the IMI applies only with regard to the Services Directive but not for the purposes of recognising professional qualifications.

Social workers:

No registration in the IMI so far.

Physiotherapists:

Yes, the Federal Ministry of Health is registered in the IMI system. In the absence of a register of physiotherapists, however, some questions cannot be answered at all or only unsatisfactorily. The effects of the IMI are seen as positive. but it has only been used in a few cases. Other means of communication are preferred.

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

Teachers:

We have no experience in this matter.

Engineers:

We have no experience in this matter.

Annex IV, tourist guides:

A standard European professional card would require prior agreement on the scope of occupations, regulations and levels of qualifications (as with road traffic legislation). In this case Directive 2005/36/EC could largely be dispensed with.

Sports professions:

Professional cards could only make recognition easier to a certain extent, as they often do not indicate the practical means of qualification on which they are based. A professional card would, like an identity card, have to indicate the issuing authority so that, in cases of doubt, missing information could be obtained from it quickly and unbureaucratically.

Physiotherapists:

First of all, it would have to be clarified which authority or organisation should issue the professional card. It is emphasised that there is no statutory recognised occupational organisation for physiotherapists in Austria. A professional card could provide useful information on the occupation, further training and professional experience of the migrant (in accordance with the evidence required in Annex VII of the Directive). However, it should not be a substitute for the presentation of formal training documentation and evidence of reliability and health. The Health Ministry takes the view that it would be useful to combine European professional cards with national professional certificates, with the latter containing the information pertaining to the current entitlement to exercise the profession in the country of origin. Paragraph 18 of the resolution of the European Parliament on professional cards of 19.2009 (2010/C 76 E/08) states that the information contained in the EUROPASS-CV on the current entitlement of the member of the profession to exercise the profession in the country of origin could also be included in the European professional card. This calls into question the value of the EUROPASS-CV.

E. OTHER OBSERVATIONS

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

Teachers:

We refer to employment condition laid down in §4(1a) *BDG* 1979 (§3(1a) *VBG*) ("*The technical aptitude requirement in accordance with paragraph 1 line 3 shall also comprise a spoken and written command of the German language. For occupations for which it is sufficient to have a lesser command of German, evidence shall be provided of the required level for this occupation*"). Knowledge of language is tested upon recruitment by the provincial school councils or City School Council for Vienna and not when professional qualifications are recognised. If native speakers are employed (for teaching foreign languages etc.) reference is made to the exemption in §4(1a) second sentence *BDG* 1979 (§3(1a) *VBG*).

Annex IV, tourist guides:

The competent authority does not carry out any such tests, nor are they provided for in commercial law.

Sports professions:

No complaints have come to our notice in connection with providing evidence of knowledge of German. After the amending of the Tyrol *Schischulgesetz* in 1995, knowledge of languages is no longer tested in the course of the recognition procedure, but only on actual access to the occupation.

Social workers:

For the purposes of equal treatment of training qualifications in social work, the required knowledge of Austrian family and youth welfare law must be demonstrated. In Vienna, evidence of this knowledge is, as a rule, provided by taking an examination conducted in German. If a person passes this examination, his or her knowledge of German is documented *de facto*. In one case there was a report (in the field of social work by the Youth Welfare Office) that the knowledge of language for subsequent exercise of the profession proved not to be sufficient.

Physiotherapists:

Physiotherapists are in daily close contact with patients. In the interests of patients' safety and inter-disciplinary cooperation, a command of the language of the host country is indispensable. In its resolution of 23 May 2007 on "The impact and effects of excluding health services from the Services Directive" (2006/2275 (INI)), the European Parliament holds it to

be very important for health service providers who are in direct contact with patients to have a sufficient knowledge of the language of the respective host country. Knowledge of German is a prerequisite for exercising the profession of a physiotherapist and to start the training in Austria. On the one hand, the member of the profession is responsible for acquiring the necessary knowledge of languages. On the other hand, employers are responsible for employing only workers with sufficient knowledge of German. No complaints from employers about inadequate knowledge of languages of migrating members of the profession have come to the notice of the Ministry of Health.

Evaluating the Professional Qualifications Directive

Experience reports from competent authorities

QUESTIONNAIRE FOR PHYSIOTHERAPISTS

REPORTING COUNTRY :

AUSTRIA

COMPETENT AUTHORITY :

FEDERAL MINISTRY OF HEALTH

1) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

Applications from EU citizens for the recognition of foreign diplomas must be submitted by ordinary airmail. Applications sent electronically or on-line are not accepted in Austria. The application itself must be signed personally by the migrant.

As experience shows to avoid fake documents it is reasonable to require certified photocopies by notary, court or attorney-at-law sent by airmail to the competent authority.

General information about the different types of procedures and the necessary documents is on-line on the homepage of the Ministry of Health.

Naturally on-line requests are also answered by the competent authority.

2) What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

The Austrian Ministry of Health has no experiences with the procedure according to Article 3 para. 3 on the field of physiotherapy so far.

3) To which extent do you make use of the education levels referred to in Article 11 of the Directive?

The levels in Article 11 play a very important role in the general system.

Article 13 para. 2 (b) of the Directive states that attestations of competence and evidence of formal qualifications shall attest a level of professional qualification at least equivalent to the level immediately prior to that required in the host Member State, as described in Article 11.

The training for physiotherapists in Austria takes place at post-secondary level of three years duration according to Article 11 (d). Thus the Ministry of Health only recognizes foreign diplomas on the levels (c), (d) or (e).

E. g. applicants holding a diploma of a four year secondary medical school according to Article 11 (b) can not be recognized as physiotherapists in Austria.

4) Questions 4, 5, 8, 9, 10 and 11:

The Austrian Ministry of Health has no experiences concerning the above mentioned questions.

On the field of physiotherapy the Article 7 para. 4 procedure for health professions is implemented in Austria. Thus the competent authorities of the federal provinces may check the professional qualification of the service provider prior to the first provision of services.

Competent authorities of the federal provinces declared that for the years 2008 and 2009 there were no declarations for providing temporary or occasionally services.

5) To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Administrative cooperation can surely simplify procedures. It can be handled in various ways (e.g. phone, email). The type of cooperation should be dependent on each case and question.

It is the migrant professional who should provide the necessary information in the first place. Only in case of serious doubts the administrative cooperation should be launched.

6) Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? Please comment on your experience of using IMI. If not registered, why not and what would be the conditions for changing this situation?

Yes, the Austrian Ministry of Health is registered with IMI. However in the lack of registration of physiotherapists in Austria some questions can not be answered by the Austrian Ministry of Health at all or only insufficiently.

The Austrian Ministry of Health sees the positive effects of IMI but it has not used IMI in many cases yet. Other forms of communications are preferred.

7) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations? In what respect would a professional card add value over the Europass CV?

In the first place it has to be clarified, which authority / association would issue the professional cards. The Austrian Ministry of Health stresses that there is no legally recognized professional association in Austria for physiotherapists.

The professional card could be useful regarding specific information about the profession of the migrant, further trainings and professional experience as listed in Annex VII of the Directive. However it should not replace the requirement of submitting the formal qualification and a certificate of good character and health.

In the opinion of the Austrian Ministry of Health it would be useful to link the professional card on European level to the national professional cards which contain the relevant information regarding the current right of the professional to exercise the profession in the country of origin.

The resolution of the European Parliament about the „Creation of a European professional card for service providers“ dated 19th of February 2009 (2010/C 76 E/08) notes in his recital 18 that, where appropriate, information contained in the EUROPASS-CV could also be included on the European professional card. Thus the value over the EUROPASS-CV is questionable.

8) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?

Physiotherapists are in every day and close contact to patients. Regarding patient safety and also interdisciplinary working conditions the knowledge of the language of the host Member State is inevitable.

In its resolution dated 23th of May 2007 about „The impact and consequences of the exclusion of health services from the Services Directive in the internal market (2006/2275(INI))“ the European Parliament considers it important for health care providers directly in contact with patients to have a sufficient command of the language spoken in the host Member State.

The knowledge of the German language is a prerequisite for pursuing the profession of a physiotherapist and enrolling to the training in Austria.

On one hand the professional is responsible for acquiring the necessary language skills. On the other hand the employer is responsible for determining whether the employees have the necessary knowledge of the German language.

The Ministry of Health is not aware of any complaints from employers about insufficient language skills of the migrant professionals.

**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

20. POLAND

**Experience report from national coordinators
with regard to other regulated professions**

EX POST EVALUATION
CONCERNING PARTICULAR REGULATED PROFESSIONS AND ACTIVITIES
PURSUANT TO ART. 60(2) OF THE DIRECTIVE 2005/36/EC
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 7 SEPTEMBER 2005
ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

INTRODUCTION

With the *Law of 18 March 2008 on the rules governing the recognition of professional qualifications acquired in EU Member States* (Journal of Laws 2008 No 63, Item 394), the Republic of Poland has implemented the provisions of the *Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications* (OJ L 235, 30.09.2005, p.22) concerning the general system of the recognition of professional qualifications. The provisions of the Law of 18 March 2008 are horizontal ones and concern the citizens of the European Union Member States, The Swiss Confederation and the European Free Trade Association (EFTA) – parties to the agreement of the European Economic Area, members of a family of EU citizens and permanent residents, who possess professional qualifications acquired in home Member State and apply for professional recognition on the territory of the Republic of Poland – with the view to pursue a regulated profession or regulated activity there.

The Law makes references to the Law of 4 September 1997 on sectors of governmental administration (Journal of Laws of 1999, Dz.U. No 82, item 928, with subsequent amendments), which assigned the powers of recognition of qualifications in respect of regulated professions in each particular sector to the minister competent for that sector.

Moreover, the Law entrusted the minister competent for higher education with a function of a co-ordinator in the field of the recognition of qualifications in regulated professions. The coordination function and activities are performed by the Department for International Affairs and Recognition of Diplomas of the Ministry of Science and Higher Education.

Unit for Coordination of the System for the Recognition of Professional Qualifications of the Department plays the role of the contact point in Poland, pursuant to art. 57 of the Directive

both providing citizens, competent authorities and other institutions with information on the recognition of professional qualifications and assisting citizens in realising the rights conferred on them by the Directive. Unit for Academic Recognition of the same Department plays the role of national information centre on the recognition of foreign credentials for academic purposes (ENIC/NARIC).

Provisions of the Law of 18 March 2008 ensure implementation of the directive by providing a delegation to issue the following secondary legislation:

- Regulation of the Minister of Science and Higher Education of 16 June 2009 indicating the contact point competent for providing information on recognition of professional qualifications and establishing the detailed scope of the contact point's tasks (Journal of Laws 2009 No 98, item 821);
- Ordinance No 127 of the Prime Minister of 21 November 2009 on appointment of a Group for co-operation in the field of the coordination of the qualifications recognition system for regulated professions and activities (Journal of Laws 2009 No 89, item 776 with further amendments);
- Regulation of the Minister of Science and Higher Education of 9 October 2008 on the models of the forms submitted to initiate the procedure for the recognition of professional qualifications (Journal of Laws 2008 No 187, item 1151 with further amendments);
- Regulation of the Prime Minister of 17 October 2008 on the scope and deadlines for submission of information on the changes of requirements for regulated professions and activities and on the decisions taken in the field of recognition of qualifications (Journal of Laws 2008 No 185, item 1147),
- Several regulations of the different ministers competent for particular sectors of governmental administration concerning the rules of carrying out the adaptation periods and aptitude tests as a part of the procedure for the recognition of professional qualifications for the pursuit of the regulated professions belonging to their sectors;
- Regulation of Minister of Science and Higher Education of 18 September 2009 on regulated professions to which the right of choice between an adaptation period and an aptitude test does not apply (Journal of Laws 2009 No 164, item 1311);

- Regulation of the Prime Minister of 5 March 2009 determining the professions in the case of which a procedure of recognition of professional qualifications may be initiated (Journal of Laws 2009, No 38, item 302);
- Regulation of the Prime Minister 9 December 2008 on the assignment of the activities designated with the ISIC and NICE codes to the Polish Classification of Activities (*Polska Klasyfikacja Działalności – PKD*) (Journal of Laws 2008 No 223, item 1470);
- Regulation of the Minister of Economy of 7 May 2008 on the certificate attesting the nature, period and type of activity pursued in the Republic of Poland (Journal of Laws 2008 No 90, item 549);

Additionally, on the basis of the Law of 4 September 1997 on sectors of governmental administration some ministers competent for particular sectors of governmental administration have authorized subordinated bodies to act as competent authorities for the recognition of professional qualifications in regulated professions or professional activities.

Moreover, provisions of the Directive 2005/36/EC concerning the recognition of professional qualifications for sectoral professions (doctor, dentist, nurse responsible for general care, midwife, pharmacist, veterinary surgeon, architect) - are implemented in the following separate acts:

- Law of 5 July 1996 on the professions of nurse and midwife (Journal of Laws of 2001 No 57, item 602, with further amendments);
- Law of 5 December 1996 on professions of a physician and a dentist (Journal of Laws of 2008 No 136, item 857);
- Law of 19 April 1991 on pharmaceutical chambers (Journal of Laws of 2008 No. 136, item 856);
- Law of 21 December 1990 on the profession of veterinary surgeon and chambers of veterinary surgeons (Journal of Laws of 2009 No 93, item 767);
- Law of 15 December 2000 on professional associations of architects, construction engineers and urban planners (Journal of Laws of 2001 No 5, item 42, with further amendments).

Professional activity of lawyers is regulated by:

- Law of 5 July 2002 on the provision by foreign lawyers of legal assistance in the Republic of Poland (Journal of Laws of 2002 No 126, item 1069 and Journal of Laws of 2004 No 96, item 959) – implementing three directives¹

More information about the recognition of professional qualifications in the Republic of Poland can be found on the following website of Polish National Contact Point:

English version:

<http://www.nauka.gov.pl/higher-education/recognition-of-professional-qualifications-directive-200536ec/>

Polish version

<http://www.nauka.gov.pl/szkolnictwo-wyzsze/mobilnosc-akademicka-i-zawodowa/uznawanie-kwalifikacji-zawodowych/>

In the Republic of Poland are identified more than 300 regulated professions and activities. There are 83 competent authorities dealing with the recognition of professional qualifications in regulated professions and activities, and 87 competent authorities dealing with recognition of professional qualifications in sectoral professions.

In accordance with the proposal of the European Commission and the agreement of Members of the Group of Coordinators on the Recognition of Professional Qualifications, this experience report was developed by Competent Authorities with National Coordinator's cooperation and is focused on the application of the provisions of the Directive 2005/36/EC to the regulated professions mentioned below:

1. Teachers,
2. Engineers,
3. Tourist guides in a broad sense,
4. Sport professions,

1

- Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 077 , 14/03/1998 P. 0036 – 0043 with subsequent amendments),
- Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ L 078 , 26/03/1977 P. 0017 – 0018),
- Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 235, 30.09.2005, p.22).

5. Social workers,
6. Physiotherapists,

and the following seven professional activities (those activities out of all the activities listed in Annex IV of the Directive 2005/36/EC which are regulated in Poland):

1. Metal forging, pressing and stamping,
2. Manufacture of steel tubes,
3. Manufacture of central heating boilers,
4. Manufacture of metal structures except for service activities,
5. Manufacture of lifting and handling equipment for mines, iron and steel foundries, and producer/distributor of controlled substances for the construction industry and for mechanical handling,
6. Producer/distributor of controlled substances,
7. Services rendered by tour leaders.

During the last five years (2005-2010), Polish competent authorities issued more than 200 decisions on the recognition of professional qualifications in the mentioned selected regulated professions.

Considering the above-mentioned professions, EU citizens were mostly interested in exercising engineering and teaching professions in Poland. There was some interest in exercising the profession of physiotherapist as well.

During the mentioned period Polish competent authorities received 69 declarations concerning provision of services in engineering professions (civil engineer – different scope of activities) and 10 declarations in the profession of a tourist guide.

There were no declarations in relation to regulated professional activities in Poland.

In recent years, a number of actions has been taken to implement the system of recognition of professional qualifications under the provisions of the Directive 2005/36/EC:

- 61 legislative measures were adopted to implement the provisions of the directive 2005/36/EC;
- Since July 2009 the Ministry of Science and Higher Education has been appointed to play a role of the National Contact Point for the recognition of professional

qualifications (from May, 2004 till June 2009 Bureau for Academic Recognition and International Exchange performed this role);

- Since April 2009 National Coordinator for the whole system of the recognition of professional qualifications in Poland was appointed in the Ministry of Science and Higher Education (before that date, the co-ordination role in turn rested on the Minister of National Education, Minister of National Education and Sport, Minister of Science and Higher Education; so many changes in this area resulted from the structural changes in Polish administration).
- in November 2008 Group for co-operation in the field of the coordination of the qualifications recognition system for regulated professions and activities was established;
- Since 2009 contact points for recognition of professional qualifications and credentials recognition have been placed in the same department - Department for International Affairs and Recognition of Diplomas of the Ministry of Science and Higher Education;
- Website on the system of recognition of qualifications has been developed,
- Since 2009 coordination role of the module for the recognition of professional qualifications within the IMI system was taken over by the Ministry of Science and Higher Education from the Ministry of Economy.

The majority of the Polish competent authorities have no considerable experience with the recognition on the basis of the provisions of the Directive 2005/36/EC in practice, because of relatively low interest in recognition of foreign qualifications in Poland.

On the basis of a decision issued by a Polish competent authority European Union nationals who possess professional qualifications gained in any Member State other than the Republic of Poland, can exercise the same profession here.

A concise description of the chosen regulated professions and regulated professional activities can be found in the enclosure no 1.

Practical side of functioning of the system on the basis of provisions of the Directive 2005/36/EC in the chosen regulated professions and activities was presented in replies to the questionnaire (enclosure no 2).

Evaluating the Professional Qualifications Directive
Experience reports established with the assistance of Co-ordinators

POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS,
PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES,
SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

- 1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?**

Polish competent authorities have no considerable experience in this respect but in many cases applicants ask via internet for information about the procedure for the recognition of foreign diplomas in Poland.

Polish competent authorities may accept applications from EU citizens for the recognition of foreign diplomas sent by email under the condition that they are signed with the digital signatures verifiable by the valid certificate. Otherwise a competent authority informs the applicants that they have to apply by post or, if they wish - in person to a competent authority.

To start the procedure an EU national has to send application pursuant to the *Regulation of the Minister of Science and Higher Education of 9 October 2008 on the models of the forms submitted to initiate the procedure for the recognition of professional qualifications* (Journal of Laws No 187, item 1151 with further amendments).

- 2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?**

Competent authorities for the related regulated professions and activities have slight experience in this matter. It concerned only a few applications of EU citizens, who had got engineering qualifications in a third country which were recognized in a first Member

State. Those applications concerned Polish citizens who had got their qualifications in the United States of America and then their qualifications were recognized in the Republic of Ireland and in the United Kingdom of Great Britain and Northern Ireland. All of those applications were considered positively under the provisions of the general system of the Directive 2005/36/EC.

3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?

Competent authorities dealing with the recognition of professional qualifications (engineering professions, physiotherapists, tourist guides, social workers, sport professions) used levels of qualifications indicated in the Law of 18 March 2008 implementing the provisions of the Directive 2005/36/EC (art. 11) to the extent and under the conditions of the general system.

When issuing decisions on the recognition of professional qualifications competent authorities may insert an appropriate level of qualifications in the decisions.

Competent authority may also include level of qualifications in the certificate, confirming qualifications of the applicant to practice the regulated profession in Poland (for instance in the following professions: physiotherapist, teachers, engineers, sport professions, tourist guides, social workers). Such a certificate is issued to a representative of a regulated profession who has obtained qualifications at Polish universities, higher schools or post secondary schools etc. and now wish to pursue the same profession in an EU or EEA Member State outside Poland.

4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?

Until now Polish competent authorities have not encountered such situations in related professions.

In such a situation competent authorities would first check if education and training of an applicant is regulated. If this is the case, competent authorities apply the provisions of the Directive 2005/36/EC. If differences in education and training or in the scope of activities in a given profession between host and home Member State are significant, competent authority may make qualifications' recognition subject to compensatory

measure, i.e. completion of an adaptation period or passing an aptitude test, provided that in most cases the selection is made by an applicant.

Situation described in this question may not be relevant to the profession for instance of a secondary school teacher (mostly regulated in all of EU Member States).

5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

When a judgment of the Court of 19 January 2006 in Case C-330/03 (Colegio de Ingenieros de Caminos, Canales y Puertos v Administracion del Estado) is relevant to the particular case concerning the recognition of professional qualifications – competent authority ought to apply mentioned above Case.

Polish competent authorities have not had considerable experience with such cases so far. In engineering professions, due to the rules in force, applicants may ask for recognition of his/her qualifications either in a full or in limited access in a given specialty. If applicant requests partial access to a profession it is unequivocal with recognition of qualification in a limited access in the specialty.

B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV

6. Does the mechanism in place work smoothly in practice?

7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

Answer 6-7: In Poland there seven activities from Annex IV are regulated. Up till now there has not been any interest from EU citizens to recognize qualifications in any of those regulated activities in Poland. The Polish law implementing the general system foresees situation where an applicant does not possess necessary professional experience so an application of an EU national should be proceeded in accordance with the provisions of general system for the recognition of evidence of training. This does not imply additional cost for the applicant. The cost concerning the issue of a decision on the recognition of professional qualifications amounts to 523 PLN (about 130 EUR). When substantial differences occur competent authority can make the decision on the

recognition of qualifications conditional to the completion of an adaptation period or passing an aptitude test by the applicant (on applicant's choice). In this situation an applicant shall bear additional costs referring to an adaptation period or aptitude test. However, during the adaptation period a person would be employed or be employed under a civil law contract.

It may be concluded that in Poland the cost of the recognition of professional qualifications is justified.

C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?

From chosen professions, European Union citizens declared exercising engineering professions and profession of a tourist guide on the temporary and occasional basis in Poland.

The following information from competent authorities can serve as an example:

- in the case of a profession of a civil engineer, Polish Chamber of Civil Engineers announced a very high level of interest of citizens of the Member States in the possibility of cross border service. This interest is much higher than the interest in the recognition of professional qualifications to exercise a profession on the permanent basis. National Board is afraid that this situation is a result of a desire to avoid more formalized procedure for the recognition of professional qualifications. The above trend is confirmed by repeated instances of declarations of cross border service and registering the same person in different district chambers throughout the country. By the end of 2009 Competent Authority received and accepted 69 declarations in engineering professions.
- In 2010, in the case of a profession of a tourist guide, competent authority for this profession, Ministry of Sport and Tourism, received 12 applications from people who wanted to provide guiding services in Poland on a temporary or occasional basis. Together with the previous period competent authority has received globally 22 declarations.

In addition to the explanation above, we observe no interest from EU nationals to provide service neither in Annex IV activities regulated in Poland nor in a regulated professions of a social worker, physiotherapist and sport professions. However there was interest in providing a service in other professions, such as: machinery operators and geological professions which are not a subject of this report.

Moreover, in the case of professions of social worker and secondary school teacher it may be difficult to exercise them in a form of provision of service or on self-employed basis. Social workers are employed in organizational units of social assistance, non-governmental organizations, or other institutions, on the basis of employment contract or contract for specific work. Teachers are employed in schools and other educational establishments by school heads on the basis of an employment contract.

9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- **How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?**
- **How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?**

Apart from the fact that related competent authorities have not much experience in applying provisions for service providers on the territory of Poland, there are legal provisions foreseen in Polish law due to this matter.

Art. 5 of the Directive 2005/36/EC was implemented by art. 29 of the *Law of 18 March 2008 on the rules governing the recognition of professional qualifications acquired in EU Member States* (Journal of Laws 2008 No 63, item 394).

Service in Poland can be provided under the condition that a migrant:

- 1) pursues the same profession or activity in another Member State which is his state of establishment, or
- 2) has pursued the profession or activity which is not regulated in his state of establishment for two years full time or for an equivalent period part time within the previous ten years, or
- 3) has completed regulated education.

In the case of the first provision of services on the territory of the Republic of Poland or a material change in the situation substantiated by the documents, a competent authority may require declaration to be accompanied by the following documents:

- 1) a document attesting the nationality of the service provider;
- 2) a document attesting that the service provider is legally established in another Member State for the purpose of pursuing the profession or activity and that he is not prohibited, even temporarily, from practising this profession or activity;
- 3) documents attesting professional qualifications;
- 4) documents attesting that the service provider has pursued a given regulated profession or activity for at least two years within the previous ten years or completed regulated education;
- 5) an attestation of no criminal convictions, where it is required from Polish nationals intending to pursue a profession or activity with public safety implications.

Polish competent authorities may ask competent authorities of a Member State of establishment to provide information relevant to the legality of the service provider's establishment and his good conduct as well as absence of any disciplinary sanctions or convictions by a valid judgment of a court related to his professional activity.

The legal establishment criteria are interpreted as the right to exercise, in a Member State the profession for which the person is qualified. This means that at the time a professional intends to provide a service in another Member State he/she is not prohibited from exercising the profession in the Member state of establishment. In order to be able to provide service, both as a self-employed person or an employee, he/she has to attest legal establishment by submitting one of the documents listed in Annex B of Code of Conduct approved by the Group of Coordinators for the *Directive 2005/36/EC on the recognition of professional qualifications*.

Concerning the interpretation in practice the issue of "temporary and occasional basis" foreseen in art. 5.2., competent authorities should assess it on a case-by-case basis.

To assess they should particularly take into account the duration, frequency, regularity and continuity of the activity provided. However, competent authorities indicated that interpretation may cause difficulties because there is lack of a specific and clear definition.

Only two of the competent authorities for surveyed professions have some experience in relation to provision of services. In the case of a profession of civil engineer, the

Chamber verified whether an applicant provided cross border services on the Polish territory or moved his business in this way, circumventing legislation on permanent establishment.

In the case of a profession of a tourist guide, Ministry of Sport and Tourism holds current record of persons who notified their intension to provide service in Poland and made up the document which confirms that a service provider submitted the requested declaration and documents in the given year. In case of inspection, the copies of documents are also sent to the Marshals of Provinces to inform the entitled authorities about people who want to provide services in Poland in a current year on a temporary or occasional basis. Such records may be characterized as the form of check if an applicant provides a service or exercises a profession on a stable and continuous basis.

10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

The prior declaration system is necessary to legally announce intentions of an applicant to provide a service on the territory of a host Member State. In this way competent authority may assess whether it is dealing with the provision of cross-border service. Information obtained by the authority, in the case of data on the type of investment, is important statistics and information, while the duration, regularity and frequency of cross-border services allow to assess whether the provider has not moved their activities to the host country, whether its activity can still be considered as cross border services.

The system enables competent authorities to assess if an applicant possesses qualifications for the same professions that he intends to exercise.

Moreover thanks to the declaration competent authorities are aware when somebody intends to temporarily exercise a profession with health and safety implications. In this way the system protects service recipient from faulty practice and serious damage to health and life or safety. The system enables to maintain high quality of services provided (as a measure of control).

11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

Polish competent authorities have not faced such situations.

D. ADMINISTRATIVE COOPERATION

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

Competent authorities of surveyed professions are of the opinion that it is very important that provisions of art. 8, 50 and 56 of the Directive assured opportunities for administrative cooperation. Moreover, the provisions enabled the creation of the IMI system.

- In the opinion of the Ministry of Health – the competent authority for the profession of a physiotherapist, registered in the Internal Market Information System (IMI), administrative cooperation through IMI shortens the time of waiting for the answer and allows to give or to obtain data of the authority to which one should apply for information. The administrative cooperation in general is very useful, especially for exchange of experience or views with authorities from other EU Member States.
- In the opinion of the Ministry of National Education - a competent authority for the profession of a teacher, administrative cooperation simplifies procedures. It is used mostly for confirmation of professional qualifications especially where there is no certainty that applicant has received relevant qualifications in his country of origin.
- The Polish Chamber of Civil Engineers - a competent authority for the profession of a civil engineer considers the administrative cooperation between the home Member State and the host country as a necessary tool for exchanging information about the status of the service provider. It allows, in a short time, to complete the documents concerning the service provider who intends to provide a service in the host country.

In practice, the Member States, however, have too little information about the institution to which they should report to confirm the data on applicants. Therefore, according to the Board, to shorten the procedure, there is a need to develop a list of basic institutions in the Member States, whose assistance could be sought by the applicant on particular matters related to his profession.

- The Office of Technical Inspection was of the opinion that administrative co-operation simplifies procedures especially in the case of exchanging and obtaining information concerning professional qualifications, or in the case of complaints by a recipient of a service against a service provider.

13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

Considering the professions covered by the evaluation report, there are two institutions registered as competent authorities with IMI system in professional qualifications module: the Ministry of National Education - for the profession of a secondary school teacher and the Ministry of Health – for the profession of physiotherapist. The Ministry of National Education uses IMI when requested for information concerning a profession of a teacher by other authorities. Since February 2009 till now the Ministry has received and sent 184 requests. IMI is used when competent authority is requested for information by other authorities. System is working smoothly in practice and it is a useful platform for exchanging information concerning the regulated professions.

IMI is not yet available for the seven activities from Annex IV which are regulated in Poland. However, Poland has recently registered in the IMI the Contact Point for Directive 2005/36/EC as the competent authority for those Annex IV activities which are not regulated in Poland but are available in the system, with a view to provide as much necessary information as possible to the competent authorities from Member States where those activities are regulated whenever professionals with Polish qualifications (e.g. craftsmen) apply for recognition there. First request has already been received and reply provided.

Moreover, within the Service Directive module, there are registered among others:

- Ministry of Economy,
- Office of Technical Inspection,
- Polish Chamber of Civil Engineers as DIMIC for the profession of a civil engineer and regional chambers are registered as competent authorities. Mentioned institutions have not used the tool so far, but find it very practical and useful.

The assumptions of the IMI system are very good and the proper functioning should facilitate the exchange of information between Member States.

Moreover, the Polish competent authorities raised the issue of further registration in the professional qualifications module in the case of a profession of civil engineer and professions subject to Office of Technical Inspection.

14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?

Under which conditions could it be issued by professional associations?

There is no unified view on the question to related professions. The following opinions have been presented by the competent authorities in the related professions:

- Teachers - the professional card would be a great step towards facilitating recognition of professional qualifications especially for temporary services. It would simplify the recognition process and make it faster. Moreover, one unified model of this card should be worked out for each profession;
- Physiotherapists - such a card may be helpful and be an incentive for the mobility of professionals thanks to the exchange of information between the host Member State and the Member State of origin, which in turn may foster the procedure of recognition of qualifications. Such a card should be uniform for all EU Member States and contain data enabling advancement of the recognition of professional qualifications procedure. However, if such a card was to replace or duplicate current documents it may cause additional costs either for healthcare professionals or for competent authorities (public costs);
- Professions subject to Office of Technical Inspection - professional card should be issued by professional associations only on the basis of general or specific Mutual Recognition Agreement;
- Tourist guide/ tour leader - to get the tour guide qualifications in Poland one needs to complete a course of special education and training. Experience of a tour guide obtained by a citizens of EU in other countries is not enough to provide professional services in Poland. That is why a professional card may not be sufficient to assess qualifications of the applicant;
- sport professions - a professional card would not meet expectations and would not facilitate recognition of professional qualifications and provision of temporary services because of differences in the education systems and

education and training programmes for each discipline between Member States.

E. OTHER OBSERVATIONS

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

Explanatory documents concerning the check of the language knowledge of a host country should not be linked with procedure for recognition of professional qualifications. However a professional, benefiting from the recognition of professional qualifications, according to art. 53 of the Directive 2005/36/EC, shall have a knowledge of a language necessary for practicing the profession in the host Member State.

The Polish competent authorities in case of all surveyed professions do not require from migrants documents confirming language knowledge, however the applicant is expected to fill in the application form for the recognition of professional qualifications in the Polish language; the procedure is also conducted in Polish.

Below there are some examples on the language knowledge requirement:

- In the case of a teachers' professions necessary language skills of migrants are checked by the school headmasters (employers). About 60% of applicants were recognized as teachers of their mother tongue (native speakers). The rest of applicants were Polish citizens who came back to Poland with diplomas obtained in other EU countries.
- In case of the profession of a social worker, competent authority have a very slight experience in this respect. The only applicant whose qualifications were recognized had no difficulty using Polish, since it was his second mother tongue. It is worth noting that insufficient knowledge of the Polish language would constitute a serious barrier in communication with an employer and customers in social assistance; it would render the performed professional tasks ineffective. One can also assume that, for the customers' sake, the employment contract would be nullified in such circumstances. For example, while determining causes of the customer's difficult situation in life,

communication problems, the social worker's inability to understand the problem or express him/herself in Polish would constitute an additional obstacle.

- In case of professions in competence of the Office of Technical Inspection necessary language skills of migrants are checked "in practice" after the recognition of professional qualifications, when they are employed (during occasional inspections/controls).
- In case of a civil engineer profession, according to the Polish Chamber of Civil Engineers, knowledge of a language of the host country is very important both when working on the project, and at the building-site at the time of construction works, particularly in the context of provision of service. Guided by the provisions of the Directive and national legislation, the Polish Chamber of Civil Engineers draws attention to the knowledge of Polish. With the release of cross-border services, this principle is less rigorously observed.

Up till now the Polish competent authorities - in the case of related professions - have not received any complaints from consumers/clients/employers about inadequate knowledge of the Polish language.

TEACHER

The profession of a *teacher* is a regulated profession in Poland in the meaning of the *Directive 2005/36/WE on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22)*.

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications of a teacher is the Minister of National Education.

Address:

Ministerstwo Edukacji Narodowej (*Ministry of National Education*)

Aleja Szucha 25

00-918 Warszawa

Tel. + 48 22/34-74-141

Fax:+ 48 22/62-88-136

E-MAIL: bartlomiej.krasnowski@men.gov.pl

www.men.gov.pl

LEGISLATION

The legislative bases regulating the profession currently in force are:

- Law of 26 January 1982 Teacher's Charter (uniform text Journal of Laws 2006, No 97, item 674 with further amendments),
- Regulation of the Minister of National Education of 12 March 2009 on specific qualifications required of teachers, as well as on determining schools and cases in which teachers can be employed who have not completed higher education courses or have not graduated from teacher training institution (Journal of Laws No 50, item 400).

Teacher training is regulated by:

- Regulation of the Minister of National Education of 30 June 2006 on teacher training standards in teacher training colleges and in foreign language teacher training colleges (Journal of Laws No 128, item 897),

- Regulation of the Minister of National Education and Sport of 7 September 2004 on teacher training standards (Journal of Laws No 207, item 2110).

QUALIFICATIONS

Teacher training colleges and foreign language teacher training colleges provide 3-year programmes leading to a diploma. Teacher training colleges prepare teachers for pre-primary (nursery) schools, primary schools and education-and-care establishments. Foreign language teacher training colleges train teachers of foreign languages for all levels of school education.

Degree programmes for teachers are provided by both university-type and non-university higher education institutions, including the first cycle (Bachelor's degree) programmes, the second-cycle (Master's degree) programmes and long-cycle (Master's degree) programmes.

The duration of degree programmes is as follows:

- first-cycle programmes leading to Bachelor's degree (*licencjat* or *inżynier*): 3 to 4 years when leading to *licencjat* and 3.5 to 4 years when leading to *inżynier*, depending on the field of study,
- second-cycle programmes leading to a Master's degree (*magister* or an equivalent degree): 1.5 to 2 years, depending on the field of study,
- long-cycle programmes leading to a Master's degree (*magister* or equivalent degree): 4.5 to 6 years, depending on the field of study.

According to the Teacher's Charter, the post of a teacher may be taken by a person who has completed either a higher education course with appropriate professional training component (pedagogical preparation) or a course of study in a teacher training establishment (college). Any person graduating from a higher education institution with professional teacher training or a teacher training college is recognized as a qualified teacher within the specialisation he/she has completed.

Professional training/pedagogical preparation (teacher's specialisation completed within a field of study or post-graduate studies or pedagogical and methodological qualification courses) – shall be understood as acquisition of knowledge and skills in the field of psychology, theory of education, teaching methods and methodology – taught in relation to the field of study (specialisation) and pedagogical placement – with the load of at least 270 hours, as well as successful completion of in-class placement lasting not less than 150 hours;

the completion of professional training (possession of pedagogical preparation) shall be confirmed by a diploma or another document issued by higher education institution, a diploma issued by a teacher training college and a certificate issued on the completion of pedagogical qualification course.

The education system comprises pre-school institutions, primary schools, gymnasia (lower secondary schools) and post-gymnasium schools (upper-secondary schools and post-secondary non tertiary schools).

Detailed information about the Polish system of education is available online: http://www.men.gov.pl/index.php?option=com_content&view=article&id=59&Itemid=127

The system of pre-primary teacher education and training is constantly changing. At present, the forms of education and training offered are: three-year teacher training colleges, teacher training higher education institutions (pedagogical academies), and teacher education faculties at universities.

RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC on the recognition of professional qualifications are carried out in the Ministry of National Education.

Applicants who have their qualifications recognized can be employed in Poland as teachers and hold the same rights and duties as Polish nationals.

Since May 2004 the Ministry of National Education has received 31 applications. During the recognition process 76 decisions were issued: 73 positive and 3 negative. The Minister of National Education has recognized teachers' qualifications for pre-primary institutions (kindergartens), primary schools and secondary schools mostly for teaching foreign languages and also for teaching other subjects, e.g. music, mathematics, as well as qualifications of SEN teachers.

Negative decisions were issued for those applicants who had not acquired qualifications for the pursuit of a regulated profession.

The Minister of National Education as a competent authority issues a statement for Polish teachers in which the following are confirmed: information about qualifications of applicant, date from which the recognition of his/her qualification was granted, a subject and the age group of pupils which this recognition enables to teach, types of school in which the applicant can teach and also that recognition meets the terms of the Directive 2005/36/WE.

EXERCISING A PROFESSION

In grades 1-3 of primary school, one teacher teaches all subjects (integrated teaching), while in the grades 4-6 each subject is taught by a different teacher.

Teacher education and training consists of preparation in subject matter (biology, mathematics, etc.) and professional training (teaching methods, psychology, theory of education). Teachers may receive their initial education and training in three-year teacher training colleges awarding a diploma and they may, however, obtain the title of *licencjat* (first-cycle) as external in higher education institutions.

Teachers employed in the 3-year gymnasia (compulsory, general education school) ought to have – at the minimum – qualifications attested by the title of *licencjat* (first-cycle).

Upper secondary school teachers should have university education (*magister* degree) or equivalent.

Graduates of higher education institutions with appropriate professional training (pedagogical preparation) or a course of a study in a teacher training establishments may take up a job in individually chosen schools or establishments throughout the country. A teacher is employed by the school headmaster. If a young teacher is unable to find a job, assistance is provided by a regional educational authority. Openings are also published in teachers' magazines or local press as well as on web pages.

A teacher who takes up his/her first ever job is hired on the basis of an employment contract signed with the headmaster for a period of one school year in order to undergo a training period (*staż*) leading to promotion to the post of a contract teacher, and then embarks on another training period (*staż*) of 2 years and 9 months leading to promotion to appointed teacher. The appointed teacher is employed on the permanent contract basis. According to the Teacher's Charter a teacher can obtain the following professional promotion grades: Trainee teacher, Contract teacher, Appointed teacher, Chartered teacher. The level of teacher's basic

salary depends on the professional promotion grade, qualifications and the number of obligatory teaching hours.

The working time of a teacher may not exceed 40 hours per week. This workload includes the minimum teaching load, which ranges from 15 to 30 contact hours depending on the post. The minimum teaching load for the basic group of teachers (in all type of schools) is 18 contact hours per week (1 contact hour equals 45 minutes).

Within this working time the teacher carries out teaching or care-taking activities, prepares himself/herself for these activities, corrects written exercises and performs other task related to the school statutes as well as those connected with self education and in-service training. The weekly compulsory workload related to contact hours, i.e. teaching, educational and care-taking activities carried out directly with pupils, varies according to the type of the school.

Teachers with appropriate qualifications can be employed in the following schools and other educational establishments which function within the school education sector: pre-school institutions (kindergartens), primary schools, gymnasiums (lower secondary schools), basic vocational schools, general upper secondary schools, specialized upper secondary schools, technical upper secondary schools. They can be employed as curriculum subject schoolteachers or as tutors, counselors, librarians, speech therapists, psychologists and others.

TOURIST GUIDE

The profession of a *tourist guide* is a regulated profession in the meaning of the *Directive 2005/36/WE on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22)*.

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications of *tourist guide* is the Minister of Sport and Tourism.

Address:

Ministerstwo Sportu i Turystyki (*Ministry of Sport and Tourism*)

ul. Senatorska 14

00-921 Warszawa

Tel. + 48 22/24-43-172

Fax:+ 48 22/24 -47-301

E-MAIL: turystyka@msport.gov.pl

www.msport.gov.pl

LEGISLATION

The legislative basis for regulating the profession which are in force are as follows:

- Act of 29 August 1997 on tourism services (Journal of Laws No 223, item 2268 as amended) - *valid till 16 September 2010*,
- Act of 29 April 2010 amending the Act on tourism services and amending the Act - Code of Misconduct (Journal of Laws No 106, item 672),
- Regulation of the Minister of Economy of 17 January 2006 on tourist guides and tour leaders (Journal of Laws No 15, item 104).

QUALIFICATIONS

Qualified *tourist guide* is a person who professionally guides tourists or visitors through specific areas, cities and facilities and provides a commentary thereof.

The tasks of a *tourist guide* shall include guiding tours and providing their participants with information on the country, visited towns, areas and facilities in a professional manner.

The licence of a *tourist guide* shall be granted to a person who:

- is over 18 years old,
- has a secondary school background,
- is physically fit to perform the tasks of a tourist guide,
- has a clean record in respect of intentional guilt crimes or other crimes committed in relation to the performance of tasks of a tourist guide,
- has undergone both theoretical and practical training and successfully passed the examination for a tourist guide.

Tourist guides shall receive licences of the following types:

- 1) mountain tourist guides for specific mountain areas,
- 2) city guides for particular cities,
- 3) cross-country guides for particular provinces, regions and tourist routes.

Mountain guide licences are divided into three classes depending on the degree of difficulty of trails and tours.

A cross-country guide licence also covers towns located within the area of a given province or a region.

The minister competent for tourism determined the list of cities where performing the tasks of a *tourist guide* shall require a city guide licence, given the exceptional tourist values of these cities.

In accordance with the newest amendment to the act on tourism services, the care of tourists is included in the tasks of a tourist guide, but the scope of this care is the result of an agreement concluded with the tourist.

Tourist guides shall receive additional new licence of international alpine guide, whose qualifications are not limited territorially.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS IN POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC on the recognition of professional qualifications are carried out by the Ministry of Sport and Tourism.

Since May 2004 – Ministry of Sport and Tourism received 10 declarations of provision of service in a profession of a tourist guide on the territory of Poland.

There was no case concerning the recognition of professional qualifications.

Detailed information on the recognition of professional qualifications in this particular regulated profession is available at the following website:

<http://msport.gov.pl/uznawanie-kwalifikacji/1234-Zasady-uznawania-kwalifikacji-zawodowych?retpag=/uznawanie-kwalifikacji/>

EXERCISING A PROFESSION

Applicants who have their qualifications recognized in Poland can be employed as tourist guides and hold the same rights and duties as Polish nationals.

Citizens of the European Union Member States who have obtained qualifications to take up the profession of a tourist guide in these states but who do not have a place of residence on the territory of the Republic of Poland have the Polish *tourist guide* licence granted, refused, suspended, restored and withdrawn by the province governor chosen by the person applying for the licence concerned. The basis for granting a licence is the decision by a minister competent for tourism on the recognition of professional qualifications to take up the work of a tourist guide on the territory of the Republic of Poland, which is issued on the basis of separate provisions (on the recognition of professional qualifications acquired in the EU Member States).

The registers of tourist guide licences issued are held by the province governors.

Foreigners who hold a certificate of UIAGM (*Union Internationale des Associations de Guides de Montagnes*) may occasionally perform the tasks of international high-altitude guide for tourists with whom he came to the Republic of Poland.

CIVIL ENGINEERS

The profession of a civil engineer (different specialties) is a regulated profession in Poland in the meaning of the *Directive 2005/36/WE on the recognition of professional qualifications* (OJL 255, 30.9.2005, p. 22).

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications for the majority of civil engineers specialties is the Polish Chamber of Civil Engineers.

Address:

Polska Izba Inżynierów Budownictwa (*Polish Chamber of Civil Engineers*)

ul. Mazowiecka 6/8

00-048 Warszawa

Tel. + 48 22/82-83-189

Fax: + 48 22/82-70-751

E-MAIL: biuro@piib.org.pl

www.piib.org.pl

Moreover, the competent authority for the recognition of professional qualifications in telecommunications specialty is the Office of Electronic Communications.

Address:

Urząd Komunikacji Elektronicznej (*Office of Electronic Communications*)

ul. Kasprzaka 18/20

01-211 Warszawa

Tel. +48 22/534 91 90

Fax: + 48 22/534 91 62

E-MAIL: uke@uke.gov.pl

www.uke.gov.pl

Currently the competent authority for the recognition of professional qualifications in railways specialty is the General Office of Building Control, but in the future regulations in this area will be changed.

Address:

Główny Urząd Nadzoru Budowlanego (*General Office of Building Control*)

ul. Krucza 38/42

00-926 Warszawa

Tel.: +48 22/661 80 10

fax:+48 22/661 81 42

E-MAIL: kancelaria@gunb.gov.pl

www.gunb.gov.pl

LEGISLATION

- The Building Law of 7 July 1994 (Journal of Laws of 2006 No 156, item 1118 with further amendments),
- Regulation of the Minister of Transport and Construction of 28 April 2006 on independent technical functions in the building industry (Journal of Laws No 83, item 578 with further amendments),
- Law of 15 December 2000 on trade self-governments of architects, civil engineers and town planners (Journal of Laws of 2001 No 5, item 42 with further amendments).

POLISH QUALIFICATIONS

Polish higher education institutions provide the following training to be qualified as a *civil engineer*:

- First cycle – 3½ - 4-year studies, leading to the Bachelor degree diploma (*inżynier*) and
- Second cycle - 1½-2-year studies (after Bachelor degree), leading to the Master degree diploma (*magister*).

Studies for civil engineers are provided by public universities (universities of technology, higher vocational state schools, universities, universities of life sciences, university of science and technology, military university of technology) and non-public universities.

Building engineers' professions are regulated through the different scope of technical functions in the building industry, affected by the article 14, sec. 1 of the *Building Law* and

Regulation of the Minister of Transport and Construction of 28 April 2006 on independent technical functions in the building industry (Journal of Laws No 83, item 578) in the following specialties:

- architecture,
- construction and building,
- roads,
- bridges,
- demolition,
- railways,
- telecommunication,
- installations of heating, ventilation, gas, water and sewage networks, systems and devices,
- installations of electrical and power networks, systems and devices.

Construction licenses may be given in the above-mentioned specialties for the purpose of designing and/or managing construction works.

