



THE MUTUAL RECOGNITION OF DIPLOMAS

The freedom of establishment and the freedom to provide services are cornerstones of the single market, enabling the mobility of businesses and professionals throughout the EU. In order to implement these freedoms, diplomas and qualifications issued nationally need to be widely recognised. Different measures for their harmonisation and mutual recognition have been adopted, and further legislation on the subject is under way.

LEGAL BASIS

Articles 26 and 53 of the Treaty on the Functioning of the European Union (TFEU).

OBJECTIVES

For self-employed persons and professionals to establish themselves in another Member State or offer their services there on a temporary basis, diplomas, certificates and other proof of professional qualification as issued in the different Member States need to be mutually recognised, and any national provisions governing access to different professions need to be coordinated and harmonised.

ACHIEVEMENTS

Article 53(1) TFEU provides that the mutual recognition of the diplomas and other qualifications required in each Member State for access to regulated professions can be used to facilitate freedom of establishment and the provision of services. It also addresses the need to coordinate national rules on the taking-up and pursuit of activities as self-employed persons. Paragraph 2 of the same article subordinates mutual recognition 'in cases where such harmonisation is a difficult process' to coordination of the conditions governing exercise in the various Member States. The harmonisation process has evolved through a number of directives since the mid-1970s. On these bases, legislation on mutual recognition is adjusted to the needs of different situations. It varies in completeness according to the profession concerned, and in recent cases has been adopted using a more general approach.

A. The sector-specific approach (by profession)

1. Mutual recognition after harmonisation

Harmonisation progressed faster in the health sector, for the obvious reason that professional requirements, and especially training courses, did not vary much from one country to another (unlike in other professions). It was therefore not difficult



to achieve harmonisation in a substantial number of professions (e.g. doctors, nurses, veterinary surgeons, midwives and self-employed commercial agents). The [Professional Qualifications Directive](#) (2005/36/EC) aimed to clarify, simplify and modernise the existing directives, and to bring together the regulated professions of doctors, dentists, nurses, veterinary surgeons, midwives, pharmacists and architects in one legislative text. This directive specifies, among many other things, how the 'host' Member States should recognise professional qualifications obtained in another ('home') Member State. The recognition of professionals includes both a general system for recognition and specific systems for each of the abovementioned professions. Among many other aspects, it focuses on the level of qualification, training and professional experience (of both a general and a specialist nature). The directive also applies to professional qualifications within the transport sector, and to insurance intermediaries and statutory auditors. These professions were previously regulated under separate directives. On 22 June 2011, the Commission adopted a Green Paper on Modernising the Professional Qualifications Directive ([COM\(2011\) 0367](#)), which proposed a reform of the systems for the recognition of professional qualifications with a view to facilitating the mobility of workers and adapting training and current labour market requirements. On 19 December 2011, the Commission published a proposal for a revision of the Professional Qualifications Directive ([COM\(2011\) 0883](#)) based on the outcome of the various consultation processes and in response to Parliament's resolution of 15 November 2011. The most important key proposals included: the introduction of the European professional card; harmonisation of the minimum training requirements; automatic recognition for seven professions, namely architects, dentists, doctors, nurses, midwives, pharmacists and veterinary surgeons; and the introduction of the Internal Market Information System allowing for enhanced cooperation in diploma recognition. The main objectives of the revision were to facilitate and enhance the mobility of professionals across the EU and to help alleviate personnel shortages in some Member States. The subsequent directive ([2013/55/EU](#)) was adopted on 20 November 2013^[1].

