



DIRECTIVE 2005/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 September 2005

on the recognition of professional qualifications

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 40, Article 47(1), the first and third sentences of Article 47(2), and Article 55 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Pursuant to Article 3(1)(c) of the Treaty, the abolition, as between Member States, of obstacles to the free movement of persons and services is one of the objectives of the Community. For nationals of the Member States, this includes, in particular, the right to pursue a profession, in a self-employed or employed capacity, in a Member State other than the one in which they have obtained their professional qualifications. In addition, Article 47(1) of the Treaty lays down that directives shall be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

(2) Following the European Council of Lisbon on 23 and 24 March 2000, the Commission adopted a Communication on 'An Internal Market Strategy for Services', aimed in particular at making the free provision of services within the Community as simple as within an individual Member State. Further to the Communication from the Commission entitled 'New European Labour Markets, Open to All, with Access to All', the European Council of Stockholm on 23 and 24 March 2001 entrusted the Commission with presenting for the 2002 Spring European Council specific proposals for a more uniform, transparent and flexible regime of recognition of qualifications.

(3) The guarantee conferred by this Directive on persons having acquired their professional qualifications in a Member State to have access to the same profession and pursue it in another Member State with the same rights as nationals is without prejudice to compliance by the migrant professional with any non-discriminatory conditions of pursuit which might be laid down by the latter Member State, provided that these are objectively justified and proportionate.

(4) In order to facilitate the free provision of services, there should be specific rules aimed at extending the possibility of pursuing professional activities under the original professional title. In the case of information society services provided at a distance, the provisions of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ⁽⁴⁾, should also apply.

(5) In view of the different systems established for the cross-border provision of services on a temporary and occasional basis on the one hand, and for establishment on the other, the criteria for distinguishing between these two concepts in the event of the movement of the service provider to the territory of the host Member State should be clarified.

(6) The facilitation of service provision has to be ensured in the context of strict respect for public health and safety and consumer protection. Therefore, specific provisions should be envisaged for regulated professions having public health or safety implications, which provide cross-frontier services on a temporary or occasional basis.

(7) Host Member States may, where necessary and in accordance with Community law, provide for declaration requirements. These requirements should not lead to a disproportionate burden on service providers nor hinder or render less attractive the exercise of the freedom to provide services. The need for such requirements should be reviewed periodically in the light of the progress made in establishing a Community framework for administrative cooperation between Member States.

⁽¹⁾ OJ C 181 E, 30.7.2002, p. 183.

⁽²⁾ OJ C 61, 14.3.2003, p. 67.

⁽³⁾ Opinion of the European Parliament of 11 February 2004 (OJ C 97 E, 22.4.2004, p. 230), Council Common Position of 21 December 2004 (OJ C 58 E, 8.3.2005, p. 1) and Position of the European Parliament of 11 May 2005 (not yet published in the Official Journal). Council Decision of 6 June 2005.

⁽⁴⁾ OJ L 178, 17.7.2000, p. 1.

2. *Master craftsman sector (Mester/Meister/Maitre), which represents education and training courses concerning skills not covered by Title III, Chapter II, of this Directive.*

Training for the following:

in Denmark:

- optician (optometrist),

this course is of a total duration of 14 years, including five years' vocational training divided into two and a half years' theoretical training provided by the vocational training establishment and two and a half years' practical training received in the workplace, and culminating in a recognised examination relating to the craft and conferring the right to use the title 'Mester';

- orthopaedic technician (ortopædimekaniker),

this course is of a total duration of 12,5 years, including three and a half years' vocational training divided into six months' theoretical training provided by the vocational training establishment and three years' practical training received in the workplace, and culminating in a recognised examination relating to the craft and conferring the right to use the title 'Mester';

- orthopaedic boot and shoemaker (ortopædiskomager),

this course is of a total duration of 13,5 years, including four and a half years' vocational training divided into two years' theoretical training provided by the vocational training establishment and two and a half years' practical training received in the workplace, and culminating in a recognised examination relating to the craft and conferring the right to use the title 'Mester';

in Germany:

- optician (Augenoptiker),
- dental technician (Zahntechniker),
- surgical truss maker (Bandagist),
- hearing-aid maker (Hörgeräte-Akustiker),
- orthopaedic technician (Orthopädiemechaniker),
- orthopaedic bootmaker (Orthopädienschuhmacher);

in Luxembourg:

- dispensing optician (opticien),
- dental technician (mécanicien dentaire),
- hearing-aid maker (audioprothésiste),
- orthopaedic technician/surgical truss maker (mécanicien orthopédiste/bandagiste),
- orthopaedic bootmaker (orthopédiste-cordonnier),

these courses are of a total duration of 14 years, including at least five years' training followed within a structured training framework, partly received in the workplace and partly provided by the vocational training establishment, and culminating in an examination which must be passed in order to be able to practise any activity considered as skilled, either independently or as an employee with a comparable level of responsibility;

in Austria:

- surgical truss maker (Bandagist),
- corset maker (Miederwarenerzeuger),

which represent education and training courses of a total duration of at least 13 years, comprising:

- (i) at least three years of vocational training in a specialised school culminating in an examination, in some cases supplemented by a one- or two-year specialisation course culminating in an examination, or
- (ii) at least two and a half years of vocational training in a specialised school culminating in an examination and supplemented by work experience of at least six months or by a traineeship of at least six months in an approved establishment, or
- (iii) at least two years of vocational training in a specialised school culminating in an examination and supplemented by work experience of at least one year or by a traineeship of at least one year in an approved establishment, or
- (iv) in the case of the veterinary assistant (dierenartsassistent) three years of vocational training in a specialised school (MBO-scheme) or alternatively three years of vocational training in the dual apprenticeship system (LLW), both of which culminate in an examination;

in Austria:

- special basic training for nurses specialising in the care of children and young people (spezielle Grundausbildung in der Kinder- und Jugendlichenpflege),
- special basic training for psychiatric nurses (spezielle Grundausbildung in der psychiatrischen Gesundheits- und Krankenpflege),
- contact lens optician (Kontaktlinsenoptiker),
- pedicurist (Fußpfleger)
- acoustic-aid technician (Hörgeräteakustiker),
- druggist (Drogist),

which represent education and training courses of a total duration of at least 14 years, including at least five years' training followed within a structured training framework, divided into an apprenticeship of at least three years' duration, comprising training partly received in the workplace and partly provided by a vocational training establishment, and a period of professional practice and training, culminating in a professional examination conferring the right to exercise the profession and to train apprentices;

- masseur (Masseur),

which represents education and training courses of a total duration of 14 years, including five years' training within a structured training framework, comprising an apprenticeship of two years' duration, a period of professional practice and training of two years' duration and a training course of one year culminating in a professional examination conferring the rights to exercise the profession and to train apprentices;

- kindergarten worker (Kindergärtner/in),
- child care worker (Erzieher),

which represent education and training courses of a total duration of 13 years, including five years of professional training in a specialised school, culminating in an examination;

in Slovakia:

- teacher in the field of dance at basic schools of art (učiteľ v tanečnom odbore na základných umeleckých školách),

which represents education of a total duration of at least 14,5 years, comprising eight years of basic education, four years of education at the secondary specialised school and a five-semester course of dance pedagogy;

- educator at special educating facilities and at social service facilities (vychovávateľ v špeciálnych výchovných zariadeniach a v zariadeniach sociálnych služieb),

which represents education of a total duration of at least 14 years, comprising eight/nine years of basic education, four years of study at secondary pedagogical school or at another secondary school and two years of supplementary part-time pedagogical study.