In conclusion, to practice as a licensed (chartered) civil engineer with Polish qualifications, the following professional qualifications are required:

1. University degree in the field of civil engineering, architecture, or other related technical fields according to the specialty in which a person wants to be licensed (chartered);
2. Professional practice of at least two or three years (after graduation) in the specialty which a person wants to be licensed (chartered) in;
3. Written and oral examination to obtain independent technical functions in the building industry in a particular specialty.

RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC on the recognition of professional qualifications are carried out in the Polish Chamber of Civil Engineers.

Applicants who have their foreign qualifications recognized in Poland can be employed as a civil engineer within a particular specialty and hold the same rights and duties as Polish nationals.

Since May 2004 the Polish Chamber of Civil Engineers issued 118 decisions concerning the recognition of professional qualifications and received 69 declarations of provision of service in Poland.

According to Polish law, when the applicant has to undergo an adaptation period or an aptitude test (when substantial differences occurred) competent authority, on applicants' choice, apply one of mentioned above compensatory measures.

Having recognized the qualifications of an applicant, the National Board obliges the district chamber of engineers of the building industry pointed to by the applicant to enter the applicant on the list of members of this district chamber.

The membership in a district chamber is compulsory and only those who entered into the list of its members are entitled to perform independent technical functions in the building industry as designer or manager in the limited or unlimited scope of activities in the field of building works.

Moreover, Polish Chamber of Civil Engineers as a competent authority issues a certificates for civil engineers who hold Polish qualifications, confirming possession of professional qualifications and the fact that they are in line with the provisions of the directive 2005/36/EC.

EXERCISING A PROFESSION

Civil engineers with appropriate construction license can:

- design, verify the architectonic and structural projects and carry out author's supervision,
- manage construction works (site) or other building works,
- carry out investor's supervision,
- keep technical control over maintenance of building facilities.

Therefore civil engineers can work in design office or/and on building-site, depending on the scope of their construction licenses.

PHYSIOTHERAPIST

The profession of a *physiotherapist* is a regulated profession in Poland in the meaning of the *Directive 2005/36/EC on the recognition of professional qualifications* (OJ L 255, 30.9.2005, p. 22).

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications of a *physiotherapist* is the Minister of Health.

Address:

Ministerstwo Zdrowia (*Ministry of Health*)

ul. Miodowa 15

00-952 Warszawa

Tel. + 48 22/63-49-400

Fax.:+ 48 22/64-49-465

E-MAIL: kwalfikacjeczawodowe@mz.gov.pl

www.mz.gov.pl

LEGISLATION

- Law of 18 January 1996 on physical culture (Official Journal of 2007 No 226, item 1675 with amendments),
- Regulation of the Minister of Health of 30 August 2009 on guaranteed health care treatment in the scope of medical rehabilitation (Official Journal No 140, item. 1145 with amendments),
- Regulation of the Minister of Science and Higher Education of 12 July 2007 on the degree programme requirements for each field and level of study, as well as the procedure for the establishment of interdisciplinary programmes and degree programmes in macro-fields of study and requirements to be fulfilled by a higher education institution in order to provide such programmes (Official Journal No 164, item. 1166),
- Regulation of the Minister of Health of 30 September 2002 on obtaining the title of a specialist in the fields used for the health care (Official Journal No 173, item. 1419 with amendments),

- Regulation of the Minister of Health of 2 February 2009 on qualifications of persons giving out medicinal products in the non – pharmacy posts, as well as requirements the room and equipment such posts and pharmacy corners should fulfill (Official Journal No 21, item 118),
- Regulation of the Minister of Health and Social Care of 29 March 1999 on qualifications required from the employees on particular types of work stations in the public health care institution (Official Journal No. 30, item 300 with amendments),
- Regulation of the Minister of Labour and Social Policy of 27 April 2010 on classification of professions and specialties for the needs of labour market and the scope of its use (Official Journal No 82, item 537).

QUALIFICATIONS

The professional titles for the exercise of the profession of physiotherapist in the Republic of Poland are:

1. Physiotherapy technician (original: *technik fizjoterapii*). The education of the physiotherapy technicians was provided in either 2-year or 2.5-year school (the post-secondary education level). The last enrolment took place in 2004. The education at this level has been finished.
2. Bachelor's Degree (original: *licencjat*) at the faculty of physiotherapy (original: *fizjoterapia*).

The professional qualifications of above mentioned graduates are subject to art. 11 d of the *Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications*.

3. Master's Degree (original: *magister*) at the faculty of physiotherapy (original: *fizjoterapia*), studies initiated after 31 December 1997.
4. Master's Degree at the faculty of motorial rehabilitation (original: *magister rehabilitacji ruchowej*) studies initiated prior to 31 December 1997.
5. Master's Degree of physical education (original: *magister wychowania fizycznego*), which has an additional certificate of completion of 3 months course of the rehabilitation; studies initiated prior to 31 December 1979.
6. Master's Degree of physical education (original: *magister wychowania fizycznego*), who has completed two years of study in the specialization in the field of therapeutic exercise or motorial rehabilitation certified with instructor card (certificate)

of motorial instructor rehabilitation/therapeutic gymnastics, studies initiated prior to 31 December 1979.

The professional qualifications of above mentioned graduates are subject to art. 11 e of the *Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.*

Scope of professional activities of *physiotherapists* includes:

- assessing the state of the person to be subjected to physiotherapeutic treatment and carrying out research function, which is necessary for programming and controlling the process of physiotherapy;
- programming and the performance of physiotherapeutic treatments, including massage and application of methods of physiotherapy;
- matching the needs of the patient auxiliaries and other medical equipment which are orthopedic devices;
- teaching patients to use auxiliaries and other medical equipment (performing on order);
- keeping physiotherapeutic documentation;
- monitoring the effectiveness of the process of physiotherapy;
- conducting preventive activities, i.e. creating and promotion of pro-health activities and behavior shaping and maintaining the fitness and efficiency of people of all ages in order to prevent disability;
- giving an opinion on the state of functioning of people undergoing physiotherapy and the physiotherapeutic procedures.

RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the *Directive 2005/36/EC on the recognition of professional qualifications* are carried out in the Ministry of Health.

Applicants who have their qualifications recognized in Poland can be employed as a physiotherapist and hold the same rights and duties as Polish nationals.

Since May 2004 the Minister of Health issued 9 positive decisions concerning the recognition of qualifications in the profession of a physiotherapist.

EXERCISING A PROFESSION

The profession of a physiotherapist in Poland is an independent profession; therefore all entitled to practice the profession of physiotherapist are prepared to provide professional services independently. The person who is awarded the physiotherapy technician diploma (original *technik fizjoterapii*) as well as graduate in physiotherapy faculty set at the bachelor level (the *licencjat* level) are fully permitted in the Republic of Poland to provide all services in the range of physiotherapy. A 3-year *licencjat* level studies at physiotherapy faculty provide permeability in the education process as well as the possibility of further development of professional qualifications by a 2-year master degree studies at physiotherapy faculty.

REGULATED PROFESSIONAL ACTIVITIES

FALLING UNDER ANNEX IV

Poland has identified the following seven activities of all the activities listed in Annex IV of the Directive 2005/36/EC *on the recognition of professional qualifications* (OJ L 255, 30.9.2005, p. 22) as regulated on its territory.

1. METAL FORGING, PRESSING AND STAMPING;
2. MANUFACTURE OF STEEL TUBES;
3. MANUFACTURE OF CENTRAL HEATING BOILERS;
4. MANUFACTURE OF METAL STRUCTURES EXCEPT FOR SERVICE ACTIVITIES;
5. MANUFACTURE OF LIFTING AND HANDLING EQUIPMENT FOR MINES, IRON AND STEEL FOUNDRIES, AND FOR THE CONSTRUCTION INDUSTRY AND FOR MECHANICAL HANDLING;
6. PRODUCER/DISTRIBUTOR OF CONTROLLED SUBSTANCES;
7. SERVICES RENDERED BY TOUR LEADERS.

ACTIVITIES NUMBERED 1 TO 5

The following professional activities are regulated in Poland in the scope of manufacturing, repairing technical devices and materials and elements used for manufacturing, repairing and modification, as specified in laws concerning technical inspection:

- METAL FORGING, PRESSING AND STAMPING
(NICE Code: Major group 35, Group 351);
- MANUFACTURE OF STEEL TUBES
(NICE Code: Major group 34, Group 342);
- MANUFACTURE OF CENTRAL HEATING BOILERS
(NICE Code: Major group 35, Group 354);
- MANUFACTURE OF METAL STRUCTURES EXCEPT FOR SERVICE
ACTIVITIES
(NICE Code: Major group 35, Group 353)

- MANUFACTURE OF LIFTING AND HANDLING EQUIPMENT FOR MINES, IRON AND STEEL FOUNDRIES, AND FOR THE CONSTRUCTION INDUSTRY AND FOR MECHANICAL HANDLING
(NICE Code: Major group 36, Group 366)

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications in the mentioned regulated activities is the Office of Technical Inspection.

Address:

Urząd Dozoru Technicznego (*Office of Technical Inspection*)

ul. Szczęśliwicka 34

02-353 Warszawa

Phone : +48 22/57-22-100

Fax : +48 22/822-72-09

E-MAIL: udt@udt.gov.pl

www.udt.gov.pl

LEGISLATION

The legislative basis for regulating the activity which are in force are as follows:

- Law of 21 December 2000 on technical inspection (Journal of Laws, No 122, item 1321 with further amendments),
- Ordinance of Prime Minister of 9 December 2008 on assignment of professional activities determined by ISIC or NICE codes to Polish classification of professional activities (Journal of Laws, No 223, item 1470).

QUALIFICATIONS

According to art. 22.1 of the Law of 21 December 2000 on technical inspection (Journal of Laws, No 122, item 1321 with further amendments), Polish formal qualifications needed for the above-mentioned professional activities are as follows:

- technical university degree and at least two years of professional experience, or
- secondary technical education (technician) and at least five years of professional experience, and

- knowledge of standards, laws and technical specifications on technical inspection in the scope of professional activity.

RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC on the recognition of professional qualifications are carried out by the Office of Technical Inspection. A person who would like to apply for the recognition of professional qualifications ought to present relevant professional experience to be automatically recognized. Otherwise qualifications will be recognized under the general system for the recognition of evidence of training.

Applicants who have their qualifications recognized in Poland can be employed in a particular activity. Since May 2004 there was no interest in exercising any of the regulated activities in Poland.

Detailed information on the recognition of professional qualifications in regulated activities is available on the following website: <http://www.udt.gov.pl> under the link: *dozór techniczny* and *uznawanie kwalifikacji UE*.

EXERCISING ACTIVITIES

Persons who have their qualifications recognized in Poland can pursue their activities in the scope adequate to the application (activities from number 1 to 5) and hold the same rights and duties as Polish nationals.

Moreover such a qualified person is furnished with knowledge of standards, laws and technical specifications on technical inspection in the scope of their professional activity.

ACTIVITY LISTED UNDER NO 6: **PRODUCER/DISTRIBUTOR OF CONTROLLED SUBSTANCES** (NICE Code: Major group 31, Group 311) is a regulated activity in Poland in the meaning of the *Directive 2005/36/EC*.

COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications is the Minister of Economy.

Address:

Ministerstwo Gospodarki (*Ministry of Economy*)

Plac Trzech Krzyży 3/5

00-507 Warszawa

Phone : +48 22/69-35-373

Fax : +48 22/69-34-025

E-MAIL: sekretariatDRE@mg.gov.pl

www.udt.gov.pl

LEGISLATION

The legislative bases for regulating the activity that are in force are as follows:

- Law of 21 April 2004 on substances that deplete ozone layer (Journal of Laws, No 121, item 1263 with further amendments),
- Ordinance of Ministry of Economy and Labour of 16 August 2004 on training programme, on examination and pattern form of qualifications certificate in the scope of controlled substances (Journal of Laws, No 195, item 2009).

QUALIFICATIONS

Art. 11.1 of Law of 21 April, 2004 on substances that deplete ozone layer (Journal of Laws, No 121, item 1263 with further amendments) provides the following educational requirements:

- vocational or secondary education,
- certificate of qualifications after basic professional training on substances that deplete ozone layer and related legislation,
 - o the training is not necessary for persons who have completed at least secondary technical education.

RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the *Directive 2005/36/EC on the recognition of professional qualifications* are carried out by the Ministry of Economy. A person who would like to apply for the recognition of professional qualifications ought to present relevant professional experience to be

automatically recognized. Otherwise qualifications will be recognized under general system for the recognition of evidence of training.

Applicants who have their qualifications recognized in Poland can be employed in a particular activity and hold the same rights and duties as Polish nationals.

Since May 2004 there was no interest in exercising this regulated activity in Poland.

EXERCISING ACTIVITY

Producer/distributor of the products, equipment and installation containing controlled substances shall be competent and have formal qualifications for:

- marking and identification of equipment and systems containing such substances,
- marking and identification of containers with such substances.

Moreover such a qualified person is furnished with specific knowledge on appropriate legislation connected with introducing controlled substances to the market.

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ACTIVITY LISTED UNDER NO 7: **SERVICES RENDERED BY TOUR LEADERS** (ISIC Code: Major group ex 85, Group ex 859) is regulated in the meaning of the *Directive 2005/36/EC on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22)*.

### **COMPETENT AUTHORITY**

The competent authority for the recognition of professional qualifications in a services rendered by tour leaders is the Minister of Sport and Tourism:

**Address:**

Ministerstwo Sportu i Turystyki (*Ministry of Sport and Tourism*)

ul. Senatorska 14

00-921 Warszawa

Tel. + 48 22/24-43-172

Fax:+ 48 22/24 -47-301

E-MAIL: [turystyka@msport.gov.pl](mailto:turystyka@msport.gov.pl)

[www.msport.gov.pl](http://www.msport.gov.pl)

## LEGISLATION

The legislative bases for regulating the profession which are in force are as follows:

- Law of 29 August 1997 on tourism services (Journal of Laws of 2004 No 223, item 2268, with further amendments) - *valid till 16 September 2010*,
- Law of 29 April 2010 amending the Law on tourism services and amending the Law - Code of Misconduct (Journal of Laws , No 106, item 672),
- Regulation of the Minister of Economy of 17 January 2006 on tourist guides and tour leaders (Journal of Laws , No 15, item 104).

## QUALIFICATIONS

A qualified *tour leader* is a person who, on behalf of the tour operator, accompanies participants of a tourist event, taking care of them and supervising the way services are rendered to them.

The licence of a *tour leader* shall be granted to a person who:

- is over 18 years old,
- has a secondary school background,
- is physically fit to perform the tasks of a tour leader,
- has a clean record in respect of intentional guilt crimes or other crimes committed in relation to the performance of tasks of a tour leader,
- has undergone both theoretical and practical training and successfully passed the examination for a tour leader.

The tour leader task is to provide basic practical information for tourists on sightseeing, on the country visited and the location.

## RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC on the recognition of professional qualifications are carried out by the Ministry of Sport and Tourism.

A person who would like to apply for the recognition of professional qualification ought to present relevant professional experience to be automatically recognized. Otherwise qualifications will be assessed under general system for the recognition of evidence of training.

Applicants who have their qualifications recognized in Poland can provide activity of a *tour leader* and can be employed and hold the same rights and duties as Polish nationals.

Since May, 2004 there was no case concerning the recognition of professional qualifications in a regulated activity of a *tour leader* in Poland.

Citizens of the European Union Member States who have obtained qualifications to take up the profession of tour leader in these states but who do not have a place of residence on the territory of the Republic of Poland have the Polish *tour leader* licence granted, refused, suspended, restored and withdrawn by the province governor chosen by the person applying for the licence concerned. The basis for granting a licence is the decision by a competent minister for tourism on recognition of professional qualifications to take up the work of a tour leader on the territory of the Republic of Poland, issued on the basis of separate provisions on the recognition of professional qualifications acquired in the EU Members States.

The registers of tour leaders' licences issued are held by the province governors.

Detailed information on the recognition of professional qualifications in this particular regulated activity is available on the following website:

<http://msport.gov.pl/uznawanie-kwalifikacji/1234-Zasady-uznawania-kwalifikacji-zawodowych?retpag=/uznawanie-kwalifikacji/>

## **EXCERCISING A PROFESSION**

The tasks of a *tour leader* shall include taking care of participants of the tourist event, on behalf of the tour operator, to the extent necessary, resulting from the nature of the event, supervising the way services are rendered to participants throughout the event and receiving complaints concerning provided services, as well as representing the tour operator in front of business customers providing services during the event.



## SOCIAL WORKER

The profession of a *social worker* is a regulated profession in Poland in the meaning of the *Directive 2005/36/WE on the recognition of professional qualifications* (OJ L 255, 30.9.2005, p. 22).

### COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications of a social worker is the Minister of Labour and Social Policy.

#### Address:

Ministerstwo Pracy i Polityki Społecznej (*Ministry of Labour and Social Policy*)

ul. Nowogrodzka 1/3

00-513 Warszawa

Tel. + 48 22/66-10-491

Fax:+ 48 22/66-10-275

E-MAIL: [Joanna\\_Lewandowska-Mizak@mpips.gov.pl](mailto:Joanna_Lewandowska-Mizak@mpips.gov.pl)

[www.mpips.gov.pl](http://www.mpips.gov.pl)

### LEGISLATION

The legislative bases for regulating the profession which are currently in force are:

- Law of 12 March 2004 on Social Assistance (uniform text Journal of Laws 2009, No 175, item 1362 with further amendments),
- Law of 16 February 2007 amending the Law on Social Assistance (Journal of Laws No 48, item 320).

### QUALIFICATIONS

Since 1992 education and training of social workers in Poland was conducted on the following levels:

1. post-secondary vocational level – *szkoły policealne* (admission after secondary school) in 2.5-year cycle, after completion of which the student received the professional title in the profession of a *social worker*;

2. tertiary education level first-cycle programmes leading to Bachelor's degree – *licencjat* – in the specialty *social work – praca socjalna* (3 or 3.5- year higher vocational education schools – *wyższe szkoły zawodowe*);
3. tertiary education level first-cycle programmes (3-year studies leading to Bachelor's degree - *licencjat*) or second cycle Master's degree programmes (2-year programmes leading to the degree *magister*) or long-cycle programmes (leading directly to the degree *magister*) in pedagogy, political science, social politics, psychology or family-related sciences (since 2004 in the specialty *social work – praca socjalna*).

Currently social workers in Poland are educated according to the following educational routes:

1. since 2005 at 3-year colleges of social work (a form of tertiary education accessible for graduates of upper secondary schools with the *Matura* certificate) – legal basis: article 116.1, point 1 of the Law of 12 March 2004 on Social Assistance (uniform text - Journal of Laws 2009, No 175, item 1362, with further amendments);
2. tertiary education level first-cycle programmes in *social work (praca socjalna)* leading to Bachelor's degree (*licencjat*). The area of study *social work – praca socjalna* – was introduced into the list of areas of study in 2006, through the Regulation of the Minister of Science and Higher Education of 13 June 2006 on the names of areas of studies (Journal of Laws, No 121, item 838);
3. tertiary education programmes with a specialty preparing to the profession of a *social worker* – legal basis: article 116.1, point 3 and 116 1a, of the Law of 12 March 2004 on Social Assistance (uniform text - Journal of Laws 2009, No 175, item 1362, with further amendments).

Detailed information is available online under the link:

<http://www.mpips.gov.pl/index.php?gid=391>

## **RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND**

Procedures referring to the recognition of professional qualifications according to the provisions of the *Directive 2005/36/EC on the recognition of professional qualifications* are carried out by the Ministry of Labour and Social Policy.

Applicants who have their qualifications recognized in Poland can be employed as a *social worker* and hold the same rights and duties as Polish nationals.

Detailed information on the subject is available online under the link:

[http://www.mpips.gov.pl/bip/download/BIP%20ROZP.doc,\\_17-12-08.pdf](http://www.mpips.gov.pl/bip/download/BIP%20ROZP.doc,_17-12-08.pdf)

and

<http://www.mpips.gov.pl/bip/index.php?idkat=2209>

Since May 2004 the Ministry of Labour and Social Policy issue one decision concerning the recognition of professional qualifications for the profession of a *social worker*.

### **EXERCISING A PROFESSION**

According to the article 5.2 of the Law of 16 February 2007 amending the Law on Social Assistance (Journal of Laws No 48, item 320), those who received the diploma of acquisition of professional title in the profession of a *social worker* (professional title certificate) until 1 January 2008 are entitled to exercise the profession of a *social worker*. This means that any person who has completed *szkoła policealna* (a public school or a non-public schools with the rights of public school) and possesses the diploma of acquisition of professional title in the profession of a *social worker*, keeps for unlimited time the right to exercise the profession and to be employed in the position of a *social worker* in Poland, on the basis of acquired rights.

Graduates of *szkoły policealne* possessing a diploma of acquisition of professional title in the profession of a *social worker*, which confirms acquisition of a professional qualifications attested by a state diploma (issued by a public school or a non-public school with the rights of public school) hold, for unlimited time, the right to exercise the profession of a *social worker*, pursue employment in position of a *social worker* and get promotion on the basis of the *Law on Social Assistance*. Having acquired the professional title in the profession of a *social worker*, they shall not lose their rights in future, even in the case of further amendments to the abovementioned Law.

Persons with professional qualifications identified in the *Law on Social Assistance*, on post-secondary as well as tertiary education level, may be employed in the position of a *social worker* on the basis of this Law. The legal basis for considering the diploma of acquisition of professional title in the profession of a *social worker* as equivalent with higher education for the purpose of exercising the profession in Poland is Regulation of the Council of Ministers of 18 March 2009 on remuneration of self-government employees (Journal of Laws No 50, item

398, with further amendments). The annex to this regulation (the part on social assistance units) includes the position of social worker together with the required qualifications: diploma in the profession or diploma attesting completion of higher education determined by the provisions of law on social assistance.



## SPORT PROFESSIONS

In the Republic of Poland there are following professions in the area of sport which are regulated in the meaning of the *Directive 2005/36/WE on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22)*:

1. INSTRUCTOR OF SPORT,
2. INSTRUCTOR OF PHYSICAL RECREATION,
3. MANAGER OF SPORT,
4. INSTRUCTOR OF WELLNESS,
5. INSTRUCTOR OF SPORT FOR DISABLED PEOPLE,
6. SECOND CLASS COACH,
7. FIRST CLASS COACH,
8. MASTER CLASS COACH.

### COMPETENT AUTHORITY

The competent authority for the recognition of professional qualifications in the sport professions is the Minister of Sport and Tourism.

#### **Address:**

Ministerstwo Sportu i Turystyki (*Ministry of Sport and Tourism*)

ul. Senatorska 14

00-082 Warszawa

Tel.: + 48 22/24 43 118

Fax: + 48 22/24 43 272

E-MAIL: [zawreg@msport.gov.pl](mailto:zawreg@msport.gov.pl)

[www.msport.gov.pl](http://www.msport.gov.pl)

### LEGISLATION

The legislative bases for regulation of the above-mentioned professions which are currently in force are:

- Law of 18 January 1996 on physical culture (uniform text Journal of Laws 2001, No 81, item 889 with further amendments),

- Regulation of the Minister of National Education of 27 June 2001 on the qualifications, degrees and professional titles in the field of physical culture and the detailed rules and procedures for obtaining them (Journal of Laws, No 71, item 738 with further amendments).

## QUALIFICATIONS

### INSTRUCTOR OF SPORT

There are different paths to gain the same qualifications to practice the profession of an *instructor of sport*:

1. completion of higher education in the field of study: physical education, provided that:
  - one received the grade 'very good' from the final exam in a given sport discipline which was taught in the dimension of at least 60 hours, or
  - one completed a specialty 'Instructor of Sport', which included 60 hours of a given sport discipline, or
2. completion of higher education in the field of study: tourism and recreation with an sports instructor specialty which included at least 80 hours in a given sport discipline, or
3. at least secondary education and completion of a specialized course of instructors in a given sport discipline and passing an exam.

### INSTRUCTOR OF PHYSICAL RECREATION

There are different paths to gain the same qualifications to practice the profession of an *instructor of physical recreation*:

1. completion of higher education in the field of study physical education or recreation and tourism, each with instructor specialty which included at least 80 hours in the discipline of physical recreation, or
2. at least secondary education and completion of a specialized course of instructors in a given sport discipline of physical recreation in the dimension of at least 150 hours and passing an exam.

## MANAGER OF SPORT

There are different paths to gain the same qualifications to practice the profession of a *manager of sport*:

1. completion of higher education in the field of organization and management of sport,  
or
2. completion of postgraduate studies in the field of organization and management of sport, or
3. at least secondary education and completion of a specialized course in the field of organization and management of sport covering at least 180 hours carried out in at least three training sessions and passing an exam.

## INSTRUCTOR OF WELLNESS

There are different paths to gain the same qualifications to practice the profession of an *instructor of wellness*:

1. completion of higher education at a higher education institution in the field of study physical education or physiotherapy, with instructor specialty in the field of wellness,  
or
2. completion of a specialized course covering at least 150 hours carried out by higher education institution and passing an exam.

## INSTRUCTOR OF SPORT FOR DISABLED PEOPLE

There are different paths to gain the same qualifications to practice the profession of an *instructor of sport for disabled people*:

1. completion of higher education at a higher education institution in the field of study physiotherapy, provided that one passed the exam in the field of sport for disabled people with the grade 'very good', or
2. completion of higher education at a higher education institution in the field of study physical education or physiotherapy with the instructor specialty in a given discipline of sport for disabled people (covering 80 hours), or
3. qualifications of a *coach* or an *instructor of sport* and completion of a specialist course covering at least 60 hours and passing an exam.

## SECOND CLASS COACH

There are different paths to gain the same qualifications to practice the profession of a *second class coach*:

1. completion of higher education at the higher education institution in the field of study physical education, with coach specialty, or
2. qualifications to practice the profession of an *instructor of sport* held for at least two years and completion of coach postgraduate studies, or
3. qualifications to practice the profession of an *instructor of sport* held for at least two years and completion of a specialist course covering at least 300 hours followed by passing an exam, provided that one has completed at least secondary education (*Baccalaureate*).

## FIRST CLASS COACH

*First class coach* can be a person who:

- completed at least secondary education (*Baccalaureate*),
- has got confirmed professional experience (including three years experience as a *second class coach*),
- completed a specialist course covering at least 40 hours and passed an exam.

## MASTER CLASS COACH

*Master class coach* can be a person who:

- completed higher education,
- has got confirmed professional experience (including five years experience in the profession of the *first class coach*),
- completed a specialist course covering at least 60 hours and passed an exam.

## RECOGNITION OF EU QUALIFICATIONS IN THE REPUBLIC OF POLAND

Procedures referring to the recognition of professional qualifications according to provisions of the Directive 2005/36/EC are carried out by the Ministry of Sport and Tourism.

During the recognition process, since May 2004, Ministry of Sport and Tourism issued 10 decisions (all decisions were positive).

Detailed information concerning the recognition of professional qualifications in sport professions is available at the following website:

<http://msport.gov.pl/uznawanie-kwalifikacji-zawodowych/448-Uznawanie-kwalifikacji-zawodowych?retpag=/ksztalcenie-i-doskonalenie-zawodowe/>

## **EXERCISING SPORT PROFESSIONS**

Polish legislation stipulates that a person who would like to exercise the profession of *coach*, *instructor of sport* and *instructor of physical recreation* can conduct organized activities in the field of sport and recreation in different institutions.

From 16 October 2010 (when a new sport act will be in force) *instructor of physical recreation*, *manager of sport*, *instructor of wellness* and *instructor of sport for disabled people* will cease to be regulated in Poland.

Qualifications of a *coach* or an *instructor of sport* will be required only in sport clubs.



**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**21. PORTUGAL**

**Experience report from national coordinators  
with regard to other regulated professions**





**Avaliação da Directiva de Qualificações – Directiva 2005-36-CE**

**- Guia-Intérprete Nacional -**

**TOURIST GUIDE**

**A. Procedimentos em caso de Estabelecimento**

1. Ainda não aceitamos pedidos de equivalência *on line*, uma vez que ainda não se encontra disponível. Aceitamos pedidos através de e-mail. O e-mail é também muito utilizado nos casos de pedidos de documentação adicional, em que é sugerido o envio electrónico sempre que é mais rápido e facilita o processo.
2. O Turismo de Portugal ainda não recebeu qualquer pedido nestas circunstâncias. Caso receba aplicará os princípios previstos na Directiva.
3. De acordo com a Directiva, tendo em atenção os níveis definidos pelo Turismo de Portugal para as profissões em que é Autoridade Competente.
4. No caso de um pedido de equivalência, em que o país de origem não regulamenta a profissão, e o requerente não possua dois anos de experiência, nos últimos dez anos, o pedido será indeferido.
5. Não aplicável.

**B. Reconhecimento da experiência profissional baseado no Anexo IV**

6. Não aplicável.
7. Não aplicável.

**C. Mobilidade Temporária**

8. Sim. Os cidadãos da EU estão interessados em fazer uso da **Prestação Temporária de Serviços**. No que se refere à Livre Prestação de Serviços, novidade introduzida nesta Directiva, revela-se de mais difícil aplicação. O Turismo de Portugal I.P., recebeu até ao momento 22 pedidos de Livre Prestação de Serviços, para a Profissão de Guia – Turístico.

9. Em relação à aplicação do Princípio da Livre prestação de Serviços, é tido em conta o Código de conduta.

Especificamente no que diz respeito ao "**Estabelecimento Legal**":

- Se o Estado Membro de Acolhimento regulamenta a profissão mas o Estado Membro de Estabelecimento não regulamenta, o migrante deverá apresentar prova de que exerceu a profissão em questão durante pelo menos dois anos no decurso dos 10 anteriores;
- Se o Estado Membro de Acolhimento regulamenta a profissão e o Estado Membro de Estabelecimento também, o migrante deverá apresentar Certificado (Título Profissional) que ateste que se encontra legalmente estabelecido para efeito do exercício da profissão em questão.

Em relação ao **carácter ocasional e temporário**:

- O carácter ocasional é avaliado caso a caso, no entanto é natural que se aponte um limite máximo que deverá rondar as duas vezes no ano.

10. Caso o migrante entre a declaração prévia preenchida resolve a questão da formalização do pedido bem como a indicação de toda a informação que é importante. Caso prefira pode optar pelo envio de requerimento a formalizar o pedido que deira indicar nome completo, nacionalidade, data de nascimento, estado de proveniência e domicílio do requerente para efeitos de comunicação; Indicação da profissão; Indicação dos diplomas, certificados ou outros títulos emitidos ou reconhecidos por um Estado-Membro.

11. Não temos conhecimento.

#### **D. Cooperação Administrativa**

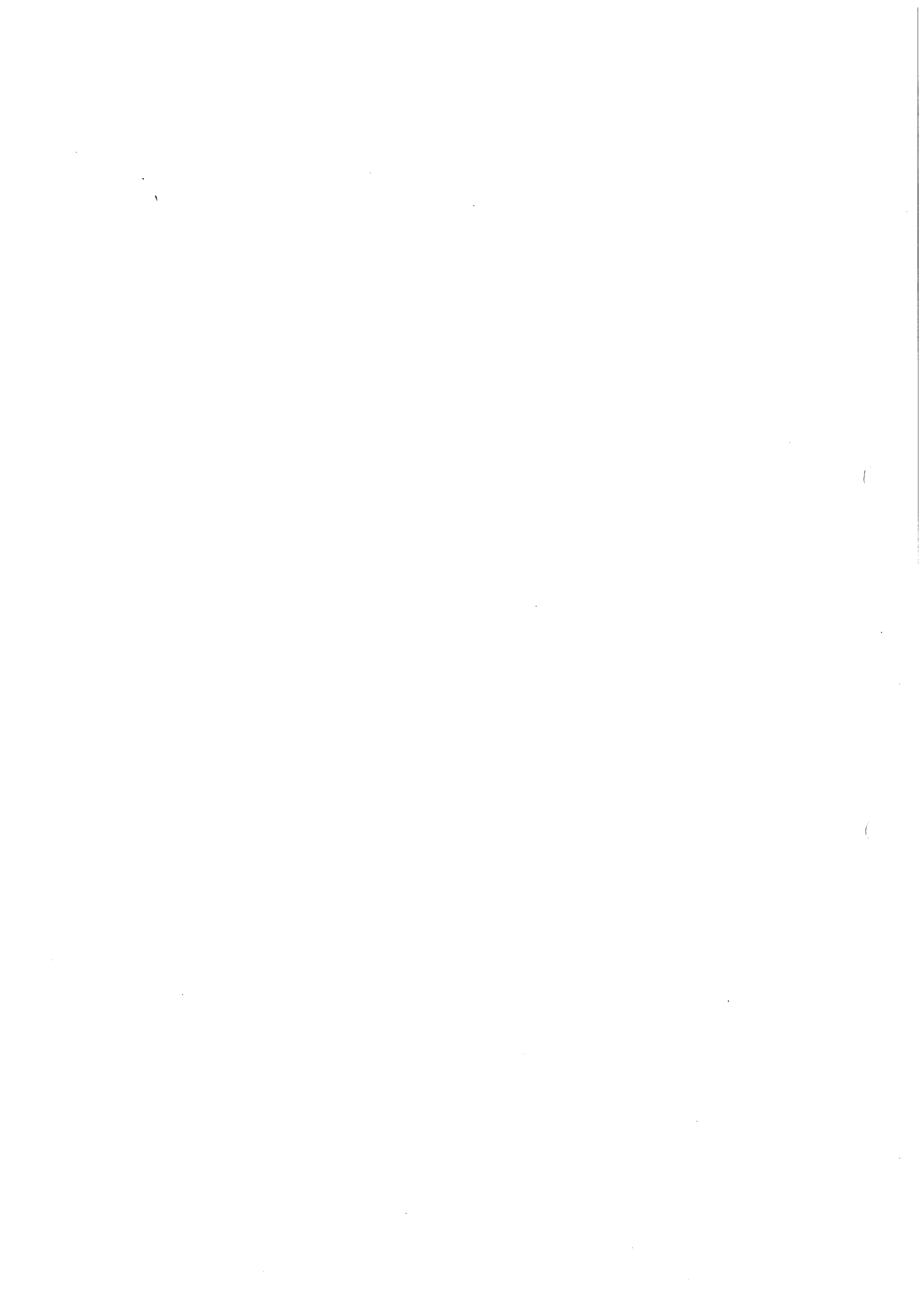
12. Possibilidade de trocar informação e esclarecer dúvidas pode simplificar e facilitar muito a aplicação da Directiva.

13. Processo em execução.

14. O Título / Carteira Profissional facilita o reconhecimento das qualificações profissionais desde que seja emitido pela respectiva Autoridade Competente.

**E. Outras Observações**

15. Quando a questão linguística é importante o processo de verificação decorre em simultâneo.





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**Evaluating the Professional Qualifications Directive  
Experience reports established with the assistance of Co-ordinators**

**POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS,  
PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES,  
SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS**

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

**B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV**

6. Does the mechanism in place work smoothly in practice?
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

**C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?
9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:



- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
  - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?
11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

**D. ADMINISTRATIVE COOPERATION**

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?
13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?
14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

**E. OTHER OBSERVATIONS**

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

\*\*\*\*\*



**Avaliação da Directiva de Reconhecimento de Qualificações  
Directiva 2005/36/CE**

Na sequência da solicitação que nos foi feita, no sentido de proceder à Avaliação da Directiva 2005/36/CE, foi referido que, no caso do IEFP, IP, esta se centrar nas seguintes profissões:

- Barbeiro/a
- Cabeleireiro/a
- Esteticista (m/f)
- Manicura (m/f)

Contudo, verifica-se que os procedimentos são exactamente os mesmos, independentemente da profissão em causa, pelo que optámos por responder em conjunto.

**GRUPO A**

**Questão 1.**

De um modo geral, no que se refere aos pedidos de reconhecimento, não temos nada a opor a que estes sejam feitos por via electrónica (temos, aliás, exemplos de pedidos feitos através do nosso Centro de Contacto), sendo que também não vimos inconvenientes em que os documentos necessários para a formalização do pedido e para a correcta instrução do processo nos sejam remetidos por via electrónica. Contudo, existem algumas situações em que a análise e resolução do processo exige a apresentação de cópias autenticadas de um, ou vários documentos, o que pode implicar que seja necessário que o(s) mesmo(s) nos seja enviado(s) por correio.

No entanto, em termos de experiência efectiva, e uma vez que o IEFP, IP é uma entidade com uma estrutura desconcentrada, que possui Centros de Emprego e de Formação por todo o país, por norma, os



pedidos são entregues pessoalmente pelos requerentes nos nossos Centros, sendo depois enviados para os Serviços Centrais, para análise. Esta situação acaba por ser benéfica para os candidatos, uma vez que, ao entregarem os pedidos pessoalmente, podem sempre aproveitar para esclarecer alguma dúvida que possam ter quanto aos procedimentos e/ou à documentação necessária.

Muitas vezes, numa 2.<sup>a</sup> fase, após a análise do pedido, quando se constata que é necessária a apresentação de outros documentos, ou informações adicionais, por parte dos candidatos, é-lhes dada a possibilidade de a comunicação passar efectivamente a ser feita via *e-mail*, o que permite simplificar os circuitos e agilizar todo o processo.

#### **Questão 2.**

Em geral, nos casos em que uma determinada qualificação já foi analisada, e aceite pela Autoridade Competente de outro Estado-Membro, o reconhecimento, em Portugal, dessa mesma qualificação é automático. Tendo em conta que outra autoridade competente considerou que o candidato reunia as condições para exercer a profissão, por norma, considera-se que os requisitos mínimos para o exercício profissional foram cumpridos.

Temos ainda a referir que, no que diz respeito ao reconhecimento de qualificações que não tenham sido obtidas num Estado-Membro, na prática, e tendo em conta as responsabilidades cometidas ao IEFP, IP no que respeita à certificação dos profissionais da área dos Serviços Pessoais - Penteado e Estética, no que se refere ao reconhecimento de títulos, são aplicados os mesmos procedimentos, independentemente do país de origem do candidato.

Assim, quer se trate de um pedido de reconhecimento de qualificações feito por um cidadão de um Estado-Membro, analisado pelo IEFP, IP enquanto entidade competente, no âmbito da Directiva, quer se trate de um pedido por parte de um cidadão oriundo de um país terceiro,





analisado pelo IEFP, IP enquanto Entidade Certificadora, o processo de análise e avaliação das qualificações dos requerentes é muito semelhante.

**Questões 3. e 4.**

De acordo com a legislação nacional, estas profissões são regulamentadas e o acesso à Carteira Profissional, obrigatório por lei para o seu exercício, está condicionado à frequência de curso reconhecido e aprovação em exame final perante júri.

De acordo com o n.º 1 do artigo 13.º "Quando, num Estado-Membro de acolhimento, o acesso a uma profissão regulamentada ou o seu exercício estiver subordinado à posse de determinadas qualificações profissionais, a autoridade competente desse Estado-Membro permitirá o acesso a essa profissão e o seu exercício, nas mesmas condições que aos seus nacionais, aos requerentes que possuam a declaração de competência ou o título de formação exigido por outro Estado-Membro para aceder à mesma profissão no seu território ou para nele a exercer."

Pelo exposto, no que se refere aos níveis de educação, e para efeitos de reconhecimento de títulos, temos aplicado a alínea b) do artigo 11.º, ou seja, quanto às condições exigidas para o reconhecimento (artigo 13.º), em Portugal, em termos de formação, exige-se a posse de um curso técnico ou profissional.

De qualquer modo, quando tal não se verifica, ou quando o curso apresentado não corresponde aos requisitos mínimos exigidos, de acordo com o previstos nos respectivos perfis profissionais, e de acordo com a Directiva, os candidatos têm sempre a possibilidade de optar pelas medidas compensatórias.

Seguindo o mesmo tipo de abordagem, caso os candidatos não cumpram com o mínimo de 2 anos de experiência, referidos no n.º 2 do artigo 13.º, exigidos para o acesso ao exercício profissional no caso de candidatos oriundos de Estados-Membros onde as profissões em causa



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não sejam regulamentadas, a aplicação das medidas compensatórias parece-nos ser uma opção possível.

Contudo, até ao momento, nunca nos deparámos com uma situação destas. Todos os candidatos apresentam ou cursos de formação ou experiência profissional suficiente para lhes permitir o acesso à certificação, seja por via de um reconhecimento automático, seja passando por medidas compensatórias.

#### **Questão 5.**

No que se refere ao acesso parcial a uma profissão, foi uma situação com a qual nunca nos deparámos, pelo que nem sequer sabemos exactamente como se processa e a que questão de jurisprudência se referem.

Por vezes, alguns candidatos (neste caso, a grande maioria apresenta títulos obtidos no Brasil, o que os coloca fora do âmbito de actuação da Directiva) apresentam títulos de formação em «Depilação», solicitando o seu reconhecimento.

Nestes casos, e uma vez que, em Portugal, não existe a profissão de "Depiladora", e a depilação corresponde apenas a uma das competências associadas às profissões de "Esteticista", "Massagista de Estética" e "Manicura/Pedicura", todas elas profissões regulamentadas, este tipo de pedidos acaba por ser indeferido ou, caso os utentes reúnam condições e assim o solicitem, alvo das medidas compensatórias.

No entanto, nunca nos foi solicitado nenhum tipo de "reconhecimento parcial" ou acesso parcial a uma profissão.

#### **GRUPO B**

#### **Questões 6. e 7.**



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Quanto ao reconhecimento da experiência profissional, no que se refere às profissões pelas quais o IEFP, IP é responsável, e tendo em conta que, em Portugal, o acesso ao exercício profissional se encontra condicionado à frequência de formação, de um modo geral, a posse de experiência é considerada, essencialmente, para efeitos de complemento dos títulos de formação apresentados ou, no cumprimento das regras previstas para a obtenção da Carteira Profissional (título cuja posse é obrigatória para o exercício profissional), para permitir o acesso a provas de avaliação de comprovação de competências.

Por norma, a experiência profissional, por si só, não permite o acesso ao reconhecimento automático, uma vez que se torna muito complicado, através de provas de trabalho, obter as garantias mínimas de que os candidatos possuem todas as competências exigidas, em Portugal, para o exercício profissional, de acordo com o previsto nos respectivos perfis profissionais.

De qualquer modo, e de acordo com a Directiva, os candidatos têm sempre a possibilidade de optar pelas medidas compensatórias, acedendo, assim, ao reconhecimento.

No que se refere aos mecanismos desenvolvidos para lidar com estas situações, ou seja, analisar os pedidos feitos com base na experiência (que, importa referir, são uma percentagem mínima, uma vez que mais de 90% dos pedidos tem por base algum tipo de formação), podemos dizer que sim, que funcionam.

No entanto, como é óbvio, no que diz respeito às medidas compensatórias, aplicadas sempre que não existem condições de proceder a um reconhecimento automático, o processo torna-se muito mais moroso e demorado. Os custos também são substancialmente mais elevados, uma vez que implicam o pagamento a formadores e júris de exame, para proceder à avaliação dos candidatos.

Em termos mais genéricos, e no que se refere à aplicação das medidas compensatórias, em Portugal, deparamo-nos com dificuldades acrescidas no que se refere à questão dos estágios. Uma vez que estas profissões são regulamentadas, e que o seu exercício está condicionado à posse



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da respectiva Carteira Profissional, torna-se complicado proporcionar estágios a pessoas sem Carteira. As próprias entidades empregadoras não querem estar sujeitas ao pagamento de coimas devido ao facto de terem pessoas a trabalhar sem terem a situação devidamente regularizada.

#### **GRUPO C**

##### **Questões 8., 9., 10. e 11.**

De acordo com o questionário que nos foi apresentado, o Grupo C tem a ver com a mobilidade temporária.

No entanto, verifica-se que, até ao momento, não tivemos qualquer pedido de reconhecimento em termos de prestação de serviços, nem se prevê que tal se venha a verificar, dada a natureza das profissões em causa.

Todos os processos de reconhecimento de títulos se referem a candidatos que se pretendem estabelecer em Portugal, e toda a nossa experiência decorre desse tipo de processos.

#### **GRUPO D**

##### **Questão 12.**

De um modo geral, até ao momento, a cooperação administrativa entre Estados-Membros não é muita, embora mais devido ao facto de, até ao momento, não ter sido necessária. Temos conseguido resolver os pedidos, seja através de um reconhecimento automático, seja passando por medidas compensatórias, sem ter necessidade de recorrer a Autoridades Competentes de outros Estados-Membros, no sentido de solicitar informações.



Podemos afirmar que, da nossa experiência, se verifica que, muitas vezes, as Autoridades Competentes, seja devido às diferentes regulamentações existentes nos vários Estados-Membros, seja devido a outras contingências, não têm como nos facultar as informações de que necessitamos para garantir aos requerentes um reconhecimento automático das suas qualificações.

**Questão 13.**

Neste momento, o IEFP, IP, enquanto Autoridade Competente, ainda não se encontra registado no IMI, pelo que não temos quaisquer tipo de experiência a este nível.

Contudo, temos consciência de que o registo no IMI, ao permitir a troca de informação entre os vários Estados-Membros, seria de particular importância, enquanto instrumento de apoio ao processo de reconhecimento de qualificações. Por esse motivo, foi solicitada ao Conselho Directivo do IEFP, IP, autorização para dar início ao processo de registo, junto da AMA - Agência para a Modernização Administrativa, organismo que, em Portugal, é responsável pela gestão do IMI. Essa autorização foi-nos concedida, mas ainda não foi efectivada por parte da AMA.

**Questão 14.**

Tendo em conta a legislação nacional, e o facto de, em Portugal, estas serem profissões regulamentadas, cujo exercício está condicionado à posse de Carteira Profissional, a existência, a nível europeu, de um título semelhante facilitaria imenso os processos de reconhecimento.

Quanto à possibilidade de a sua emissão poder ser feita por parte de Associações Profissionais, uma condição que consideramos ser de particular importância é que sejam Associações de âmbito nacional e devidamente reconhecidas/credenciadas pelas autoridades competentes ou por um organismo governamental, no sentido de garantir que os



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detentores desse título possuem as competências mínimas exigidas para o exercício profissional.

#### **GRUPO E**

##### **Questão 15.**

No que se refere às competências linguísticas dos candidatos, não é feito qualquer tipo de avaliação ou reconhecimento a esse nível.

Para além do facto de que estas profissões são essencialmente práticas, pelo que não exige um nível de conhecimentos linguísticos muito elevado, o IEFP, IP, através da sua rede de Centros de Formação, é uma das entidades que desenvolve o Programa «Português para Todos» que permite à população imigrante, residente em Portugal, que comprove não possuir nacionalidade portuguesa e que apresente a sua situação devidamente regularizada, em termos de permanência ou residência, o acesso a um conjunto de conhecimentos indispensáveis a uma inserção de pleno direito na sociedade portuguesa, promovendo a capacidade de expressão e compreensão da língua portuguesa e o conhecimento dos direitos básicos de cidadania, entendidos como componentes essenciais de um adequado processo de integração.