2. Mutual recognition without harmonisation

For other professions for which differences between national rules have prevented harmonisation, mutual recognition has made less progress. The diversity of legal systems has prevented the full mutual recognition of diplomas and qualifications that would have secured immediate freedom of establishment on the basis of a diploma obtained in the country of origin. Council [Directive 77/249/EEC](#) of 22 March 1977 granted lawyers the freedom to provide occasional services; free establishment otherwise requires a diploma from the host country. [Directive 98/5/EC](#) of 16 February 1998 was a significant step forward, stating that lawyers holding a diploma from any Member State may establish themselves in another Member State to pursue their profession, with the proviso that the host country can require them to be assisted by a local lawyer when representing and defending their clients in court. After three years operating on this basis, lawyers acquire the right (if they so wish) to

[1] Directive 2013/55/EU of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), OJ L 354, 28.12.2013, p. 132.



fully exercise their profession, after passing an aptitude test set by the host country and without having to take a qualifying examination. Other directives have applied the same principle to other professions, such as road haulage operators, insurance agents and brokers, hairdressers and architects.

B. The general approach

The drafting of legislation for mutual recognition sector by sector (sometimes with more extensive harmonisation of national rules) has always been a long and tedious procedure. For that reason, the need for a general system of recognition of equivalence of diplomas, valid for all regulated professions that have not been the subject of specific EU legislation, became apparent. This new general approach changed the perspective. Before, 'recognition' was subordinated to the existence of European rules concerning 'harmonisation' in the specific regulated profession or activity. Afterwards, 'mutual recognition' became almost automatic, under the established rules, for all the regulated professions concerned, without any need for sector-specific secondary legislation. From that moment, both the 'harmonisation' and the 'mutual recognition' methods continued to be used under a parallel system and, in some cases, both have been used under a complementary system taking the form of both a regulation and a directive ([Council resolutions of 3 December 1992](#) and [15 July 1996](#) on transparency of qualifications and vocational training certificates). The host Member State may not refuse applicants access to the occupation in question if they possess the qualifications required in their country of origin. However, if the training they received was of a shorter duration than in the host country, it may demand a certain length of professional experience and, if the training differs substantially, it may require an adaptation period or aptitude test at the discretion of the applicant, unless the occupation requires knowledge of national law.

ROLE OF THE EUROPEAN PARLIAMENT

On 15 November 2011, Parliament adopted a resolution on the implementation of the Professional Qualifications Directive ([2005/36/EC](#))^[2] calling for the modernisation and improvement of that directive and encouraging the use of the most efficient and appropriate technologies, such as the introduction of a European professional card which should be an official document recognised by all competent authorities, in order to facilitate the recognition process.

In response to Parliament's resolution, on 19 December 2011 the Commission presented a proposal for a revision of the Professional Qualifications Directive. After successful trilogue negotiations, Parliament secured the changes it had called for, including the introduction of a voluntary professional card, the creation of an alert mechanism, clarification of the rules regarding partial access to a regulated profession, rules regarding language skills, and the creation of a mechanism for mutual evaluation of regulated professions to ensure greater transparency. This led to the adoption on 20 November 2013 of [Directive 2013/55/EU](#) of the European Parliament and

[2]OJ C 153E, 31.5.2013, p. 15: [http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?reference=P7_TA\(2011\)0490](http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?reference=P7_TA(2011)0490)



of the Council amending Directive 2005/36/EC on the recognition of professional qualifications^[3].

Subsequently, the European Parliament and the Council adopted the [Proportionality Test Directive \(EU\) 2018/958](#) of 28 June 2018 that introduces a harmonised proportionality test to be used by all Member States before adopting national regulations on professions^[4]. On 25 October 2018, Parliament adopted a [resolution on promoting automatic mutual recognition of diplomas](#).

For more detailed information, please consult the study prepared for the IMCO Committee entitled '[EU Mapping: Overview of IMCO related legislation](#)'^[5].

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[3]OJ L 354, 28.12.2013, p. 132: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri= OJ%3AL%3A2013%3A354%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AL%3A2013%3A354%3ATOC)

[4]Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions, OJ L 173, 9.7.2018, p. 25: <https://eur-lex.europa.eu/eli/dir/2018/958/oj>

[5]EU Mapping: Overview of IMCO Related Legislation: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536317/IPOL_STU\(2015\)536317_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536317/IPOL_STU(2015)536317_EN.pdf)