Não existe, assim, grande preocupação por parte do IEFP, IP, enquanto Autoridade Competente, em avaliar as competências linguísticas dos candidatos. Verifica-se, ainda, que, até ao momento, nunca recebemos qualquer reclamação, por parte de clientes ou entidades empregadoras, devido a eventuais insuficiências linguísticas dos candidatos.

#### **Reconhecimento de Qualificações em outros Estados-Membros**



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No que se refere à solicitação posterior, relativa à experiência do IEFP, IP relativamente à saída dos migrantes, ou seja, informações sobre as experiências dos profissionais nacionais quando tentam obter o reconhecimento ao abrigo da Directiva 2005/36/CE em outros Estados-membros, é mínima.

Verifica-se, ainda, que o pouco *feedback* que temos decorre apenas de situações em que os migrantes se deparam com dificuldades, pelo que acabam por recorrer ao Instituto, pelo que apenas temos "más experiências".

Dessa experiência, apenas podemos referir o facto de que, aparentemente, os países que têm levantado mais dificuldades aos profissionais nacionais têm sido o **Luxemburgo**, que, mediante apresentação de uma Carteira Profissional Portuguesa, chegou a exigir comprovativos em como o requerente tinha frequentado uma formação com 3 anos de duração, e a **Suíça**.

O último pedido de apoio que nos foi remetido veio exactamente da Suíça, da parte de uma Esteticista a quem foi solicitado um "atestado" relativo à experiência profissional, uma vez que, apesar de serem documentos oficiais, não lhe aceitaram os comprovativos do Ministério das Finanças. No sentido de resolver a situação, o IEFP, IP, apesar de não possuir quaisquer registos referentes à experiência profissional dos cidadãos, tendo por base a documentação apresentada pela utente, emitiu um documento atestando que, com base nos dados que lhe foram facultados, esta exerceu a profissão de "Esteticista" durante 16 anos, tendo vindo a desenvolver regularmente actividade nessa área, desde 1990.



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## Brief analyses of the Portuguese experience concerning the application of the Directive 2005/36/CE

### Hairdresser (Barbeiro, Cabeleireiro/a)

-Aesthetician (Esteticista)

-Manicurist (Manicura)

After having responded to the "Questionnaire" attached we highlight the following aspects:

- Within Employment and Vocational Training Institute (IEFP) the **applications are made at our local units** (Employment Centres), considering that they are spread all over the territory. However, we don't foresee any obstacle that the applications could be made **electronically**, except in certain situations when we need to access to the original documents.
- We don't have records of major problems concerning the application of the Directive, eventually because we always try to explore all the existing possibilities that may be applied to each person. When it's not possible to confer an automatic recognition we implement the **compensation measures**. **This option however is more expensive and more time consuming**. Furthermore, we have another issue related with the "**adaptation period**", since we can not allow that someone not possessing the professional title may enter the labour market.
- Regarding **migrants from countries outside the EU**, we have the same kind of procedures (based on bilateral agreements and in order to guarantee equal treatment).
- It's important to mention that our experience only concerns the recognition procedures in case of **migration on a permanent basis**. Up until now we do not have any request concerning **temporary mobility**.
- Concerning **cooperation with Competent Authorities from other Member-Sates**, we don't have much to refer, since our need for that cooperation has been very small.



## EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE

### Engineers

#### Respostas da Ordem dos Engenheiros (OE)

##### A.

1. Por enquanto as candidaturas a membros da OE de titulares de cursos de Engenharia estrangeiros nomeadamente da UE têm de ser entregues presencialmente ou enviadas por correio (procedimentos dos serviços da secretaria). Futuramente poderão vir a sê-lo através do IMI.
2. São aceites candidaturas de titulares de cursos obtidos em países fora da União Europeia, desde que tenham sido reconhecidos num país membro da UE.
3. Para os candidatos com cursos da União Europeia com nível d) do art.º11 da Directiva, podem ser aplicadas medidas compensatórias desde que a formação académica ou a experiência profissional não colmatem as diferenças substanciais de formação que possam existir, como seja um estágio com a duração variável até 2 anos ou uma prova de aptidão conforme escolha do candidato; a experiência tem dito que os candidatos optam pelo estágio. Pode haver reconhecimento parcial de competências.
4. Os candidatos a membro da OE titulares de cursos de Engenharia oriundos de países da UE onde a profissão não é regulamentada tendo mais de 2 anos de actividade profissional poderão ser admitidos como membros efectivos; se tiverem menos poderão ser admitidos como membros estagiários.
5. Pode ser feito o reconhecimento parcial de competências dentro de uma área específica de uma Especialidade de Engenharia. Tal está previsto na legislação de transposição da Directiva.

##### B.

6. e 7. Não há experiência da sua aplicação

##### C.

8. Sim.
9. Títulos de formação e declaração da autoridade competente do país de estabelecimento se a profissão ali estiver regulamentada. Não estando a profissão regulamentada são requeridas declarações das empresas para

onde trabalhou para avaliar experiência profissional superior a 2 anos e os títulos de formação.

Não pode estar impedido de exercer a profissão no país de estabelecimento.

Portanto se o candidato apresentar prova de ser reconhecido no país de origem para exercer a profissão então pode exercer a prestação de serviços em Portugal.

Ainda não está definido na OE o que se considera aceitável como período de tempo máximo para prestação de serviços.

10. Para verificação das qualificações profissionais de modo a evitar danos para a saúde e segurança do receptor dos serviços, seu pessoal e público em geral, devido a falta de qualificações. A profissão de Engenheiro é, em Portugal, de interesse e confiança pública
11. Em apenas um caso foi emitida uma declaração de não conformidade para a prestação de serviços porque o candidato ainda não tinha dois anos de experiência profissional no país de estabelecimento onde a profissão de Engenheiro não era regulamentada.

D.

12. Apenas quando necessário para confirmar declarações dos prestadores de serviços ou dos candidatos a estabelecimento.
13. Sim. Porém, ainda não foi utilizado pois todas as declarações e candidaturas têm sido entregues directamente na OE, nomeadamente por procuradores dos interessados, em regra advogados das empresas.
14. O facto de o candidato apresentar uma carteira profissional de Engenheiro pode constituir uma mais valia para o seu reconhecimento como Engenheiro em Portugal. No entanto, dada a diversificação de formações e qualificações não são viabilizáveis deferimentos automáticos em todos os casos.

E.

15. À OE ainda não chegaram reclamações; há, no entanto, que ter em conta que, nesta fase, há apenas três meses, começaram a chegar com regularidade (25 até à presente data) declarações prévias de prestações de serviços. Os candidatos e prestadores falam inglês e ou castelhano o que tem sido considerado aceitável para o exercício da profissão de Engenheiro.

**Quanto aos Engenheiros portugueses que se deslocam para se estabelecerem em países abrangidos pela Directiva Qualificações, apesar de serem portadores de uma declaração da autoridade competente**

portuguesa que é a Ordem dos Engenheiros, em como podem exercer a profissão em Portugal e de terem formações académicas de 5 anos em Engenharia (nível e)), têm, em alguns casos, deparado com algumas barreiras administrativas, baseadas nas eventuais diferenças de formação no caso de Espanha e, no Reino Unido, com exigências relacionadas com o treino profissional, e de serem necessárias referências de membros com a qualificação profissional de Chartered dos institutos que são autoridades competentes, nomeadamente do ICE, (invocando exigências dos seus próprios regulamentos internos) para se poderem tornar Chartered e, desta forma, poderem trabalhar em paridade com os respectivos nacionais. Sobre a prestação de serviços não têm sido solicitadas declarações para o efeito.

Lisboa, 11 de Agosto de 2010.



**Evaluating the Professional Qualifications Directive**  
**Experience reports established with the assistance of Co-ordinators**

POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS,  
PROFESSIONAL ACTIVITIES FALLING UNDER ANNEX IV, TOURIST GUIDES,  
SPORT PROFESSIONS, SOCIAL WORKERS AND PHYSIOTHERAPISTS

**A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?
2. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?
3. To which extent do you make use of the education levels referred to in Article 11 of the Directive?
4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

**B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV**

6. Does the mechanism in place work smoothly in practice?
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

**C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?
9. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- 
- How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
  - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?
  11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?

**D. ADMINISTRATIVE COOPERATION**

12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?
13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?
14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

**E. OTHER OBSERVATIONS**

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

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**Evaluating the Professional Qualifications Directive – Directive  
2005/36/EC**

**National Interpreter-Guide**

**TOURIST GUIDE**

**A. Procedures in case of migration on a permanent basis**

1. We do not yet accept online applications for the recognition of foreign diplomas, as this facility is not yet available. We accept e-mail applications. Requests for additional information are also often made by e-mail, reflecting the fact that it is the swiftest form of communication and facilitates the process.
2. *Turismo de Portugal* (TP) has not yet received any such applications. If it receives such an application, it will adhere to the principles laid down in the Directive.
3. In accordance with the Directive, bearing in mind the levels defined by TP for the professions for which it is the Competent Authority.
4. Where an application for recognition of a foreign diploma concerns a country of origin in which the profession is not regulated and the applicant does not have two years' experience during the previous ten years, the application will be rejected.
5. Not applicable.

**B. Recognition of professional experience based on Annex IV**

6. Not applicable.
7. Not applicable.

**C. Temporary Mobility**

8. Yes. EU citizens are interested in taking advantage of the regime for the **temporary provision of services**. The free provision of services, a concept introduced by this Directive, is proving more difficult to implement. *Turismo de*

*Portugal* I.P. has to date received 22 applications for the free provision of services for the tourist guide profession.

9. The Code of Conduct is taken into account in applying the principle of the free provision of services.

With regard to "**legal establishment**":

- If the profession is regulated in the host Member State but not in the Member State of establishment, migrants must provide evidence that they have pursued the profession in question for at least two years during the previous ten years;
- If the profession is regulated in both the host Member State and the Member State of establishment, migrants must submit a certificate (evidence of formal qualification) stating that they are legally established for the purpose of exercising the profession in question.

With regard to the **temporary and occasional basis** criteria:

- The criterium of occasional basis is evaluated on a case by case basis, but there is naturally an upper limit of around two times a year.

10. If migrants make a prior declaration, their application is formalised and all the important information is supplied. If migrants prefer to send an application to be formalised, it must indicate the applicant's full name, nationality, date of birth, country of origin and of residence for the purpose of communication. The applicant's profession and diplomas, certificates or other evidence of formal qualifications issued or recognised by a Member State must also be indicated.

11. We have no information on this matter.



**D. Administrative cooperation**

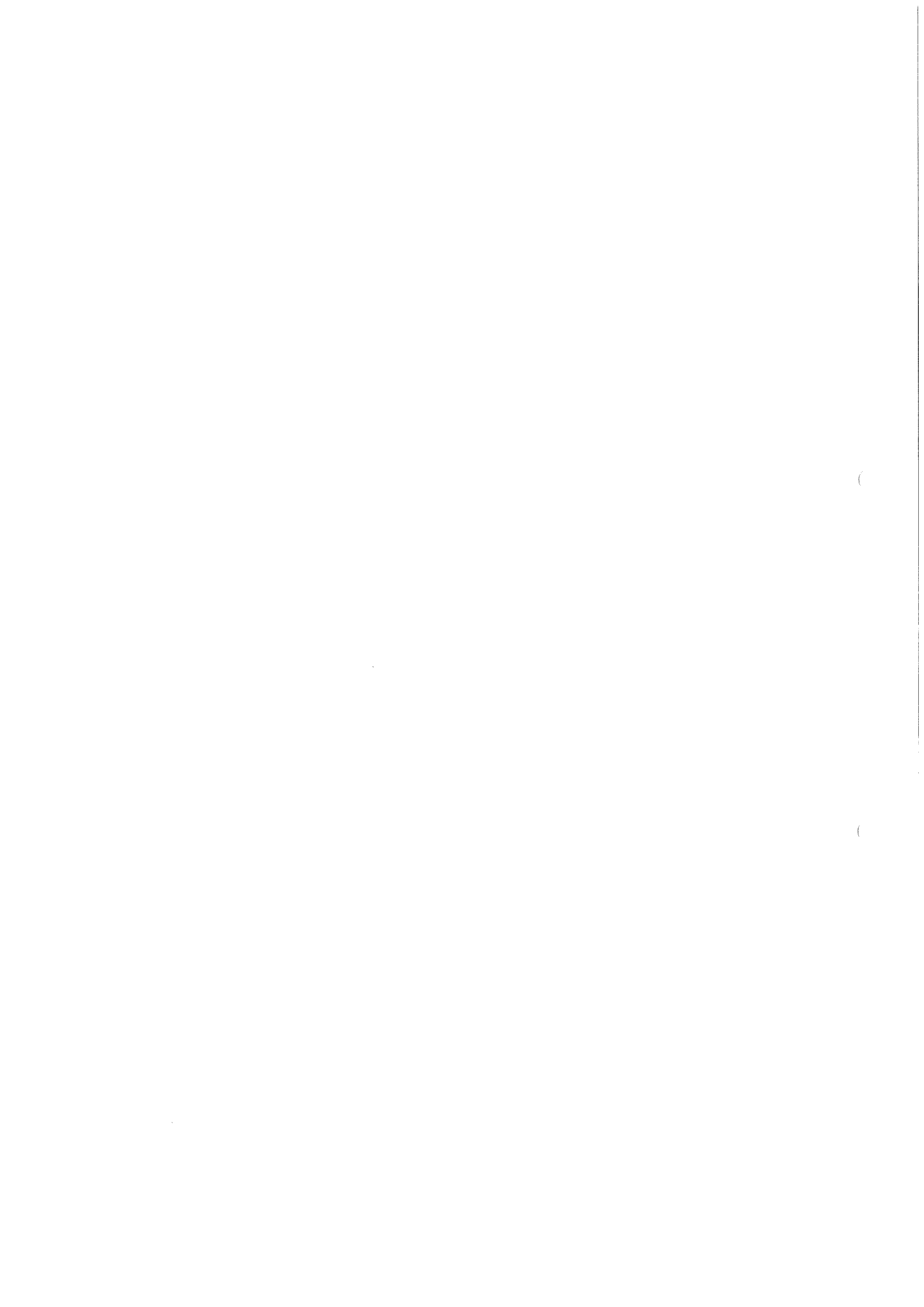
12. By allowing information to be exchanged and queries to be resolved, administrative cooperation can greatly simplify and facilitate the implementation of the Directive.

13. Implementation of the procedure.

14. The issuing of a professional card by the relevant competent authority facilitates the recognition of professional qualifications.

**E. Other remarks**

15. Where language skills are important, the verification process is carried out simultaneously.





**Evaluating the Professional Qualifications Directive**  
**Experience reports established with the assistance of Co-ordinators**

POSSIBLE QUESTIONNAIRE IN RESPECT OF TEACHERS, ENGINEERS,  
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4. Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?
5. What is your experience when a citizen requests partial access to a profession according to the Court jurisprudence?

**B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV**

6. Does the mechanism in place work smoothly in practice?
7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.

**C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

8. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?
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  - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?
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12. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?
13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?
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**E. OTHER OBSERVATIONS**

15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

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INSTITUTO DO EMPREGO E FORMAÇÃO PROFISSIONAL, IP

DEPARTMENT OF VOCATIONAL TRAINING  
TECHNICAL SUPPORT UNIT

Evaluation of the Directive on the recognition of professional  
qualifications  
Directive 2005/36/EC

Further to the request that we evaluate Directive 2005/36/EC, in the case of the *Instituto do Emprego e Formação Profissional* (IFEP - Institute of Employment and Vocational Training) the evaluation was supposed to focus on the following professions:

- Barbers;
- Hairdressers;
- Beauticians;
- Manicurists.

Given that the procedures are identical for all the above professions, we have decided to provide a joint response.

GROUP A

Question 1:

In general, we have no objection to receiving applications for recognition by e-mail (we can also give examples of applications made via our contact centre), nor to receiving the documents required to formalise an application and to investigate a case by e-mail. However, there are some situations requiring authenticated copies of one or more documents, which means that these may need to be sent to us by post.

That said, in our experience, given that IEFP,IP has a decentralised structure with employment and training centres throughout the country, as a rule, applications are submitted in person by applicants in our centres and are subsequently forwarded to our Central Services for examination. This is beneficial for applicants, since submitting their application in person gives them the opportunity to resolve any queries relating to the procedures involved and/or requisite documentation.



Often, in a second phase following the examination of the application, where applicants are required to provide further documentation or information, they are given the option to do so via e-mail in order to simplify matters and speed up the whole process.

**Question 2:**

In general, in cases where a certain qualification has already been examined and accepted by the competent authority of the other Member State, this qualification is automatically recognised in Portugal. Given that another competent authority deemed that the applicant meets the conditions for exercising the profession in question, as a rule, the minimum requirements for pursuing this profession are considered to be met.

We would also point out with regard to the recognition of qualifications obtained in a non-Member State that, in practice - and bearing in mind the responsibilities of the IEFP, IP as regards the certification of professionals in the area of the personal services of hairdressing and beauty therapy - the same procedures for recognising professional qualifications are applied irrespective of the applicant's country of origin.

Therefore, whether an application for the recognition of qualifications is made by a Member State citizen and examined by IEFP, IP as the competent authority under the Directive or by a non-Member State citizen and examined by the IEFP, IP as the certifying authority, the process of examining and evaluating the applicants' qualifications is much the same.

**Questions 3 and 4:**

In accordance with national legislation, these professions are regulated and acquisition of the certificate of competence (*Carteira Profissional*) legally required to practice them is subject to attending a recognised course and passing a final exam before a board.

Pursuant to Article 13(1), "If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit access to and pursuit of that profession,



under the same conditions as apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory".

Therefore, with regard to education levels and for the purposes of recognising qualifications, we have applied the provisions of paragraph (b) of Article 11. In other words, as regards the conditions for recognition (Article 13) in Portugal, a technical or vocational training course must be completed.

At any rate, where this is not the case, or where the course completed does not meet the minimum requirements stipulated in the respective professional profiles and provided for in the Directive, applicants may take advantage of compensation measures.

In line with this kind of approach, in the case of applicants from Member States where the professions in question are not regulated who do not have the minimum of two years' experience (as referred to in Article 13(2)) required to exercise these professions, compensation measures appear to us to be one possible option.

However, to date, we have not yet been confronted with such a situation. All applicants have completed adequate training courses or work experience enabling them to obtain certification through automatic recognition or by means of compensation measures.

**Question 5:**

Given that we have never dealt with a case involving partial access to a profession, we are not even sure of the applicable procedures, nor of what exactly is meant by the reference to Court jurisprudence.

Occasionally, some applicants (in this instance, the vast majority submit certificates obtained in Brazil, i.e. outside the scope of the Directive) submit diplomas in "depilation".

In such cases, since there is no profession entitled "Depilation professional" in Portugal - rather, depilation is just one of several skills associated with the professions of "beautician", "beauty masseur" and "manicurist/pedicurist", which are all regulated professions - this kind of application would be rejected, or



compensation measures would be applied if the applicant met the requirements and requested such a solution.

However, we have never received a request for partial recognition or partial access to a profession.

#### GROUP B

##### Questions 6 and 7:

With regard to the recognition of professional experience in the case of the professions for which IEFP, IP is responsible, bearing in mind that in Portugal authorisation to pursue a profession is subject to completion of training, in general, professional experience is taken into account mainly as a supplement to diplomas submitted or - in compliance with rules for obtaining the *Carteira Profissional* (possession of which is a prerequisite for exercising the professions concerned) - to allow evidence of skills to be verified.

As a rule, professional experience *per se* does not entitle the applicant to automatic recognition, since it is very complicated to obtain minimum guarantees through evidence of work experience that the applicants possess all the requisite skills in accordance with the respective professional profiles.

In any event, in accordance with the Directive, applicants can always opt for compensation measures in order to obtain recognition.

It can be said that the mechanisms developed to deal with these situations, i.e. to examine applications made on the basis of professional experience (which, it is important to highlight, account for only a small percentage, since over 90% of applications are based on some type of training) work smoothly.

However, as is evident, in the case of compensation measures (implemented where the conditions for automatic recognition are not met) the process is much more time-consuming. The costs are also substantially higher, since trainers and members of exam boards must be paid to evaluate applicants.





More generally, the implementation of compensation measures is proving increasingly difficult in Portugal as regards the issue of traineeships. Since these professions are regulated and their pursuit is subject to possession of the respective *Carteira Profissional*, it is difficult to offer traineeships to people without this certificate. Employers for their part do not wish to have fines imposed on them for employing people who are not duly regulated.

#### Group C

##### Questions 8, 9, 10 and 11:

In accordance with the questionnaire presented to us, Group C relates to temporary mobility.

However, to date we have not received any application for recognition in the area of provision of services, nor do we expect to given the nature of the professions in question.

All the procedures for recognising qualifications relate to applicants intending to become established in Portugal and we have experience only of this type of procedure.

#### Group D

##### Question 12:

In general, there has not been much administrative cooperation between the Member States to date, mainly because it has not yet been necessary. We have managed to process applications, either through automatic recognition or by means of compensation measures, without having to contact the competent authorities in other Member States in order to request information.

In our experience, often the competent authorities, owing to the different rules in the various Member States or to other factors, are not able to provide us with the information we need to ensure that applicants' qualifications are automatically recognised.



**Question 13:**

Since the IEFP, IP, as the competent authority, is not yet registered with the IMI, we have no experience in this regard.

However, we are aware that registration with the IMI, which would enable us to exchange information with various Member States, would constitute an important support tool in the procedure for recognising qualifications. For this reason, the IEFP, IP management board was asked to authorise initiation of the registration process with the Agency for Administrative Modernisation (*Agência para a Modernização Administrativa* - AMA), which is the Portuguese body responsible for managing the IMI. This authorisation was granted to us but has not yet been acted upon by the AMA.

**Question 14:**

Bearing in mind the fact that these professions are regulated under Portuguese national law and that their pursuit is subject to possession of the *Carteira Profissional*, the existence at European level of a similar professional card would greatly simplify recognition procedures.

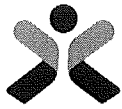
As regards the possibility of their being issued by professional organisations, one condition that we deem to be of particular importance would be that these are national organisations duly recognised/accredited by the competent authorities or by a government body, in order to guarantee that card holders possess the minimum skills required to exercise the profession concerned.

**Group E**

**Question 15:**

Applicants' linguistic skills are in no way assessed or recognised.

In addition to the fact that these professions are essentially practical, meaning that they do not require a particularly high level of linguistic knowledge, the IEFP, IP, through its network of training centres, is one of the bodies implementing the "*Português para Todos*" (Portuguese for Everyone) Programme, which enables immigrants residing in Portugal who can demonstrate that they are not



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Portuguese nationals but are legally established or resident in Portugal to gain the breadth of knowledge required to fully integrate into Portuguese society. The programme enhances immigrants' ability to speak and understand Portuguese and familiarises them with basic citizenship rights, which are considered to be an essential component of an adequate integration process.

The IEFP, IP, as the competent authority, is not therefore particularly interested in evaluating applicants' language skills. We have not received any complaints to date from customers or employers concerning inadequate language skills on the part of applicants.

#### Recognition of qualifications in other Member States

With regard to the last question concerning IEFP, IP's experience of migrant professionals, we have minimal information on the experiences of Portuguese professionals when attempting to obtain recognition pursuant to Directive 2005/36/EC in other Member States.

The little feedback that we have is from migrants facing difficulties who contact our institute, so we only have information on "bad experiences".

The only point that we can make based on this experience is that the countries where Portuguese professionals have encountered the greatest difficulties are apparently Luxembourg - which, not satisfied with the submission of a Portuguese certificate of professional competence (*Carteira Profissional*), required evidence of completion of three years of training - and Switzerland.

Indeed, the most recent request for support that we received was from a migrant beautician in Switzerland who was asked to produce a certificate of professional experience because the supporting documents from the Ministry of Finance were not accepted in spite of being official documents. In order to remedy the situation, the IEFP, IP, despite not having any records of citizens' professional experience, issued on the basis of documentation provided by the



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TECHNICAL SUPPORT UNIT

applicant a document certifying (based on the information supplied) that she had exercised the profession of beautician for 16 years, having worked regularly in this area since 1990.

## Brief analyses of the Portuguese experience concerning the application of the Directive 2005/36/EC

**Hairdresser (Barbeiro, Cabeleireiro/a)**  
**-Beautician (Esteticista)**  
**-Manicurist (Manicura)**

After having responded to the attached "Questionnaire" we would highlight the following aspects:

- Within Employment and Vocational Training Institute (IEFP) **applications are made at our local units** (Employment Centres), given that they are spread all over the territory. However, we do not foresee any obstacle to applications being made **electronically**, except in certain situations when we need to access the original documents.
- We have no records of major problems concerning the application of the Directive, possibly because we always try to explore all the existing possibilities that may be applied to each person. When it is not possible to confer an automatic recognition we implement the **compensation measures. This option however is more expensive and more time-consuming.** Furthermore, we have another issue relating to the "**adaptation period**", since we cannot allow someone not possessing the professional title to enter the labour market.
- Regarding **migrants from countries outside the EU**, we have the same kind of procedures (based on bilateral agreements and in order to guarantee equal treatment).
- It is important to mention that our experience only concerns the recognition procedures in the case of **migration on a permanent basis.** To date we have not received any request concerning **temporary mobility.**



INSTITUTO DO EMPREGO E FORMAÇÃO PROFISSIONAL, IP

DEPARTMENT OF VOCATIONAL TRAINING  
TECHNICAL SUPPORT UNIT

- Concerning **cooperation with Competent Authorities from other Member-States**, we have little information, since our need for that cooperation has been very small.



## EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE

### Engineers

#### Reply from the *Ordem dos Engenheiros* (OE)

##### A.

1. At present, applications for OE membership from applicants who have completed engineering courses in another EU country must be submitted in person or sent by post (secretariat procedures). In future, it will be possible to submit them via the IMI.
2. Applications from applicants who have obtained their qualifications in non-EU countries are accepted if these qualifications have been recognised in an EU Member State.
3. Where academic training or professional experience do not bridge potentially substantial differences in training, compensation measures may be implemented in favour of applicants who have completed courses in the EU corresponding to level d), as referred to in Article 11 of the Directive. These measures may take the form of adaptation periods of varying lengths up to a maximum of two years or an aptitude test, depending on the applicant's preference. In our experience, applicants opt for the adaptation period. Partial recognition of skills is a possibility.
4. Applicants for OE membership who have completed engineering courses in other EU countries where the profession is not regulated and have at least two years of professional experience may be admitted as members. Those with less than two years' experience may be admitted as probationary members.
5. Partial recognition of skills is possible within specific areas of engineering branches. This is provided for in the legislation transposing the Directive.

##### B.

6. and 7. We have no experience of its implementation.

##### C.

8. Yes.
9. Qualifications and a declaration by the competent authority in the country of establishment are required if the profession is regulated in that country. If the profession is not regulated, declarations by the companies for which

the applicants have worked are required in addition to their qualifications, in order to assess their work experience of at least two years' duration.

Applicants cannot be prevented from exercising their profession in the country of establishment.

Therefore, if applicants submit proof that their professional qualifications have been recognised in their country of origin, they may also provide services in Portugal.

The OE has not yet defined what it considers to be an acceptable maximum period for the provision of services.

10. The system is necessary in order to verify professional qualifications so as to prevent damage to the health and safety of the recipient of the services, its staff and the public in general due to a lack of qualifications. The engineering profession is regulated in Portugal in the public interest and in order to foster public confidence.
11. A declaration of inaptitude to provide services was issued in just one case because the applicant had less than two years' experience in the country of establishment, where the engineering profession was not regulated.

**D.**

12. Only when necessary in order to confirm declarations by service providers or applicants for establishment.
13. Yes. However, it has not yet been used, as all declarations and applications are submitted directly to the OE, namely via agents acting on behalf of the interested parties - normally company lawyers.
14. Although presentation of a professional card for engineers may weigh in favour of applicants being recognised as engineers in Portugal, given the diversity of training and qualifications, automatic recognition is not viable in all cases.

**E.**

15. The OE has not received any complaints to date. It should, however, be borne in mind that we have begun to receive prior declarations of provisions of services on a regular basis (25 to date) only over the last three months. The applicants and service providers concerned speak English or Spanish, which are deemed acceptable for exercising the profession of engineer.

**Portuguese engineers who have moved to another country covered by the Professional Qualifications Directive, in spite of having a declaration from the competent authority (i.e. the OE) stating that they are authorised to exercise the profession in Portugal and have completed five years of**



academic training in engineering (level e), have in some cases come up against administrative barriers. These are caused by differences in training in the case of Spain, and vocational training requirements in the case of the United Kingdom, where references from chartered members of the institute acting as competent authority (namely the ICE, invoking requirements under its own internal rules) are required in order to become a chartered engineer, a title which if acquired by foreign nationals enables them to exercise the profession on an equal footing with UK nationals. Service providers have not been requested to make declarations.

Lisbon, 11 August 2010



## Evaluating Professional Qualifications Directive

### TEACHERS

#### A. Recognition procedure in case of migration on a permanent basis

1. The *Direcção Geral de Recursos Humanos da Educação* (Directorate-General for the Training of Education Staff) makes information available online on its webpage: <http://www.dgrhe.min-edu.pt/web/14654/reconhecimento-de-habilitacao>.

This information may also be accessed via the following tabs: **Docentes/Habilitações/Reconhecimento de habilitação profissional EU**.

In addition to the information available online, it is also possible to contact us by telephone, e-mail, ordinary mail and/or in person at the Directorate-General's advice centre. Special attention is given to the certification of documents sent by e-mail or ordinary mail.

2. To date there have been only sporadic applications of this kind and the circumstances were not identical to those described in the question. However, we believe that we may see increasing numbers of this type of application. For example, there have been cases of Latin American citizens exercising their profession in Spain; a Brazilian citizen who became a naturalised Spaniard, with qualifications gained in Brazil (with which Portugal has signed a Friendship and Cooperation Treaty); a Romanian teacher who gained her qualifications in Russia; various cases of citizens of Russia and other Eastern European countries who gained their professional qualifications in their country of origin and are now naturalised Portuguese citizens. From time to time we also see cases of Portuguese nationals who gained their qualifications outside the EU - in the USA or Canada, for example. Many Brazilian citizens also apply - under the Friendship Treaty between Portugal and Brazil - for recognition of their professional qualifications obtained in Brazil. We sometimes have difficulty in verifying whether the professional qualifications submitted fully meet the requirements of these countries' educational systems.
3. The examination of applications includes analysis of the applicants' education levels, taking into account the levels required of Portuguese nationals in order to carry out the same duties and functions, and provision is made for the implementation of the compensation measures required by law.
4. The cases described in point 4 have been sporadic and are therefore dealt with on a case-by-case basis. In one case, for example, a Portuguese citizen had completed her teacher training in Ireland and although she had some work experience, it fell short of the requirements. We therefore proposed that this applicant undertake compensation measures .

5. We have not dealt with any such cases.

#### **B. Recognition of professional experience based on Annex IV**

6. Law No 9/2009 of 4 March 2009 transposes into Portuguese national law Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications and Council Directive 2006/100/EC of 20 November 2006 adapting certain Directives in the field of freedom of movement of persons, by reason of the accession of Bulgaria and Romania. Order in Council (*Portaria*) No 967/2009 of 25 August 2009 governs the procedures to be adopted. Order (*Despacho*) No 22238/2009 of 7 October 2009 lays down the procedure for verifying whether the applicant possesses the knowledge of Portuguese required to exercise the profession in question. It has been the aim of this Directorate-General to accelerate the procedures adopted.
7. The procedures adopted are those provided for in Articles 3, 4 and 5 of Order in Council No 967/2009 of 25 of August 2009, implementing Law No 9 as regards organising, examining and taking a decision on applications. Compensation measures are also provided for in the situations specified by law. We have endeavoured to implement the compensation measures adopted, as required, in accordance with the spirit of the law. The greatest problems are obviously due to the diversity and complexity of the different education systems and sometimes to communication problems between the competent authorities of the different countries.

#### **C. Temporary mobility (of a self-employed or an employed worker)**

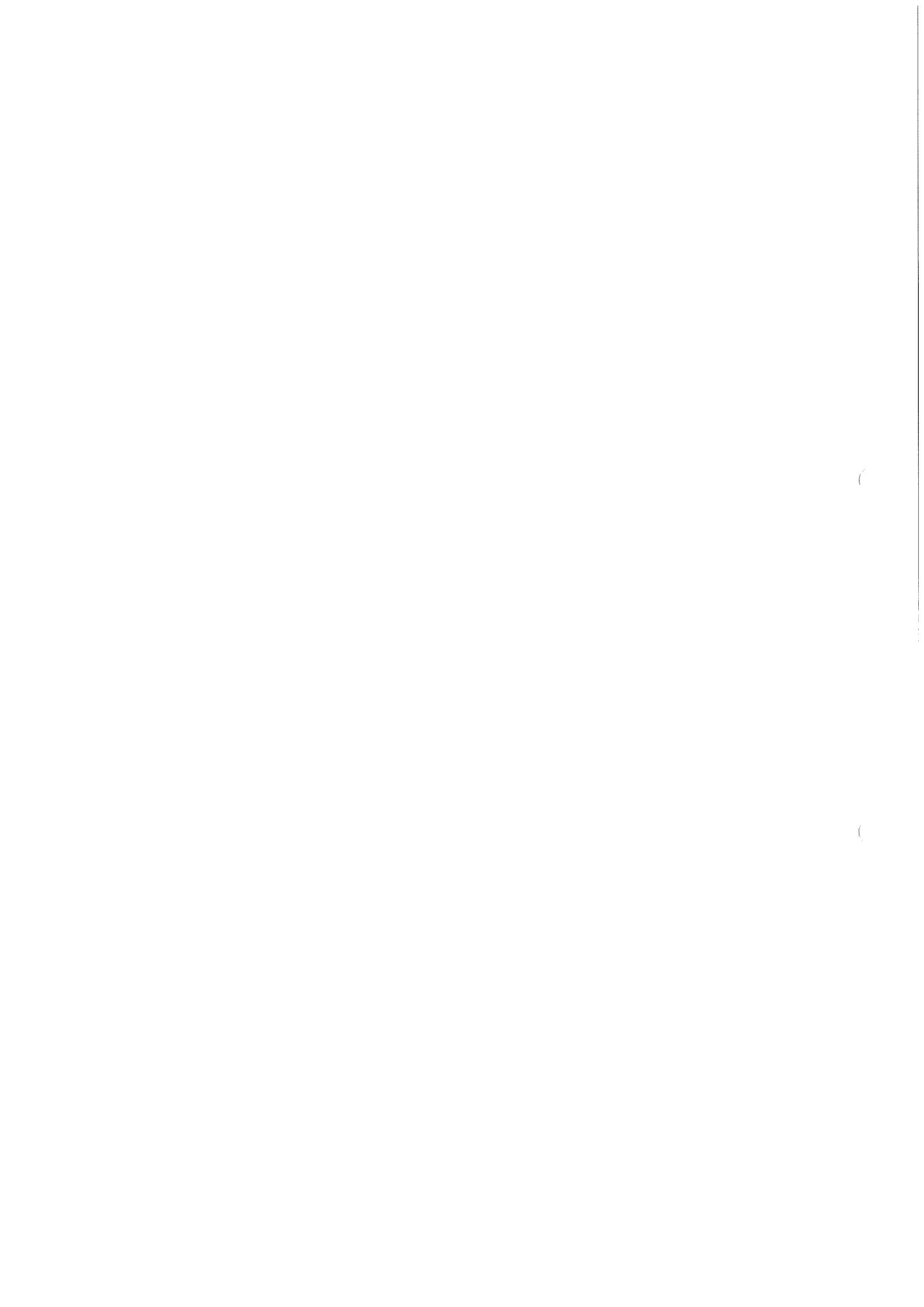
8. We occasionally deal with cases involving EU citizens who intend to work in Portugal on a temporary basis. However, there is currently a surplus of teachers in Portugal, which means that it is not easy to exercise this profession on a temporary basis. Some such applicants managed to find work in curriculum enrichment activities, which does not involve direct employment by the Ministry of Education.
9. We do not have any reservations concerning temporary work. The system is based on adapting teacher training, in line with procedures, to meet the requirements of the system.
10. In our experience, the declarations issued by the competent authorities are of huge importance, given that they convey the relevant information in a concise manner, are reliable and provide assurances. Even with the Bologna Process, we believe that this information is of great use and should continue to be provided. Given the language barrier, it is easier to have access to a concise document summarising the essential information and providing assurances, through the competent authorities of the country in which the qualifications were obtained, that these are credible qualifications from reputable institutions. Unfortunately, not all countries have made use of these declarations in the same way.
11. In our experience in Portugal, the two years of experience required by law do not constitute a barrier or impediment.

#### **D. Administrative cooperation**

12. Cooperation between the different competent authorities is crucial for effective coordination and good performance in this area, but is, unfortunately, sometimes lacking. Some of our experiences are positive, but in some cases cooperation has not worked. It is one of the aspects which we feel it is important to work on and improve, in order to obtain better and more reliable results.
13. As the competent authority in Portugal, we are registered with the IMI and have used this service. However, we have made only limited use of it and this also appears to be the case in the other countries.
14. In our view, an international professional identification card could considerably facilitate the process by increasing applicants' credibility. However, it would not replace the submission of other documentation and good cooperation between the various competent bodies.

#### **E. Other Observations**

15. Given the requirement to check that applicants possess the Portuguese language skills required to exercise the profession of nursery school teacher or primary and secondary school teacher, Order No 22238/2009 of 7 October 2009 assigns responsibility for testing applicants' knowledge of Portuguese as a foreign language to the *Centro de Avaliação do Português Língua Estrangeira* (Centre for assessing Portuguese as a foreign language - CAPLE ). Authorisation to work as a teacher in Portugal is granted only after the (CAPLE) certificate is submitted.





## EVALUATING THE PROFESSIONAL QUALIFICATIONS DIRECTIVE

### Physiotherapists

#### Group A

1 – Applications are currently made in writing and signed by the applicant, who must submit their application in person or send it by ordinary mail.

2 - This kind of situation has not arisen to date.

3 – The physiotherapy training course is - in accordance with Portuguese national legislation - officially recognised in Portugal as an adequate qualification for performing the duties of a physiotherapist. The course leads to a *licenciado* degree corresponding to the educational level described in paragraph d) of Article 11 of Directive 2005/36/EC of 7 September 2005. We have therefore made use of the education levels referred to in Article 11 d) for the purposes of recognising qualifications. However, where the courses undertaken by applicants do not meet the requirements of the Directive, they can always choose to complete compensation measures.

4 – We have not encountered any such cases.

5 – We have no experience in this regard.

**Group B**

6 and 7 – Not applicable to the profession in question.

**Group C**

8, 9, 10 and 11 – We have no experience in this regard.

**Group D**

12 – We have no experience in this regard.

13 – Yes, whenever necessary. The IMI platform is an important support tool in the recognition of qualifications process in that it allows information to be exchanged among the Member States.

14 – In our view, the implementation of this measure is useful, since it will allow greater checking of professionals' "credentials". In Portugal, the issuing of the certificate of competence (*Carteira profissional*) entitling the holder to pursue the profession of physiotherapy is the responsibility of the Ministry of Health.

**Group E**

15 – In Portugal, linguistic skills are not required in order to obtain recognition of professional qualifications.

**Lisbon, 13 August 2010**



**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**22. ROMANIA**

**Experience report from national coordinators  
with regard to other regulated professions**



## Evaluating the Professional Qualifications Directive

Experience reports established with the assistance of Coordinators – MARKET/D4/CS (2010)  
208362

ROMANIA

A.

1. No. We accept only the applications sending by post.
2. We take into account the EU Member State recognition's.
3. We mention the education levels referred to in art. 11 in the certificate which are delivered to the citizens who have studied in RO and want work in other Member State.
4. The competent authorities for the regulated professions in RO deal with this situation.
5. We haven't yet this situation.

B.

6. Yes
7. Yes.

There are not major difficulties in the recognition procedure under the general system, because the citizens are notified regarding this procedure.

C.

8. Yes.

The competent authorities deal with these cases.

9.

- Generally, the competent authorities require a certificate (an authorization) which demonstrates the legal establishment in the home Member State.
- The competent authorities establish this criteria and generally take into account the duration.

10.

This prior declaration is necessary in order to have an evidence of the Member States citizens who provides services in RO and to protect the recipients of the service.

11. We have not such information.

D.

12. The administrative cooperation as outlined in art. 8, art. 50 and art. 56 is useful for the applicant, because the duration of the verification of the certain documents is reduced

13. Yes.

The competent authorities use IMI, firstly, to respond to the Member State authorities and, secondly, to ask other Member State authorities.

14. The professional card can facilitate the provision of temporary services if it could replace the required documents in order to registration to the competent authorities.

The competent authorities establish the specifically conditions to issue the professional card. But there are more elements to be debated on.

E.

15. Generally, the language skills checked after recognition of the professional qualifications are required for the professions which present activities exercised for the public (ex. including for the Architect profession).

We have not any information about insufficient language skills of migrants.

**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**23. SLOVENIA**

**Experience report from national coordinators  
with regard to other regulated professions**



## POROČILO O IZVAJANJU DIREKTIVE 2005/36/ES O PRIZNAVANJU POKLICNIH KVALIFIKACIJ

### Nacionalno poročilo za regulirane poklice, ki se priznavajo na podlagi splošnega sistema

V nadaljevanju posredujemo odgovore na konkretna vprašanja o izkušnjah delovanja Direktive 2005/36/ES o priznavanju poklicnih kvalifikacij v praksi za naslednje regulirane poklice »učitelje, inženirje, dejavnosti v skladu s Seznamom IV, turistične vodnike, socialne delavce, diplomirane fizioterapevte«, ki so jih posredovali pristojni organi.

#### I. UČITELJI

##### Pristojni organ: Ministrstvo za šolstvo in šport

1. Vlogo za priznavanje poklicnih kvalifikacij, poslano po elektronski pošti, sprejemamo v skladu s petim odstavkom 9. člena Zakona o postopku priznavanja poklicnih kvalifikacij državljanom držav članic Evropske unije, Evropskega gospodarskega prostora in Švicarske konfederacije za opravljanje reguliranih poklicev oziroma dejavnosti v Republiki Sloveniji (Uradni list RS, št. 21/02, 92/07 in 85/09, v nadaljevanju: ZPKEU), ki določa, da se vsa dokumentacija in listine lahko posredujejo po elektronski poti, pri čemer se uporablja zakon, ki ureja splošni upravni postopek (Zakon o splošnem upravnem postopku (Uradni list RS, št. 24/06 – uradno prečiščeno besedilo, 105/06 – ZUS-1, 126/07 in 65/08)), in sicer v delu o vlaganju vlog in o vročanju po elektronski poti, in Uredbo o upravnem poslovanju (Uradni list RS, št. 20/05, 106/05, 30/06, 86/06, 32/07, 63/07, 115/07, 122/07 in 31/08). Vloge v elektronski obliki morajo biti varno elektronsko podpisane in podpis overjen s kvalificiranim potrdilom, in sicer v primerih, ko želi kandidat z elektronsko pošto posredovati tudi podatke, na podlagi katerih bo temeljila odločitev organa.

Primeri, da bi vlogo s prilogami v celoti sprejela samo po elektronski pošti nismo imeli, ker so se kandidati po pozivu, da priloge posredujejo varno elektronsko podpisane, odločili za pošiljanje prilog po klasični pošti.

2. Pri dosedanjem vodenju postopkov priznavanja še nismo imeli primera kvalifikacije, ki bi bila pridobljena v tretji državi.
3. Praviloma se postopki priznavanja poklicnih kvalifikacij za opravljanje reguliranega poklica učitelj nanašajo na ravni kvalifikacij, ki so v direktivi opisane pod 11 d) in 11 e).
4. V primerih, ko poklic v državi izvora kvalifikacij ni reguliran, direktiva določa, da mora kandidat izpolnjevati pogoj opravljanja poklica dve leti v obdobju predhodnih desetih let v državi izvora kvalifikacij ali pogoj končanega izobraževanja, ki je ustrezno regulirano in namenjeno opravljanju določenega poklica. Zaradi navedenega pri kandidatu, ki ne izpolnjuje pogoja dveh let ustreznih delovnih izkušenj, ugotavljamo izpolnjevanje drugega pogoja, in sicer preverjamo, ali je izobraževanje in usposabljanje, ki ga je končal v državi izvora kvalifikacij, regulirano in ali si je z njim pridobili ustrezno poklicno kvalifikacijo. V vseh dosedanjih tovrstnih primerih so kandidati uveljavljali opravljeno regulirano izobraževanje in usposabljanje po programu, ki je namenjeno poučevanju.
5. Primera zahteve delnega dostopa do poklica še nismo imeli.

B in C - ni primerov za učitelje

12. V dosedanjih postopkih smo s področja upravnega sodelovanja imeli zgolj primere sodelovanja s kontaktnimi točkami ali drugimi organi, ki so pristojni za izdajanje potrdil o kompetenci ali

dokazil o formalnih kvalifikacijah v skladu 13. členom direktive. Žal moram povedati, da tu sodelovanje ni bilo vedno najboljše, saj se je izkazalo, da je razumevanje nalog in pristojnosti kontaktnih točk ter pristojnih organov med državami članicami zelo različno, odzivni časi so bili zelo različni; imeli smo tudi primer, ko se kontaktna točka na naše dopise ni odzivala in smo odgovor prejeli šele po posredovanju obeh nacionalnih koordinatorjev, in sicer v roku osmih mesecev, poleg tega pa smo od različnih pristojnih oseb dobivali tudi protislovne in zavajajoče informacije.

Opozorili bi na občasne probleme pri komuniciranju s kontaktnimi točkami ali drugimi pristojnimi organi. Naj na tem mestu omenimo, do kakšnih težav je prihajalo:

- dogajalo se je, da smo od pristojnih organov dobivali zavajajoče informacije glede izpolnjevanja pogojev za opravljanje poklica, poleg tega smo od različnih oseb istega pristojnega organa dobivali tudi protislovne informacije glede pridobljene kvalifikacije,
- imeli smo primere, ko smo morali dolgo čakati na povratno informacijo, v enem primeru se kontaktna točka na naše dopise ni odzivala in smo odgovor prejeli šele po posredovanju nacionalnih koordinatorjev obeh držav (odgovor smo prejeli po osmih mesecih). Dogaja se tudi, da je v določenih primerih zelo težko priti do pristojne osebe (kontaktna točka te usmeri na en naslov, na tem naslovu te usmerijo na naslednji naslov, na tistem zopet na naslednjega), na nekaterih naslovih, ki nam jih posredujejo kontaktne točke, pa pristojne osebe ne poznajo direktive, ki ureja priznavanje poklicnih kvalifikacij, ne razlikujejo med akademsko in poklicno kvalifikacijo in podobno,
- dogajalo se je, da kandidati na kontaktni točki niso mogli dobiti potrdila, ker so jih na kontaktni točki usmerjali na državo gostiteljico (se pravi, da mora potrdilo izdati naš organ) ali so zahtevali, da se za izdajo potrdila na njih obrne naš pristojni organ (se pravi, da potrdila niso hoteli izdati na zahtevo kandidata, ampak samo na zahtevo pristojnega organa države gostiteljice).

Smiselno bi bilo preveriti, ali je razumevanje vloge kontaktne točke ustrezno na vseh pristojnih mestih in ali se potrdila izdajajo v skladu s 13. členom direktive.

13. V informacijski sistem IMI smo se registrirali v začetku leta 2009. Zaenkrat v sistem nismo poslali še nobenega zahtevka, saj upoštevamo navodila, da se preko sistema IMI ne pridobivajo vsi podatki, pač pa preverjajo že prejete informacije. Do zdaj pa smo prejeli dva zahtevka, pri katerih je izmenjava informacij potekala zelo zadovoljivo. Sistem se nam zdi zelo v redu, morda pa je škoda, ker sodelovanje v sistemu ni obvezno, saj bi se s tem izognili mnogim primerom neodziva, morebitnim nesporazumom ali iskanju pristojnega organa.

Kot smo omenili, imamo na osnovi dosedanjih izkušenj pozitivno mnenje glede uporabe elektronskega sistema za izmenjavo informacij med državami članicami (sistem IMI). Sicer smo bili do sedaj zgolj prejemniki zahtevkov, sami v sistem zaenkrat še nismo posredovali nobenega zahtevka, in sicer zato, ker upoštevamo pravilo, da je sistem namenjen preverjanju in ne pridobivanju osnovnih informacij, ter zato, ker je z našega področja dela v sistem IMI vključen samo en reguliran poklic (srednješolski učitelj). Imeli smo že primere, ko bi morali preveriti informacijo, vendar tega preko sistema IMI nismo mogli storiti, ker ni šlo za reguliran poklic "srednješolski učitelj", pač pa za "učitelja v glasbeni šoli" in za "vzgojitelja predšolskih otrok" – teh dveh poklicev pa sistem IMI ne podpira. Zato bi na tem mestu želela dodati še to, da menimo, da bi bilo dobro sistem odpreti za preverjanje informacij v postopku pridobivanja poklicnih kvalifikacij za vse regulirane poklice. Poleg tega menimo tudi, da bi bila ustrežnejša rešitev, kot velja na področju storitev (Direktiva o storitvah 2006/123/ES, ki tudi vzpostavlja omenjeni informacijski sistem), da bi se bile zavezane registrirati vse države članice oziroma vse države, ki sodelujejo v sistemu vzajemnega priznavanja poklicnih kvalifikacij. V tem primeru najverjetneje ne bi prihajalo do zgoraj naštetih težav pri komuniciranju s kontaktnimi točkami oziroma bi bilo teh težav vsekakor manj.

14. Uvedba poklicnih izkaznic bi lahko zelo olajšala priznavanje poklicnih kvalifikacij, saj bi nadomestila veliko pridobivanja in preverjanja podatkov. Vendar pa menimo, da je treba biti pri uvajanju poklicnih izkaznic izredno previden, zelo natančno opredeliti podatke, način izdaje in



podobno, da ne bi pozneje prihajalo do neskladnosti in posledično razvrednotenja pomena poklicnih kartic.

15. Pri opravljanju vzgojno-izobraževalnega dela v šolah se v Republiki Sloveniji zahteva poznavanje slovenskega jezika, saj je učni jezik v šolah slovenski (z izjemo na območju manjšin). V skladu z nacionalno zakonodajo se poznavanje učnega jezika preverja ob prvi namestitvi v šoli, način preverjanja pa je prepuščen ravnatelju šole. Kolikor nam je znano, pritožb glede poznavanja jezika kandidatov, ki jim je bila priznana kvalifikacija za opravljanje reguliranega poklica učitelj, ni bilo.

## **II. INŽENIRJI**

### **Pristojni organ: Ministrstvo za okolje in prostor**

1. V zvezi s priznavanjem poklicne kvalifikacije nimamo izkušnje elektronskega posredovanja vloge, ker takšen način trenutno še ni možen. V takšnem primeru, bi upravni organ postopal enako kot, če bi bila vloga posredovana po navadni pošti.
2. Do sedaj smo obravnavali samo en takšen primer in ga tudi uspešno priznali.
3. Vedno.
4. Še nismo obravnavali takšen primer, vsekakor pa bi zahtevali najmanj dve leti delovnih izkušenj.
5. Nismo obravnavali takšne primere.
6. Nimamo izkušenj.
7. Nimamo izkušenj, sicer pa bi vlogo obravnavali. Postopek je dražji in daljši (30 EUR in 50 EUR).
8. Ni bistvene razlike glede na nov sistem.
9. Za začasno ali stalno opravljanje reguliranega poklica v zakonu ni razlike, je pa razlika pri ustanavljanju podjetja. Prijava za opravljanje storitve je vezana na projekt (od projektiranja do izvedbe gradnje), ne glede na čas njegovega izvajanja.
10. V našem sistemu je to potrebno, ker je pogoj za opravljanje storitve priznana poklicna kvalifikacija. Prejete podatke upravni organ prouči in če je možno prizna poklicno kvalifikacijo. Druge možnosti zakon ne predvideva.
11. Nimamo tega podatka.
12. Prekratek čas za oceno.
13. Tukajšnji upravni organ je registriran v sistemu IMI. Zaenkrat še nismo imeli potrebe po uporabi sistema IMI.
14. Sistem zaenkrat še ni tako postavljen, da bi bilo možno neposredno uporabiti takšno profesionalno izkaznico. Da ima organizacija, ki izdaja takšne izkaznice, nacionalni status, ter da kandidat za takšno izkaznico dosega primerljive zahteve, kot so zahtevane na nacionalni ravni.
15. Za področje dela inženirja je poznavanje jezika dobrodošlo ni pa nujno potrebno, če si takšen kandidat zagotovi prevajalca za komunikacijo vsaj z državnimi organi. Zaenkrat nismo dobili pritožb zaradi neznanja oz. nepoznavanja slovenskega jezika.

## **III. OBRTNE DEJAVNOSTI (SEZNAM IV)**

### **Pristojni organ: Ministrstvo za gospodarstvo**

1. Na Ministrstvu za gospodarstvo sprejemamo tudi vloge, ki so poslane po elektronski pošti, vendar pa zahtevamo od kandidatov, da dostavijo potrebne originalne dokumente preden izdamo končno odločbo. Na ta način skrajšamo postopek, saj kandidati po navadi potrebujejo čim hitrejšo odločitev. Naša odločba je po navadi sprejeta na osnovi strokovnega mnenja Obrtno podjetniške zbornice.
2. S takimi primeri nimamo izkušenj, ker dobivamo v glavnem vloge kandidatov, ki so kvalifikacije pridobili v drugih državah članicah.

3. Stopnje izobrazbe iz člena 11 uporabljamo redko, ker pri presoji ustreznosti posamezne vloge uporabljamo stopnje izobrazbe skladno z zakonodajo RS.
4. Imamo izkušnje s takimi primeri. V vsakem primeru skušamo vlogo rešiti na način, da bi kandidat lahko opravljal regulirano dejavnost v RS, odvisno od primera.
5. Nimamo izkušenj s takimi primeri.
6. Sistem deluje.
7. Ni večjih težav pri izvajanju splošnega sistema priznavanja kvalifikacij
8. Da.
9. Ponudnik storitev mora pred prvim opravljanjem storitev v Republiki Sloveniji, ter če so se po začetku opravljanja storitev v Republiki Sloveniji bistveno spremenile okoliščine, dati pisno prijavo pri pristojnem organu na predpisanih obrazcih, ki zajema osebne podatke ponudnika storitev ter podatke o zavarovalnem kritju ali drugih načinih osebnega ali kolektivnega zavarovanja v zvezi s poklicno odgovornostjo in ustrezno dokumentacijo:
  - a) potrdilo o državljanstvu ponudnika storitev;
  - b) potrdilo, da ponudnik storitev lahko v skladu s predpisi države članice EU, EGP ali Švicarske konfederacije opravlja zadevne storitve in da mu v trenutku izdaje potrdila ni prepovedano izvajanje teh storitev, niti začasno;
  - c) dokazila o poklicnih kvalifikacijah;
  - d) v primerih, če poklic v državi sedeža ni reguliran, dokazila, da je ponudnik storitev opravljal tako storitev neprekinjeno ali skupno vsaj dve leti v obdobju predhodnih desetih let;
  - e) dokazilo o nekaznovanosti za poklice na področju varovanja, če države članice EU, EGP ali Švicarska konfederacija zahtevajo isto za svoje državljane.

Pristojni organi Republike Slovenije lahko zahtevajo, da ponudnik storitev prejemniku storitev sporoči katere koli ali vse od naslednjih podatkov:

1. če je ponudnik storitev vpisan v poslovni register ali podoben javni register: register, v katerem je vpisan, njegovo številko registracije ali ustrezen način ugotavljanja identitete v registru;
2. če je dejavnost treba odobriti v državi članici sedeža EU, EGP ali Švicarski konfederaciji: ime in naslov pristojnega organa;
3. kakršno koli poklicno združenje ali podoben organ, v katerem je registriran ponudnik storitve;
4. naziv poklica oziroma, kadar tak naziv ne obstaja, poklicne kvalifikacije ponudnika storitev in državo članico EU, EGP ali Švicarsko konfederacijo, ki jih je podelila;
5. če izvajalec storitev opravlja dejavnost, ki je predmet davka na dodano vrednost: identifikacijsko številko za DDV iz 79. člena Zakona o davku na dodano vrednost (Uradni list RS, št. 117/06);
6. podrobne podatke o kakršnem koli zavarovalnem kritju ali drugih načinih osebnega ali kolektivnega zavarovanja v zvezi s poklicno odgovornostjo.

Pristojen organ mora v roku enega meseca po prejemu prijave in vseh priloženih dokumentov obvestiti ponudnika storitev, da se njegova poklicna kvalifikacija ne bo preverjala, ali mu izdati odločbo o priznanju poklicnih kvalifikacij oziroma ga obvestiti o razlogu za zamudo.

10. /
11. Ne razpolagamo s takimi podatki.
12. Zaenkrat še nismo sodelovali z pristojnimi organi drugih držav članic v primeru postopka priznavanja kvalifikacij.
13. Na MG smo registrirani v IMI sistem. Predvidevamo, da bomo uporabljali IMI sistem v primeru, ko bomo želeli preveriti, ali je spričevalo oz. diploma avtentična oziroma v primeru, ko bi želeli preveriti zahtevane kvalifikacije za opravljanje neke obrtne dejavnosti v drugi državi članici.
14. /

15. V primeru, da se opravlja storitev, ki zahteva komunikacijo s potrošniki glede ustnih ali pisnih navodil, je potrebno znanje slovenščine, na območjih kjer avtohtono živita italijanska ali madžarska narodna skupnost pa tudi v jeziku narodne skupnosti. Do sedaj nimamo podatkov o problemih, ki bi nastali zaradi navedenih zahtev.

#### **IV. TURISTIČNI VODNIKI**

##### **Pristojni organ: Gospodarska zbornica Slovenija-Turistično gostinska zbornica**

1. Na Turistično gostinski zbornici sprejemamo diplome in druga potrdila v elektronski obliki za vse primere pridobivanja licenc za turistične agencije in opravljanja državnih izpitov za turistične vodnike. S tem imamo načeloma dobre izkušnje, ker so pripeti dokumenti skenirani in še bolj čitljivi kot so nekoč bili listi faksa. Skratka nič ne kompliciramo strankam iz drugih držav članic, še manj pa iz Slovenije.
2. Kar se tiče primerov že priznanih poklicnih kvalifikacij, pridobljenih v tretjih državah - v neki od držav članic EU - težko odgovorim o naših izkušnjah, ker takih primerov še nismo imeli.
3. Z 11. členom Direktive o priznavanju poklicnih kvalifikacij in tam navedenimi stopnjami izobrazbe ali potrdil s strani pristojnih organov nimamo težav. Po naših izkušnjah problemi nastajajo v državah, ki zahtevajo dodatna dokazila ali potrdila razen izobrazbe (npr. Avstrija).
4. Primera, ko poklic v določeni državi ni reguliran in oseba od tam še nima dve leti delovnih izkušenj na tem področju pravzaprav nismo imeli. V takem primeru bi tej osebi svetovali, ali naj počaka in pridobi dve leti izkušenj v svoji državi ali naj zadosti pogoju, ki velja v Sloveniji. Ne vem pa, ali bi tako naše ravnanje bilo kruto - zdi se nam pa korektno, da bi se izpolnil vsaj pogoj v eni državi članici.
5. Nismo imeli še takega primera.
6. V Sloveniji da.
7. Da, v Sloveniji sistem priznavanja poklicnih kvalifikacij deluje normalno oz. avtomatično. Večjih težav nimamo, sploh pa ne s stroški. Težave pa imamo v drugih državah članicah z opravljanjem poklica turističnega vodnika, ki se ga avtomatično ne priznava in se za vsako vrsto čezmejne izvedbe dejavnosti zahteva predhodna notifikacija - kar pa ni upravičeno. Za posle, ki niso sklenjeni v določeni državi članici, se ne bi niti smelo razumeti, da gre za čezmejno opravljanje dejavnosti, ki vključuje obvezno notificiranje. Samo v primeru ponujanja tovrstnih turističnih storitev na trgu druge države članice in sklepanje poslov na njenem območju bi dovoljevalo zahtevek po predhodni notifikaciji. Za posle, ki so sklenjeni izven določene države in so tam tudi plačani ter prodani turistični aranžmaji, se ne bi smelo zahtevati notifikacije.
8. Da.
9. Kriterij "zakonito ustanovljen" v 5. členu Direktive se v praksi ne spoštuje v številnih državah (Avstrija, Portugalska, Španija, Italija, Slovaška, Grčija) in se jih pravzaprav niti ne preverja, temveč se tuje turistične vodnike kaznuje, če niso priglasili opravljanje svoje dejavnosti tudi v tej državi. Posle, ki so sklenjeni v drugi državi članici se ignorira in se jih obravnava kot opravljanje dejavnosti na črno v tej državi. Za dejavnost turističnega vodenja, ko je vodnik ves čas na poti po drugih državah in je posle sklenil v svoji matični državi je popolnoma nepotrebno notificiranje oz. priglasitev dejavnosti v vseh ostalih državah članicah, ki to zahtevajo v skladu s 7. členom Direktive. Zakaj? Zato, ker je to eden takih poklicev, ko je posameznik pravzaprav 'ves čas' "začasno" na poti po drugih državah. Kakšen nesmisel je zahtevati potem nenehno neke notifikacije (v vseh državah, vsako leto na novo!?)!

Kriterij "občasnosti" se napačno izvaja in interpretira v praksi. Ni občasno opravljanje storitev v drugi DČ vsako potovanje turističnega vodnika izven matične države. To je samo takrat, ko se posameznik odloči, da v drugi DČ nekaj časa ponuja opravljanje svojih storitev na trgu dela, sklepa posle z agencijami in turisti o vodenju v drugi državi itd. Ne more biti njegovo redno delo na potovanju nenehno začasno delo na tujem, temveč je potrebno ta nesmiselni kriterij po notifikaciji enostavno črtati.

10. Ravno to poskušam utemeljiti - predhodna deklaracija (notifikacija, prigrasitev) ni neobhodna, je škodljiva in omejujoča. Je nesmiselna in v nasprotju z naravo dela turističnega vodnika. Gre za pomnoževanje birokratskih postopkov brez razumnega razloga. Samo Slovenija ima čez 1000 vodnikov in neka večja država morebiti ima le-teh še veliko več. Vsi oni, ker vsakodnevno potujejo s skupinami turistov, bi morali deklarirati najprej svojo dejavnost v vsaki posamezni DČ, ki to zahteva (za zdaj polovica DČ) vsako leto ponovno. To je nespametno, nepotrebno in nelogično! Slovenija predlaga ukinitve te zahteve. Ne vemo, kaj bi sploh pristojne službe počele s tolikšnim kupom nepotrebno zbranih osebnih podatkov?
11. Da, taki primeri najbrž obstajajo, ker so vedno posamezniki, ki spoštujejo predpise (in tisti, ki jih ne).
12. Druge poenostavitve procedure mi niso znane, razen če DČ ne zahteva predhodne notifikacije za turistične vodnike.
13. Da. Za izmenjavo splošnih informacij o opravljanju poklica v Sloveniji.
14. Za turistične vodnike bi uvedba enotnih EU poklicnih identifikacijskih kartic bistveno zmanjšala težave na terenu. Če bi vsi vodniki imeli iste, se ne bi moglo preganjati vodnike iz drugih DČ, ker nimajo enako izkaznico kot domači vodniki. Pogoji izdaje takih izkaznic ali kartic v DČ, ki imajo regulirane poklice niso sporni. V državah, ki nimajo reguliranega poklica pa bi po dveh letih od opravljanja dejavnosti bilo možno pridobiti isto kartico. To bi vsekakor bilo dobrodošlo za odpravo vseh številnih neprijetnih situacij v praksi.
15. Znanje jezika je nujno pri delu z ljudmi. Posamični primeri pomanjkljivega znanja jezika mi niso znani.

## **V. ŠPORTNE DEJAVNOSTI**

**Pristojni organ: Ministrstvo za šolstvo in šport**

Ministrstvo za šolstvo in šport, Direktorat za šport, ki je odgovorno za športne dejavnosti do sedaj ni vodil nobenega postopka glede priznavanja poklicnih kvalifikacij na področju športa, kajti zakonsko reguliran poklic na področju športa v skladu z Direktivo 2005/36/ES je samo »strokovni delavec v športu«.

## **VI. SOCIALNI DELAVCI**

**Pristojni organ: Ministrstvo za delo, družino in socialne zadeve**

Ministrstvo za delo, družino in socialne zadeve kot pristojni organ sodeluje s Socialno zbornico Slovenije glede uresničevanja Direktive 2005/36/ES o priznavanju poklicnih kvalifikacij. Izkušenj nimamo veliko, kajti v preteklem letu smo prejeli le dve zahtevi za priznanje poklicne kvalifikacije za opravljanje reguliranega poklica »strokovni delavec, ki opravlja socialno varstvene storitve«. Vlogi sta prispeli po pošti v fizični obliki in zapletov ni bilo.

Prav tako nimamo izkušenj s prijavi za čezmejno/začasno opravljanjem storitev za socialne delavce.

## VII. FIZIOTERAPEVTI

### Pristojni organ: Ministrstvo za zdravje

1. Ministrstvo za zdravje sprejema tudi vloge prejete po elektronski pošti. Dokazila k vlogam, ki jih morajo kandidati vložiti v overjenem prevodu, pa morajo vložiti po pošti ali osebno.
2. V skladu z Direktivo 2005/36/ES se v postopku priznavanja poklicnih kvalifikacij kvalifikacije, pridobljene v tretji državi, obravnavajo le, v kolikor je te kvalifikacije priznala že ena izmed držav članic in v kolikor ima oseba tri leta delovne dobe v poklicu v državi članici, ki je te kvalifikacije priznala.

Za priznanje poklicne kvalifikacije diplomirani fizioterapevt v Republiki Sloveniji še ni zaprosil kandidat, ki bi imel kvalifikacijo pridobljeno v tretji državi in bi mu le to priznala že ena izmed držav članic EU.

3. V Republiki Sloveniji kvalifikacijo diplomiranega fizioterapevta pridobi oseba, ki je zaključila visoko 3 letni visokošolski študijski program (vstop v izobraževanje je uspešno zaključena srednja šola), 9 mesečno pripravništvo in strokovni izpit za poklic »diplomirani fizioterapevt«, torej je reguliran glede na 11.d). V postopku priznavanja se iz razloga, ker imajo nekatere države poklic fizioterapevta reguliran na srednješolski stopnji, vedno uporabi 11. člen Direktive 2005/36/ES.
4. Vsi kandidati, ki so zaprosili za priznanje poklicne kvalifikacije diplomirani fizioterapevt, so prihajali iz držav članic, ki so imele poklic fizioterapevta reguliran.
5. Nimamo izkušenj.
6. Ne zadeva poklica diplomirani fizioterapevt.
7. Ne zadeva poklica diplomirani fizioterapevt.
8. Ne. Še nismo prejeli prijave za občasno oziroma priložnostno opravljanje storitev s strani diplomiranega fizioterapevta.
9. Poklic diplomiranega fizioterapevta je eden izmed poklicev v zdravstveni dejavnosti, za katere se pred prvim opravljanjem občasnih ali priložnostnih storitev v Republiki Sloveniji preveri poklicna kvalifikacija ponudnika storitev.
10. Za področje zdravstvenih dejavnosti se pred opravljanjem storitev za vse zdravstvene poklice zahteva prijava na Ministrstvo za zdravje. Iz same prijave se lahko ugotovi ali gre za priložnostno oz. občasno opravljane storitev. Prav tako je prijava pomembna iz razloga opravljanja strokovnega nadzora in nadzora na splošno, kajti oseba, ki opravlja storitve občasno oz. priložnostno za svoje delo prevzema etično, strokovno kazensko in materialno odgovornost po predpisih, ki veljajo za zdravstvene delavce v Republiki Sloveniji.

Po prejemu popolne vloge se ponudnika storitev začasno vpiše v register. Po opravljenih storitvah se ga iz registra izbriše.

V kolikor oseba pred prvim opravljanjem občasnih oz. priložnostnih storitev ne vloži prijave, se kaznuje za prekršek.

11. O tem nismo seznanjeni.
12. Upravno sodelovanje kot je opredeljeno v členih 8, 50 in 56 Direktive 2005/36/ES omogoča neposredno sodelovanje med pristojnimi organi držav članic. Upravno sodelovanje omogoča hitrejši postopek za kandidata ter v primeru dvoma ugotovitev dejanskega stanja.
13. Ministrstvo za zdravje je registrirano v IMI. IMI se uporablja zgolj v primeru utemeljenega dvoma. Ker registracija organov v IMI ni obvezna, je potrebno v nekaterih primerih uporabiti

druge poti kot npr. elektronsko pošto, vendar pa vedno, ne prejmeš odgovora, zato predlagamo, da je IMI obvezen za vse pristojne organe.

Prav tako predlagamo, da se uporaba IMI razširi tudi za druge primere.

14. Direktiva 2005/36/ES zgolj nakazuje uporabo poklicnih izkaznic kot eno izmed orodij, ki bi olajšale mobilnost strokovnjakov.

V kolikor bi poklicna kartica vsebovala vse potrebne informacije, ki jih Direktiva 2005/36/ES zahteva za priznanje poklicnih kvalifikacij, v kolikor bi bila kartica opremljena s čipom, ki bi onemogočal poneverbo, bi kartica lahko olajšala mobilnost.

15. V skladu z Zakonom o opravljanju zdravstvenih poklicev v Republiki Sloveniji s strani državljanov držav članic EU stopnjo znanja jezika določi Delodajalec v svojih aktih in način preverjanja izpolnjevanja tega pogoja za posamezna delovna mesta.

Vlada pripravi standarde o stopnji potrebnega znanja slovenskega jezika za orientacijska delovna mesta.

# REPORT ON IMPLEMENTATION OF DIRECTIVE 2005/36/EC ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

## National report for regulated professions recognised under the general system

Below are our responses to specific questions regarding experiences in the functioning of Directive 2005/36/EC on the recognition of professional qualifications in practice for the following regulated professions: “teachers, engineers, activities pursuant to List IV, tourist guides, social workers and physiotherapist (with diploma)”, as provided by the competent authority.

### I. TEACHERS

#### Competent authority: Ministry of Education and Sport

1. Applications for the recognition of professional qualifications sent by e-mail are accepted in accordance with Article 9(5) of the Act Regulating the Recognition Procedure for the Professional Qualifications of Citizens of European Union Member States, the European Economic Area and the Swiss Confederation Relating to Access to Regulated Professions and Activities in the Republic of Slovenia (Official Gazette of the Republic of Slovenia, No 21/02, 92/07 and 85/09, hereinafter: ZPKEU), which provides that all documentation and certificates may be transmitted electronically, wherein application is made of the act governing general administrative procedure (General Administrative Procedure Act (Official Gazette of the Republic of Slovenia, No 24/06 – official consolidated text, 105/06 – ZUS-1, 126/07 and 65/08)), and specifically the part relating to the submission of applications and electronic delivery, as well as the Decree on Administrative Operations (Official Gazette of the Republic of Slovenia, No 20/05, 106/05, 30/06, 86/06, 32/07, 63/07, 115/07, 122/07 and 31/08). Applications in electronic form must bear a secure electronic signature and a signature certified with a qualified confirmation, specifically in cases where candidates also wish to transmit via e-mail information on the basis of which the authority will make its decision.

We have not yet dealt with any cases where applications and attachments have been received purely by e-mail, since when requested to transmit attachments with a secure electronic signature, candidates have opted to send attachments by ordinary mail.

2. In the recognition procedures conducted to date we have had no case of a qualification obtained in a third country.
3. Generally the procedures for recognising professional qualifications to perform the regulated profession of teacher relate to the level of qualification described in the Directive under 11 d) and 11 e).
4. In cases where the profession is not regulated in the country of original qualification, the directive provides that candidates must fulfil the condition of pursuing the profession for two years during the 10 years preceding the provision of service in the country of original qualification, or the condition of completed formal education that is properly regulated and leads to the pursuit of the specific profession. In view of the above, where candidates do not meet the condition of two years of relevant work experience, we determine the fulfilment of the other condition by verifying whether the formal education and training completed in the country of original qualification are regulated, and whether the candidate has thereby obtained the relevant professional qualification. In all such cases to date, candidates have claimed the completion of regulated education and training under a programme intended for teaching.
5. We have not yet dealt with any cases of requests for partial access to the profession.

B and C – no cases for teachers.

12. In procedures to date, where we have dealt with administrative cooperation we have only had cases of cooperating with contact points or other authorities that are competent for issuing attestations of competence or evidence of formal qualifications in accordance with Article 13 of the directive. Unfortunately I must say that here, we have not always enjoyed the best cooperation, since it has become apparent that the understanding of the duties and competences of contact points and competent authorities among Member States differs greatly, with response times varying to a great extent; we even had a case where the contact point did not respond to our letters and we obtained a reply only after the intervention of both national coordinators, after a period of eight months. Furthermore, we have obtained from different competent persons contradictory and misleading information.

We should draw attention to the occasional problems in communication with contact points or other competent authorities. At this point we should mention the kind of difficulties that have arisen:

- it has happened that we obtained misleading information from competent authorities regarding fulfilment of the conditions for pursuing a profession, moreover we have obtained from different persons at the same competent authority contradictory information regarding qualifications obtained,
- we have had cases where we had to wait a long time for return information, and in one case the contact point did not respond to our letters and we only obtained a response after the intervention of the national coordinators of both countries (we received a reply after eight months). It also happens that in certain cases it is very hard to get hold of the competent person (the contact point sends you to one place, which in turn sends you to another place, whereupon they transfer you to the next one), and at certain places to which we are directed by the contact points, the competent staff are not familiar with the directive regulating the recognition of professional qualifications, they make no distinction between academic and professional qualifications and so on,
- It has happened that candidates have not been able to get attestations at the contact point, because the contact point has directed them to the host country (in other words, our authority should issue the attestation), or else they required our competent authority to apply to them for attestations (in other words, they did not want to issue attestations on the request of the candidates, but only on the request of the host country's competent authority).

It would make sense to check whether the understanding of the role of the contact point is appropriate in all competent places, and whether attestations are being issued in accordance with Article 13 of the directive.

13. We registered in the IMI information system at the beginning of 2009. For the moment we have not sent any request to the system, since we are abiding by the instructions whereby the IMI system does not serve to provide all information, but just to verify information already received. To date we have received two requests, and here the exchange of information ran very smoothly. The system seems excellent to us, although it is perhaps a shame that participation in the system is not mandatory, since this would serve to avoid many instances of non-response, possible misunderstandings or a search for the competent authority.

As we have mentioned, based on experience to date we have a positive view of the use of the electronic information exchange system between Member States (IMI system). To date, however, we have merely been the recipients of requests, and we ourselves have not yet placed any request in the system, specifically because we are abiding by the rule that the system is intended for verification and not for obtaining basic information, and also because only one regulated profession (secondary school teacher) from our area of work is included in the IMI system. We have already had cases where we should have checked information, but were unable to do so via the IMI system, because the cases did not involve the regulated profession of "secondary school teacher" (*srednješolski učitelj*) but "teacher in a music school" and "educator of preschool children", and the IMI system does not support these two professions. At this point I would therefore like to add that we would consider it a good thing to open up the system for verifying



information in the process of obtaining professional qualifications for all regulated professions. Moreover we believe that it would be a more appropriate solution – like that applicable to the field of services (Directive on services 2006/123/EC, which also sets up the aforementioned information system) – if registration was mandatory for all Member States or all states participating in the system of mutual recognition of professional qualifications. In this case we would be very unlikely to encounter the above-mentioned problems in communicating with contact points, or at least there would be fewer such problems.

14. The introduction of professional cards could greatly ease the recognition of professional qualifications, since this would replace a lot of collecting and verifying of information. We believe, however, that exceptional caution is needed in introducing professional cards, with very precise definitions of information, method of issuing and so forth, in order to avoid later discrepancies and consequently the devalued importance of professional cards.
15. A command of the Slovenian language is required in order to pursue educational work in schools in Slovenia, since the language of instruction is Slovenian (except in the minority areas). In line with national legislation, command of the language of instruction is verified in the first school placement, with the method of verification left up to the school's principal. As far as we know, there have been no complaints regarding knowledge of the language demonstrated by candidates whose qualifications to pursue the regulated profession of teacher have been recognised.

## **II. ENGINEERS**

### **Competent authority: Ministry of the Environment and Spatial Planning**

1. Regarding the recognition of this professional qualification, we have no experience in electronic applications, since for the moment such an application method is still not possible. In such cases the administrative authority would act in the same way as if the application had been submitted by ordinary mail.
2. To date we have dealt with just one such case, which was successfully recognised.
3. Always.
4. We have not yet dealt with such a case, but we would of course require at least two years of work experience.
5. We have not dealt with any such case.
6. We have no experience of this.
7. We have no experience of this, but we would process the application. The procedure is more expensive and longer (EUR 30 and EUR 50).
8. No significant difference relative to the new system.
9. The law makes no distinction between the temporary or permanent pursuit of a regulated profession, although there is a difference in establishing companies. Registration for performing services is tied to the project (from design to execution of construction), irrespective of its duration.
10. In our system this is required, since recognised professional qualification is a condition for performing services. The administrative authority examines the information received and, where possible, recognises the professional qualification. The law envisages no other possibilities.
11. We do not have this information.
12. Insufficient time for an assessment.
13. The local administrative authority is registered in the IMI system. For the moment we have not yet had the need to use the IMI system.
14. For the moment the system is not yet set up so as to enable direct use of such a professional card. That the organisation issuing such card has national status, and that the candidate for such card meets the comparable requirements set on the national level.
15. For the field of engineering, knowledge of the language is welcome but not essential, if such candidate secures a translator for communication at least with state authorities. Thus far we have received no complaints owing to any lack of knowledge or familiarity with Slovenian.

### III. CRAFT ACTIVITIES (LIST IV)

#### Competent authority: Ministry of the Economy

1. The Ministry of the Economy also accepts applications sent by e-mail, but we require candidates to supply the necessary original documents before issuing a final decision. In this way we shorten the procedure, since candidates usually need the fastest decision possible. Our decision is usually made on the basis of a professional opinion from the Chamber of Craft and Small Business of Slovenia.
2. We have no experience of such cases, since for the most part we receive applications from candidates that have obtained qualifications in other Member States.
3. We use the levels of qualification referred to in Article 11 only rarely, since in assessing the adequacy of the individual application we apply the levels of qualification pursuant to Slovenian legislation.
4. We do have experience of such cases. In each case we try to deal with the application in such a way that the candidate can perform the regulated activity in Slovenia, depending on the case.
5. We have no experience of such cases.
6. The system is working.
7. There are no major problems in implementing the general system of recognising qualifications.
8. Yes.
9. Before initiating any service provision in Slovenia, and where the circumstances may have changed significantly after initiating service provision in Slovenia, the service provider must register in writing at the competent authority using the prescribed forms, which cover the personal data of the service provider and information on insurance cover or other methods of personal or collective insurance relating to professional liability, plus appropriate documentation:
  - a) the service provider's certificate of citizenship;
  - b) confirmation that the service provider can perform the relevant services in accordance with the regulations of the EU Member States, the EEA or Swiss Confederation, and that at the time of issuing such confirmation he has not been prohibited from performing such services, even temporarily;
  - c) evidence of professional qualifications;
  - d) in cases where the profession is not regulated in the country of establishment, evidence that the service provider has performed such service without interruption or in total for at least two years in the period of the last ten years;
  - e) evidence of no criminal record for professions in the field of security, where the EU Member States, EEA or the Swiss Confederation require the same for their citizens.

The competent Slovenian authorities may require that the service provider communicates to the recipient of services any or all of the following information:

1. if the service provider is entered in the business register or a similar public register: the register in which he is entered, his registration number or some appropriate method of determining his identity in the register;
2. whether the activity needs to be approved in the Member State of establishment in the EU, the EEA or Swiss Confederation: the name and address of the competent authority;
3. any professional association or similar body in which the service provider is registered;
4. the title of the profession or, where such title does not exist, the professional qualifications of the service provider and the Member State of the EU, EEA or Swiss Confederation that awarded them;

5. whether the service provider performs activities that are subject to value added tax: the VAT number as referred to in Article 79 of the Value Added Tax Act (Official Gazette of the Republic of Slovenia, No 117/06);
6. detailed information on any insurance cover or other methods of personal or collective insurance relating to professional liability.

Within a deadline of one month from receiving the application and all attached documents, the competent authority must notify the service provider that his professional qualifications will not be checked, or a decision is issued to him recognising the professional qualifications or he is notified of the reason for delay.

10. /

11. We do not possess any such information.

12. For the moment we have not yet cooperated with the competent authorities of other Member States in a case of the procedure for recognising qualifications.

13. The Ministry of the Economy is registered in the IMI system. We envisage using the IMI system in the event of wanting to verify whether a certificate or diploma is authentic, or in cases where we might want to verify the qualifications required to perform some craft activity in another Member State.

14. /

15. Where a service is provided that requires communication with consumers in terms of oral or written instructions, a knowledge of Slovenian is required, and in those areas inhabited by the autochthonous Italian or Hungarian communities, a knowledge of the language of that ethnic community is also required. To date we have no information on problems arising as a result of the aforementioned requirements.

#### **IV. TOURIST GUIDES**

##### **Competent authority: Chamber of Commerce and Industry of Slovenia – Tourism and Hospitality Chamber**

1. The Tourism and Hospitality Chamber accepts diplomas and other certificates in electronic form for all cases of obtaining licences for tourist agencies and sitting the national exams for tourist guides. In this we have generally good experience, since the attached documents are scanned and even more legible than the fax sheets used to be. In short, we do not create any problems for clients from other Member States, let alone those from Slovenia.
2. As regards cases of professional qualifications obtained in third countries and recognised by an EU Member State, it is hard to respond regarding our experiences, since we have not yet had any such cases.
3. We have had no problems with Article 11 of the Directive on the recognition of professional qualifications and the indicated levels of qualifications or attestations from the competent authorities. In our experience, problems arise in countries that require additional evidence or attestations apart from education (e.g. Austria).
4. We have not in fact dealt with any case where the profession is not regulated in a certain country and a person from such country does not have two years of experience working in the field. In such case we would advise the person either to wait until he has two years of experience in his own country or to satisfy the conditions that apply in Slovenia. I do not know, however, whether such an approach by us might be harsh – it seems to us right and proper for the person to satisfy at least the conditions in one Member State.

5. We have not yet had such a case.
6. In Slovenia yes.
7. Yes, in Slovenia the system of recognising professional qualifications functions properly and automatically. We have no major problems, and not at all with costs. We do have problems, however, in other Member States with regard to performing the profession of tourist guide, which is not automatically recognised, and for each type of activity pursued beyond our borders prior notification is required – which is not justified. Business not negotiated in a certain Member State should in no way be interpreted as cross-border performance of activity that requires mandatory notification. Only in the event of offering such tourist services in the market of the other Member State, and securing business in that State's territory, should the requirement for prior notification be permissible. For business negotiated outside the specific State, with tourist packages paid for and sold outside that country, there should be no requirement for notification.
8. Yes.
9. The criterion of “legally established” set out in Article 5 of the Directive is not observed in practice in a number of countries (Austria, Portugal, Spain, Italy, Slovakia and Greece) and in fact is not even verified, and rather foreign tourist guides are simply penalised if they have not registered their activity in that country. The fact that the business has been negotiated in another Member State is ignored, and it is treated as an activity pursued illegally in the country in question. For the activity of tourist guide, where the guide is constantly travelling in other countries and business has been negotiated in his home country, it is entirely unnecessary to require notification or registration of the activity in all other Member States that demand it in accordance with Article 7 of the Directive. Why? Because this is one of those professions where the individual is in fact ‘constantly’ travelling “temporarily” in other countries. So it is utterly pointless to then require some constant notification (in all countries, renewable each year!?)! The “temporary” criterion is being erroneously implemented and interpreted in practice. Each trip by a tourist guide outside his home country is not the temporary provision of services in another Member State. That is the case only when the individual decides to spend some time in another Member State offering his services in the labour market, concluding business with agencies and tourists for guiding in the other country and so forth. His regular work travelling cannot be constant temporary work abroad, and rather this senseless criterion regarding notification simply needs to be deleted.
10. I am trying to back up precisely this – a prior declaration (notification or registration) is not unavoidable, it is harmful and restrictive. It is pointless and runs counter to the nature of work as a tourist guide. It involves the multiplication of bureaucratic procedures without good reason. Slovenia alone has more than 1,000 guides, and some bigger country probably has a lot more. Because they are travelling every day with groups of tourists, all of them are first supposed to declare their activity in each individual Member State that requires it (for the moment half the Member States) for each year anew. This is senseless, unnecessary and illogical! Slovenia proposes the abolition of this requirement. We have no idea what the competent authorities would even do with such a mass of unnecessarily collected personal data.
11. Yes, such cases probably exist, since there are always individuals who follow the regulations (and those who don't).
12. I am not aware of any other simplifications of the procedure, except where a Member State does not require prior notification for tourist guides.
13. Yes. For the exchange of general information on pursuit of the profession in Slovenia.

14. For tourist guides, the introduction of standard EU professional identification cards would significantly reduce problems in the field. If all guides had the same ones, guides from other Member States could not be prosecuted for not having the same card as local guides. There is nothing controversial about the conditions for issuing such ID cards in Member States that have regulated professions. In countries that do not regulate the profession, after two years of pursuing the activity it would be possible to obtain the same card. This would of course be welcome for eliminating the whole range of disagreeable situations in practice.
15. A knowledge of the language is essential for working with people. I am not aware of any individual cases of a deficient knowledge of the language.

## **V. SPORTING ACTIVITIES**

### **Competent authority: Ministry of Education and Sport**

The Sports Directorate at the Ministry of Education and Sport, which is responsible for sporting activities, has to date conducted no procedure relating to the recognition of professional qualifications in the area of sports, since the only legally regulated profession in sports in accordance with Directive 2005/36/EC is "professional sports worker".

## **VI. SOCIAL WORKERS**

### **Competent authority: Ministry of Labour, Family and Social Affairs**

As the competent authority, the Ministry of Labour, Family and Social Affairs works with the Social Chamber of Slovenia to implement Directive 2005/36/EC on the recognition of professional qualifications. We do not have a lot of experience, and in the past year we received just two requests for recognition of professional qualifications to perform the regulated profession of "professional social care services provider". The applications were submitted in hard copy by mail and there were no complications.

Equally, we have no experience of applications for the cross-border/temporary provision of services from social workers.

## **VII. PHYSIOTHERAPISTS**

### **Competent authority: Ministry of Health**

1. The Ministry of Health accepts applications sent by e-mail. Supporting evidence, which must be submitted in a certified translation, must be submitted by mail or in person.
2. In accordance with Directive 2005/36/EC, in the procedure for recognising professional qualifications, those qualifications obtained in a third country are processed only as long as such qualifications have already been recognised by a Member State, and as long as the person has three years of work experience in the profession in the Member State that recognised the qualifications.

No request has yet been made in Slovenia for the recognition of the professional qualification of a physiotherapist with diploma by any candidate that has obtained such a qualification in a third country and has had that qualification recognised by an EU Member State.

3. In Slovenia the qualification of physiotherapist with diploma is obtained by a person who has completed a three-year university-level course (enrolment is contingent on successful completion of secondary education), nine months of apprenticeship and the professional exam for the profession "physiotherapist with diploma", in other words it is regulated in the terms of Article

- 11.d). In view of the fact that some countries regulate the profession of physiotherapist at the secondary education level, the procedure here always applies Article 11 of Directive 2005/36/EC.
4. All candidates requesting recognition of the professional qualification of physiotherapist with diploma have come from Member States where the profession of physiotherapist is regulated.
  5. We have no experience of this.
  6. This does not apply to the profession of physiotherapist with diploma.
  7. This does not apply to the profession of physiotherapist with diploma.
  8. No. We have not yet received any application for the temporary or occasional provision of services from a qualified physiotherapist.
  9. The profession of physiotherapist with diploma is one of the healthcare professions for which the professional qualifications of the service provider are verified prior to the provider initiating any temporary or occasional service in Slovenia.
  10. For the field of healthcare activities, registration with the Ministry of Health is required before initiating any services in any healthcare profession. The application itself will determine whether this involves occasional or temporary service provision. Equally, registration is important for the reason of performing professional supervision and supervision in general, since a person providing services temporarily or occasionally must assume ethical, professional, criminal and material liability for his work under the regulations applicable to health workers in Slovenia.

Upon receipt of a complete application, the service provider is temporarily entered in the register. After performing the services, he is deleted from the register.

Where a person does not apply for registration before initiating the temporary or occasional provision of services, he is penalised for the offence under law.

11. We are not familiar with this.
12. Administrative cooperation as defined in Articles 8, 50 and 56 of Directive 2005/36/EC enables direct cooperation between the competent authorities of Member States. Administrative cooperation enables faster procedures for candidates, and where there is doubt, a determination of the actual state of affairs.
13. The Ministry of Health is registered in the IMI. The IMI is only used in the event of reasonable grounds for doubt. Since the registration of authorities in the IMI is not compulsory, in some cases other avenues have to be used, for instance e-mail, but an answer is not always given, so we propose that the IMI be compulsory for all competent authorities.

Equally, we propose that the use of the IMI be expanded to other cases.

14. Directive 2005/36/EC only orders the use of professional cards as one of the tools that could facilitate the mobility of experts.

As long as the professional card contained all the necessary information required by Directive 2005/36/EC for the recognition of professional qualifications, and as long as the card was equipped with a chip preventing falsification, the card could ease mobility.

15. In accordance with the Act Regulating the Pursuit of Health Professions in the Republic of Slovenia by Citizens of other EU Member States, the level of knowledge of the language is set by employers in their internal documents, along with the method of verifying fulfilment of this condition for individual positions.

The Government draws up standards for the level of required knowledge of Slovenian for guideline positions.





**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

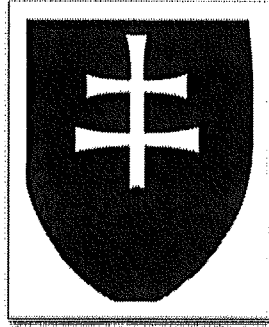
**24. SLOVAKIA**

**Experience report from national coordinators  
with regard to other regulated professions**



SLOVAKIA

**MINISTERSTVO ŠKOLSTVA, VEDY, VÝSKUMU A ŠPORTU  
SLOVENSKEJ REPUBLIKY**



**S P R Á V A**

**o všeobecnom systéme uznávania odborných  
kvalifikácii  
v Slovenskej republike**

## 1. Úvod

Uznávanie dokladov o vzdelaní sa v Slovenskej republike dostalo do stredobodu pozornosti začiatkom 90. rokov, keď sa otvorením hraníc zvýšila študijná i profesijná mobilita medzi jednotlivými štátmi. Postupne sa vytvárali právne predpisy, ktoré mali za úlohu riadiť proces uznávania dokladov o vzdelaní v Slovenskej republike. Inštitucionálne zabezpečenie sa uskutočnilo v rámci organizačnej štruktúry Ústavu informácií a prognóz školstva v roku 1991 pod organizačnou jednotkou Stredisko pre ekvivalenciu dokladov o vzdelaní. Stredisko sa úspešne zapojilo do medzinárodnej spolupráce ENIC/NARIC, čo vytvorilo základné podmienky pre úspešné kráčanie s dobou a prístup k najnovším trendom vývoja v oblasti uznávania dokladov o vzdelaní.

Vstupom Slovenskej republiky do Európskej únie sa však do tradičnej formy uznávania vzniesli nové princípy, pohľady a ich sprevádzané legislatívne zmeny, ktoré mali za úlohu zosúladiť právny poriadok Slovenskej republiky s právnym poriadkom Európskej únie. Jednou z najdôležitejších zmien bolo zavedenie účelovosti uznávania a tým striktne rozlíšiť akademické a profesijné uznávanie. Existujúca legislatíva sa upravila s účelnosťou na akademické uznávanie, inými slovami, na uznávanie na účely pokračovania v štúdiu. Uvedené sa stalo z dôvodu, že v prípade „starého“ už existujúceho uznávania sa uznávala úroveň štúdia a nie v zahraničí získaná odborná kvalifikácia. Zavedenie nového pojmu uznávanie na výkon povolania sa vykonalo prijatím zákona 477/2002 Z. z. o uznávaní odborných kvalifikácií, ktorému podklad tvorili smernice a právny poriadok Európskej únie.

Nová smernica Európskych spoločenstiev, ktorá bola prijatá Európskym Parlamentom a Radou Európskej únie dňa 7. septembra 2005 o uznávaní odborných kvalifikácií mala ambície zhrnúť všetky existujúce smernice a odštartovať reformu uznávania odborných kvalifikácií v Európskej únii. Text nového právneho predpisu Európskych spoločenstiev sa zrodil po dlhoročnom konzultačnom procese a stal sa tak najvýraznejším prostriedkom k zjednodušeniu procesov uznávania odborných kvalifikácií v členských štátoch Európskej únie.

## 1. Transpozícia smernice 2005/36/ES v Slovenskej republike

Uznesením vlády SR č. 308 z 12. apríla 2006 a uznesením vlády SR č. 641/2006 26. júla 2006 bolo Ministerstvo školstva poverené vykonávaním činnosti hlavného gestora pre transpozíciu smernice 2005/36/ES o uznávaní odborných kvalifikácií. Ako spolugestori transpozície sa určili ďalšie ústredné orgány štátnej správy a to v pôsobnosti Ministerstva hospodárstva SR, Ministerstva výstavby a regionálneho rozvoja SR, Ministerstva vnútra SR, Ministerstva pôdohospodárstva SR, Ministerstva zdravotníctva SR a Úradu geodézie, kartografie a katastra SR.

Na základe tejto legislatívnej úlohy Ministerstvo školstva vypracovalo návrh zákona o uznávaní odborných kvalifikácií, ktorým sa v najväčšej miere transponovala do právneho poriadku Slovenskej republiky Smernica Európskeho parlamentu a Rady 2005/36/ES zo 7. septembra 2005 o uznávaní odborných kvalifikácií. Návrh zákona tiež zjednodušuje a sprehľadňuje problematiku uznávania odborných kvalifikácií, čo vyplýva z uznesenia vlády SR č. 557/2005 z 13. júla 2005 k návrhu stratégie konkurencieschopnosti Slovenskej republiky do roku 2010 – Akčné plány.

Zákon o uznávaní odborných kvalifikácií bol prijatý Národnou radou Slovenskej republiky 17. mája 2007 a zverejnený v Zbierke zákonov Slovenskej republiky pod číslom 293/2007. Zákon nadobudol účinnosť 20. októbra 2007, čo bol aj termín ukončenia transpozície. Zákonom 293/2007 Z. z. o uznávaní odborných kvalifikácií bol zrušený zákon 477/2002 Z. z. o uznávaní odborných kvalifikácií v znení neskorších predpisov, ktorý bol založený na predchádzajúcom komunitárnom systéme uznávania odborných kvalifikácií a ktorý bol nahradený smernicou 2005/36/ES o uznávaní odborných kvalifikácií.

Zákon č. 293/2007 Z. z. o uznávaní odborných kvalifikácií bol doteraz novelizovaný zákonom č. 560/2008 Z. z., ktorým sa mení a dopĺňa zákon č. 293/2007 Z. z. o uznávaní odborných kvalifikácií a o zmene a doplnení zákona č. 578/2004 Z. z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov v znení neskorších predpisov. Táto novela transponovala Nariadenie Komisie č. 1430/2007 z 5. decembra 2007, ktorým sa menia a dopĺňajú prílohy II a III smernice Európskeho parlamentu a Rady 2005/36/ES o uznávaní odborných kvalifikácií do právneho systému Slovenskej republiky a odstránila nedostatky zákona, ktoré boli zistené až po aplikačnej praxi.

Zákon o uznávaní sa člení na štyri časti. V prvej časti zákona sú obsiahnuté všeobecné ustanovenia a zdefinovania pojmov a legislatívnych skratiek, druhá časť zákona transponuje voľné poskytovanie služieb vo všeobecnej rovine a tretia časť zákona upravuje uznávanie odborných kvalifikácií, a systémy, ktoré vychádzajú zo smernice o uznávaní. Systémy uznávania špecifikuje na:

- a) systém automatického uznávania odborných kvalifikácií,
- b) všeobecný systém uznávania odborných kvalifikácií a
- c) automatické uznávanie vysokoškolského vzdelávania tretieho stupňa, ktorá nevychádza z úpravy smernice.

So systémami, ktoré vychádzajú z povinnej transpozície smernice sa táto správa bude zaoberať podrobnejšie. Pokiaľ ide o písm. c) automatické uznávanie vysokoškolského vzdelávania tretieho stupňa, na zavedenie tejto úpravy nás viedli stále sa napredujúce trendy v zosúladení vzdelávacích systémov v rámci Európskej únie. Ambície pri vytváraní spoločného priestoru vysokoškolského vzdelávania, legislatívne zavedenie princípov Bolonského procesu smerujú jedným, veľmi výrazným smerom: odbúravanie hraníc a rozdielov vo vzdelávaní, myslených i skutočných. V procese odbúravania rozdielov a približovania vzdelávacích systémov, Slovenská republika spravila významný krok v oblasti uznávania dokladov osvedčujúce úspešné absolvovanie vysokoškolského vzdelania tretieho stupňa. Doklad o vysokoškolskom vzdelaní tretieho stupňa nadobudnutý v členskom štáte EÚ sa v Slovenskej republike uznáva automaticky, vydaním rozhodnutia o automatickom uznaní vysokoškolského vzdelania tretieho stupňa. Týmto sa vytvára priestor pre zvýšenie mobility mladých absolventov doktorandského študijného programu na území Slovenskej republiky, čo je nesporným prínosom pre vedeckú komunitu, pre študentov vysokých škôl a všetkých zainteresovaných strán.

Štvrtá časť zákona obsahuje prechodné, záverečné a zrušovacie ustanovenia. Konkretizácie, na ktoré niektoré ustanovenia zákona odkazujú predstavuje 7 príloh zákona, ktoré čiastočne preberajú prílohy smernice o uznávaní, spolu s transpozičnou prílohou.

Zákon o uznávaní odborných kvalifikácií rozlišuje pojmy „doklad o vzdelaní“ a „doklad o odbornej kvalifikácii“, aké rozlíšenie smernica o uznávaní nepoužíva. Uvedené rozlíšenie pojmov bolo nutné kvôli nastavenému systému dvojstupňového uznávania odbornej kvalifikácie. Počas prvého stupňa uznávania sa uzná doklad o vzdelaní nadobudnutý v zahraničí (v Európskej únii alebo v tretej krajine). Okrem povolania veterinár a architekt, ktoré boli nadobudnuté v EÚ všetky doklady o vzdelaní uznáva Ministerstvo školstva, Stredisko na uznávanie dokladov o vzdelaní. V rámci druhého stupňa uznávania sa uzná odborná kvalifikácia príslušným orgánom. Príslušné orgány na uznávanie odbornej kvalifikácie sú určené zákonom o uznávaní odborných kvalifikácií alebo osobitným právnym predpisom. Vydávajú rozhodnutia o uznaní odbornej kvalifikácie na základe rozhodnutia Ministerstva školstva SR o uznaní dokladu o vzdelaní.

Preambula smernice o uznávaní umožňovala členským štátom rozsah pôsobnosti právnej úpravy EÚ upraviť tak, aby sa vzťahovala aj na občanov nečlenských štátov, tj., na občanov tretích krajín. Vzhľadom na geografickú pozíciu krajiny, Slovenská republika sa rozhodla rozšíriť pôsobnosť smernice aj na občanov nečlenských štátov tak, aby v žiadnom prípade neboli poškodené záujmy občanov členských štátov. Je to jedna z hlavných zmien, ktorú v právnej úprave SR priniesla transpozícia smernice 2005/36/ES. Predchádzajúca právna norma pri

uznávania dokladu o vzdelaní používala povinnosť uznávania odborných kvalifikácií len v prípade občanov členských štátov, kým občania nečlenských štátov mali možnosť nechať si uznať svoj doklad o vzdelaní vzdelávacou ustanovitzňou. V praxi to znamenalo, že kým občania EÚ si museli nechať uznať svoju kvalifikáciu na dané regulované povolanie, zaplatiť správne poplatky, ktoré s tým úkonom súviseli, predložiť doklady osvedčujúce odbornú kvalifikáciu s úradným overením a prekladom boli vynaložené vysoké finančné prostriedky. Kým na občanov EÚ sa sťahoval tento systém uznávania, dovtedy občania tretích štátov mohli využiť možnosť uznať len doklad o vzdelaní, absolvovať tzv. starý proces „nostrifikácie“. Od 20. októbra 2007 sa však účelovosť uznávania sa jasne rozdelil aj v právnych predpisoch SR s následnou deľbou právomocí v tejto oblasti. Uznávanie na výkon regulovaného povolania upravuje zákon č. 293/2007 Z. z. o uznávaní odborných kvalifikácií v znení neskorších predpisov a uznávanie úrovne dosiahnutého vzdelania, tzv. akademické uznávanie upravuje v prípade stredoškolských dokladov o vzdelaní zákon č. 596/2003 Z. z. o štátnej správe školstve a školskej samospráve a v prípade vysokoškolských dokladov o vzdelaní zákon č. 131/2002 Z. z. o vysokých školách v znení neskorších predpisov.

## **2. Všeobecný systém uznávania odborných kvalifikácií**

Všeobecný systém uznávania odborných kvalifikácií upravuje § 10 zákona o uznávaní odborných kvalifikácií s nasledovnou definíciou:

*„Príslušný orgán uzná odbornú kvalifikáciu podľa všeobecného systému uznávania odborných kvalifikácií pri povolaniach, pri ktorých nedochádza ku koordinácii vzdelania alebo nie sú splnené minimálne požiadavky na odbornú prípravu alebo odbornú činnosť, po porovnaní a splnení podmienok podľa osobitného predpisu.“*

Na základe uvedeného ustanovenia okrem siedmych sektorových povolaní z členských štátov EÚ spadajú pod všeobecný systém uznávania všetky odborné kvalifikácie, spolu so sektorovými povolaniami, ktorých kvalifikačný predpoklad nebol splnený v niektorom členskom štáte EÚ. Systém všeobecného uznávania odborných kvalifikácií v SR je nasledovný.

Príslušný orgán na uznávanie dokladu o vzdelaní (ako sme už vyššie spomínali, okrem dokladov veterinára a architekta) je vždy MŠ SR, Stredisko na uznávanie dokladov o vzdelaní. Stredisko postupuje podľa nasledovného algoritmu pri posudzovaní dokladov o vzdelaní.

V prvom rade kvalifikácia, musí byť nadobudnutá na uznanej škole. Vzdelávacia ustanovizeň je uznanou vtedy, ak je zaradená do siete štátom uznaných vzdelávacích ustanovizní v danom štáte, a tým kvalitu vzdelávania zaručuje štát. Po zadefinovaní statusu vzdelávacej ustanovizne v štáte pôvodu sa určí úroveň dosiahnutého vzdelania podľa článku 11 smernice

o uznávaní odborných kvalifikácii, ktorý je transponovaný do právneho poriadku SR § 11 až 15 zákona o uznávaní odborných kvalifikácii. Uvedené paragrafy zákona definujú doklad o vysokoškolskom vzdelaní 1. stupňa a 2. stupňa, vyššie odborné vzdelanie, úplné stredné vzdelanie a iné osvedčenia o odbornej spôsobilosti. Po určení tzv. „ponúkanej“ kvalifikácie zo štátu pôvodu sa „ponúkaná“ kvalifikácia porovná s požiadavkou v SR na výkon daného regulovaného povolania. V prípade ak ponúkaná kvalifikácia je na vyššej úrovni alebo rovnocenná k požiadavke v SR, sa doklad o vzdelaní uzná rozhodnutím o uznaní podľa správneho poriadku Slovenskej republiky. V prípade ak ponúkaná kvalifikácia je na nižšej úrovni, ako je podmienka na výkon regulovaného povolania v SR sa uplatnia možnosti kompenzácie vzdelania.

Kompenzačné mechanizmy sú zadané v § 19 až 21, ako náhradné opatrenia na doplnenie alebo vyrovnávanie rozdielov v odbornej príprave. Vykonáva sa vo forme adaptačného obdobia alebo skúšky spôsobilosti. Príslušný orgán uloží kompenzačné mechanizmy, ak sú podstatné rozdiely v trvaní alebo v obsahu odbornej prípravy alebo žiadateľ absolvoval aspoň o jeden rok kratšie štúdium, než je požadované v Slovenskej republike, a nepreukázal znalosti získané odbornou praxou dopĺňujúce alebo vyrovnávajúce tieto podstatné rozdiely. Okrem dokladov o vzdelaní možno od žiadateľa požadovať

- a) doklad osvedčujúci ukončenie adaptačného obdobia v dĺžke najviac tri roky alebo
- b) doklad osvedčujúci zloženie skúšky spôsobilosti.

Uznaná škola, ktorá uskutočňuje obdobné vzdelávanie na území Slovenskej republiky, posúdi na požiadanie príslušného orgánu pre potreby uloženia kompenzačného mechanizmu obsah a rozsah získaných vedomostí a zručností a vo svojom posudku uvedie

- a) vedomosti a zručnosti, ktoré má žiadateľ preukázať v adaptačnom období, a odporúčanú dĺžku adaptačného obdobia v ustanovenom týždennom pracovnom čase, pričom zohľadní aj jeho osobné predpoklady a skutočnosť, že v inom členskom štáte ide o kvalifikovaného pracovníka,
- b) základné vedomosti a zručnosti na výkon príslušných pracovných činností, ktoré má žiadateľ preukázať skúškou spôsobilosti, a odporúčaný termín vykonania skúšky spôsobilosti, pričom zohľadní aj jeho osobné predpoklady a skutočnosť, že v inom členskom štáte ide o kvalifikovaného pracovníka.

Žiadateľ má právo vybrať si formu kompenzačného mechanizmu, avšak nemožno od neho požadovať vykonanie oboch foriem zároveň.

Vykonanie skúšky spôsobilosti zabezpečujú príslušné orgány v spolupráci s ďalšími orgánmi, profesijnými organizáciami, komorami a vzdelávacími ustanovizňami alebo s inými inštitúciami ustanovenými zákonom, ktoré uskutočňujú vzdelávanie a ďalšie vzdelávanie kvalifikovaných príslušníkov daného povolania. Skúška spôsobilosti sa vykonáva pred komisiou,



ktorej predsedu a štyroch členov vymenúva štatutárny orgán príslušného orgánu. Príslušné orgány alebo ministerstvo školstva určia, ktoré vyučovacie predmety nie sú obsiahnuté v doklade o vzdelaní žiadateľa, pričom sa sústredia iba na vyučovacie predmety zásadného významu na výkon príslušného regulovaného povolania. Skúška spôsobilosti môže zahŕňať aj právne predpisy Slovenskej republiky vrátane pravidiel etického správania ustanovených na výkon príslušného regulovaného povolania. Skúška spôsobilosti má písomnú, ústnu a praktickú časť.

Príslušné orgány určia požiadavky na adaptačné obdobie žiadateľa, ktoré zohľadnia jeho osobné predpoklady a skutočnosť, že ide o kvalifikovaného príslušníka povolania z iného členského štátu. Splnenie požiadaviek adaptačného obdobia vyhodnotia príslušné orgány v spolupráci s profesijnými organizáciami a komorami. Súčasťou adaptačného obdobia môže byť aj ďalšie odborné vzdelávanie.

Po uznaní dokladu o vzdelaní príslušným orgánom (vo väčšine prípadov Ministerstvom školstva SR) žiadateľ o uznanie odbornej kvalifikácie sa musí obrátiť na príslušný orgán podľa osobitného právneho predpisu. Napr. v prípade zdravotníckych povolaní je príslušným orgánom na uznanie odbornej kvalifikácie Ministerstvo zdravotníctva Slovenskej republiky podľa zákona č. 578/2004 Z. z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov v znení neskorších predpisov. V prípade živností, remeselných povolaní je príslušným orgánom na uznanie odbornej kvalifikácie Ministerstvo vnútra Slovenskej republiky podľa zákona č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov. Výlučne v prípade pedagogických povolaní je proces uznávania dokladu o vzdelaní a odbornej kvalifikácie spojený. V prípade pedagogických povolaní (na všetkých úrovniach, počnúc od vychovávateľky až po vysokoškolských profesorov) je príslušným orgánom na uznávanie odbornej kvalifikácie Ministerstvo školstva Slovenskej republiky. V praxi to znamená, že na výkon pedagogických povolaní sa posudzuje doklad o vzdelaní a odborná kvalifikácia spoločne, a vydá sa o tom jeden výstupný dokument (rozhodnutie o uznaní resp. o zamietnutí uznania).

### 2.3.1 Uznatie na výkon povolania učiteľa v SR

Pedagogický zamestnanec je regulovaným povoláním v SR, tak ako regulované povolania chápe Smernica 2005/36/ES o uznávaní odborných kvalifikácií. Minimálne kvalifikačné požiadavky vzťahujúce sa k pedagogickým povolaniam sú zadefinované vo *Vyhláske MŠ SR č. 437/2009 Z. z. o pedagogických zamestnancoch*. Menovaná Vyhláška delí kvalifikačné predpoklady do úrovní A, B, C a D. Uvedené kvalifikačné úrovne sú ekvivalentné k úrovniam článku 11 smernice 2005/36/ES o uznávaní odborných kvalifikácií podľa nasledovnej tabuľky.

| úroveň odb. kval. podľa Vyhlášky | úroveň podľa zákona č. 131/2002 Z. z. o vysokých školách | úroveň kvalifikácie podľa čl. 11 smernice 2005/36/ES | Názov dokladu o vzdelaní                                                       |
|----------------------------------|----------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------------------------------|
| A                                | Vysokoškolské vzdelanie 2. stupňa                        | e)                                                   | Vysokoškolský diplom o udelení akademického titulu magister (v skratke „Mgr.“) |
| B                                | Vysokoškolské vzdelanie 1. stupňa                        | d)                                                   | Vysokoškolský diplom o udelení akademického titulu bakalár (v skratke „Bc.“)   |
| C                                | Vyššie odborné štúdium                                   | c)                                                   | Vysvedčenie o absolutoriu                                                      |
| D                                | Stredné odborné vzdelanie                                | b)                                                   | Vysvedčenie o maturitnej skúške                                                |

### Kvalifikačné predpoklady a osobitné kvalifikačné požiadavky pre jednotlivé kategórie pedagogických zamestnancov podľa druhu a typu školy alebo školského zariadenia v SR

#### Časť I. Učiteľ materskej školy

##### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie druhého stupňa

1. v učiteľskom študijnom programe v študijnom odbore predškolská a elementárna pedagogika
2. v študijnom odbore učiteľstvo pre materské školy
3. v študijnom odbore pedagogika, špecializácia školská alebo predškolská pedagogika bez doplňujúceho pedagogického štúdia

4. v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom pedagogika - psychológia a jednoročné špecializačné inovačné štúdium v odbore predškolská pedagogika

5. v študijnom odbore učiteľstvo pre školy II. cyklu, aprobačné predmety pedagogika - psychológia alebo pedagogika a špecializačné štúdium v odbore predškolská pedagogika

6. v študijnom odbore učiteľstvo pre špeciálne materské školy

7. v študijnom odbore predškolská pedagogika a pedagogika telesne postihnutých, chorých a zdravotne oslabených

8. v študijnom odbore predškolská pedagogika a pedagogika sluchovo postihnutých

9. v študijnom odbore predškolská pedagogika a pedagogika zrakovo postihnutých

10. v študijnom odbore predškolská pedagogika a učiteľstvo pre 1. stupeň základnej školy

11. v študijnom odbore učiteľstvo pre materské školy alebo v študijnom odbore pedagogická škola na strednej pedagogickej škole alebo na pedagogickej a sociálnej akadémii, alebo na pedagogickej a kultúrnej akadémii v kombinácii s vysokoškolským vzdelaním druhého stupňa v študijnom odbore učiteľstvo pre 1. stupeň základnej školy

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v učiteľskom študijnom programe v študijnom odbore predškolská a elementárna pedagogika

2. v študijnom odbore učiteľstvo pre materské školy a bakalársky študijný program v odbore tvorivá dramatika

#### D. Úplné stredné odborné vzdelanie

1. v študijnom odbore učiteľstvo pre materské školy

2. v študijnom odbore učiteľstvo pre materské školy v kombinácii s iným odborom vzdelávania

3. v študijnom odbore pedagogická škola

4. v študijnom odbore učiteľstvo pre materské školy a vychovávateľstvo

5. záverečná skúška na pedagogickej škole pre vzdelanie učiteliek materských škôl s doložkou o odbornej spôsobilosti po ročnej riadenej praxi

6. maturitná skúška z 1-ročného nadstavbového štúdia pre materské školy

7. záverečná skúška na pedagogickom gymnáziu pre učiteľky materských škôl

8. v študijnom odbore vychovávateľstvo a doplnková maturitná skúška v študijnom odbore učiteľstvo pre materské školy alebo úplné stredné odborné vzdelanie v študijnom odbore vychovávateľstvo a najmenej desať rokov pedagogickej činnosti v materskej škole alebo v špeciálnej materskej škole

9. 2-ročný ústav pre učiteľky materských škôl alebo externé štúdium na tejto škole ukončené skúškou spôsobilosti

10. skúška spôsobilosti pre materské školy

11. maturitná skúška na strednej škole doplnená pomaturitným kvalifikačným štúdiom študijného odboru učiteľstvo pre materské školy alebo pedagogická škola, alebo učiteľstvo pre materské školy a vychovávateľstvo

12. úplné stredné vzdelanie a doplňujúce pedagogické štúdium predškolskej pedagogiky

13. na jazykovú prípravu v cudzom jazyku v materských školách aj absolvovanie študijného odboru učiteľstvo pre materské školy alebo pedagogická škola alebo učiteľstvo pre materské školy a vychovávateľstvo a absolvovanie štátnej jazykovej skúšky na štátnej jazykovej škole alebo jazykovej škole, ktorá má na to oprávnenie

14. len na vyučovanie náboženskej výchovy a náboženstva vzdelanie uvedené v písmenách A, B a D a v tých študijných programoch, v ktorých nie je súčasťou študijného programu náboženská

výchova a náboženstvo, absolvovanie kvalifikačného vzdelávania pedagógia náboženskej výchovy a náboženstva alebo absolvovanie špecializačného kvalifikačného štúdia pedagógia náboženskej výchovy a náboženstva v metodicko-pedagogickom centre ukončeného do 31. augusta 2010 alebo vysokoškolské vzdelanie II. stupňa v učiteľských študijných programoch s aprobačným predmetom náboženstvo alebo náboženská výchova; okrem uvedeného požadovaného vzdelania sa na vyučovanie predmetu náboženstvo alebo náboženská výchova vyžaduje aj poverenie podľa vnútorných predpisov príslušnej registrovanej cirkvi alebo príslušnej náboženskej spoločnosti.

## **Časť II. Učiteľ materskej školy v triedach a školách pre deti so zdravotným znevýhodnením**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe zameranom na pedagogiku predškolského veku v odbore špeciálna pedagogika
2. v študijnom programe zameranom na pedagogiku predškolského veku a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu
3. v študijnom odbore učiteľstvo pre 1. - 4. ročník základnej školy rozšírenom o štúdium špeciálnej pedagogiky
4. v študijnom odbore vychovávateľstvo pre mládež (osoby) vyžadujúcu osobitnú starostlivosť
5. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy)
6. v študijnom odbore liečebná pedagogika
7. v študijnom odbore pedagogika - psychológia (učiteľský smer) rozšírený o štúdium špeciálnej pedagogiky
8. v študijnom odbore pedagogika emocionálne a sociálne narušených
9. v študijnom odbore vychovávateľstvo všeobecné a špeciálne
10. v študijnom odbore predškolská pedagogika a pedagogika mentálne postihnutých alebo špeciálna pedagogika
11. v študijnom odbore špeciálna pedagogika pre učiteľov materských škôl pre deti vyžadujúce osobitnú starostlivosť
12. vzdelanie uvedené v časti I písm. A a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom programe zameranom na učiteľstvo pre deti predškolského veku v odbore špeciálna pedagogika
2. v študijnom programe zameranom na učiteľstvo pre deti predškolského veku uvedené v časti I písm. B a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu

#### D. Úplné stredné odborné vzdelanie

vzdelanie uvedené v časti I písm. D a doplnenie špeciálnopedagogickej spôsobilosti

### **Časť III. Učiteľ prvého stupňa základnej školy vrátane učiteľa prvého stupňa základnej školy, ktorý vyučuje v nultom ročníku**

#### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom odbore učiteľstvo pre 1. - 4. ročník základnej školy
2. v študijnom odbore učiteľstvo pre školy I. cyklu so zameraním na 1. - 5. ročník základnej deväťročnej školy
3. v študijnom programe zameranom na učiteľstvo pre prvý stupeň základnej školy v odbore predškolská a elementárna pedagogika
4. štátna záverečná skúška na pedagogickom inštitúte so zameraním na 1. - 5. ročník základnej deväťročnej školy
5. záverečná skúška na pedagogickom inštitúte z jednopredmetového štúdia učiteľstva popri zamestnaní pre 6. - 9. ročník základnej deväťročnej školy vrátane spôsobilosti na vyučovanie v 1. - 5. ročníku základnej deväťročnej školy s doložkou o zložení skúšky na pedagogickom inštitúte z praktických cvičení v dielnach alebo z praktických cvičení na školských pozemkoch
6. štátna záverečná skúška na vyššej pedagogickej škole so zameraním na 1. - 5. ročník základnej deväťročnej školy
7. záverečná skúška pre učiteľstvo na národných školách alebo na školách II. stupňa na bývalej pedagogickej fakulte
8. záverečná skúška z odboru učiteľstvo pre 1. - 5. ročník základnej deväťročnej školy na pedagogickej fakulte
9. len na vyučovanie aprobačných predmetov formy vysokoškolského vzdelania druhého stupňa učiteľov všeobecnovzdelávacích predmetov pre 5. - 9. ročník základnej školy alebo učiteľov všeobecnovzdelávacích predmetov pre stredné školy alebo učiteľov pre stredné školy v odbore učiteľstvo akademických predmetov uvedené v častiach V, VII, VIII
10. len na vyučovanie cudzích jazykov aj
  - a) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej záverečnej skúšky z príslušného jazyka na pedagogických fakultách a filozofických fakultách, na katedrách jazykov univerzít, alebo
  - b) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej jazykovej skúšky na štátnej jazykovej škole alebo jazykovej škole, ktorá má na to oprávnenie, alebo
  - c) vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov a osvedčenie o zložení skúšky z príslušného jazyka pred akreditačnou komisiou v Štátnom pedagogickom ústave v Bratislave a v metodicko-pedagogickom centre, alebo
  - d) vysokoškolské vzdelanie druhého stupňa a štúdium cudzieho jazyka formou rozširujúceho štúdia
11. len na vyučovanie cudzích jazykov vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre 1. stupeň základnej školy alebo učiteľstvo všeobecnovzdelávacích predmetov pre základné školy, alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov, alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium cudzích jazykov v metodicko-pedagogickom centre skončené do 31. augusta 2010

12. len na vyučovanie predmetu náboženská výchova (náboženstvo) absolvovanie štúdia na teologickej fakulte alebo vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium na teologickej fakulte alebo absolvovanie vysokoškolského štúdia v študijnom odbore náboženská výchova v kombinácii s iným predmetom, pričom sa okrem uvedeného požadovaného vzdelania na vyučovanie predmetu náboženstvo alebo náboženská výchova vyžaduje aj poverenie podľa vnútorných predpisov príslušnej registrovanej cirkvi alebo príslušnej náboženskej spoločnosti; pre kňazov a diakonov sa vyžaduje menovací dekrét od príslušnej vrchnosti registrovanej cirkvi alebo náboženskej spoločnosti

13. len na vyučovanie predmetu etická výchova - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre 1. stupeň základnej školy, učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 9. ročník základnej školy, učiteľstvo pre špeciálne školy s aprobačným predmetom, učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium etickej výchovy v metodicko-pedagogickom centre skončené do 31. augusta 2010 alebo v študijnom odbore pedagogika špecializácia etická výchova a doplnenie pedagogickej spôsobilosti

14. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy)

15. absolvovanie bývalej pedagogickej školy pre učiteľov národných škôl do roku 1961

16. len na vyučovanie predmetov hudobná výchova a výtvarná výchova aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo odborných umeleckých predmetov so zameraním na príslušný predmet

#### **Časť IV. Učiteľ prvého stupňa základnej školy v triedach a školách pre žiakov so zdravotným znevýhodnením vrátane učiteľa prvého stupňa, ktorý vyučuje v prípravnom ročníku základnej školy pre žiakov so zdravotným znevýhodnením**

##### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe zameranom na učiteľstvo pre prvý stupeň základnej školy v odbore špeciálna pedagogika,

2. v študijnom programe zameranom na učiteľstvo pre prvý stupeň základnej školy v odbore predškolská a elementárna pedagogika a doplnenie špeciálnopedagogickej spôsobilosti

3. v študijných programoch pre učiteľov primárneho vzdelávania (pozri časť III) a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu

4. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy)

5. len na vyučovanie predmetu komunikačné zručnosti, individuálna logopedická starostlivosť, individuálne logopedické cvičenia a individuálna logopedická intervencia v špeciálnych školách v študijnom odbore učiteľstvo pre špeciálne školy pre žiakov s narušenou komunikačnou schopnosťou, učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť - pre mládež s chybami reči alebo v študijnom odbore logopédia alebo vykonanie štátnej záverečnej skúšky z logopédie

6. len na vyučovanie v triedach a školách pre žiakov s mentálnym postihnutím v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov bez ohľadu na aprobačný predmet (pozri

časť III a V) a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu

7. len na vyučovanie v triedach a školách pre žiakov s mentálnym postihnutím v študijnom odbore pedagogika mentálne postihnutých

8. len na vyučovanie v triedach a školách pre žiakov s mentálnym postihnutím študijný odbor vychovávateľstvo pre mládež (osoby) vyžadujúcu osobitnú starostlivosť alebo študijný odbor vychovávateľstvo všeobecné a špeciálne alebo študijný odbor vychovávateľstvo a doplnenie špeciálnopedagogickej spôsobilosti alebo študijný odbor vychovávateľstvo, špecializácia - pedagogika emocionálne a sociálne narušených

## **Časť V. Učiteľ druhého stupňa základnej školy**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe v odbore učiteľstvo akademických alebo všeobecnovzdelávacích predmetov

2. v študijnom programe v odbore učiteľstvo profesijných predmetov len na vyučovanie predmetov príslušného alebo príbuzného odboru

3. v študijnom programe v odbore učiteľstvo umelecko-výchovných, výchovných predmetov alebo ich kombinácie

4. v neučiteľských študijných programoch len na vyučovanie predmetov príslušného alebo príbuzného odboru, z ktorého bola vykonaná štátna záverečná skúška, a doplnenie kvalifikačného predpokladu

5. v študijnom odbore učiteľstvo pre školy I. cyklu (5. - 9. ročník)

6. štátna záverečná skúška na pedagogickom inštitúte so zameraním na 6. - 9. ročník

7. záverečná skúška na pedagogickom inštitúte z jednopredmetového štúdia učiteľstva popri zamestnaní pre 6. - 9. ročník základnej deväťročnej školy vrátane spôsobilosti na vyučovanie v 1. - 5. ročníku základnej deväťročnej školy s doložkou o zložení skúšky na pedagogickom inštitúte z praktických cvičení v dielnach alebo z praktických cvičení na školských pozemkoch

8. štátna záverečná skúška na vyššej pedagogickej škole (pre 6. - 9. ročník)

9. štátna záverečná skúška na pedagogickej fakulte - v študijnom odbore učiteľstvo pre 6. - 9. ročník základnej deväťročnej školy

10. len na vyučovanie aprobačného predmetu štátna záverečná skúška na pedagogickej fakulte - študijný odbor učiteľstvo pre 1. - 4. ročník základnej školy v kombinácii s aprobačným predmetom

11. doplňujúce štúdium učiteľstva všeobecnovzdelávacích predmetov (v zmysle úpravy MŠ SSR č. 607/1979-301 v znení úpravy MŠ SSR 16784/1979-301)

12. záverečná skúška pre učiteľstvo na národných školách alebo na školách II. stupňa na bývalej pedagogickej fakulte

13. len na vyučovanie aprobačného predmetu štátna záverečná skúška na pedagogickom inštitúte - v študijnom odbore učiteľstvo pre 1. - 5. ročník základnej deväťročnej školy v kombinácii s jedným predmetom

14. len na vyučovanie aprobačných predmetov vysokoškolské vzdelanie druhého stupňa v študijnom odbore učiteľstvo pre školy II. cyklu

15. len na vyučovanie predmetov občianska výchova, občianska náuka, náuka o spoločnosti a základy spoločenských vied - v študijnom odbore filozofia a príbuzné odbory a doplňujúce

pedagogické štúdium alebo študijný odbor učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom občianska výchova

16. len na vyučovanie cudzieho jazyka absolvovanie jednopredmetového 4-ročného štúdia jazyka na filozofickej fakulte alebo na pedagogickej fakulte

17. len na vyučovanie cudzích jazykov vysokoškolské vzdelanie druhého stupňa - študijný odbor učiteľstvo pre 1. - 4. ročník základnej školy alebo učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 9. ročník základnej školy alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov, alebo neučiteľské vysokoškolské vzdelanie a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium cudzích jazykov v metodicko-pedagogickom centre skončené do 31. augusta 2010

18. len na vyučovanie cudzích jazykov aj

a) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej záverečnej skúšky z príslušného jazyka na pedagogických fakultách a filozofických fakultách, na katedrách jazykov univerzít alebo

b) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej jazykovej skúšky na štátnej jazykovej škole alebo jazykovej škole, ktorá má na to oprávnenie, alebo

c) vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov a osvedčenie o zložení skúšky z príslušného jazyka pred akreditačnou komisiou v Štátnom pedagogickom ústave v Bratislave a v metodicko-pedagogickom centre, alebo

d) vysokoškolské vzdelanie druhého stupňa a štúdium cudzieho jazyka formou rozširujúceho štúdia

19. len na vyučovanie cudzích jazykov - študijný odbor učiteľstvo pre jazykové školy

20. len na vyučovanie predmetu pracovné vyučovanie - študijný odbor učiteľstvo pre školy I. cyklu s aprobačným predmetom prírodopis alebo vysokoškolské vzdelanie druhého stupňa technické alebo poľnohospodárske príslušného študijného odboru a doplňujúce pedagogické štúdium

21. len na vyučovanie predmetov telesná výchova, športová výchova a športová príprava - študijný odbor telesná výchova a šport - smer učiteľský, smer trénerský alebo smer metodický (bez doplňujúceho pedagogického štúdia)

22. len na vyučovanie predmetov hudobná výchova, telesná výchova, športová výchova a výtvarná výchova - študijný odbor učiteľstvo pre 1. - 4. ročník základnej školy alebo odbor vychovávateľstvo so špecializáciou na výtvarnú, hudobnú, telesnú a pracovnú výchovu, ak je táto špecializácia ukončená štátnou záverečnou skúškou pre 5. - 9. ročník základnej školy

23. len na vyučovanie predmetu aprobácie - študijný odbor učiteľstvo pre 1. - 4. ročník základnej školy a rozširujúce štúdium všeobecnovzdelávacieho predmetu

24. len na vyučovanie predmetu aprobácie - študijný odbor učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy) a rozširujúce štúdium všeobecnovzdelávacieho predmetu

25. len na vyučovanie predmetu hudobná výchova aj študijný odbor učiteľstvo pre ľudové školy umenia

26. len na vyučovanie predmetov hudobná výchova, výtvarná výchova a dramatická výchova aj príslušné študijné odbory Vysokej školy múzických umení alebo Vysokej školy výtvarných umení a doplňujúce pedagogické štúdium alebo vykonanie skúšky z pedagogiky, zo psychológie a z predmetovej didaktiky

27. len na vyučovanie predmetu etická výchova - študijný odbor učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 9. ročník základnej školy, učiteľstvo pre špeciálne



školy s aprobačným predmetom, učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium etickej výchovy v metodicko-pedagogickom centre skončené do 31. augusta 2010

28. len na vyučovanie predmetu etická výchova - študijný odbor pedagogika, špecializácia etická výchova

29. len na vyučovanie predmetu stretnutie s umením - študijný odbor učiteľstvo všeobecnovzdelávacích predmetov a špecializačné kvalifikačné štúdium predmetu v metodicko-pedagogickom centre skončené do 31. augusta 2010

30. len na vyučovanie aprobačných predmetov (matematika, fyzika, prírodoveda, prírodopis, chémia, práca s počítačom, informatika, technická výchova a pod.) aj vysokoškolské vzdelanie univerzitného, technického, ekonomického, poľnohospodárskeho alebo umeleckého smeru skončené štátnou skúškou z aprobačného predmetu alebo príslušného alebo príbuzného študijného odboru a doplňujúce pedagogické štúdium na fakulte pripravujúcej učiteľov týchto predmetov

31. len na vyučovanie predmetu náboženská výchova (náboženstvo) absolvovanie štúdia na teologickej fakulte alebo vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium na teologickej fakulte, alebo absolvovanie vysokoškolského štúdia v študijnom odbore náboženská výchova v kombinácii s iným predmetom, pričom sa okrem uvedeného požadovaného vzdelania na vyučovanie predmetu náboženstvo alebo náboženská výchova vyžaduje aj poverenie podľa vnútorných predpisov príslušnej registrovanej cirkvi alebo príslušnej náboženskej spoločnosti; pre kňazov a diakonov sa vyžaduje menovací dekrét od príslušnej vrchnosti registrovanej cirkvi alebo náboženskej spoločnosti

32. len na vyučovanie predmetu starostlivosť o zdravie - študijný odbor učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom prírodopis alebo študijný odbor ošetrovateľstvo a doplnenie pedagogickej spôsobilosti

33. len na vyučovanie predmetu informatika a práca s počítačom - študijný odbor učiteľstvo pre 1. - 4. ročník základnej školy alebo učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 9. ročník základnej školy alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium informatiky v metodicko-pedagogickom centre skončené do 31. augusta 2010

34. len na vyučovanie predmetu chémia vysokoškolské vzdelanie druhého stupňa technického smeru (chemickotechnologická fakulta) a doplňujúce pedagogické štúdium

## **Časť VI. Učiteľ druhého stupňa základnej školy v triedach a školách pre žiakov so zdravotným znevýhodnením**

### **Kvalifikačné predpoklady**

#### **A. Vysokoškolské vzdelanie druhého stupňa**

1. v študijnom programe v odbore učiteľstvo akademických predmetov, profesijných predmetov a umelecko-výchovných a výchovných predmetov alebo ich kombinácie uvedených v časti V a v odbore špeciálna pedagogika

2. v študijnom programe v odbore učiteľstvo akademických predmetov, profesijných predmetov a umelecko-výchovných a výchovných predmetov alebo ich kombinácie uvedených v časti V a doplnenie špeciálnopedagogickej spôsobilosti

3. v neučiteľských študijných programoch uvedených v častiach V a VII a doplnenie špeciálnopedagogickej spôsobilosti
4. uvedené v častiach V a VII a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu
5. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy) v kombinácii s aprobačným predmetom
6. len na vyučovanie predmetu komunikačné zručnosti v 5. - 9. ročníku základnej školy pre sluchovo postihnutých aj študijný odbor učiteľstvo pre 1. - 4. ročník špeciálnych škôl a absolvovanie štátnej záverečnej skúšky z pedagogiky sluchovo postihnutých - surdopédie alebo z logopédie - študijný odbor logopédia
7. len na vyučovanie predmetu individuálna tyflopedická starostlivosť v 5. - 9. ročníku základnej školy pre slabozrakých aj študijný odbor učiteľstvo pre 1. - 4. ročník špeciálnych škôl a absolvovanie štátnej záverečnej skúšky z pedagogiky zrakovu postihnutých - tyflopédie
8. len na vyučovanie predmetov komunikačné zručnosti, individuálna logopedická starostlivosť, individuálne logopedické cvičenia a individuálna logopedická intervencia v špeciálnych školách študijný odbor logopédia alebo študijný odbor učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť - pre mládež s chybami reči alebo vykonanie štátnej záverečnej skúšky z logopédie
9. len na vyučovanie v triedach a školách pre žiakov s mentálnym postihnutím študijné odbory učiteľstva všeobecnovzdelávacích predmetov bez ohľadu na aprobačný predmet uvedené v častiach III a V a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu, študijný odbor pedagogika mentálne postihnutých alebo študijný odbor učiteľstvo pre mládež vyžadujúcu osobitnú starostlivosť
10. len na vyučovanie v triedach a školách pre žiakov s mentálnym postihnutím študijný odbor vychovávateľstvo pre mládež (osoby) vyžadujúcu osobitnú starostlivosť alebo študijný odbor vychovávateľstvo všeobecné a špeciálne alebo študijný odbor vychovávateľstvo a doplnenie špeciálnopedagogickej spôsobilosti.

## **Časť VII. Učiteľ akademických (všeobecnovzdelávacích) predmetov strednej školy**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe v odbore učiteľstvo akademických predmetov
2. v študijnom programe v odbore učiteľstvo profesijných predmetov len na vyučovanie predmetov príslušného alebo príbuzného odboru
3. v študijnom programe v odbore učiteľstvo umelecko-výchovných, výchovných predmetov alebo ich kombinácie
4. v neučiteľských študijných programoch len na vyučovanie príslušného alebo príbuzného akademického predmetu, z ktorého bola vykonaná štátna záverečná skúška, a doplnenie pedagogickej spôsobilosti
5. v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov
6. v študijnom odbore učiteľstvo pre školy II. cyklu
7. na vyučovanie všeobecnovzdelávacích predmetov v cudzom jazyku na bilingválnych stredných školách požadované vysokoškolské vzdelanie druhého stupňa príslušného študijného odboru a štátna jazyková skúška na pedagogickej fakulte alebo na filozofickej fakulte, alebo na katedre jazykov príslušnej vysokej školy alebo odborná alebo všeobecná štátna jazyková skúška na

štátnej jazykovej škole alebo na jazykovej škole, ktorá má na to oprávnenie, alebo medzinárodná jazyková skúška v akreditovanej inštitúcii zodpovedajúca jazykovou náročnosťou podľa Spoločného európskeho referenčného rámca všeobecnej alebo odbornej štátnej jazykovej skúšky v Slovenskej republike, alebo doklad o absolvovaní jazykovej a odbornej prípravy zabezpečovanej akreditovanou inštitúciou partnerskej krajiny pre učiteľov bilingválnych stredných škôl na rovnakej jazykovej úrovni

8. vzdelanie ukončené štátnou záverečnou skúškou na vysokej škole pedagogickej alebo štátna záverečná skúška na pedagogickej fakulte alebo na filozofickej fakulte pre učiteľstvo na bývalých školách III. stupňa (stredných)

9. len na vyučovanie všeobecnovzdelávacích predmetov vysokoškolské vzdelanie druhého stupňa (neučiteľské) príslušného alebo príbuzného smeru a doplňujúce pedagogické štúdium

10. len na vyučovanie predmetu ekológia, základy ekológie vysokoškolské vzdelanie druhého stupňa univerzitného smeru - v študijnom odbore biológia, geografia, chémia a biochémia a doplňujúce pedagogické štúdium alebo v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom biológia alebo geografia

11. len na vyučovanie predmetov hospodársky týždeň, výchova k podnikaniu a aplikovaná ekonomika vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a absolvovanie príslušnej formy ďalšieho vzdelávania v metodicko-pedagogickom centre

12. len na vyučovanie predmetu filozofia, občianska náuka, náuka o spoločnosti a základy spoločenských vied vysokoškolské vzdelanie druhého stupňa - v študijnom odbore filozofia a príbuzné študijné odbory a doplňujúce pedagogické štúdium alebo v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom občianska náuka

13. len na vyučovanie predmetov psychológia, sociológia a psychosociálny tréning vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov a špecializačné kvalifikačné štúdium predmetu v metodicko-pedagogickom centre skončené do 31. augusta 2010

14. doplňujúce štúdium učiteľstva všeobecnovzdelávacích predmetov (v zmysle úpravy MŠ SSR č. 607/1979-301 v znení úpravy MŠ SSR č. 16784/1979-301)

15. len na vyučovanie cudzieho jazyka vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre jazykové školy

16. len na vyučovanie cudzieho jazyka absolvovanie jednopredmetového 4-ročného štúdia jazyka na filozofickej fakulte alebo na pedagogickej fakulte

17. len na vyučovanie cudzích jazykov aj

a) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej záverečnej skúšky z príslušného jazyka na pedagogických fakultách a filozofických fakultách, na katedrách jazykov univerzít; vykonanie základnej štátnej jazykovej skúšky je splnením kvalifikačného predpokladu na vyučovanie cudzieho jazyka, ak ju pedagogický zamestnanec vykonal pred 1. septembrom 2005 alebo

b) vysokoškolské vzdelanie druhého stupňa a absolvovanie štátnej jazykovej skúšky na štátnej jazykovej škole alebo jazykovej škole, ktorá má na to oprávnenie; vykonanie základnej štátnej jazykovej skúšky je splnením kvalifikačného predpokladu na vyučovanie cudzieho jazyka, ak ju pedagogický zamestnanec vykonal pred 1. septembrom 2005, alebo

c) vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov a osvedčenie o zložení skúšky z príslušného jazyka pred akreditačnou komisiou v Štátnom pedagogickom ústave v Bratislave alebo metodicko-pedagogickom centre, alebo

d) vysokoškolské vzdelanie druhého stupňa a štúdium cudzieho jazyka formou rozširujúceho štúdia

18. len na vyučovanie cudzích jazykov vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre 1. - 4. ročník základnej školy alebo učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 12. ročník alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov, alebo neučiteľské vysokoškolské vzdelanie a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium cudzích jazykov v metodicko-pedagogickom centre skončené do 31. augusta 2010

19. len na vyučovanie predmetov informatika, programovanie a ďalších informatických predmetov - vysokoškolské vzdelanie druhého stupňa univerzitného, ekonomického, technického smeru príslušného študijného odboru a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie druhého stupňa v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov alebo v študijnom odbore učiteľstvo pre školy II. cyklu alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium informatiky v metodicko-pedagogickom centre skončené do 31. augusta 2010

20. na vyučovanie nepovinného predmetu športové hry a na športovú prípravu v triedach so zameraním na telesnú výchovu vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom telesná výchova a splnenie osobitnej kvalifikačnej požiadavky - I. alebo II. kvalifikačná trieda trénera - cvičiteľa príslušnej športovej špecializácie

21. len na vyučovanie predmetov telesná výchova, telesná a športová výchova a športová príprava vysokoškolské vzdelanie druhého stupňa - v študijnom odbore telesná výchova a šport, smer učiteľský, smer trénerský alebo smer metodický (bez doplňujúceho pedagogického štúdia)

22. na vyučovanie predmetov matematika, fyzika, chémia, biológia a spoločenskovedných odborov v stredných odborných školách poľnohospodárskych a služieb na vidieku a v stredných odborných školách lesníckych aj štátna skúška učiteľskej spôsobilosti (smernica MŠ SSR č. 311134/1964, úprava MŠ SSR 2051/1974-2/3)

23. na vyučovanie predmetu výtvarná výchova aj absolútorium špeciálnej školy na bývalej štátnej umeleckopriemyselnej škole doplnené skúškou spôsobilosti pre učiteľstvo na školách II. cyklu

24. len na vyučovanie predmetu etická výchova vysokoškolské vzdelanie druhého stupňa - v študijnom odbore pedagogika, špecializácia etická výchova

25. len na vyučovanie predmetu etická výchova alebo estetická výchova vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov alebo učiteľstvo odborných predmetov, alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium, alebo učiteľstvo pre špeciálne školy s predmetom pre 5. - 12. ročník a dvojročné špecializačné kvalifikačné štúdium etickej výchovy alebo estetickej výchovy v metodicko-pedagogickom centre skončené do 31. augusta 2010

26. len na vyučovanie predmetu náboženská výchova (náboženstvo) absolvovanie štúdia na teologickej fakulte alebo vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium na teologickej fakulte, alebo absolvovanie vysokoškolského štúdia v študijnom odbore náboženská výchova v kombinácii s iným predmetom, pričom sa okrem uvedeného požadovaného vzdelania na vyučovanie predmetu náboženstvo alebo náboženská výchova vyžaduje aj poverenie podľa vnútorných predpisov príslušnej registrovanej cirkvi alebo príslušnej náboženskej spoločnosti; pre kňazov a diakonov sa vyžaduje menovací dekrét od príslušnej vrchnosti registrovanej cirkvi alebo náboženskej spoločnosti

27. na vyučovanie v 1. - 4. ročníku gymnázií s osemročným študijným cyklom, ktorých učebné osnovy sú porovnateľné so zodpovedajúcimi ročníkmi základnej školy, aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov pre 6. - 9. ročník

28. len na vyučovanie predmetov výtvarná výchova, hudobná výchova a dramatická výchova aj vysokoškolské vzdelanie druhého stupňa - príslušné študijné odbory Vysokej školy výtvarných umení a Vysokej školy múzických umení a absolvovanie skúšky z pedagogiky, zo psychológie a z odborovej didaktiky

29. na vyučovanie predmetu etická výchova alebo obsahu etická výchova v inom predmete na stredných zdravotníckych školách len učiteľstvo odborných zdravotníckych predmetov a 2-ročné špecializačné kvalifikačné štúdium etickej výchovy v metodicko-pedagogickom centre

30. len na vyučovanie predmetov výchova umením a umenie a kultúra vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom estetická výchova, výtvarná výchova, hudobná výchova alebo dramatická výchova, alebo vysokoškolské vzdelanie druhého stupňa uvedené v bodoch 4 a 28

31. len na vyučovanie predmetu technika vysokoškolské vzdelanie druhého stupňa - učiteľstvo všeobecnovzdelávacích predmetov - technická výchova alebo učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom fyzika, alebo vysokoškolské vzdelanie druhého stupňa technického smeru alebo príbuzného študijného odboru a doplnenie pedagogickej spôsobilosti

32. len na vyučovanie predmetu pedagogika - študijný odbor pedagogika bez doplňujúceho pedagogického štúdia

33. len na vyučovanie všeobecnovzdelávacieho predmetu chémia vysokoškolské vzdelanie druhého stupňa technického smeru (chemickotechnologická fakulta) a doplňujúce pedagogické štúdium

## **Časť VIII. Učiteľ profesijných (odborných) predmetov strednej školy**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe v odbore učiteľstvo profesijných predmetov (okrem profesijných zdravotníckych predmetov) len na vyučovanie predmetov príslušného alebo príbuzného odboru

2. v neučiteľských študijných programoch len na vyučovanie predmetov príslušného alebo príbuzného odboru, z ktorého bola vykonaná štátna záverečná skúška, a doplnenie pedagogickej spôsobilosti

3. len na vyučovanie príslušných alebo príbuzných predmetov - študijné odbory učiteľstvo technických predmetov (elektrotechnických, chemickotechnologických, strojárskych, materiálovo-technologických, hutníckych, stavebných), učiteľstvo poľnohospodárskych a lesníckych predmetov, učiteľstvo pôdohospodárskych predmetov, učiteľstvo odborných ekonomických predmetov alebo učiteľstvo odborných umeleckých predmetov

4. vysokoškolské vzdelanie druhého stupňa technického smeru (elektrotechnickej, chemickotechnologickej, hutníckej, materiálovo-technologickej, strojníckej, stavebnej fakulty), poľnohospodárskeho smeru, univerzitného smeru, ekonomického smeru, umeleckého smeru - príslušné študijné odbory a doplňujúce pedagogické štúdium

5. na vyučovanie odborných predmetov v cudzom jazyku v bilingválnych stredných školách požadované vysokoškolské vzdelanie druhého stupňa príslušného študijného odboru, doplňujúce pedagogické štúdium a štátna jazyková skúška na pedagogickej fakulte alebo na filozofickej

fakulte, alebo na katedre jazykov príslušnej vysokej školy alebo odborná alebo všeobecná štátna jazyková skúška na štátnej jazykovej škole alebo jazykovej škole, ktorá má na to oprávnenie, alebo medzinárodná jazyková skúška v akreditovanej inštitúcii zodpovedajúca jazykovou náročnosťou podľa Spoločného európskeho referenčného rámca všeobecnej alebo odbornej štátnej jazykovej skúške v Slovenskej republike, alebo doklad o absolvovaní jazykovej a odbornej prípravy zabezpečovanej akreditovanou inštitúciou partnerskej krajiny pre učiteľov bilingválnych stredných škôl na rovnakej jazykovej úrovni

6. rozširujúce štúdium učiteľstva odborných technických predmetov, odborných predmetov poľnohospodárskych a lesníckych alebo učiteľstva odborných ekonomických predmetov

7. len na vyučovanie predmetov informatika, programovanie, výpočtová technika, ostatných informatických predmetov a základy automatizácie vysokoškolské vzdelanie druhého stupňa univerzitného, ekonomického, poľnohospodárskeho alebo technického smeru príslušného študijného odboru a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie druhého stupňa v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov, študijný odbor učiteľstvo pre školy II. cyklu alebo učiteľstvo pre špeciálne školy s príslušným aprobačným predmetom, alebo vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo odborných ekonomických predmetov alebo učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium informatiky v metodicko-pedagogickom centre skončené do 31. augusta 2010

8. len na vyučovanie príslušných odborných predmetov doplnkové štúdium učiteľstva odborných predmetov (úprava MŠ SSR č. 7/1980-301)

9. učiteľstvo odborných predmetov pre učňovské zariadenia (smernica MŠ SSR č. Š 3248/1969-VŠ o rozširovaní a dopĺňovaní kvalifikácie učiteľov štúdiom popri zamestnaní na pedagogických fakultách v znení úpravy MŠ SSR č. Š 6474/1970-VŠ, smerníc MŠ SSR č. Š 1259/1971, MŠ SSR č. Š 2681/1973, zošit 11 - 12/1969 Zvestí MŠ SSR a MK SSR, zošit 12 - 13/1970 Zvestí MŠ SSR a MK SSR, zošit 21 - 22/1971 Zvestí MŠ SSR a MK SSR, zošit 4/1973 Zvestí MŠ SSR a MK SSR registrovaná v čiastke 38/1970 Zb. a 28/1973 Zb.)

10. na vyučovanie odborných predmetov zootechnických a veterinárnych aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore veterinárne vedy a doplňujúce pedagogické štúdium

11. len na vyučovanie lesníckych predmetov - 6-semestrálne diaľkové štúdium pre pracovníkov štátnych lesov na lesníckej fakulte

12. len na vyučovanie veterinárnych predmetov - študijný odbor veterinárne vedy a doplňujúce pedagogické štúdium alebo študijný odbor zootechnika a doplňujúce pedagogické štúdium

13. len na vyučovanie predmetu veterinárstvo aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore zootechnika a doplňujúce pedagogické štúdium

14. len na vyučovanie odborných farmaceutických predmetov - študijný odbor farmácia, doplňujúce pedagogické štúdium a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

15. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor všeobecné lekárstvo, doplňujúce pedagogické štúdium a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

16. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor ošetrovatelstvo (starostlivosť o chorých) v kombinácii s pedagogikou alebo so psychológiou alebo učiteľstvo odborných predmetov pre stredné zdravotnícke školy a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

17. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor ošetrovatel'stvo, doplňujúce pedagogické štúdium a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

18. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor fyzioterapia alebo ošetrovatel'stvo a rehabilitácia s predchádzajúcim vzdelaním získaným na strednej zdravotníckej škole v študijnom odbore rehabilitačný pracovník alebo rehabilitačný asistent, doplňujúce pedagogické štúdium a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

19. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor laboratórne vyšetrovacie metódy, alebo prírodovedného smeru (analytická chémia, chémia, chémia v kombinácii) na prírodovedeckej fakulte, doplňujúce pedagogické štúdium a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

20. len na vyučovanie odborných zdravotníckych predmetov - študijný odbor pedagogika s predchádzajúcim skončením príslušného študijného odboru na strednej zdravotníckej škole a splnenie osobitnej kvalifikačnej požiadavky - najmenej dvojročná odborná prax

21. len na vyučovanie ekonomických predmetov - vzdelanie na bývalých školách postavených na úroveň súčasnej ekonomickej univerzity; v neučiteľských študijných odboroch aj doplňujúce pedagogické štúdium

22. len na vyučovanie ekonomických predmetov štátna skúška učiteľskej spôsobilosti na vyučovanie hospodárskych predmetov vykonaná na bývalých hospodárskych školách a obchodných akadémiách

23. len na vyučovanie predmetov technika administratívy a hospodárska korešpondencia, stenografia, sekretárske práce učiteľské vysokoškolské vzdelanie druhého stupňa doplnené skúškou učiteľskej spôsobilosti na vyučovanie týchto predmetov na Ekonomickej univerzite alebo v Štátnom stenografickom ústave v Bratislave alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium doplnené skúškou učiteľskej spôsobilosti na vyučovanie týchto predmetov na Ekonomickej univerzite alebo v Štátnom stenografickom ústave v Bratislave

24. len na vyučovanie predmetu tovaroznalectvo aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore vnútorný alebo zahraničný obchod a doplňujúce pedagogické štúdium alebo v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom chémia, alebo vysokoškolské vzdelanie druhého stupňa technického smeru - odbory potravinárskej chémie a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie druhého stupňa príslušných študijných odborov a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie druhého stupňa poľnohospodárskeho smeru - odbory technológia spracovania poľnohospodárskych produktov, biotechnológia, zootechnika a doplňujúce pedagogické štúdium

25. len na vyučovanie predmetu hospodárska geografia aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s príslušným aprobačným predmetom

26. len na vyučovanie predmetu hospodárske výpočty aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom matematika

27. len na vyučovanie predmetov hospodársky týždeň, výchova k podnikaniu a aplikovaná ekonómia - vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a absolvovanie príslušnej formy ďalšieho vzdelávania v metodicko-pedagogickom centre

28. len na vyučovanie predmetu úvod do sveta práce - vysokoškolské vzdelanie druhého stupňa v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov alebo v študijnom odbore učiteľstvo pre školy II. cyklu alebo učiteľstvo pre špeciálne školy s aprobačným predmetom, alebo učiteľstvo odborných predmetov alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a dvojročné špecializačné kvalifikačné štúdium predmetu úvod do sveta práce v metodicko-pedagogickom centre skončené do 31. augusta 2010
29. len na vyučovanie umeleckých predmetov - vysokoškolské vzdelanie druhého stupňa umeleckého smeru - príslušný študijný odbor a absolvovanie skúšky z pedagogiky, zo psychológie a z metodiky hlavného odboru
30. len na vyučovanie teoretických umeleckých predmetov a zborového spevu v hudobnom odbore - študijný odbor učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 12. ročník s aprobačným predmetom hudobná výchova
31. len na vyučovanie teoretických predmetov v tanečnom, hudobnom a vo výtvarnom odbore - vysokoškolské vzdelanie druhého stupňa - študijný odbor vedy a náuky o umení, príslušná špecializácia a doplňujúce pedagogické štúdium
32. len na vyučovanie teoretických predmetov v hudobnom a tanečnom odbore - vysokoškolské vzdelanie druhého stupňa študijného odboru učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 12. ročník - príslušný aprobačný predmet
33. len na vyučovanie príslušných umeleckých predmetov - vysokoškolské vzdelanie druhého stupňa na bývalých školách postavených na úroveň súčasným umeleckým vysokým školám
34. len na vyučovanie predmetov v hudobno-dramatickom odbore - vysokoškolské vzdelanie druhého stupňa - študijný odbor vedy a náuky o umení - príslušná špecializácia a doplňujúce pedagogické štúdium
35. len na vyučovanie predmetov špeciálnej odbornej prípravy v odbore hudba a spev - hudobná teória na strednej pedagogickej škole, absolvovanie jednopredmetového a kombinačného štúdia hudobnej výchovy pre 5. - 12. ročník na fakultách akreditovaných v príslušnom študijnom odbore
36. len na vyučovanie predmetov špeciálnej odbornej prípravy v odbore výtvarná výchova absolvovanie jednopredmetového a kombinačného štúdia výtvarnej výchovy pre 5. - 12. ročník na fakultách akreditovaných v príslušnom študijnom odbore
37. len na vyučovanie predmetov praktikum bábkového divadla a praktikum dramatickej výchovy - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore divadelné a rozhlasové umenie, zameranie bábkarstvo a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre školy I. alebo II. cyklu rozšírený o 2-ročné štúdium bábkarstva na Divadelnej fakulte Akadémie múzických umení
38. len na vyučovanie odborných predmetov výtvarná výchova a aranžovanie - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre školy II. cyklu - zodpovedajúce aprobačné predmety
39. len na vyučovanie predmetov hra na hudobnom nástroji a hudobná výchova na stredných pedagogických školách aj vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo pre ľudové školy umenia
40. len na vyučovanie predmetu aranžovanie vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom výtvarná výchova
41. len na vyučovanie predmetov technológia prípravy pokrmov a prevádzková prax (s výnimkou stredných zdravotníckych škôl) - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore veterinárne lekárstvo - hygiena potravín, alebo vysokoškolské vzdelanie druhého stupňa ekonomického smeru - v študijnom odbore ekonomika služieb a cestovného ruchu, alebo



vysokoškolské vzdelanie druhého stupňa technického smeru - odbory potravinárskej chémie a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom špecifická príprava dievčat, alebo vysokoškolské vzdelanie druhého stupňa poľnohospodárskeho smeru - študijné odbory výživa ľudí, technológia potravín, biotechnológia, technológia spracovania poľnohospodárskych produktov a doplňujúce pedagogické štúdium

42. len na vyučovanie predmetu riadenie motorových vozidiel - vysokoškolské vzdelanie druhého stupňa - príslušné študijné odbory Technickej univerzity (Slovenskej technickej univerzity), Slovenskej poľnohospodárskej univerzity v Nitre (Vysokej školy poľnohospodárskej v Nitre), vodičský preukaz pre príslušnú skupinu motorových vozidiel a učiteľské oprávnenie na toto vyučovanie

43. na vyučovanie predmetu sociálna práca - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore sociálna práca a doplňujúce pedagogické štúdium alebo v študijnom odbore pedagogika špecializácia sociálna pedagogika a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie druhého stupňa - v študijnom odbore psychológia alebo špeciálna pedagogika doplnené špecializačným kvalifikačným štúdiom v metodicko-pedagogickom centre

44. len na vyučovanie predmetu športová príprava - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore telesná výchova a šport - smer učiteľský, smer trénerský alebo smer metodický, alebo vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom telesná výchova a s kvalifikáciou I. alebo II. triedy trénera príslušnej športovej špecializácie, alebo vysokoškolské vzdelanie druhého stupňa iného študijného odboru s kvalifikáciou I. alebo II. triedy trénera príslušnej športovej špecializácie a doplňujúce pedagogické štúdium

45. len na vyučovanie odborných predmetov ručné práce, rodinná výchova a vedenie domácnosti, príprava jedál a stravovanie - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom špecifická príprava dievčat alebo vysokoškolské vzdelanie druhého stupňa - príslušné študijné odbory a doplňujúce pedagogické štúdium

46. len na vyučovanie odborného predmetu zdravotná výchova - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore všeobecné lekárstvo a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie druhého stupňa univerzitného smeru - v študijnom odbore ošetrovateľstvo (starostlivosť o chorých) v kombinácii so všeobecnou pedagogikou, psychológiou alebo somatológiou, alebo v študijnom odbore učiteľstvo odborných predmetov pre stredné zdravotnícke školy

47. len na vyučovanie predmetu spoločenská komunikácia - učiteľské vysokoškolské vzdelanie druhého stupňa a absolvovanie dvojročného špecializačného kvalifikačného štúdia predmetu spoločenská komunikácia v metodicko-pedagogických centrách alebo neučiteľské vysokoškolské vzdelanie druhého stupňa a doplňujúce pedagogické štúdium a absolvovanie dvojročného špecializačného kvalifikačného štúdia predmetu spoločenská komunikácia v metodicko-pedagogickom centre

48. len na vyučovanie odborných predmetov v študijnom odbore vychovávateľstvo - opatrovateľstvo a v študijnom odbore učiteľstvo pre materské školy a vychovávateľstvo absolvovanie študijných odborov vychovávateľstvo všeobecné a špeciálne a vychovávateľstvo so špecializáciou pedagogika emocionálne a sociálne narušených

49. len na vyučovanie predmetov pedagogika a predškolská pedagogika - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore pedagogika alebo predškolská pedagogika

50. len na vyučovanie predmetu špeciálna pedagogika - vysokoškolské vzdelanie druhého stupňa v odbore špeciálna pedagogika
51. len na vyučovanie predmetu odborná prax neučiteľské - vysokoškolské vzdelanie druhého stupňa príslušného (príbuzného) študijného odboru a doplňujúce pedagogické štúdium nadväzujúce na získaný študijný odbor
52. len na vyučovanie predmetov praktického vyučovania - vysokoškolské vzdelanie druhého stupňa príslušného smeru a študijného odboru a doplňujúce pedagogické štúdium
53. len na vyučovanie predmetu cvičná firma - vysokoškolské vzdelanie druhého stupňa ekonomického smeru, doplňujúce pedagogické štúdium a absolvovanie kvalifikačného vzdelávania pre učiteľov predmetu cvičná firma
54. len na vyučovanie bezpečnostných predmetov v policajných stredných odborných školách - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore ochrana osôb a majetku, bezpečnostné služby alebo právo a špecializované policajné vzdelanie 1) alebo vysokoškolské vzdelanie druhého stupňa a špecializované policajné vzdelanie s doplnením pedagogickej spôsobilosti
55. len na vyučovanie predmetu potraviny a výživa - vysokoškolské vzdelanie druhého stupňa v študijných odboroch zameraných na výživu ľudu
56. len na vyučovanie predmetu suroviny - vysokoškolské vzdelanie druhého stupňa v študijných odboroch so zameraním na oblasť, v ktorej stredná odborná škola poskytuje vzdelávanie
57. pedagogický zamestnanec na strednej zdravotníckej škole, ktorý neabsolvoval doplňujúce pedagogické štúdium na získanie pedagogickej spôsobilosti pre vyučovanie odborných predmetov pre stredné zdravotnícke školy na Pedagogickej fakulte v Bratislave, si doplní skúšku z didaktiky odborných zdravotníckych predmetov na Slovenskej zdravotníckej univerzite v Bratislave najneskôr v lehote podľa § 61 ods. 3 zákona
- U učiteľov profesijných predmetov, ktorých týždenný rozsah hodín priamej vyučovacej činnosti je v týchto predmetoch najviac sedem hodín, sa nevyžaduje doplňujúce pedagogické štúdium.

## **Časť IX. Učiteľ strednej školy v triedach a školách pre žiakov so zdravotným znevýhodnením, učiteľ praktickej školy a odborného učilišťa**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. požadované formy vysokoškolského vzdelania pre učiteľov akademických a profesijných predmetov uvedené v častiach VII a VIII a doplnenie špeciálnopedagogickej spôsobilosti
2. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť rozšírený o aprobačný predmet
3. len na vyučovanie v praktickej škole a odbornom učilišti aj študijný odbor učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy)
4. len na vyučovanie v praktickej škole a odbornom učilišti aj študijný odbor učiteľstvo všeobecnovzdelávacích predmetov pre 6. - 9. ročník bývalej základnej deväťročnej školy uvedené v časti V, rozšírený o štúdium špeciálnej pedagogiky
5. len na vyučovanie v praktickej škole aj vychovávateľstvo pre mládež (osoby) vyžadujúcu osobitnú starostlivosť

U učiteľov profesijných predmetov, ktorých týždenný rozsah hodín priamej vyučovacej činnosti je v týchto predmetoch najviac päť hodín, sa nevyžaduje doplňujúce pedagogické štúdium a štúdium špeciálnej pedagogiky.

6. len na vyučovanie v praktickej škole aj vysokoškolské vzdelanie druhého stupňa požadované na vyučovanie v školách a v triedach pre žiakov s mentálnym postihnutím

7. len na vyučovanie predmetu komunikačné zručnosti v strednej škole pre sluchovo postihnutých požadované formy vysokoškolského vzdelania uvedené v bodoch 1 a 2 a vykonanie štátnej záverečnej skúšky z pedagogiky sluchovo postihnutých - surdopédie alebo z logopédie

## **Časť X. Učiteľ základnej umeleckej školy**

### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe v odbore učiteľstvo umelecko-výchovných a výchovných predmetov

2. v neučiteľskom študijnom programe v skupine odborov humanitné vedy a umenie a doplnenie pedagogickej spôsobilosti

3. vzdelanie požadované na vyučovanie všeobecnovzdelávacích predmetov v ročníkoch 5 - 12 uvedené v častiach V a VII príslušného alebo príbuzného študijného odboru

4. príslušného alebo príbuzného študijného odboru požadované na vyučovanie profesijných umeleckých predmetov uvedené v časti VIII písm. A bodoch 28 - 38

5. v študijnom odbore učiteľstvo pre ľudové školy umenia

6. len na vyučovanie predmetov špeciálnej odbornej prípravy v odbore hudba a spev - hudobná teória absolvovanie jednopredmetového a kombinačného štúdia hudobnej výchovy pre 5. - 12. ročník

7. v hudobnom odbore vysokoškolské štúdium hudobnej pedagogiky s ukončeným štúdiom konzervatória s absolútoriom

8. len na vyučovanie predmetov špeciálnej odbornej prípravy v odbore výtvarná výchova - absolvovanie jednopredmetového a kombinačného štúdia výtvarnej výchovy pre 5. - 12. ročník

9. len na vyučovanie predmetov v literárno-dramatickom odbore - vysokoškolské vzdelanie druhého stupňa - v študijnom odbore učiteľstvo všeobecnovzdelávacích predmetov pre 5. - 12. ročník alebo učiteľstvo všeobecnovzdelávacích predmetov pre 6. - 9. ročník (bez ohľadu na aprobáciu) rozšírený o 2-ročné štúdium bábkarstva

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom programe učiteľstvo umelecko-výchovných a výchovných predmetov

2. v neučiteľskom študijnom programe v skupine odborov humanitné vedy a umenie a doplnenie pedagogickej spôsobilosti

3. v študijnom odbore hra na hudobnom nástroji, hudobná náuka a skladba pre 1. a 2. stupeň základných umeleckých škôl

4. v študijnom odbore tanec pre 1. a 2. stupeň základných umeleckých škôl

5. na vyučovanie predmetov literárno-dramatického odboru aj študijný program v odbore tvorivá dramatika

6. na vyučovanie predmetov literárno-dramatického odboru aj absolvovanie študijného odboru učiteľstvo pre 1. - 4. ročník základnej školy rozšíreného o predmetovú špecializáciu tvorivá dramatika

### C. Vyššie odborné vzdelanie

1. v skupine odborov vzdelávania umenie, úžitkové umenie a ručná umeleckoremeselná výroba a doplnenie kvalifikačných predpokladov, ak vyšším odborným vzdelaním nezískal pedagogickú spôsobilosť
2. štúdium konzervatória ukončené absolútoriom v príslušnom alebo príbuznom študijnom odbore
3. záverečná skúška na vyšších hudobných (hudobno-pedagogických) školách, na Odbornej hudobnej škole pre slepých v Prahe, ak je vysvedčenie opatrené doložkou o spôsobilosti vyučovať na ľudových školách umenia (bývalá základná hudobná škola)
4. získané na konzervatóriu alebo nadstavbovým štúdiom na strednej hudobnej škole internátnej s chybami zraku
5. na vyučovanie predmetov výtvarného odboru aj vyššie odborné vzdelanie na stredných výtvarných školách (školách úžitkového výtvarníctva)
6. na vyučovanie predmetov literárno-dramatického odboru aj študijný odbor učiteľstvo pre materské školy alebo vychovávateľstvo absolvovaný na strednej pedagogickej škole, doplnený o 2-ročné štúdium bábkarstva na Divadelnej fakulte Akadémie múzických umení
7. pre tanečný odbor úplné stredné odborné vzdelanie a 5-semesterálny kurz tanečnej pedagogiky
8. na vyučovanie predmetov hudobného odboru aj absolvovanie 5-ročného konzervatória ukončeného maturitnou skúškou do roku 1965 alebo 5-ročnej vyššej hudobnej školy pre vzdelanie učiteľov hudobných škôl ukončenej maturitnou skúškou do roku 1965

Na vyučovanie v základných umeleckých školách v triedach a školách pre žiakov so zdravotným znevýhodnením sa k vzdelaniu uvedenému v písmenách A až C vyžaduje doplnenie špeciálnopedagogickej spôsobilosti.

### Časť XI. Majster odbornej výchovy

#### Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom odbore učiteľstvo profesijných predmetov a praktickej prípravy v príslušnom alebo príbuznom študijnom odbore
2. v neučiteľských študijných programoch príslušného smeru a študijného odboru a doplnenie pedagogickej spôsobilosti

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom odbore učiteľstvo profesijných predmetov a praktickej prípravy a vyučenie v príslušnom alebo príbuznom odbore
2. v neučiteľských študijných programoch príslušného smeru a študijného odboru a doplnenie pedagogickej spôsobilosti a vyučenie v príslušnom alebo príbuznom odbore
3. vyššie odborné vzdelanie príslušného smeru a vysokoškolské štúdium prvého stupňa v študijnom odbore bakalárske štúdium pre majstrov odbornej výchovy a vyučenie v príslušnom alebo príbuznom odbore
4. v študijnom odbore bakalárske štúdium pre majstrov odbornej výchovy a vyučenie v príslušnom alebo príbuznom odbore

#### D. Úplné stredné odborné vzdelanie

1. príslušného alebo príbuzného smeru a doplnenie pedagogickej spôsobilosti a vyučenie v príslušnom alebo príbuznom odbore
2. úplné stredné odborné vzdelanie príslušného alebo príbuzného smeru, vyučenie v príslušnom alebo príbuznom odbore a špecializačné kvalifikačné štúdium v metodicko-pedagogickom centre skončené do 31. augusta 2010; alebo od 1. novembra 2009 kvalifikačné vzdelávanie na doplnenie kvalifikačných predpokladov podľa § 8 ods. 1 písm. a) zákona
3. úplné stredné vzdelanie a vyučenie v príslušnom alebo príbuznom odbore a doplnenie pedagogickej spôsobilosti
4. úplné stredné vzdelanie a vyučenie v príslušnom alebo príbuznom odbore a špecializačné kvalifikačné štúdium absolvované v metodicko-pedagogickom centre do 31. augusta 2010; alebo od 1. novembra 2009 kvalifikačné vzdelávanie na doplnenie kvalifikačných predpokladov podľa § 8 ods. 1 písm. a) zákona

## **Časť XII. Majster odbornej výchovy v školách pre žiakov so zdravotným znevýhodnením**

### Kvalifikačné predpoklady

A. Vysokoškolské vzdelanie druhého stupňa  
uvedené v časti XI písm. A a doplnenie špeciálnopedagogickej spôsobilosti

B. Vysokoškolské vzdelanie prvého stupňa  
uvedené v časti XI písm. B a doplnenie špeciálnopedagogickej spôsobilosti

D. Úplné stredné odborné vzdelanie

1. uvedené v časti XI písm. D a doplnenie špeciálnopedagogickej spôsobilosti
2. úplné stredné vzdelanie a vyučenie v príslušnom alebo príbuznom odbore a špecializačné kvalifikačné štúdium špeciálnej pedagogiky absolvované v metodicko-pedagogickom centre do 31. augusta 2010; alebo od 1. novembra 2009 kvalifikačné vzdelávanie na doplnenie kvalifikačných predpokladov podľa § 8 ods. 1 písm. a) a b) zákona

## **Časť XIII. Vychovávateľ**

### Kvalifikačné predpoklady

A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe zameranom na prípravu vychovávateľov v študijnom odbore pedagogika
2. v študijnom programe v študijnom odbore učiteľstvo akademických predmetov, učiteľstvo profesijných predmetov, učiteľstvo umelecko-výchovných a výchovných predmetov alebo ich kombinácie
3. v študijnom odbore vychovávateľstvo alebo pedagogika - vychovávateľstvo
4. uvedené v častiach III, V, VII a VIII
5. v študijnom odbore psychológia alebo pedagogika (neučiteľské štúdium) bez doplňujúceho pedagogického štúdia a špecializačné kvalifikačné štúdium v metodicko-pedagogických centrách; len v zariadeniach v pôsobnosti Ministerstva práce sociálnych vecí a rodiny Slovenskej republiky aj v študijnom odbore sociálna práca bez doplňujúceho pedagogického štúdia a špecializačné kvalifikačné štúdium v metodicko-pedagogickom centre

6. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť (špeciálne školy)
7. v študijnom odbore vychovávateľstvo pre mládež (osoby) vyžadujúcu osobitnú starostlivosť
8. v študijnom odbore pedagogika, špecializácia pedagogika voľného času (mimoškolská pedagogika)
9. v študijnom odbore vychovávateľstvo so špecializáciou pedagogika emocionálne a sociálne narušených
10. v študijnom odbore liečebná alebo špeciálna pedagogika
11. v študijnom odbore vychovávateľstvo všeobecné a špeciálne
12. v študijnom odbore pedagogika emocionálne a sociálne narušených
13. len v školskom klube detí - aj vysokoškolské vzdelanie v študijnom programe v študijnom odbore predškolská a elementárna pedagogika
14. len v školskom internáte pri stredných školách - aj vysokoškolské vzdelanie neučiteľského smeru a doplnenie pedagogickej spôsobilosti
15. len pre oblasť spoločenských vied v centre voľného času - vysokoškolské vzdelanie univerzitného smeru - spoločenskovedné odbory (neučiteľské) a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie - spoločenskovedné odbory vojenských vysokých škôl a doplňujúce pedagogické štúdium
16. len pre oblasť prírodných vied v centre voľného času - vysokoškolské vzdelanie univerzitného smeru - prírodovedné odbory (neučiteľské) a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie technického smeru zamerané na chémiu, fyziku a iné im príbuzné študijné odbory a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie - študijné odbory poľnohospodársko-lesnícke, veterinárne vedy a náuky a doplňujúce pedagogické štúdium
17. len pre oblasť techniky v centre voľného času - vysokoškolské vzdelanie univerzitného smeru (neučiteľské) absolventov fyzikálno-matematických predmetov prírodovedeckej fakulty a matematicko-fyzikálnej fakulty a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie technického smeru a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie absolventov vojenských technických škôl a doplňujúce pedagogické štúdium
18. len pre oblasť telesnej výchovy, športu a turistiky v centre voľného času - vysokoškolské vzdelanie univerzitného smeru (neučiteľské) - v študijnom odbore vedy o telesnej kultúre bez doplňujúceho pedagogického štúdia alebo vysokoškolské vzdelanie absolventov vojenských vysokých škôl a doplňujúce pedagogické štúdium
19. len pre oblasť umenia v centre voľného času - vysokoškolské vzdelanie univerzitného smeru - študijné odbory publicistika, knihovníctvo, vedecké informácie a vedy o umení a doplňujúce pedagogické štúdium alebo vysokoškolské vzdelanie umeleckého smeru a doplňujúce pedagogické štúdium, alebo vysokoškolské vzdelanie technického smeru - v študijnom odbore architektúra a doplňujúce pedagogické štúdium
20. len pre oblasť kultúry a umenia v centre voľného času - vysokoškolské vzdelanie druhého stupňa v študijnom odbore pedagogika v študijnom programe animátor voľného času

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom programe vychovávateľstvo v študijnom odbore pedagogika
2. v študijnom programe v študijnom odbore učiteľstvo akademických predmetov, učiteľstvo profesijných predmetov, učiteľstvo profesijných predmetov a praktickej prípravy ukončené štátnou záverečnou skúškou z didaktiky odborného predmetu, učiteľstvo umelecko-výchovných a výchovných predmetov a ich kombinácie

3. len v školskom klube detí aj vysokoškolské vzdelanie v študijnom programe v študijnom odbore predškolská a elementárna pedagogika
4. úplné stredné vzdelanie a 3-ročný bakalársky študijný program vychovávateľov detí a mládeže
5. úplné stredné odborné vzdelanie požadovaného študijného odboru a bakalársky študijný program v odbore tvorivá dramatika
6. úplné stredné vzdelanie a 3-ročný bakalársky študijný program - v študijnom odbore pedagogika voľného času
7. len pre oblasť spoločenských vied v centre voľného času úplné stredné vzdelanie požadovaného študijného odboru a bakalársky študijný program v odbore tvorivá dramatika
8. len pre oblasť kultúry a umenia v centre voľného času - vysokoškolské vzdelanie prvého stupňa v študijnom odbore pedagogika v študijnom programe animátor voľného času

#### D. Úplné stredné odborné vzdelanie

1. v odbore vzdelávania učiteľstvo pre materské školy a vychovávateľstvo alebo vychovávateľsko-opatrovateľská činnosť, alebo vychovávateľstvo v kombinácii s iným odborom vzdelávania
2. v študijnom odbore vychovávateľstvo
3. v študijnom odbore pedagogická škola
4. v študijnom odbore učiteľstvo pre materské školy a doplnková maturitná skúška v študijnom odbore vychovávateľstvo
5. v študijnom odbore učiteľstvo pre materské školy a vychovávateľstvo
6. záverečná skúška v študijnom kurze pre vychovávateľov
7. záverečná skúška v študijnom kurze pre vychovávateľky v mimoškolských výchovných zariadeniach
8. záverečná skúška na bývalej vyššej sociálnej a sociálno-právnej škole
9. úplné stredné vzdelanie a špecializačné kvalifikačné štúdium pre vychovávateľov školských zariadení absolvované v metodicko-pedagogickom centre skončené do 31. augusta 2010

10. úplné stredné vzdelanie a doplňujúce pedagogické štúdium
11. absolvovanie bývalej pedagogickej školy pre učiteľov národných škôl do roku 1961
12. úplné stredné vzdelanie a dvojročné pomaturitné kvalifikačné štúdium na strednej pedagogickej škole
13. len pre oblasť umenia v centre voľného času úplné stredné odborné vzdelanie alebo úplné stredné vzdelanie so zameraním na kultúrno-výchovnú prácu a doplňujúce pedagogické štúdium
14. len pre oblasť telesnej výchovy, športu a turistiky v centre voľného času úplné stredné vzdelanie v oblasti telesnej výchovy a doplňujúce pedagogické štúdium
15. len pre oblasť kultúry a umenia v centre voľného času - úplné stredné odborné vzdelanie v študijnom odbore animátor voľného času
16. len v školskom klube detí v študijnom odbore učiteľstvo pre materské školy a najmenej desať rokov pedagogickej činnosti v školskom klube detí

#### **Časť XIV. Vychovávateľ v školách a v školských zariadeniach pre žiakov so zdravotným znevýhodnením**

##### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie druhého stupňa

1. požadované vzdelanie uvedené v časti XIII písm. A a doplnenie špeciálnopedagogickej spôsobilosti v tých študijných programoch, v ktorých nie je súčasťou študijného programu
2. v študijnom odbore liečebná pedagogika
3. v študijnom odbore sociálna práca a doplnenie pedagogickej spôsobilosti v lehote podľa § 61 ods. 3 zákona a špeciálnopedagogickej spôsobilosti v lehote podľa § 61 ods. 4 zákona
4. v študijnom odbore sociálna pedagogika a doplnenie špeciálnopedagogickej spôsobilosti
5. v študijnom odbore učiteľstvo pre školy pre mládež vyžadujúcu osobitnú starostlivosť, špecializácia liečebná pedagogika - terapeutickovýchovný smer
6. v študijnom odbore vychovávateľstvo absolvované podľa predtým platných predpisov rozšírený o štúdium špeciálnej pedagogiky
7. len pre špeciálne školy pre žiakov s narušenou komunikačnou schopnosťou študijný odbor logopédia
8. v študijnom odbore vychovávateľstvo absolvované do roku 1986
9. len v špeciálnych výchovných zariadeniach - študijný odbor psychológia alebo pedagogika (neučiteľské štúdium) rozšírený o štúdium špeciálnej pedagogiky bez doplňujúceho pedagogického štúdia
10. len v špeciálnych výchovných zariadeniach - študijný odbor učiteľstvo pre materské školy uvedené v časti I písm. A rozšírený o štúdium špeciálnej pedagogiky alebo liečebnej pedagogiky
11. len v špeciálnych výchovných zariadeniach - študijný odbor učiteľstvo všeobecnovzdelávacích predmetov s aprobačným predmetom pedagogika, špecializácia sociálna pedagogika alebo predškolská pedagogika rozšírený o štúdium špeciálnej pedagogiky alebo liečebnej pedagogiky
12. len v špeciálnych výchovných zariadeniach - študijný odbor pedagogika, špecializácia sociálna pedagogika alebo predškolská pedagogika, alebo pedagogika voľného času rozšírený o štúdium špeciálnej pedagogiky alebo liečebnej pedagogiky
13. len v špeciálnych výchovných zariadeniach - študijný odbor pedagogika špecializácia sociálna pedagogika alebo predškolská pedagogika v kombinácii s iným predmetom rozšírený o štúdium špeciálnej pedagogiky alebo liečebnej pedagogiky



#### B. Vysokoškolské vzdelanie prvého stupňa

1. požadované vzdelanie uvedené v časti XIII písm. B a doplnenie špeciálnopedagogickej spôsobilosti
2. v študijnom odbore sociálna práca a doplnenie pedagogickej spôsobilosti v lehote podľa § 61 ods. 3 zákona a špeciálnopedagogickej spôsobilosti v lehote podľa § 61 ods. 4 zákona
3. v študijnom odbore sociálna pedagogika a doplnenie špeciálnopedagogickej spôsobilosti
4. úplné stredné odborné vzdelanie požadovaného odboru a bakalársky študijný program v odbore tvorivá dramatika a doplnenie špeciálnopedagogickej spôsobilosti
5. úplné stredné odborné vzdelanie požadovaného odboru a 3-ročný bakalársky študijný program špeciálnej pedagogiky na výchovu detí a mládeže na pedagogickej fakulte

#### D. Úplné stredné odborné vzdelanie

požadované vzdelanie uvedené v časti XIII písm. D a doplnenie špeciálnopedagogickej spôsobilosti

### **Časť XV. Zahraničný lektor**

Kvalifikačné predpoklady splní získaním

A. vysokoškolského vzdelania druhého stupňa alebo

B. vysokoškolského vzdelania prvého stupňa

### **Časť XVI. Tréner športovej triedy a športovej školy**

Kvalifikačné predpoklady

#### A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe zameranom na telesnú výchovu v študijnom odbore učiteľstvo umelecko-výchovných a výchovných predmetov a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví
2. v študijnom programe zameranom na trénerstvo v študijnom odbore šport v príslušnom športovom odvetví
3. v učiteľskom študijnom programe a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví
4. v neučiteľskom študijnom programe a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví

#### B. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom programe zameranom na telesnú výchovu v študijnom odbore učiteľstvo umelecko-výchovných a výchovných predmetov a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví

2. v študijnom programe zameranom na trénerstvo v študijnom odbore šport v príslušnom športovom odvetví
3. v učiteľskom študijnom programe a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví
4. v neučiteľskom študijnom programe a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví

#### C. Vyššie odborné vzdelanie

vyššie odborné vzdelanie a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví

#### D. Úplné stredné odborné vzdelanie

úplné stredné vzdelanie a splnenie osobitnej kvalifikačnej požiadavky - minimálne II. trénerská trieda v príslušnom športovom odvetví alebo získanie minimálne III. kvalifikačného stupňa 2) v kategórii tréner v príslušnom športovom odvetví

### Časť XVII. Pedagogický asistent

#### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie prvého stupňa

1. v študijnom programe v študijnom odbore predškolská a elementárna pedagogika
2. v študijnom programe v študijnom odbore učiteľstvo akademických predmetov, učiteľstvo profesijných predmetov a učiteľstvo umelecko-výchovných a výchovných predmetov
3. v študijnom programe v študijnom odbore pedagogika
4. v študijnom programe špeciálna pedagogika učiteľský, vychovávateľský alebo neučiteľský smer
5. v študijnom programe zameranom na vychovávateľstvo
6. v neučiteľských študijných programoch a doplnenie pedagogickej spôsobilosti

##### D. Úplné stredné odborné vzdelanie

1. v odbore vzdelávania zameraného na učiteľstvo a vychovávateľstvo
2. úplné stredné vzdelanie a doplnenie pedagogickej spôsobilosti
3. úplné stredné vzdelanie a špecializačné kvalifikačné štúdium asistentov učiteľa v metodicko-pedagogickom centre skončené do 31. augusta 2010

### Časť XVIII. Korepetítor

#### Kvalifikačné predpoklady

##### A. Vysokoškolské vzdelanie druhého stupňa

1. vzdelanie uvedené v časti VIII písm. A bodoch 29, 33, 39
2. vzdelanie uvedené v časti X písm. A bodoch 5 a 7

B. Vysokoškolské vzdelanie prvého stupňa  
vzdelanie uvedené v časti X písm. B bode 3

C. Vyššie odborné vzdelanie  
vzdelanie uvedené v časti X písm. C bodoch 2 až 4 a 8

### **Časť XIX. Učiteľ jazykovej školy**

Kvalifikačné predpoklady

A. Vysokoškolské vzdelanie druhého stupňa

1. vzdelanie uvedené v častiach III, V a VII požadované pre učiteľov cudzích jazykov
2. na vyučovanie orientálnych jazykov a menej rozšírených jazykov vzdelanie uvedené v bode 1 bez doplňujúceho pedagogického štúdia

### **Časť XX. Učiteľ pre kontinuálne vzdelávanie pedagogických zamestnancov**

Kvalifikačné predpoklady

A. Vysokoškolské vzdelanie druhého stupňa

1. študijného odboru a aprobačného predmetu v študijnom programe skupiny študijných odborov výchova a vzdelávanie a splnenie osobitnej kvalifikačnej požiadavky - vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti
2. v neučiteľských študijných programoch príslušného smeru a doplnením pedagogickej spôsobilosti a splnenie osobitnej kvalifikačnej požiadavky - vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti alebo odbornej činnosti
3. príslušného predmetu požadované pre príslušný druh školy alebo školského zariadenia uvedené v častiach I až XIV a splnenie osobitnej kvalifikačnej požiadavky - absolvovanie I. kvalifikačnej skúšky alebo získanie jej náhrady, alebo vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti alebo získanie vedecko-pedagogického titulu podľa osobitného predpisu 3)

### **Časť XXI. Učiteľ pre kontinuálne vzdelávanie odborných zamestnancov**

Kvalifikačné predpoklady

A. Vysokoškolské vzdelanie druhého stupňa

1. v študijnom programe skupiny študijných odborov výchova a vzdelávanie a splnenie osobitnej kvalifikačnej požiadavky - vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti alebo odbornej činnosti
2. v neučiteľských študijných programoch príslušného smeru získanie vedecko-pedagogického titulu podľa osobitného predpisu 3) a splnenie osobitnej kvalifikačnej požiadavky - vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti alebo odbornej činnosti
3. príslušného študijného odboru a aprobačného predmetu požadované pre príslušný druh školy alebo školského zariadenia uvedené v častiach I až XIV a splnenie osobitnej kvalifikačnej požiadavky - absolvovanie I. kvalifikačnej skúšky alebo získanie jej náhrady, alebo vykonanie prvej atestácie a najmenej sedem rokov pedagogickej činnosti alebo odbornej činnosti alebo získanie vedecko-pedagogického titulu podľa osobitného predpisu.

Najvyšší počet uznání na výkon regulovaného povolania učiteľ sa eviduje z Českej republiky a Maďarskej republiky. V prípade Českej republiky je možné uvedenú skutočnosť zdôvodňovať absenciou jazykovej bariéry, a blízkymi historicko-spoločenskými vzťahmi.

Pokiaľ ide o Maďarskú republiku, žiadatelia sú vo veľkej miere občanmi SR, ktorí absolvovali vysokoškolské vzdelávanie v MR. V prevažnej miere sú to občania SR, ktorí majú maďarskú národnosť absolvovali primárne a sekundárne vzdelávanie na školách na Slovensku s vyučovacím jazykom maďarským. Absolventi maďarských pedagogických fakúlt sa vracajú na Slovensko so zámerom vyučovať, ako kvalifikovaní učitelia. Nakoľko však vo vzdelávaní učiteľov v Maďarskej republike a Slovenskej republike je zásadný rozdiel, je nutné skonštatovať, že práve na príklade „maďarských učiteliek“ SR aplikovala prvý krát mechanizmus kompenzačných opatrení. Vo všeobecnosti je možné skonštatovať, že kým v MR vzdelávanie učiteľov prebieha ako bakalárske vzdelávanie na tzv. „Föiskolách“, v SR vzdelávanie prebieha na univerzitách, ako druhý stupeň vysokoškolského vzdelania, v rámci tzv. Master vzdelávania. Na základe tejto skutočnosti SR identifikovala v rozsahu a obsahu vzdelávania rozdiel v trvaní minimálne jedného roka, uplatňuje kompenzačný mechanizmus. Absolventom je ponúknutá možnosť absolvovania adaptačného obdobia pod dohľadom kvalifikovaného príslušníka povolania, alebo skúška spôsobilosti na niektorých pedagogických fakúlt v SR. Až do súčasnosti ani jeden žiadateľ si nevybral možnosť skúšky spôsobilosti. Vďaka osvetovej činnosti Strediska na uznávanie dokladov o vzdelaní, táto skupina občanov má informácie k dispozícii, a vedia pracovať s kompenzačnými opatreniami.

### **2.3.2 Uznávanie na výkon povolania stavebného inžiniera v SR**

Činnosť stavebného inžiniera je regulovaná v SR zákonom č. 138/1992 Z. z. o autorizovaných architektoch a autorizovaných stavebných inžinieroch v znení neskorších predpisov. Podrobnosti o uznání zahraničnej kvalifikácie upravuje smernica Slovenskej komory stavebných inžinierov.

Smernica Slovenskej komory stavebných inžinierov pre host'ujúcich a usadených autorizovaných stavebných inžinierov v Slovenskej republike, stanovuje pravidlá podľa ktorých Slovenská komora stavebných inžinierov postupuje pri uznávaní odborných kvalifikácií získaných žiadateľmi v jednom alebo viacerých členských štátoch Európskej únie alebo štátoch, ktoré sú zmluvnými stranami Dohody o Európskom hospodárskom priestore, a Švajčiarskej konfederácie (ďalej len „členský štát“), ktoré sú podmienkou na vykonávanie regulovaného povolania autorizovaný stavebný inžinier a poskytovanie služieb v Slovenskej republike. Smernica je v súlade so zákonom č. 138/1992 Zb. o autorizovaných architektoch a autorizovaných stavebných inžinieroch v znení neskorších predpisov (ďalej len „Zákon“), Smernicou Európskeho parlamentu a Rady 2005/36/ES zo 7. septembra 2005 o uznávaní odborných kvalifikácií ako aj zákonom č. 293/2007 Z. z. o uznávaní odborných kvalifikácií.

Usadený a host'ujúci autorizovaný stavebný inžinier môže vykonávať regulované povolanie alebo poskytovať služby v Slovenskej republike:

- a) „v slobodnom povolaní“ – t. zn. sústavne vo vlastnom mene a na vlastnú zodpovednosť alebo ako
- b) „zamestnanec“ – t. zn. v mene a na zodpovednosť právnickej osoby alebo fyzickej osoby ako jej zamestnanec, spoločník alebo konateľ
- c) autorizovaní stavební inžinieri môžu na vykonávanie povolania vytvoriť obchodnú spoločnosť, ak sú v nej väčšinovými spoločníkmi.

Komora stavených inžinierov je príslušným orgánom, ktorý uznáva odbornú kvalifikáciu získanú v domovskom členskom štáte na výkon regulovaného povolania, ak žiadateľovi dovoľuje poskytovať rovnaké služby, ako sú uvedené v zákone. Pre žiadateľov z členských štátov, ktoré nespĺňa zákonné požiadavky, sa vzťahujú všeobecné predpisy o uznávaní odborných kvalifikácií (podľa zákona č. 293/2007 Z. z.). Príslušným orgánom je Ministerstvo školstva, vedy, výskumu a športu Slovenskej republiky, Stredisko na uznávanie dokladov o vzdelaní, ako prvostupňový orgán pre uznanie vzdelania vydáva rozhodnutie o uznaní vzdelania a Komora ako druhostupňový orgán vydáva konečné rozhodnutie o uznaní odbornej kvalifikácie. Žiadateľ z členského štátu o uznanie na výkon regulovaného povolania alebo poskytovanie služieb v SR si žiadosť o uznanie dokladu o vzdelaní podáva priamo na Stredisku. Po získaní rozhodnutia o uznaní dosiahnutého vzdelania priloží toto rozhodnutie k žiadosti o hosťovanie alebo usadenie sa. Autorizačná komisia SKSI je uznávacím orgánom pri posudzovaní žiadostí o uznanie odborných kvalifikácií.

Pri usadení sa žiadosť o zapísanie do zoznamu autorizovaných stavebných inžinierov podáva na Komoru v štátnom jazyku. Žiadosti sa predkladajú v sídle Úradu Slovenskej komory stavebných inžinierov v Bratislave alebo prostredníctvom obvodného úradu, ktorý plní úlohy jednotného kontaktného miesta. Komora potvrdí prijatie žiadosti do jedného mesiaca odo dňa podania žiadosti a v tejto lehote žiadateľovi oznámi chýbajúce údaje a doklady, ak je žiadosť neúplná. Ak bola žiadosť o zápis do zoznamu podaná na jednotnom kontaktnom mieste, Komora informuje o zapísaní alebo o rozhodnutí o zamietnutí žiadosti. V prípade potreby, napr. doplnenia chýbajúcich údajov alebo príloh k žiadosti, komunikuje Komora priamo so žiadateľom.

Prílohu žiadosti tvoria:

- a) občiansky preukaz alebo pas (kópia),
- b) overený doklad o vzdelaní získaný v domovskom štáte. V prípade potreby musí byť doložený rozhodnutím Ministerstva školstva, vedy, výskumu a športu Slovenskej republiky o uznaní vzdelania,
- c) prehľad prác/projektov počas minimálne 3-ročnej odbornej praxe,
- d) potvrdenie o odbornej praxi,
- e) potvrdenie domovského regulačného orgánu, že pred vstupom do profesie vykonal autorizačnú alebo inak označenú skúšku odbornej spôsobilosti podľa práva domovského štátu;
- f) osvedčenie regulačného orgánu domovského členského štátu o bezúhonnosti,
- g) portfólio (pozostávajúce z 3 projektov počas odbornej praxe),
- h) doklad o uzavretom poistení zodpovednosti za škodu spôsobenú výkonom povolania, ktoré je platné pre územie Slovenskej republiky,
- i) v prípade konania skúšky aj doklad o úhrade za autorizačnú skúšku.

Prílohy sa predkladajú v origináli alebo v overenej kópii, doložené ich úradným prekladom do slovenského jazyka.

Požadované vzdelanie žiadateľ spĺňa, ak má príslušné vysokoškolské vzdelanie druhého stupňa stavebného alebo elektrotechnického alebo strojníckeho zamerania podľa požadovanej kategórie. Komora rozhodne o zapísaní inžiniera do štyroch mesiacov odo dňa,

keď je žiadosť úplná. Ak je potrebné vykonať autorizačnú skúšku alebo uplatniť kompenzačné opatrenie, lehota plynie odo dňa ich úspešného vykonania.

Žiadosť o zapísanie do registra hosťujúcich autorizovaných stavebných inžinierov sa podáva v štátnom jazyku. Žiadosti sa predkladajú v sídle Úradu Slovenskej komory stavebných inžinierov v Bratislave alebo prostredníctvom obvodného úradu, ktorý plní úlohy jednotného kontaktného miesta. Komora potvrdí prijatie žiadosti do jedného mesiaca odo dňa podania žiadosti a v tejto lehote žiadateľovi oznámi chýbajúce údaje a doklady, ak je žiadosť neúplná. Ak bola žiadosť o zapísanie podaná na jednotnom kontaktnom mieste, Komora informuje JKM o zapísaní alebo o rozhodnutí o zamietnutí žiadosti. V prípade potreby, napr. doplnenia chýbajúcich údajov alebo príloh k žiadosti, komunikuje priamo so žiadateľom. Žiadosť o zápis do registra autorizovaného stavebného inžiniera sa podáva na predpísanom tlačive Komory, ktoré obsahuje: osobné údaje o žiadateľovi, meno, priezvisko, tituly, bydlisko (alebo kontaktná adresa), sídlo kancelárie/ateliéru/zamestnávateľa, požadovanú kategóriu, údaje týkajúce sa dosiahnutého vzdelania a odbornej kvalifikácie, predpokladanú dĺžku poskytovania služieb v SR, ostatné údaje tvoria prílohy žiadosti.

Prílohy žiadosti o zápis do registra tvoria:

- občiansky preukaz alebo pas (kópia),
- overený doklad o vzdelaní získaný v domovskom štáte. V prípade potreby musí byť doložený rozhodnutím Ministerstva školstva, vedy, výskumu a športu Slovenskej republiky o uznaní vzdelania,
- prehľad prác/projektov počas minimálne 3-ročnej odbornej praxe,
- potvrdenie domovského regulačného orgánu, že je autorizovaný na základe uznaného vzdelania a odbornej praxe,
- doklad o uzavretom poistení zodpovednosti za škodu spôsobenú výkonom povolania, ktoré je platné pre územie Slovenskej republiky,
- osvedčenie regulačného orgánu domovského členského štátu o bezúhonnosti,
- 

Prílohy sa predkladajú v origináli alebo v overenej kópii, doložené ich úradným prekladom do slovenského jazyka. Požadované vzdelanie žiadateľ spĺňa, ak má príslušné vysokoškolské vzdelanie druhého stupňa stavebného alebo elektrotechnického alebo strojníckeho zamerania podľa požadovanej kategórie.

Pri opakovanom zapísaní do registra, ak sa neprekročí obdobie dvoch rokov, stačí predložiť osvedčenie regulačného orgánu domovského členského štátu o bezúhonnosti alebo výpis z registra trestov SR a potvrdenie, že je poistený s územnou platnosťou pre SR.

Komora zapíše do registra hosťujúcich autorizovaných stavebných inžinierov pri prvom hosťovaní toho, kto preukáže, že:

- je občanom členského štátu,
- je bezúhonný,
- má doklad o vzdelaní - vysokoškolské vzdelanie druhého stupňa stavebného,
- elektrotechnického alebo strojníckeho zamerania podľa požadovanej kategórie
- je oprávnený v domovskom členskom štáte vykonávať regulované povolanie,
- je poistený zo zodpovednosti za škodu spôsobenú výkonom povolania s platnosťou pre územie SR,

Pri predĺžení času hosťovania alebo pri opakovanom hosťovaní, ak od predchádzajúceho hosťovania neuplynuli viac ako dva roky, toho, kto preukáže, že je bezúhonný a je poistený zo zodpovednosti za škodu spôsobenú výkonom povolania s platnosťou pre územie SR.

Komora zapíše žiadateľa do registra do jedného mesiaca odo dňa, keď je žiadosť o zapísanie do registra úplná. Ak sa pred zapísaním do registra Komora dozvie o uchádzačovi o zapísanie do registra informáciu, ktorá by mohla byť prekážkou pre zapísanie, upovedomí o tom regulačný orgán domovského členského štátu a zároveň požiada o prešetrenie správnosti alebo pravdivosti informácie.

Registrácia hosťujúceho autorizovaného hosťujúceho inžiniera podlieha manipulačnému poplatku vo výške 120 eur za jednu žiadosť. Žiadateľ môže požiadať o hosťovanie na viacero projektov, pre každý projekt sa podáva samostatná žiadosť. O zapísaní do registra autorizovaných stavebných inžinierov Komora vydá hosťujúcemu inžinierovi registračné osvedčenie. Registračné osvedčenie sa vydáva na: konkrétny projekt s uvedením predpokladanej doby trvania projektu, resp. obdobia poskytovania služieb. Registračné osvedčenie stráca platnosť dňom vyčiarknutia z registra alebo vypršaním lehoty uvedenej na osvedčení. Hosťujúci autorizovaný stavebný inžinier používa svoju pečiatku vydanú v domovskom členskom štáte spolu s vydaným registračným osvedčením.

### **2.3.3 Uznávanie na výkon povolania sociálneho pracovníka**

Výkon činnosti sociálnej práce v Slovenskej republike podlieha osobitnému režimu. Existujú 3 kategórie sociálnych pracovníkov:

- a) sociálny pracovník – v kategórii zdravotnícky pracovník;
- b) sociálny pracovník – ako pedagogický zamestnanec;
- c) sociálny pracovník – neregulované povolanie;

#### **Sociálny pracovník, ako zdravotnícky pracovník**

Sociálny pracovník je fyzická osoba, ktorá získala vysokoškolské vzdelanie v študijnom odbore sociálna práca v prvom stupni, druhom stupni alebo má uznaný doklad o takomto vysokoškolskom vzdelaní vydaný zahraničnou vysokou školou.

Sociálny pracovník tejto kategórie však síce vykonáva činnosť aj v zdravotníckych zariadeniach, toto povolanie však nie je regulované zákonom č. 578/2004 Z. z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov, tak ako v prípade kategórie – iných zdravotníckych pracovníkov (napr. fyzioterapeut, liečebný pedagóg a i.). Výkon činnosti sociálneho pracovníka v zdravotníctve je regulované zákonom č. 448/2008 Z. z. o sociálnych službách, ktorá je legislatívna norma pre poskytovanie sociálnych služieb (napr. sociálne poradenstvo, opatrovanie, umiestnenie v zariadeniach sociálnych služieb, a i.).

Plnenie kvalifikačných predpokladov potrebných na vykonávanie pracovných činností v oblasti sociálnych služieb sa posudzuje podľa zákona č. 553/2003 Z. z. o odmeňovaní niektorých zamestnancov pri výkone práce vo verejnom záujme a o zmene a doplnení niektorých zákonov.

Základné sociálne poradenstvo a pomoc pri uplatňovaní práv a právom chránených záujmov vykonáva fyzická osoba, ktorá má

- a) vyššie odborné vzdelanie získané absolvovaním vzdelávacieho programu akreditovaného v študijných odboroch zameraných na sociálnu prácu, sociálnu pedagogiku, špeciálnu pedagogiku, liečebnú pedagogiku, andragogiku, sociálnu a humanitárnu prácu, sociálno-právnu činnosť a charitatívno-misijnú činnosť,
- b) vysokoškolské vzdelanie získané štúdiom v bakalárskom študijnom programe alebo magisterskom študijnom programe zameranom na sociálnu prácu, sociálnu pedagogiku, špeciálnu pedagogiku, liečebnú pedagogiku, psychológiu, alebo uznaný doklad o takom vysokoškolskom vzdelaní vydaný zahraničnou vysokou školou,
- c) akreditovaný vzdelávací kurz v oblastiach uvedených v písmenách a) a b) v rozsahu najmenej 150 hodín a prax pri výkone povolania v oblasti sociálnej práce v trvaní najmenej troch rokov, ak má skončené vysokoškolské vzdelanie druhého stupňa, ktoré nie je uvedené v písmene b).

Špecializované sociálne poradenstvo vykonáva fyzická osoba, ktorá má trojročnú prax s cieľovou skupinou a má

- a) vysokoškolské vzdelanie získané štúdiom v bakalárskom študijnom programe alebo magisterskom študijnom programe zameranom na sociálnu prácu alebo
- b) vysokoškolské vzdelanie získané v bakalárskom študijnom programe alebo magisterskom študijnom programe zameranom na činnosť, ktorá sa poskytuje v rámci špecializovaného sociálneho poradenstva.

### **Sociálny pracovník, ako pedagogický zamestnanec**

Na pedagogického zamestnanca a odborného zamestnanca v zariadení sociálnych služieb sa vzťahuje osobitný predpis, a to Vyhláška Ministerstva školstva SR č. 437/2009 o Z. z. ktorou sa ustanovujú kvalifikačné predpoklady a osobitné kvalifikačné požiadavky pre jednotlivé kategórie pedagogických zamestnancov a odborných zamestnancov. Na základe dokladu o absolvovaní vysokoškolského vzdelania druhého stupňa v odbore sociálna práca je možné vykonávať tieto regulované povolania:

- a) sociálny pedagóg ako odborný zamestnanec škôl a školských zariadení a odborný zamestnanec zariadení v pôsobnosti Ministerstva práce, sociálnych vecí a rodiny Slovenskej republiky (okrem centier pedagogicko-psychologického poradenstva a prevencie a centier špeciálno-pedagogického poradenstva) podľa prílohy č. 2 prvého dielu vyhlášky;
- b) sociálny pedagóg ako odborný zamestnanec centier pedagogicko-psychologického poradenstva a prevencie, odborný zamestnanec centier špeciálno-pedagogického poradenstva a odborný zamestnanec zariadení v pôsobnosti Ministerstva práce, sociálnych vecí a rodiny Slovenskej republiky.



Iné povolania sociálnej práce vykonávané v inštitúciách, ako sú napr. úrady verejnej správy, občianske združenia, nadácie, väznice, domovy dôchodcov, azylové domy, krízové centrá, patria medzi **neregulované povolania** v Slovenskej republike

Príslušný orgán na uznanie dokladov o vzdelaní v odbore sociálna práca má nasledovné skúsenosti:

Eviduje vysoký počet žiadostí z ČR na výkon povolania sociálneho pracovníka. Žiadatelia však nemajú v pláne vykonávať činnosť sociálneho pracovníka, väčšinou ide o zdokladovanie vysokoškolského vzdelania druhého stupňa pre iné účely (napr. zapísanie akademického titulu do občianskeho preukazu a i.). V oblasti kvalifikovaných príslušníkov povolania sociálnej práce SR neeviduje žiadne nedostatky, ba až eviduje absolútne nasýtený pracovný trh.

Ďalej eviduje vysoký počet príslušníkov povolania z Maďarskej republiky, povaha činností a oblasť pôsobenia však výrazne líši od činností vymenovaných vyššie, ktoré sa vyžadujú od kvalifikovaného príslušníka povolania. V MR je vzdelávanie v oblasti sociálnej práce zamerané primárne na pedagogickú oblasť, kým v SR skôr na zdravotnícku stranu povolania. Pri uznávaní preto dôjde v niektorých prípadoch k hĺbkovej analýze obsahu vzdelávania. Vzhľadom však na vysoký počet žiadateľov tejto skupiny príslušný orgán v SR má zabehnutý systém uznávania príslušníkov tohto povolania, a pripravené kompenzačné opatrenia.

Osobitnú kapitolu tvoria žiadatelia o potvrdenie spôsobilosti, ktorí majú v pláne migrovať do iného členského štátu za účelom vykonávať činnosť sociálneho pracovníka. Vysoký počet žiadateľov o potvrdenie spôsobilosti evidujeme pre účely uznávacích orgánov v Írsku, Veľkej Británii, Nemecku, Rakúsku a Švajčiarsku.

Je možné skonštatovať, že skupina sociálnych pracovníkov, ktorí majú v pláne migrovať do niektorého členského štátu patrí medzi najväčšie, vedľa iných zdravotníckych pracovníkov.

#### **2.3.4 Uznávanie na výkon činností uvedených v Prílohe IV smernice**

Výkon činností uvedených v Prílohe IV smernice 2005/36/ES o uznávaní odborných kvalifikácií je upravený v zákone č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov (ďalej len „živnostenský zákon“).

Živnostenský zákon v znení neskorších predpisov je základným verejno-právnym predpisom určujúcim podmienky odbornej a inej spôsobilosti pre fyzické a právnické osoby, ktoré majú záujem podnikáť na území Slovenskej republiky na základe živnostenského oprávnenia. Kľúčovou úlohou zákona je tým ochrániť život, zdravie, bezpečnosť, majetok a iné štátom chránené záujmy občanov pred možnými dôsledkami podnikateľskej činnosti.

Za tým účelom živnostenský zákon vyčleňuje celkom 119 regulovaných živností, ktoré zároveň - podľa miery ohrozenia štátom chránených záujmov - člení do 2 kategórií.

V systematike živnostenského zákona je kategorizácia regulovaných živností vykonaná v jeho prílohách č. 1 až 2 formou úplného výpočtu ohlasovacích remeselných a viazaných živností (príloha č. 1 a 2).

Živnostenský zákon je prierezovým právnym predpisom, ktorý osobitne neurčuje obsah regulovaných živností. Mechanizmus fungovania živnostenského zákona vychádza z toho, že

obsah regulovaných živností v zásade určujú osobitné odvetvové predpisy, ktoré systémovo reglementujú výkon dotknutej činnosti. Za súčasného právneho stavu sa táto zásada vzťahuje na viazané. S ohľadom na charakter remeselných živností táto zásada neplatí pre remeselné živnosti, s poukazom na to, že obsah ich činnosti a tým aj rozsah živnostenského oprávnenia nie je predmetom osobitnej systémovej úpravy odvetvového ani všeobecného právneho predpisu.

V záujme skvalitnenia právnej istoty záujemcov o podnikanie i samotných podnikateľov sa Ministerstvo vnútra SR v postavení ústredného orgánu štátnej správy vo veciach živnostenského podnikania podujalo sprehľadniť a zjednotiť podmienky podnikania pri výkone súčasných 34 remeselných živností na celom území Slovenskej republiky a tým aj eliminovať možnosť administratívnych prietáhov v rozhodovacom procese živnostenských úradov.

### **Cezhraničné poskytovanie služieb v oblasti živností**

Na území SR je možné poskytovať služby aj bez nutnosti usadiť sa alebo zriadiť si prevádzku. Ide o dočasné poskytovanie služieb cezhraničným spôsobom na základe vydaného platného oprávnenia na poskytovanie rovnakých služieb v štáte usadenia sa.

Cezhraničné poskytovanie služieb na území SR bolo výrazne liberalizované a zjednodušené vďaka smernici Európskeho parlamentu a Rady 2006/123/ES o službách na vnútornom trhu. V zásade tak platí, že každý poskytovateľ služieb právoplatne usadený v jednom z uvedených členských štátov môže poskytovať svoje služby cezhraničným spôsobom na území SR bez toho, aby musel spĺňať vnútroštátne požiadavky, ktoré ukladá SR usadeným poskytovateľom služieb. Avšak, určité obmedzenia, ktoré vyplývajú z národnej legislatívy, konkrétne z transpozičných zákonov č. 136/2010 Z. z. o službách na vnútornom trhu a č. 293/2007 Z. z. o uznávaní odborných kvalifikácií, aj napriek tomu v tejto oblasti existujú. V praxi ide hlavne o oznamovaciu povinnosť cezhraničného poskytovateľa služieb a o povinnosť predložiť zákonom stanovené doklady príslušnému autorizovanému orgánu v Slovenskej republike (ďalej len „oznamovacia povinnosť“).

#### *1. Vecná a miestna príslušnosť autorizovaných orgánov pre splnenie oznamovacej povinnosti:*

a) Vecne príslušným orgánom pre splnenie oznamovacej povinnosti a predloženie zákonom stanovených dokladov o cezhraničnom (dočasnom) poskytovaní služieb na území SR je obvodný (živnostenský) úrad v postavení jednotného kontaktného miesta (JKM), ktorý tieto údaje a doklady poskytne Ministerstvu vnútra SR (odboru živnostenského podnikania) v postavení ústredného orgánu štátnej správy vo veciach živnostenského podnikania.

b) Miestne príslušným autorizovaným orgánom na splnenie oznamovacej povinnosti a predloženie zákonom stanovených dokladov o cezhraničnom (dočasnom) poskytovaní služieb na území SR je obvodný (živnostenský) úrad v postavení JKM, v ktorého územnej pôsobnosti bude daná služba poskytnutá prvý krát. Ak je to pre poskytovateľa služieb výhodnejšie, môže túto povinnosť splniť aj na Ministerstve vnútra SR, odbore živnostenského podnikania.

#### *2. Časový limit na splnenie oznamovacej povinnosti:*

Časový limit na splnenie oznamovacej povinnosti je najneskôr v deň, ktorý predchádza skutočnému poskytovaniu oznamovanej služby po prvý krát.

#### *3. Potvrdenie, ktoré vydáva autorizovaný orgán o splnení oznamovacej povinnosti:*

Cezhraničnému poskytovateľovi služby, ktorý si splnil povinnosť a predložil zákonom stanovené doklady o cezhraničnom poskytovaní služby na území SR miestne príslušnému živnostenskému (obvodnému) úradu, prípadne odboru živnostenského podnikania MV SR, tento potvrdí ich prijatie neformálnym spôsobom. V praxi môže ísť o potvrdenie prijatia niektorých skutočností na druhopise sprievodného listu, prípadne aj vydaním samostatného potvrdenia o prijatí označených údajov a priložených dokladov bez úhrady správneho poplatku.

#### *4. Frekvencia oznamovacej povinnosti:*

Oznamovacia povinnosť sa vzťahuje na cezhraničného poskytovateľa služieb s ohľadom na obsah poskytovanej služby a bez ohľadu na frekvenciu jej poskytovania.

Pokiaľ ide o frekvenciu poskytovanej služby, ak cezhraničný poskytovateľ splní oznamovaciu povinnosť pred prvým poskytnutím služby môže túto službu poskytovať (dovoleným spôsobom) viackrát aj na viacerých miestach v SR. V tomto prípade však možno odporúčať, aby cezhraničný poskytovateľ oznámil poskytovanie (rovnakej) služby na inom mieste v SR živnostenskému úradu v postavení JKM (a to buď tomu, ktorému oznámil prvé poskytovanie služby alebo tomu, v ktorého územnej pôsobnosti poskytuje rovnakú službu),

Pokiaľ ide o obsah poskytovanej služby, oznamovaciu povinnosť je potrebné diferencovať podľa druhu a charakteru činnosti (živnosti). Oznamovacia povinnosť sa viaže na konkrétnych druh činnosti, to znamená, že napr. ohlásením remeselnej živnosti JKM cezhraničný poskytovateľ nespĺnil ohlasovaciu povinnosť pre iný druh činnosti, napr. pre viazanú živnosť.

Oznamovacia povinnosť je povinná iba pre poskytovanie služieb, ktoré sú podmienkach živnostenského podnikania v SR kvalifikované ako regulované (remeselné alebo viazané) živnosti.

#### *5. Platnosť oznámenia o cezhraničnom (dočasnom) poskytovaní služieb*

Oznámenie o cezhraničnom (dočasnom) poskytovaní služieb má v prípade (dovoleného) poskytovania (rovnakej) služby neobmedzenú platnosť. Dovolenú frekvenciu poskytovania rovnakej služby je možné odvodiť z podmienok na dovolené cezhraničné poskytovanie služieb ustanovených v zákone o službách na vnútornom trhu, zákone o uznávaní odborných kvalifikácií, smernici o službách na vnútornom trhu a na základe príslušných rozhodnutí Súdneho dvora Európskych spoločenstiev (napr. v prípade Schnitzer, Corsten, a podobne).

#### *6. Splnenie oznamovacej povinnosti na ľubovoľnom JKM s pôsobnosťou pre celú SR*

Oznamovaciu povinnosť na poskytovanie rovnakej služby s pôsobnosťou pre celú SR je možné splniť si aj na jednom mieste na ľubovoľnom JKM s uvedením miesta výkonu služby, doby trvania, frekvencie, pravidelnosti alebo nepretržitosti poskytovania služby.

#### *7. Doklady, ktoré je potrebné predložiť pred prvým poskytnutím služby na JKM*

Doklad o oprávnení poskytovať služby vydaný autorizovaným orgánom členského štátu – v prípade právnickej osoby ide zvyčajne o výpis z príslušného registra a v prípade fyzickej osoby ide zvyčajne o rozhodnutie o udelení oprávnenia na poskytovanie služby. Doklady musia byť preložené do štátneho (slovenského) jazyka, ale nemusia byť úradne osvedčené (doklady uvedené v českom jazyku nemusia byť preložené);

Úradne osvedčenú kópiu dokladu o odbornej kvalifikácii zodpovednej (odborne spôsobilej) osoby vo vzťahu ku konkrétnej regulovanej (remeselnej alebo viazanej) živnosti, v prípade fyzickej osoby ide o túto osobu alebo ňou ustanovenú zodpovednú osobu, v prípade právnickej osoby ide o ňou ustanovenú zodpovednú osobu;

Doklad o tom, že poskytovanie služieb nie je cezhraničnému poskytovateľovi zakázané alebo obmedzené - forma dokladu nie je stanovená, avšak z povahy a obsahu dokladu musí jasne vyplývať, že na meno dotknutej osoby nebol vydaný žiadny zákaz ani obmedzenie výkonu služby súdom alebo správnym orgánom. V praxi pôjde o doklad, vydaný autorizovaným orgánom členského štátu, ak je úradné a dobrovoľné pozastavenie podnikateľskej činnosti predmetom zápisu v príslušnom registri, ako napr. v živnostenskom registri SR, postačí aj výpis z takéhoto registra,

Osvedčenú kópiu dokladu o vykonaní 2 ročnej odbornej praxe počas posledných 10-tich rokov. Tento doklad predkladá cezhraničný poskytovateľ len vtedy, ak má záujem poskytovať službu, ktorá je na území SR regulovaná, ale ktorá má v členskom štáte pôvodu dotknutej osoby charakter neregulovanej podnikateľskej činnosti,

Kópiu dokladu totožnosti (občianskeho preukazu) fyzickej osoby alebo ňou ustanovenej zodpovednej osoby, u právnickej osoby doklad totožnosti ňou ustanovenej zodpovednej osoby.

### **2.3.5 Výkon povolania turistického sprievodcu**

V podmienkach Slovenskej republiky má činnosť sprievodcu cestovného ruchu charakter ohlasovacej viazanej živnosti. V právnom rámci zákona č.455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov sa od každej fyzickej (i právnickej) osoby, ktorá má záujem alebo vykonáva sprievodcovskú činnosť podnikateľským spôsobom na území SR, vyžaduje nadobudnutie živnostenského oprávnenia. Dokladom o jeho nadobudnutí je vydaný živnostenský list. Podmienkou k jeho vydaniu je preukázanie osobitnej odbornej spôsobilosti žiadateľa. Žiadateľ môže preukázať odbornú spôsobilosť aj prostredníctvom zodpovedného zástupcu. Podmienkou získania podnikateľského oprávnenia je Osvedčenie o získanom vzdelaní, ktoré môže vydať iba Ministerstvom školstva, vedy, výskumu a športu SR akreditované vzdelávacie zariadenie.

Sprievodca v cestovnom ruchu je fyzická osoba, ktorá sprevádza objednávateľov a podáva v dohodnutom jazyku výklad o kultúrnom a prírodnom dedičstve a má odbornú spôsobilosť, na ktorú má osvedčenie o získanom vzdelaní

Činnosť sprievodcu cestovného ruchu môže vykonávať na území SR aj zahraničná fyzická (i právnická) osoba. V právnom rámci Obchodného zákonníka (§ 21 a nasl.) ako aj živnostenského zákona (§ 5 ods.3) zahraničná osoba môže vykonávať živnosť za rovnakých podmienok ako slovenská osoba. V tomto význame sa na zahraničnú osobu vzťahujú rovnaké podmienky prevádzkovania živnosti (vykonávania podnikateľskej činnosti) na území SR ako aj na slovenskú osobu. V oboch prípadoch podmienkou vykonávania sprievodcovskej činnosti je živnostenské oprávnenie, nadobudnuté na základe predchádzajúceho získania Osvedčenia o získanom vzdelaní. Zahraničná fyzická osoba z členského štátu EÚ sa nezapisuje do obchodného registra. Oprávnenie na podnikanie v postavení podniku alebo organizačnej zložky zriadenej na území SR nadobúda na základe podania žiadosti o vydanie

živnostenského listu. Žiadosť sa podáva miestne príslušnému živnostenskému (obvodnému) úradu.

V právnom rámci zmluvy o založení ES môže zahraničná osoba poskytovať niektoré služby (vrátane sprievodcovských služieb) dočasným spôsobom na území iného členského štátu EÚ resp. EHP aj bez povinnosti etablovania sa v hostiteľskom členskom štáte, t.j. bez povinnosti nadobudnúť osobitné podnikateľské (živnostenské) oprávnenie od autorizovaného orgánu hostiteľského štátu. Na využitie tejto možnosti stačí zahraničnej osobe postavenie podnikateľa (držiteľa príslušného podnikateľského oprávnenia) podľa právneho poriadku domicilu (alebo sídla) poskytovateľa dočasnej služby. Na vymedzenie dočasnosti nie je stanovená žiadna lehota. Na základe dotknutých rozhodnutí Európskeho súdneho dvora sa na túto možnosť nevzťahujú prípady, ak zahraničná osoba poskytuje služby na území iného členského štátu pravidelne.

## **2.5 Spoločné ustanovenia**

### **2.5.1 Administratívny postup pri uznávaní odbornej kvalifikácie**

Konanie o uznaní odbornej kvalifikácie sa začína dňom podania písomnej žiadosti spolu s prílohami. Písomná žiadosť obsahuje meno a priezvisko žiadateľa, adresu trvalého pobytu alebo obdobného pobytu, názov regulovaného povolania, na účely ktorého žiadateľ žiada o uznanie odbornej kvalifikácie, podpis žiadateľa.

Prílohou k žiadosti sú najmä

- a) kópia dokladu totožnosti,
- b) notárom osvedčené kópie dokladov o vzdelaní
- c) výpis o absolvovaných predmetoch a vykonaných skúškach, ak sa vyžadujú,
- d) osvedčenie o charaktere a dĺžke praxe vydané príslušným orgánom štátu pôvodu, ak sa vyžaduje,
- e) pri dokladoch o vzdelaní získaných v tretích štátoch overenie pravosti podpisov a odtlačku pečiatky školy na origináloch dokladov o vzdelaní orgánom štátu pôvodu príslušným na jeho overenie, ak medzinárodná zmluva neustanovuje inak,
- f) doklad o zaplatení správneho poplatku
- g) iné doklady.

Žiadateľ je povinný predložiť osvedčený preklad dokladov do štátneho jazyka Slovenskej republiky. Príslušný orgán posúdi žiadosť do 30 dní. Ak žiadosť nemá predpísané náležitosti, príslušný orgán konanie preruší a vyzve žiadateľa na doplnenie chýbajúcich dokladov alebo odstránenie nedostatkov žiadosti v lehote do 30 dní od doručenia výzvy.

Pri rozhodovaní o uznaní odbornej kvalifikácie sa príslušný orgán Slovenskej republiky riadi verejným záujmom a záujmami fyzických osôb a právnických osôb, ktoré by mohli byť porušené výkonom regulovaného povolania osobami s nedostatočnou odbornou kvalifikáciou a ktoré sú chránené osobitnými predpismi upravujúcimi podmienky výkonu

regulovaného povolania. Týmto chránenými záujmami sú najmä ochrana bezpečnosti štátu, verejného poriadku a verejného zdravia.

### **Vydávanie rozhodnutí**

Ak osobitný predpis neustanovuje inak príslušný orgán na rozhodovanie o uznaní dokladu o vzdelaní, je príslušným orgánom ministerstvo školstva. Ministerstvo školstva vydá žiadateľovi rozhodnutie o uznaní dokladu o vzdelaní v lehote do dvoch mesiacov od prijatia kompletnej žiadosti podľa zákona o uznávaní odborných kvalifikácií.

Rozhodnutie o uznaní odbornej kvalifikácie vydáva žiadateľovi

- a) ministerstvo školstva ako príslušný orgán pre pedagogických zamestnancov v lehote do troch mesiacov od prijatia kompletnej žiadosti,
- b) príslušný orgán podľa osobitného predpisu v lehote do troch mesiacov od prijatia kompletnej žiadosti, vrátane lehoty do dvoch mesiacov, v ktorej rozhoduje ministerstvo školstva alebo príslušný orgán podľa osobitného predpisu.

Príslušný orgán vydá rozhodnutie o uznaní alebo zamietnutí. Súčasťou rozhodnutia je informácia o platných právnych predpisoch Slovenskej republiky, ktoré upravujú verejné zdravotné poistenie, sociálne poistenie, zdravotnú starostlivosť vrátane etiky výkonu príslušného regulovaného povolania. V rozhodnutí o zamietnutí uznania príslušný orgán informuje žiadateľa aj o možných kompenzačných mechanizmoch, a to najmä o požadovanej dĺžke adaptačného obdobia vrátane dĺžky ďalšieho vzdelávania, ktoré je jeho súčasťou, a odborných oblastiach, ktoré budú zahrnuté do skúšky spôsobilosti.

Na rozhodovanie o uznaní dokladu o vzdelaní a na rozhodovanie o uznaní odborných kvalifikácií ministerstvom školstva alebo príslušnými orgánmi sa vzťahuje všeobecný predpis o správnom konaní, ak zákon o uznávaní odborných kvalifikácií alebo osobitný zákon neustanovuje inak.

### **2.5.2 Používanie profesijných a akademických titulov**

Žiadateľ, ktorý splnil podmienky na vykonávanie regulovaného povolania v Slovenskej republike, používa profesijný titul alebo označenie povolania podľa osobitného predpisu ak existuje takýto právny predpis a ktoré zodpovedá tomuto povolaniu v Slovenskej republike. V súčasnosti existuje takáto právna úprava iba v prípade vybraných zdravotníckych povolaniach a niektorých iných povolaniach, nie je to všeobecne rozšírený jav.

Žiadateľ, ktorý splnil podmienky na vykonávanie regulovaného povolania v Slovenskej republike, má právo používať svoj akademický titul a jeho skratku, ktorý mu bol priznaný podľa vnútroštátnych právnych predpisov členského štátu pôvodu alebo domovského členského štátu, a to v jazyku tohto štátu. V prípade ak titul je zavádzajúci alebo iným spôsobom spochybnený príslušný orgán môže požadovať, aby žiadateľ za svojím akademickým titulom uvádzal názov a miesto inštitúcie alebo skúšobnej komisie, ktorá tento akademický titul priznala.

Ak je v Slovenskej republike povolanie regulované komorou alebo inou organizáciou, žiadateľ používa profesijný titul alebo označenie povolania priznávané touto komorou alebo inou organizáciou iba na základe registrácie alebo členstva. Ak komora alebo iná organizácia podmieňuje členstvo splnením kvalifikačných predpokladov určených zákonom, môže ich požadovať od žiadateľa, ktorý je držiteľom dokladov o vzdelaní.

### 3.5.3 Znalosť štátneho jazyka

Žiadateľ je povinný ovládať štátny jazyk v rozsahu potrebnom na výkon predmetného regulovaného povolania. Ovládanie štátneho jazyka môže byť overené trojčlennou komisiou v odôvodnených prípadoch, ktorú vymenúva príslušný orgán. Predseda komisie je absolventom študijného odboru alebo študijného programu so zameraním na slovenský jazyk na vysokej škole. Ďalší dvaja členovia komisie sú odborníci z predmetného regulovaného povolania.

Ovládanie štátneho jazyka žiadateľom sa overuje

- a) rozhovorom, v ktorom sa kladú žiadateľovi otázky týkajúce sa jeho osoby a jemu blízkych osôb, otázky všeobecného charakteru a otázky týkajúce sa výkonu jeho regulovaného povolania,
- b) hlasným prečítaním náhodne vybraného článku z tlače alebo z odborného časopisu v štátnom jazyku obsahujúceho aspoň 1 000 slov, ktorý sa žiadateľovi odovzdá bezprostredne predtým, než ho prečíta,
- c) rozhovorom o obsahu prečítaného článku
- d) vyznačením správnych odpovedí v teste, ktorý obsahuje najmenej 25 a najviac 50 otázok týkajúcich sa základnej slovnej zásoby štátneho jazyka a slovnej zásoby štátneho jazyka potrebnej na výkon jeho regulovaného povolania v časovom limite najmenej 80 minút a najviac 120 minút.

Na rozhodovanie komisie je potrebná účasť všetkých členov komisie. Uznesenie komisie je prijaté, ak za jeho prijatie hlasujú najmenej dvaja členovia komisie. O priebehu a výsledku overovania ovládania štátneho jazyka žiadateľom sa vyhotovuje zápisnica v deň overovania ovládania štátneho jazyka. Zápisnicu podpisujú všetci členovia komisie. Zápisnica obsahuje

- a) meno, priezvisko, rodné priezvisko, rodné číslo, dátum a miesto narodenia žiadateľa a adresu jeho pobytu,
- b) meno, priezvisko a funkciu každého člena komisie,
- c) hodnotenie každého člena komisie, či žiadateľ preukázal alebo nepreukázal ovládanie štátneho jazyka a odôvodnenie tohto hodnotenia na základe výsledkov žiadateľa
- d) prijaté uznesenie komisie na základe hodnotenia,
- e) miesto, dátum a podpisy členov komisie.

K zápisnici sa pripojí článok z tlače alebo z odborného časopisu a test podľa odseku 3 písm. d).

Na základe uznesenia komisie vydá príslušný orgán žiadateľovi rozhodnutie o ovládaní štátneho jazyka na výkon predmetného regulovaného povolania.

Ovládanie štátneho jazyka sa overuje podľa odsekov 2 až 6, ak osobitný zákon neustanovuje inak.

### 3.5.4 Administratívna spolupráca

Príslušné orgány poskytujú, požadujú alebo prijímajú informácie v spolupráci s príslušnými orgánmi členských štátov na účely poskytnutia, zistenia a overovania skutočností rozhodných na vydanie rozhodnutí alebo v záujme koordinácie spoločného postupu členských štátov v oblasti uznávania odborných kvalifikácií.

Predmetom administratívnej spolupráce sú najmä informácie:

- a) o spoločnom postupe príslušných orgánov členských štátov v oblasti uznávania odborných kvalifikácií,
- b) či poskytovateľ služieb splnil všetky podmienky ustanovené právnymi predpismi členského štátu pôvodu na výkon povolania,
- c) slúžiace na overenie pravosti dokladu o odbornej kvalifikácii a dokladov,
- d) či sú vzdelanie a odborná príprava regulovaným vzdelávaním,
- e) či je predmetná činnosť v členskom štáte pôvodu regulovanou odbornou činnosťou,
- f) či bol žiadateľ právoplatne odsúdený za úmyselný trestný čin, trestný čin spáchaný z nedbanlivosti alebo mu bolo uložené disciplinárne opatrenie v súvislosti s výkonom povolania a
- g) o ďalších skutočnostiach rozhodných na vydanie rozhodnutia.

V prípade odôvodnených pochybností, ak doklad o vzdelaní vydal príslušný orgán členského štátu a jeho súčasťou je odborná príprava celá alebo čiastočne absolvovaná v zariadení zriadenom na území členského štátu podľa právnych predpisov tohto členského štátu, príslušný orgán v Slovenskej republike preverí u príslušného orgánu daného členského štátu, v ktorom sa doklad vydal, či

- a) bol kurz odbornej prípravy absolvovaný v zariadení, ktoré poskytlo odbornú prípravu, uznanom príslušným orgánom zariadením v členskom štáte pôvodu,
- b) doklad o vzdelaní zodpovedá dokladu, ktorý by sa vydal, ak by sa tento kurz v celom rozsahu absolvoval v členskom štáte pôvodu,
- c) tento doklad o odbornej kvalifikácii dáva na území iného členského štátu tie isté profesijné práva ako v štáte, v ktorom sa doklad vydal.

Príslušný orgán môže od príslušného orgánu iného členského štátu požadovať informácie, ak vyčerpal vlastné prostriedky informácií, ktoré mohol v danom prípade využiť. Ak príslušný orgán iného členského štátu neposkytne požadovanú informáciu včas, aby bolo možné vydať rozhodnutie v lehote, príslušný orgán rozhodne na základe dostupných podkladov a informácií.



**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**25. FINLAND**

**Experience report from national coordinators  
with regard to other regulated professions**




Date  
September 7, 2010

European Commission  
Internal Market and Services DG  
Knowledge-based Economy

MARKT-D4@ec.europa.eu

FINLAND



Reference: MARKT/D4/CS (2010) 208362  
Subject: EVALUATING THE PROFESSIONAL QUALIFICATIONS  
DIRECTIVE

**Experience report for professions under the general system in Finland:**

National Supervisory Authority for Welfare and Health (Valvira) is the competent authority for healthcare professionals (including physiotherapists). Finnish National Board of Education is the competent authority for various professionals, including teachers and social workers. Engineers, tourist guides and sport professions are not regulated professions in Finland.

*A. Recognition procedure in case of migration on a permanent basis*

Neither Valvira nor The Finnish National Board of Education accepts applications sent by email or request made on line. The application has to be signed by the applicant.

Valvira has had only few cases considering the recognition procedure for the citizens with professional qualifications obtained in a third country and already recognized in a first member state. Professional qualifications have then been examined under general system.

The Finnish National Board of Education has some experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognized in a first Member State: e.g. the professional qualifications obtained in former Soviet Union by Estonian nationals recognized by the Estonian authorities. Those qualifications are recognized applying the Article 3(3).

The education levels referred to in article 11 of the Directive is used on case by case basis in Valvira. When the profession is not regulated in the Member State, the education is compared to the Finnish education. The Finnish National Board of Education makes use of the education levels referred to in Article 11 to a great extent. The levels are very useful and they are also included in the Finnish legislation.

The Finnish National Board of Education has encountered applications from a person who has obtained his qualification in a Member State where a profession is not regulated and who has not two years of working experience. In these cases, the duration and content of the applicant's training and the content of professional activities will be taken into account when reaching the decision. If there is a substantial difference, a conditional decision may be issued to the applicant, imposing completion of a compensation measure (an adaptation period or an aptitude test). Generally, there are no obstacles to recognise such qualifications in Finland.

Neither Valvira nor The Finnish National Board of Education has encountered any applications regarding partial access.

#### *B. Recognition of professional experience based on Annex IV*

There aren't any regulated professions concerning Annex IV in Finland.

#### *C. Temporary Mobility*

Valvira has not received any prior declarations and thus it is difficult to evaluate the interest for exercising the professional activities on a temporary basis.

The "legal establishment" criteria have been interpreted as professional registration in home Member State.

Valvira considers the prior declaration system very important for the supervision of the health care professionals.

#### *D. Administrative co-operation*

The administrative cooperation and the exchange of information between the competent authorities is an important part of the application procedure. However, the experience of the Finnish National Board of Education is that responses of the contacts points are sometimes slow. Furthermore, it is sometimes difficult to find out who actually is the


competent authority. The regulated professions database for contact points should be updated regularly. In addition to the regulated professions contact points the Finnish National Board of Education collaborates closely with the ENIC-NARIC network.

Both Valvira and Finnish National Board of Education are registered with IMI and use it when possible and needed. IMI is a useful system that has improved responses and access to information especially when there are no other contacts or information available. However, it would be useful if IMI covered more professions in the future.

*E. Other observations*

The migrants' adequate language skills are checked by employer after the recognition of the professional qualifications. According to the national Act on Health Care Professionals (559/1994) section 18a, the healthcare professionals have to have the necessary language skills in order to cope with the required tasks within their profession. The responsibility of the evaluation of the sufficient language skills belongs to the employer. Checking the language skills of the migrants and the recognition of their professional qualifications are therefore two separate processes.

Valvira would like to point out a practical problem in application of Directive: There is no regulation for situations where an applicant fails to complete the compensation measures. It should be clarified in the regulation that competent authority should make a declining decision if an applicant fails the aptitude test more than once or if he/she does not qualify for the adaption period.

  
Maiju Puominen  
Coordinator for 2005/36/EC



**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**26. SWEDEN**

**Experience report from national coordinators  
with regard to other regulated professions**





Utbildningsdepartementet

Universitets- och högskoleenheten

Europeiska kommissionen  
Generaldirektoratet för inre marknaden  
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SWEDEN

**Utvärdering av direktiv 2005/36 EG om erkännande av yrkeskvalifikationer**  
MARKT/D4/CS (2010)208362

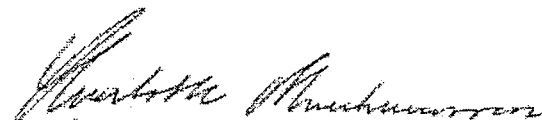
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Med hänvisning till artikel 60.2 i Europaparlamentets och Rådets direktiv 2005/36/EG av den 7 september 2005 om erkännande av yrkeskvalifikationer översänds härmed Sveriges rapport vad gäller genomförandet av nämnda direktiv i Sverige.

Rapporten består dels av en redogörelse för de av kommissionen utvalda yrkena inom den generella ordningen, dels av ett par kompletterande synpunkter vad gäller direktivets tillämpning i fråga om den högre utbildningen.

Utbildningsdepartementet, som är nationell samordnare i Sverige, har tagit Högskoleverket och Socialstyrelsen till hjälp för att besvara frågorna gällande de utvalda yrkena inom den generella ordningen. Socialstyrelsens svar som avser sjukgymnaster finns i *bilaga 1*, Högskoleverkets svar som avser lärare finns i *bilaga 2* och Högskoleverkets svar som avser övriga ovannämnda yrken finns i *bilaga 3*.

I tjänsten



Charlotte Abrahamsson  
Expeditions- och rättschef

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SWEDEN

**Ministry of Education and Research**

*Division for Higher Education*

European Commission

Directorate-General for Internal Market and  
Services

MARKT-D4@ec.europa.eu

**Evaluation of Directive 2005/36/EC on the recognition of professional  
qualifications**

MARKT/D4/CS (2010)208362

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With reference to Article 60(2) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, please find enclosed Sweden's report on the implementation of the Directive in Sweden.

The report consists of both an account concerning the professions selected by the Commission covered by the general system and a couple of further comments relating to the implementation of the Directive in respect of higher education.

The Ministry of Education and Research, which is the national coordinator in Sweden, has turned to the Swedish National Agency for Higher Education [*Högskoleverket*] and the National Board of Health and Welfare [*Socialstyrelsen*] to reply to the questions concerning the selected professions in the general system. The reply from the National Board of Health and Welfare concerning physiotherapists is in Annex 1 and the replies from the National Agency for Higher Education concerning teachers and the other professions are in Annex 2 and Annex 3 respectively.

Yours sincerely,

/signed/

Charlotte Abrahamsson

Director-General for Administrative and Legal Affairs



Avdelningen för regler och tillstånd  
Behörighet  
Helena Scarabin  
Tel: 075-247 40 55

Datum  
2010-09-07

Utbildningsdepartementet  
103 33 Stockholm

## **Questionnaire in respect of physiotherapists - Experience report from Socialstyrelsen**

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1. We accept applications sent by email, but most applicants send in an application form by post. We demand that certified copies of diplomas and other official documents are sent in by post.

2. We have experienced difficulties getting documentation from competent authorities stating that the applicant has three years professional experience in the profession concerned on the territory of the Member State which recognised the evidence of formal qualifications. It would be useful to receive information from the competent authority that the three year requirement is not fulfilled, e.g. when the competent authority knows that the person has worked elsewhere/has not been in the country. If the three year requirement is not fulfilled the applicant can pass a practical and theoretical aptitude test.

When we have had doubts we have requested documentation regarding the formal qualifications issued by a third country.

We have also experienced difficulties in certifying professional experience in Sweden since the applicants sometimes do not provide us with the relevant documentation.

A clarification of the term "professional experience" would be useful. We would also welcome further provisions to enable authorities to satisfy themselves that the professional experience certified by the Member State of origin has been completed satisfactorily.

3. The education levels referred to in article 11 are useful. It makes it easier to assess qualifications when the competent authorities refer to the education levels.

We use the information in the Regulated profession data base regarding the education levels, but have found that the information is not always accurate.

2010-09-07

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4. We have encountered situations where the applicant has not been able to show two years of working experience. The applicant can then, as professionals with third country qualifications, pass a practical and theoretical aptitude test. To be able to pass the test knowledge in the Swedish language is required.

5. We have not received such request.

6-7. Inte relevant för sjukgymnaster.

8. No one has yet used this system. We believe that they instead apply for permanent recognition. There might also be persons exercising their professional activities on a temporary and occasional basis in Sweden that are unaware of the procedure or for other reasons refrain from informing Socialstyrelsen.

9. We do not have any practise since no one has used the provisions. In the regulation incorporating the provisions it is stated that the applicant has to meet all the conditions for practising that profession in the host Member State and is not prohibited from practising that profession.

10. To ensure patient safety it is important for the supervisory authority to know when health care professionals are exercising professional activities.

11. We have no knowledge of this situation.

12. Active administrative cooperation simplifies the procedure considerably. The process is quicker and simpler for the applicant as well as for the competent authority:

13. Yes Socialstyrelsen is registered with IMI. We use it when we need clarification concerning an application. It is a useful tool to communicate with other competent authorities. However not all professions are included in the IMI system and some competent authorities are not in the system. Registration with IMI should be mandatory and more widely used.

We would also welcome the introduction of an alert mechanism in the IMI system. The system could also be used to proactively share information about suspension/prohibition to pursuit the profession.

14. In order for a European Card for health professionals to work effectively the competent authorities must be sure that the information on the card is reliable and up to date. We believe that public registers, e.g. web-based searchable list of authorisation/registrations and/or exchange of information via IMI would be better tools.

2010-09-07

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15. It is the employer that checks the necessary language skills. We have gotten complaints from employers and patients regarding insufficient language skills.

In order to ensure patient safety we believe that it should be possible, when appropriate, to require minimum language skills as part of the recognition procedure regarding health care personnel.





PM

Utbildningsdepartementet



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September 16, 2010  
Reg. No 45-3105-10

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## **Evaluating the Professional Qualifications Directive, Experience report on the teaching profession**

As the Competent Authority for the Teaching Profession in Sweden, the Swedish National Agency for Higher Education hereby shares our experience on the questions relevant to the recognition of teachers under the general system of the Directive.

### **A. Recognition procedure in case of migration on a permanent basis**

1. The Agency does not have a system for applying for recognition on line. When an applicant sends her/his request for recognition via email, we reply that he/she has to send in the application and documents via ordinary mail. The reason for this is that we demand certified copies of the applicants' documents and a signed application form. In order to obtain certified copies, the applicant will have to show the original documents and copies to an official (e.g. the Swedish Employment Service office, personnel department at the school), who through his/her signature will endorse that the copies are true.

We do not receive many requests via email and in our experience there are few complaints about having to supply the application and documents in paper, since this is explained on our website.

2. The policy of our Agency is to recognise teachers regardless of citizenship. We thereby apply the same criteria to applicants with a teacher qualification from a third country that we do for EU citizens with a teacher qualification obtained within EU. The only difference is that non EU citizens with a teacher qualification from outside EU do not get the

possibility to choose an aptitude test as compensation measure.

In the case of Article 3(3) we do not make any difference between these applicants and other EU-citizens with a qualification from within EU. We receive very few applications of this sort.

3. The education levels of Article 11 are included in the regulation of the Swedish National Agency for Higher Education regarding recognition of teacher qualifications from outside of Sweden. Hence we make use of them.

However, to our experience the format of the education levels, along with Annex II, are quite complicated to apply in the recognition process. We are not entirely sure of how useful they are, especially since a major difference in the educational level is allowed where a four year university educational programme is to be treated equally to a one year educational programme at post-secondary level. This raises the general issue whether educational programmes with such a vast disparity regarding educational levels, which according to the Directive are to be recognised, indeed can prepare the student for a comparable level of responsibilities and functions.

*An example is that since the "Staatlich anerkannte/r Erzieher/in" from Germany is included in Annex II, we recognise this German qualification of a three year secondary/post-secondary educational programme as a "Förskollärare" (Pre-school teacher), although the education required in Sweden for a "Förskollärare" is a three and a half year teacher educational programme at a higher education institution (university or university college). This is an issue since a person with the Swedish three year secondary-level "Child and Recreation Programme" is not eligible to be appointed as a "Förskollärare". In conclusion, we find it a delicate task to judge whether educational programmes can prepare for a comparable level of responsibilities and functions or not, when there is such a substantial difference in the educational levels.*

We would welcome a simplification of the recognition process. We also question why Annex II does not include educational programmes from all countries.

4. We do not often encounter the situation of a professional from a Member State where the profession is not regulated and where the person does not have two years of working experience. In such cases, we make sure that the person is qualified to work as a teacher in the county where he/she was educated. Provided he/she meets this criterion, we will evaluate and assess the content of the education and compare with our teacher education programme, resulting in recognition as a qualified teacher directly or after compensation measures.

In accordance with the Directive, in case of the person holding a qualification from a regulated education and training, we do not require any work experience, and the applicant is treated as if it was a regulated profession in the Member State. However, we have difficulties in identifying what is a regulated education and training and would need tools in order to determine this.

5. Our experience on partial access to the teaching profession is that in cases when it is favourable for the applicant, we are able to grant him/her partial access to the teaching profession in Sweden. This applies e.g. for applicants who has the right to teach only one subject in upper secondary school in another EU country, and therefore may be granted the right to teach this subject in Swedish upper secondary school, although the Swedish corresponding qualification requires two teaching subjects.

### **C. Temporary mobility (of a self-employed or an employed worker)**

Since access to the teaching profession on a temporary basis is not regulated in Sweden, we are not involved as a Competent Authority and therefore do not have any statistical data on the number of EU citizens working as teachers on a temporary basis.

### **D. Administrative Cooperation**

12. Administrative cooperation (as outlined in Article 8, 50 and 56 of the Directive) is of uttermost importance and it greatly simplifies procedures for the migrant professionals to have access to the regulated profession. It is still difficult to receive information from a few countries, but IMI and the role

of the designated coordinators has considerably improved the situation regarding upper secondary school teachers. We look forward to having all categories of teachers, and not just upper secondary school teachers, included in IMI.

We would also welcome a continuously updated central register with contact details of the competent authority for the teaching profession in each Member State. In Member States with a federal/regional structure a list of the competent authority in each federated or regional State should be included.

13. Yes, we are registered with IMI. We use IMI when we have questions regarding a particular applicant's teacher education programme. Mostly the questions concern what rights the applicant has to pursue the teaching profession, and in which subjects and grades, in the home Member State. We benefit greatly from the efficient way of obtaining answers through IMI, but regret that it is limited to the category of upper secondary school teacher. We would like to see IMI being extended to include all categories of teachers.

14. We do not see any major benefit of a professional card (as defined in Recital 32). As a Competent Authority, a professional card would need to be issued by the competent authority in the home Member State in order to form the basis for recognition. If the function of such a card should have any value after it has been issued, there would rather need to be a website where up to date information would be registered regarding the individual teacher's present status.

#### **E. Other observations**

15. The necessary language skills are checked in connection with the application process and it is not possible to obtain the qualified teacher status certificate until the applicant has the adequate skills in the Swedish language.

There are various means by which the applicant can show that he/she has these skills, e.g. to present a certificate from a course of Swedish as a second language from the adult education at upper-secondary level or the equivalent. If the applicant already is proficient in Swedish, he/she can take TISUS, a language test given by universities in Sweden proving Swedish language proficiency for university studies. Otherwise he/she can improve the Swedish language skills through courses in higher education or in adult education. It is also possible to take an "individual test" within the adult education to show proficiency in Swedish without completing the upper-secondary school course.

However, in the new Education Act, there is provision for teachers to obtain a permanent teaching position in some bilingual schools without fulfilling the above mentioned Swedish language requirements.

The complaints or comments received regarding the level of language skills has mostly been from the organisers of the adaptation period and the aptitude test. They are concerned about the applicants having the language skills that are needed in order to exercise their profession as teachers. To have passed the upper-secondary school course in Swedish language does not necessarily show whether the applicant has the skills needed for the teaching profession.

16. We have the following observations related both to administrative cooperation as well as recognition procedure in case of migration on a permanent basis.

*The Swedish Competent Authority for the Teaching Profession, receives complaints from citizens with Swedish formal teaching qualifications that a few countries, e.g. Greece and Italy, still have procedures for recognition and access to the teaching profession that are far from simple, and rather have regulations and systems that almost makes it impossible to gain access to the teaching profession in the host country. This may be the case despite the fact that we have*

*provided all necessary information to the Competent Authority in the host Member State, and also stated in a separate certificate, that a person who satisfies the conditions of training required to access the profession in the home Member State thereby has evidence of formal qualifications covered by the Directive.*

*Also, we receive reports where recognition has been granted, but there are still hindrances at a formal level to obtain access to the teaching profession. These reports are from Swedish teachers having been recognised e.g. in Germany and Greece, but still not having access to the profession in practice since there is no overall grade point average given in the Swedish teacher education programme (until recently). Without a grade point average, you may be excluded from the competition for teaching positions in these countries. We see this as a formal hindrance to exercise the profession.*

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## Evaluating the Professional Qualifications Directive - Experience report

The professions of engineers, professional activities falling under annex IV, tourist guides, sport professions and social workers are not regulated in Sweden. Although not regulated, we have attempted to give some reflections of our experience.

### B. Recognition of professional experience based on Annex IV

The professions that fall under the categories in Annex IV are not regulated in Sweden. Therefore, this office does not have any statistical data on recognition within these professions in Sweden. However, in our contacts with the Swedish SOLVIT we have got information that though recognition is given within the professions in the construction industry, it is not uncommon with a lower pay. In order to get the same salary level a professional test, which is only given in the Swedish language, has to be taken.

In Sweden there is an authority, the Stockholm Chamber of Commerce, that issues certificates on professional experience in accordance with Articles 17-19 for professionals applying for recognition of professional experience outside of Sweden. To our knowledge this mechanism is working smoothly.

### C. Temporary mobility (of a self-employed or an employed worker)

So far the Contact Point in Sweden has received very few requests for information or assistance in connection with professional activities on a temporary and occasional basis.

### D. Administrative cooperation

12. Since these professions are not regulated in Sweden, the Swedish Contact Point has to act in the capacity as the "Competent Authority" by issuing certificates and giving information about whether there is a regulated education and training for the particular profession. For example, as a Contact Point we issue certificates stating that there is a regulated education and training for engineers and social workers in Sweden. The experience is that this kind of certificates has had positive effect in the recognition process.

13. As a Contact Point we are registered in the IMI. However, we do not at the moment use this account since no questions have been directed to us. Maybe the reason for this is that it is not clearly stated in the IMI that as a Contact Point we could provide information on the professions that are not regulated in Sweden. It may be that the information flow could be simplified between a Competent Authority in the MS where the profession is regulated and the Contact Point ("Competent Authority") in the MS where it is not regulated by using the IMI.

E. Other observations

15. Since these professions are not regulated in Sweden, it is the employer that will assess if the migrant has the necessary language skills when recruiting.

Anna-Karin Malla

Natalia Österman

Swedish National Contact Point for Information on Recognition of Professional  
Qualifications (Directive 2005/36/EC)





REGERINGSKANSLIET

Promemoria

2010-09-17

U2010/5469/UH

Utbildningsdepartementet

Universitets- och högskoleenheten

Europeiska kommissionen  
Generaldirektoratet för inre marknaden  
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**Utvärdering av direktiv 2005/36/EG om erkännande av yrkeskvalifikationer  
MARKT/D4/CS (2010) 208362**

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3 bilagor

**1. Bakgrund**

Enligt artikel 60.2 i Europaparlamentets och rådets direktiv 2005/36/EG av den 7 september 2005 om erkännande av yrkeskvalifikationer ska kommissionen efter den 20 oktober 2007 vart femte år utarbeta en rapport om genomförandet av direktivet. Som en grund för denna rapport har kommissionen under 2010 påbörjat insamlingen av information om direktivets genomförande och tillämpning. Varje medlemsstat har inbjudits att svara på ett antal frågor om tillämpningen av direktivet.

**2. Det svenska svarets olika delar**

Nationella samordnare

De nationella samordnarna för direktivet har inbjudits att rapportera hur direktivet fungerar i praktiken i varje land. Kommissionen har bitt samordnarna svara på ett antal frågor gällande vissa utvalda yrken inom den generella ordningen (lärare, ingenjör, socialarbetare, turistguide, yrken inom sportområdet och sjukgymnast). Utbildningsdepartementet som är nationell samordnare i Sverige har tagit Högskoleverket och Socialstyrelsen till hjälp för att besvara frågorna. Socialstyrelsens svar som avser sjukgymnaster finns i *bilaga 1*. Högskoleverkets svar som avser lärare finns i *bilaga 2* och Högskoleverkets svar som avser övriga ovan nämnda yrken finns i *bilaga 3*.

I avsnitt 3 nedan lämnar Utbildningsdepartementet några kompletterande synpunkter vad gäller yrkeskvalifikationsdirektivet i förhållande till högre utbildning.

#### Behöriga myndigheter

Kommissionen har även vänt sig till varje medlemsstats behöriga myndigheter för de sju sektorsyrkena med specifika frågor om genomförande och tillämpning. Dessa myndigheter skickar sina rapporter direkt till kommissionen. Socialstyrelsen svarar för redovisningen av läkare, sjuksköterskor, apotekare, tandläkare och barnmorskor. Jordbruksverket svarar för redovisningen av veterinärer och Högskoleverket för redovisningen av arkitekter.

#### Nationella kontaktpunkter

Kommissionen har också vänt sig till de nationella kontaktpunkterna med frågor som rör deras arbete och erfarenheter av tillämpningen av direktivet. Högskoleverket har i egenskap av nationell kontaktpunkt skickat sin rapport till kommissionen.

### 3. Yrkeskvalifikationsdirektivet i förhållande till högre utbildning

#### EU och högre utbildning

I avdelning XII, artikel 165 i fördraget om Europeiska unionens funktionssätt anges bl.a. att unionen fullt ut ska respektera medlemsstaternas ansvar för undervisningens innehåll och utbildningssystemens organisation. Det är i denna anda som det europeiska samarbetet inom högre utbildning bedrivs. Vi anser att de detaljregleringar som yrkeskvalifikationsdirektivet innebär för vissa utbildningar stämmer dåligt överens med synen på unionens roll inom utbildningsområdet och i synnerhet med den utveckling som just nu pågår inom högre utbildning i Europa i stort.

#### Fokus på inlärningsresultat

Den europeiska referensramen för kvalifikationer (EQF för livslångt lärande) erbjuder ett gemensamt språk för att beskriva examina avlagda inom medlemsstaternas olika utbildningssystem. EQF har inlärningsresultaten som grund och beskriver den studerandes kunskaper, färdigheter och kompetens oberoende av vilket system examen har avlagts i eller var kompetensen förvärvats. Fokuseringen på inlärningsresultaten (*learning outcomes*) ska göra att kompetensen som utbildningen ger blir tydlig och detta ska leda till att det blir enklare att erkänna, överföra och använda examina och kompetens i olika utbildningssystem. Det synsättet saknar vi i genomförandet av yrkeskvalifikationsdirektivet som är fokuserat på "input" snarare än "output".

Fokuseringen på "input" är särskilt tydligt vad gäller hanteringen av arkitektyrket inom ramen för yrkeskvalifikationsdirektivet. Vi anser att

processen för godkännande av arkitektutbildningar inom ramen för direktivet är alldeles för komplicerad, detaljerad och kostsam. Det är inte rimligt att tjänstemän från medlemsstaterna detaljstuderar utbildningarnas innehåll och upplägg. Det är dessutom orimligt att enskilda lärosäten och deras utbildningar granskas på ett så ingående sätt som i dag. Vi vill därför föreslå att arkitektyrket utgår som ett s.k. sektorsyrke och att principen om ömsesidigt erkännande i stället ska tillämpas vad gäller arkitektyrket.

#### Modernisering av Europas universitet

År 2007 antog Rådet en resolution om att modernisera Europas universitet för att öka Europas konkurrenskraft i en global kunskapsekonomi (*Council Resolution of 23 November 2007 on modernising universities for Europe's competitiveness in a global knowledge economy (doc.16096/1/07)*). Genom resolutionen åtog sig medlemsländerna att arbeta för att universitet och högskolor ska få ökad autonomi och ökat ansvar för den verksamhet de bedriver.

Moderniseringsprocessen har bl. a. lett till en utveckling mot ett ökat användande av "learning outcomes" och ett ökat fokus på vad studenterna faktiskt tillgodogör sig i form av kunskaper och kompetenser under sin utbildning. Detta synsätt är i dag allmänt vedertaget bland Europas universitet och högskolor. I Sverige har moderniseringsprocessen lett till att statliga universitet och högskolor har fått ökad självständighet. Regeringen reglerar inte den högre utbildningen i detalj utan universitet och högskolor fattar i större utsträckning än tidigare själva beslut, inom givna ramar, om frågor som rör utbildningars upplägg och innehåll.

Yrkeskvalifikationsdirektivet har en indirekt påverkan på medlemsstaternas styrning av högre utbildning. Vi anser, i linje med moderniseringsprocessen för Europas universitet, att innehållet i utbildningarna och dess organisation bör definieras av lärosätena utifrån statsmakternas mål, tillämpliga lagar och förordningar med beaktande av de senaste forskningsrönen och arbetsmarknadens behov.

#### Nationell kompetens inom hälso- och sjukvårdsområdet

I avdelning XIV, artikel 168.7 i fördraget om Europeiska unionens funktionssätt, anges bl.a. att när unionen vidtar åtgärder ska den respektera medlemsstaternas ansvar för att besluta om sin hälso- och sjukvårdspolitik samt för att organisera och ge hälso- och sjukvård. Vidare sägs att medlemsstaternas ansvarsområden inbegriper hälso- och sjukvårdsförvaltning och fördelning av de resurser som tilldelas denna. Vi anser att i vissa delar inom hälso- och sjukvårdsområdet innebär yrkeskvalifikationsdirektivet en indirekt styrning av frågor som tillhör nationell kompetens enligt fördraget om Europeiska unionens funktionssätt.

Samarbete underlättar ömsesidigt förtroende

De svenska lärosätena arbetar kontinuerligt med utvecklingen av frågor om erkännande och får stöd i detta arbete av Högskoleverket.

Utvecklingen av frågor om erkännande har stöd i samarbetet inom ENIC/NARIC-nätverken (European National Information Centre on academic mobility and recognition respektive National Academic Recognition Information Centre). Genom antagandet och ratificerandet av Lissabonkonventionen har erkännandefrågorna stärkts.

Samarbetet inom the European Association for Quality Assurance in Higher Education (ENQA) lägger en grund för en tillit till andra länders kvalitetssäkringssystem och i förlängningen till andra länders utbildningar. Inspel från avnämare inkluderas genom bl.a. de kvalitetsutvärderingar som görs nationellt och inom ramen för internationella samarbeten och organisationer. Perspektivet anställningsbarhet är ständigt närvarande i utvecklingsprocesser.

Samarbete inom ramen för organisationer som ENIC/NARIC och ENQA ger en ökad förståelse och ett ökat förtroende för högre utbildning mellan länder och för kvalifikationer som förvärvats i olika länder. Detta och annat pågående arbete inom högre utbildning, t.ex. Bolognaprocessen, bör tas i beaktande vid utvecklingen av arbetet med direktivet om erkännande av yrkeskvalifikationer.



REGERINGSKANSLIET

Memorandum

17/09/2010

U2010/5469/UH

**GOVERNMENT OFFICES**

**Ministry of Education and Research**

*Division for Higher Education*

European Commission

Directorate-General for Internal Market and  
Services

Markt-D4@ec.europa.eu

**Evaluation of Directive 2005/36/EC on the recognition of professional  
qualifications**

MARKT/D4/CS (2010) 208362

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3 enclosures

**1. Background**

Under Article 60(2) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as from 20 October 2007 the Commission shall draw up every five years a report on the implementation of the Directive. During 2010 the Commission has begun to collect information on the implementation and application of the Directive to use as the basis for its report. Each Member State has been requested to answer a number of questions on the implementation of the Directive.

**2. The various parts of Sweden's reply**

National coordinators

The national coordinators for the Directive have been requested to report on how the Directive works in practice in each country. The Commission has asked the coordinators to reply to a number of questions concerning particular selected professions covered by the general system (teachers, engineers, social workers, tourist guides, professions in the field of sport, and physiotherapists). The Ministry of Education and Research, which is the national coordinator in Sweden, has turned to the Swedish National Agency for Higher Education [*Högskoleverket*] and the National Board of Health and Welfare [*Socialstyrelsen*] to reply to the questions. The reply from the National Board of Health and Welfare concerning physiotherapists is in Annex 1 and the replies from the National Agency for Higher Education concerning teachers and the other professions are in Annex 2 and Annex 3 respectively.

In Part 3 below, the Ministry of Education and Research sets out some further comments concerning the Professional Qualifications Directive in respect of higher education.

Competent authorities

The Commission has also turned to the competent authorities of each Member State for the seven sectoral professions with specific questions concerning implementation and application. These authorities will send their reports directly to the Commission. The National Board of Health and Welfare is responsible for the reports concerning doctors, nurses, pharmacists, dental practitioners and midwives, while the Board of Agriculture [*Jordbruksverket*] is responsible for the reports concerning veterinary surgeons and the National Agency for Higher Education is responsible for the reports concerning architects.

#### National contact points

The Commission has also turned to the national contact points with questions concerning their work and experiences in implementing the Directive. In its role as national contact point, the National Agency for Higher Education has sent its report to the Commission.

### **3. The Professional Qualifications Directive in respect of higher education**

#### The EU and higher education

Title XII, Article 165 of the Treaty on the Functioning of the European Union lays down that the Union shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems. This is the spirit in which European cooperation in higher education is undertaken. It is our view that the detailed rules laid down by the Professional Qualifications Directive for some courses accord poorly with the way the Union's role in the field of education is seen, in particular with current developments in higher education in Europe in general.

#### Focus on learning outcomes

The European Qualifications Framework (EQF for Lifelong Learning) provides a common language for describing examinations passed in the various education systems of the Member States. The EQF is based on learning outcomes and describes what a learner knows, understands and is able to do, irrespective of the system in which the exams have been taken or where the skills have been acquired. The focus on learning outcomes is intended to make clearer the skills acquired from a course, in turn making it easier to recognise, transfer and use exams and skills in other education systems. It is this approach that is missing in the implementation of the Professional Qualifications Directive, which is focused on input much more than output.

This focus on input is particularly clear with regard to how the profession of architect is treated under the Professional Qualifications Directive. In our opinion, the process for approving the training of architects under the Directive is far too complicated, detailed and costly. Officials from the Member States cannot reasonably be expected to study in detail the content of and arrangements for the courses. It is also unreasonable for individual education institutions and the courses they offer to be examined in such an exhaustive manner as is currently the case. We would therefore propose that the profession of architect be considered a sectoral profession and that, instead, the principle of mutual recognition be applied to it.

### Modernisation of Europe's universities

On 23 November 2007 the Council adopted a resolution on modernising universities for Europe's competitiveness in a global knowledge economy (doc. 16096/1/07). Through the resolution the Member States undertook to grant higher education institutions increased autonomy and accountability in their operations.

One of the results of the modernisation process has been a move towards increased use of learning outcomes and a greater focus on what the students actually assimilate during their education in the form of knowledge and skills. Today, this approach is generally accepted among European higher education institutions. In Sweden, the modernisation process has resulted in state higher education institutions acquiring greater independence. Higher education is not regulated in detail by the Government, but instead the higher education institutions themselves decide to a much greater extent than before and within a set framework on issues concerning the content of and arrangements for courses.

The Professional Qualifications Directive has an indirect impact on the way in which the Member States manage higher education. We take the view that, in line with the process of modernising Europe's universities, the content and organisation of courses should be defined by the education institutions on the basis of the objectives of the Government authorities and the applicable Acts and Ordinances, having regard to the latest research findings and the needs of the labour market.

### National competence in the health sector

Title XIV, Article 168(7) of the Treaty on the Functioning of the European Union lays down that Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. Furthermore, the responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. It is our view that in some parts of the health sector, the Professional Qualifications Directive indirectly regulates issues that remain national competences under the Treaty on the Functioning of the European Union.

### Cooperation facilitates mutual trust

The Swedish education institutions are conducting ongoing work on issues relating to recognition and they receive support in this from the National Agency for Higher Education. The work on issues relating to recognition is also supported by cooperation in the ENIC/NARIC networks (the European National Information Centres and the National Academic Recognition Information Centres). The issue of recognition has been strengthened by the adoption and ratification of the Lisbon Treaty.

Cooperation within the European Association for Quality Assurance in Higher Education (ENQA) forms the basis for having confidence in other countries' quality assurance systems and, ultimately, in their education systems. Customer

input is included in, amongst other things, the qualitative assessments that are carried out at national level and in terms of cooperation and organisations with an international dimension. Employability is a factor that is a constant presence in development processes.

Cooperation under the aegis of organisations such as ENIC/NARIC and ENQA leads to improved levels of understanding and confidence between countries with regard to higher education and to qualifications acquired in other countries. This and other work ongoing in the field of higher education, e.g. the Bologna Process, should be taken into account in developing work relating to the Directive on the recognition of professional qualifications.



**Evaluation of the  
Professional Qualifications Directive  
2005/36/EC**

**27. UNITED KINGDOM**

**Experience report from national coordinators  
with regard to other regulated professions**



## Evaluating the Professional Qualifications Directive Experience reports of the General System Professions

### Introduction

This report is based on the comments of the UK competent authorities responsible for the professions of teacher, engineer, farrier, social worker and physiotherapist. It also takes account of observations from organisations representing sports professions and tour guides in respect of the experiences of their members using the Directive in Europe.

### A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. *Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?*

There is a strong feeling that qualifications fraud is a growing phenomenon and utmost rigour must be maintained to ensure the efficiency of the recognition process. The responses show a diverse picture of how applications are accepted across the range of professions.

A proportion of authorities do accept applications from EU citizens for the recognition of foreign diplomas sent by email but there is inevitably follow up correspondence and some of this is dealt with by post. Some of these authorities accept all documents electronically including scanned copies of qualifications while others prefer paper copies of qualifications. A small number of authorities are currently working to put all the application processes online however most deal with the majority of enquiries by email and send out information by email regularly.

In the health and social work professions there remains a strong reliance on the paper based system of applications for recognition. However, this is supported by information to applicants in electronic form on websites and communications with applicants is possible through email.

Whereas in teaching, applications are not accepted via email or online. Nevertheless, scanned documentation to support an application can be sent via email.

2. *What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?*

Little experience of applicants with third country qualifications has been reported and therefore limited information is available. All authorities acknowledge that a qualification approved in one Member State should be

acceptable evidence for another Member State but would adhere to the provisions of Article 3(3) to determine eligibility. All would require an attestation to certify the required three years professional experience following which the procedures under Title I of Chapter III of the Directive would be instigated.

3. *To which extent do you make use of the education levels referred to in Article 11 of the Directive?*

Some of the authorities do use the educational levels as a benchmarking tool as part of the overall assessment process to ensure that, on an individual basis, applicants meet the required UK standard.

The engineering profession also use the FEANI Index and the more recent EUR-ACE label system to provide further clarification of qualifications, as necessary.

In the social work sector a number of concerns have been raised:

- the high level and broad based descriptors create an over simplification that may lead to inaccurate matching of academic level between country qualifications;
- the matching of academic levels plays a key role in the practice of the profession of social work. Critical reasoning and reflective practice are a key aspect of academic attainment and prepare social workers to exercise their professional autonomy in practice. These are also important for the transfer of knowledge, skills and values and the accumulation of new learning when practising in a new country;
- the descriptors may introduce a variable standard beyond that intended for broad academic alignment making it difficult to refuse qualifications where the academic level is clearly insufficient.

Whereas, in the teaching sector the primary concern is that the individual is a qualified teacher in their home state.

4. *Did you encounter situations in which a professional from a Member State, where a profession is not regulated and who has not yet two years of working experience wishes to work in your country? How do you deal with such applications?*

Most authorities have reported this type of application is uncommon. However, such applications would not be processed under the provisions of the Directive. In such cases, the applicant would be assessed under Treaty rights which means that the authority would assess the level of their academic qualification; assess their professional experience (perhaps through a Career Appraisal or Training Agreement) and in engineering assess competence by way of a Professional Review to ensure they were able to practise safely and effectively in the UK.

To ensure the continued compliance with the Directive it would be helpful if a clearer definition of the "2 years in 10 years" professional experience requirement could be described. For example how it applies to continuous, part-time, full-time practise in the profession.

5. *What is your experience when a citizens requests partial access to a profession according to the Court jurisprudence?*

The majority of authorities reported that they had no experience of dealing with such cases.

In engineering there is no restriction on the right to work as an engineer or technician in the UK. Engineering is regulated in the UK by virtue of the award of professional titles to suitably qualified engineers and technicians. Registration is voluntary and self-regulated by the profession. As non-registration does not stop a person working as an engineer or technician there is no need to operate a system of partial access.

In the health and social work sector there are no subcategories for the purpose of registration or protection of title. This means that someone with a part qualification cannot be registered to perform set or limited duties and not others. Therefore anyone wanting to work in the UK must be able to prove that they meet all the standards of proficiency for the profession at the point of registration. A person who cannot show that they meet all these standards, or who can only meet some of them would not be able to register or use a protected title. However applicants who meet all the standards of proficiency and become registered could then choose to limit their scope of practise to a particular area, should they wish to do so.

Due to the nature of Qualified Teacher Status (QTS) in England which is aimed at mainstream school teachers and is non subject and non age range specific it would not be possible to award partial recognition. While in Scotland, requests for partial access have been accepted for the profession of Additional Support Needs teachers (special needs).

We are aware there are instances in other Member States where UK trained sports coaches have run into difficulties when coaching qualifications have not been recognised. For example UK qualified snowboard instructors have had difficulty working in Alpine countries where no specific snowboard qualifications exist, but instead comes under a general ski-instructor qualification. Similar issues have arisen in mountaineering, but here it is the UK qualifications which have a wider depth of knowledge and greater breadth of mountain-craft, rather than specialist area coaching. The UK mountaineering sector would claim that UK mountaineers should have partial access. Sports have expressed a desire to have coaching qualifications recognised more easily across Europe and increased transferability through this Directive and the European Qualifications Framework.

## **B. RECOGNITION OF PROFESSIONAL EXPERIENCE BASED ON ANNEX IV**

### *6. Does this mechanism in place work smoothly in practice?*

The UK has only two professions captured by this section of the Directive and therefore have limited experience of these provisions. Having said that there are concerns about the transparency and effectiveness of these provisions:

- there does not seem to be a clear understanding that profession of farrier is captured by this provision within the Directive in the other Member States and as a result applicants have had problems obtaining the relevant documentation to confirm their compliance with these provisions;
- the complex nature of the eligibility criteria and the out-of-date nature of the activities listed in Annex IV make it difficult to apply in practice particularly the production of a certificate (under Annex VII (c)) when moving to another Member State where the profession is not listed (i.e. IT professionals or general managers of a business) and that Member State requires it;
- Annex IV needs to be more clearly articulated to capture the specific professions – e.g. tour guide is a generic term;
- individual tour guides are frequently subject to on-the-spot checks by local officials who have no means of knowing or determining whether that individual is operating legally and it is usual for the individual to be subject to unwarranted penalties and interference;
- at least two UK applicants were not automatically directed by the host state competent authority on to the general system route when the professional experience route proved not to be applicable.

### *7. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties (costs) in the recognition procedure under the general system? Please include any comments on the implementation of compensation measures.*

The numbers in the category have been very low and therefore information is limited. An application fee is applied to such applicants wanting to be registered as a farrier and this has not caused any difficulty. On the other hand, the mass of qualifications relating to the activities of a farrier, not only across Europe but within a Member State, is a major difficulty when trying to assess an application.

### **C. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

8. *Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State?*

Most authorities have reported no or limited interest in this provision. Some have received a few enquiries resulting in a small number of Declarations leading to temporary registration.

This provision is not relevant to the UK engineering sector as the right to work is not restricted therefore temporary registration is not required. The authorities have not received any reports of how UK engineers and technicians have been treated under this provision in other Member States.

In social work, the regulators have experience of only one request and the individual is registered temporarily. It is unclear if this is likely to be a preferred route for social workers given the nature of the profession.

Whereas in contrast, the Health Professions Council currently has 182 temporary registrants, of which 69 are physiotherapists. Since the new provisions came into effect a further 111 temporary registrants have entered and left the Register at the end of their temporary registration.

9. *How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of conduct? For instance:*

- *How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?*

Basically the conditions are very similar across the professions:

- all applicants are expected to provide professional experience of working as a farrier and not be debarred in anyway;
- to assert their right as a physiotherapist, an applicant's declaration must be accompanied by proof of their nationality; attestations of legal establishment (or proof of two years' professional experience); and evidence of their professional qualification;
- a social work registrant needs to provide evidence of licence to practise including fitness to practise and a declared suitability as well as evidence that the applicant holds the recognised qualification for social work in the home Member State. It is clear under Protection of Title that no individual may use the title of social worker without confirmed registration (temporary or permanent);

- the teaching profession considers that this condition should include any relevant training such as Induction periods etc where applicable.
- *How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?*

Limited information is available as regulators are only now beginning to work with this provision. The regulators are trying to determine how best this can work for their profession:

- keeping in touch with an applicant asking about his working practices on a quarterly basis as a monitoring tool;
- in due course expect to monitor and capture information and trends to gain insight into pattern of temporary or occasional working in social work;
- once a person has gained temporary registration their registration status is reviewed every 12 months. The Health Professions Council is starting to process renewal applications for temporary registrants who have held temporary status for almost 3 years. It is considered that the Directive is not specific enough in definition of what “temporary or occasional” should mean in terms of work hours or the types of roles it would be appropriate for temporary registrants to undertake. The Health Professions Council is aware that some temporary registrants have used professional titles that they are not legally entitled to use.

There are however concerns about the operation of the criteria particularly how it fits with the need for professional regulation to be effective. While the applicant is obliged to meet standards of conduct, performance and ethics they are not required to maintain standards of continuing professional development.

*10. Why is prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?*

A prior declaration is necessary to ensure only those with a real entitlement can practice and is the best way of assuring protection of the public.

In the health sector, before an individual begins to practise temporarily, the regulators want to ensure that they meet the standards set for safe and effective practise, and also to ensure that they were not circumventing the recognition process. The Health Professions Council enter the basic details of the registrant into a temporary register – name, contact details, basis for legal establishment and the name of their profession in the language of the country of establishment. Other information is stored securely separate to this database. Members of the public can search the publicly-available register for



temporary registrants to find out whether a professional is registered, however personal details are not publicly available.

In social work, the regulators would not favour a system where an applicant is allowed to practise the profession without prior verification of the qualification and would always wish to be assured through the declaration that there is no current or past conduct or disciplinary issues to be taken into account. A prior declaration system enables the necessary checks to be undertaken to assure public confidence that only those qualified in social work and fit to practice are registered.

A prior declaration is necessary so that the migrant can be pro-forma registered and therefore professionally regulated as are all other teachers.

Whilst for the profession of tour guide, a prior declaration system is seen as cumbersome, ineffective and ill-suited to the industry as a whole in Europe. Tour guides are also being asked to give details of their liability insurance almost none will carry any, as this liability is typically covered by the tour operator.

*11. To your knowledge, are there situations where people decide not to exercise a certain profession in another Member State because they lack the two years of experience required?*

None of the regulators are able to comment on this question as they only have data on applications received.

In countries where tour guiding is regulated, an individual from a non-regulated country wishing to become established there essentially has to follow local qualification requirements: their previous experience is of little or no benefit in meeting formal requirements (however well this may be suited to the work proposed). As tour operators typically offer work to young graduates it will be the case that young people, if they are established in a country where the profession is unregulated, will typically not have a guiding qualification, will lack professional experience and thus will not be able to practise even on a temporary basis. Guiding qualifications issued by bodies in unregulated countries may also not be recognised.

#### **D. ADMINISTRATIVE COOPERATION**

*12. To which extent does administrative cooperation, as outlined in Articles 8, 50 and 56 of the Directive, simplify procedures for the migrant professionals?*

All the regulators share the view that the principles and purpose of administrative co-operation and information sharing is vitally important and from the migrant's point of view makes the process easier but not necessarily quicker. Also administrative co-operation is essential to be assured of legal establishment, the absence of any disciplinary or criminal sanctions and the evidence of a formal qualification being held by any individual. Experience

shows that administrative cooperation varies from country to country, and to a certain extent, depends on the structure in each country. While some countries have similar national regulatory systems, others may have regional authorities or may not regulate the same profession. The success of cooperation with other competent authorities, especially where contact has to be established through the publicly available information, is mixed.

The UK engineering profession has long had formal and informal contact with the equivalent organisations in major Member States and so usually use this established contact network. Applicants, before coming to the UK, are advised to directly obtain all the verifications they require from their original state organisations rather than relying on those organisations sending documents to the UK appropriate competent authority in a timely fashion – which rarely happens. The most common difficulty is receiving no response or confirmation of receipt of a query. The contact details for national contact points and competent authorities on the European Commission's regulated professions database are not always complete or up-to-date.

The regulators in social work are of the view that enhanced administrative co-operation between competent authorities in social work across the EEA would lead to a better understanding of the make up of qualifications and the various regulatory and accreditation systems which exist. This would lead to simplified procedures which would in turn speed up the assessment process for migrant professionals. The experience is that the process can sometimes be slow but generally there is a positive experience with countries where most applications come from. It is considered that more could be done at EU level to support professions to make sound links with each other and to develop the mechanisms to enable this to happen. It is particularly important for social work as there is a large amount of diversity in the definition of the profession and the content of social work qualifications - this is particularly the case in countries where the dominant model of social work is 'social pedagogy'.

The teaching profession considers that the IMI system can sometimes be slow and over complicated. Also it is still difficult to get responses and the time spent chasing answers can be considerable.

*13. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing the situation?*

The regulators report a mixed picture of the volume of usage and the circumstances of usage of the IMI system:

- the Farriers Registration Council is registered on IMI and as yet has not needed to use the system;
- the Health Professions Council uses the system as a form of verification to check the registration history of applicants, where possible. Experience has shown that IMI works best in countries

where there is a similar registration model to the UK. Currently only use IMI for radiographers and physiotherapists but it is not the main way of checking an applicant's professional background. IMI is not used to check an applicant's registration if they have practised in a country where experience has shown that the information the Health Professions Council would receive relating to their registration would not be useful. This is because the regulatory system in some countries is not comparable to the UK system, so the information we receive through IMI from the relevant authorities often does not help us to understand an applicant's abilities or make an assessment as to whether they meet our standards. This does not mean that an applicant who applied for registration in these circumstances could not become registered; rather it means that we would need to assess their ability and work experience against the standards of proficiency. It would be of more value if the system was extended to cover a wider range of professions;

- engineering is currently not one of the participating sectors. If IMI was extended to engineering then it would have to be on the basis that it was cheaper and less resource intensive than the systems already operated. However, would probably use the system to confirm whether a migrant holds the relevant title in their home State, and to confirm whether or not a particular title is regulated for the purpose of the Directive;
- the UK Care Councils are not registered with IMI. Although the UK Care Councils view future registering with IMI as a helpful way forward that could strengthen administrative co-operation and the sharing of information between competent authorities for social work in Europe. In addition would wish to strengthen exchanges between competent authorities by proposing standardised response times for queries and different facets of information exchange;
- the four UK Teaching Councils are registered on the system and usage is varied. The biggest user of the system is the General Teaching Council for England dealing with requests relating to incoming and outgoing applicants and to a lesser extent the General Teaching Council in Northern Ireland.

*14. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?*

Such a system may be useful to regulators, as it is likely that those professionals would be registered more easily who were able to provide a universally recognised form of verification providing details of their education, training, skills, and experience. Quick and easy identification of whether an applicant meets the standards or not would mean that the process to gain temporary registration could potentially be expedited. It is recognised however that there has also to be a cost burden on the professional.

There is a consensus about the potential usefulness of professional cards which is outweighed by caution and remaining to be convinced. Firstly the additional burden and expense in setting up such a system and supporting it, and secondly, the potential abuse of the card for falsification of professional experience and qualifications details if it was used as a short cut to more robust evidence requirements. The use of such a card in the health sector, where social workers have access to vulnerable groups of people, will pose ethical as well as safety issues. It is important that each profession approaches this from a measured stance, taking into account the risks posed by professionals working in different settings. The UK Care Councils would not favour such a scheme becoming a mandatory requirement under the Directive. The Health Professions Council already issues a registration card and therefore considers there would be little value unless there was a unified move to introduce such a system for all health professions.

There is UK interest in how this concept could be developed in the engineering sector and the Engineering Council is involved with the work being carried out by FEANI. The issues are the costs and resources which may have to be committed (and hence the feasibility of what has to be a commercial enterprise), the criteria for issuing a card, what sort of validated information is provided, and the quality assurance of the national and European processes govern the system. The use of such a card within professional recognition regimes will depend on the way in which the listed issues have been addressed.

All the UK Teaching Councils agree that professional cards are of little value as they are only valid at the date of issue. In order to check the validity of the card a European wide database would be required which is not realistic as this would be too expensive and too cumbersome. Currently, the information contained on online registers of other competent authorities is varied in content and sometimes does not aid in confirming whether a teacher is a fully qualified professional in their home Member State. The UK Teaching Councils would prefer that competent authorities could still request, from the applicant, an attestation to confirm the applicant is part of the regulated profession in their home state - this has shown to speed up the process.

Having said all that, the use of professional cards may bring benefits for the tour guiding industry by promoting mobility between unregulated and regulated Member States, although the main drawback is that it imposes a cost burden on individuals.

## **E. OTHER OBSERVATIONS**

*15. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?*

Where a farrier is required to undertake a compensation measure the professional would need sufficient English to cope with that measure. In one

instance, a professional who came onto the Register through automatic entitlement, as a result of six years experience from an Eastern European country could not speak a word of English. He had to use an interpreter. Several complaints were received because he did not appear to understand the requirements of the Guide to Professional Conduct and was not able to communicate with clients in a meaningful way. The Farriers Registration Council would prefer therefore to have greater control in the interests of service provision and animal welfare.

The Health Professions Council is fully aware that they cannot test language abilities. However, when the professional is registered they must declare that they will adhere to the standards set relating to conduct, performance, and ethics, as well as the standards of proficiency for their profession. These standards state: 'You must maintain proper and effective communications with patients, clients, users, carers, and other professionals'. To meet this requirement, professionals are reminded that they should satisfy themselves that their English is of a sufficient standard. The Health Professions Council has received complaints about the language skills of registrants, although in some cases the Council believe these are due to cultural differences as to how different people pronounce, hear, and understand English words. It is considered that provision around language testing is workable, but others involved (such as employers) need to act appropriately in addition to the work of the regulator to ensure that patients and clients receive good services.

The Engineering Council and the other engineering institutions do not undertake formal language assessment. Applications have to be made in English and all proceedings are conducted in English. This has proved to be a sufficient check that an applicant can operate effectively in the UK. There have been no complaints with regard to registrants having insufficient understanding of English.

The UK Care Councils do not systematically assess the language skills of applicants and it is the current approach that this responsibility rests with employers before recruitment. The Social Care International Recruitment Code of Practice (a voluntary code) reinforces this message for employers of social workers. The UK Care Councils do not have any statistics on complaints about the language competencies of social workers from within the EEA. There is concern for public safety where an individual with poor language skills is employed to work as a social worker and failure to communicate to the required level becomes an issue of competency and creates a risk to the public. The Councils would therefore like to see a clearer link made between language competence and ability to practise the profession and greater clarity in how Article 53 may be implemented.

In teaching the language test is not utilised and the employability of teachers with poor language skills is an employment issue. There have been the occasional complaints from employers to the competent authorities of how some teachers, who have little or no command of the English Language, have been accredited as a qualified teacher in the UK.

## **Other general comments**

Incorporating the requirements of the Directive into the UK system of regulation has raised a number of issues but these have been worked through and where applicants, and when necessary the host authority, provide the required documentation processing is usually straightforward. The experience of outgoing engineers can be less satisfactory and therefore more determined action needs to be taken by the Commission to enforce greater compliance of the Directive in order to ensure consistency across Europe. Administratively, a difficulty can be the establishment of what is the regulatory status of the branches of the profession in other Member States. In this regard the regulated professions database is a start but more detailed and accessible information would be a great help.

An applicant's professional experience seems to be given little or no value as some Member States are only interested in formal qualifications – this is the experience of tour guides and engineers. Experience has shown that the Directive is not being implemented consistently across Europe, not only in terms of taking account of professional experience but the neglect of prescribed timescales and the requirements for documentation outside of the Code of Conduct.