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FREE CIRCULATION OF GOODS, REGULATED PROFESSIONS AND POSTAL SERVICES
Regulated Professions

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MUTUAL RECOGNITION OF DIPLOMAS OF THE NEW MEMBER STATES IN THE CONTEXT OF SECTORAL DIRECTIVES

N.B:

1) This document is of no legal value and does not confer any rights. Its sole aim is to summarise the basic rules relating to the recognition of diplomas for the purposes of establishment. For the specific rules applicable to the free provision of services, the reader is referred to the specific provisions of the directives concerned.

2) The recognition of professional qualifications shall not have the effect of undermining the application by Member States of temporary measures relating to free movement of salaried workers (pursuit of a profession as an employee). As these measures may in practice render the recognition of professional qualifications ineffective, it is strongly recommended that every citizen who is a national of one of the new Member States obtain information beforehand on this subject from the competent authorities in the Member State in which establishment is envisaged.

PROFESSIONS AND DIRECTIVES CONCERNED:

- **Doctors:** Recognition and Coordination Directive 93/16/EEC* (OJ L 165, 7 July 1993, p. 1)
- **Nurses responsible for general care:** Directives 77/452/EEC* and 77/453/EEC* (OJ L 176, 15 July 1977, pp. 1 and 8)
- **Dentists:** Recognition Directive 78/686/EEC* and Coordination Directive 78/687/EEC* (OJ L 233, 24 August 1978, pp. 1 and 10)
- **Veterinarians:** Recognition Directive 78/1026/EEC* and Coordination Directive 78/1027/EEC* (OJ L 362, 23 December 1978, pp. 1 and 7)
- **Midwives:** Recognition Directive 80/154/EEC* and Coordination Directive 80/155/EEC* (OJ L 33, 11 February 1980, pp. 1 and 8)
- **Pharmacists:** Coordination Directive 85/432/EEC* and Recognition Directive 85/433/EEC* (OJ L 253, 24 September 1985, pp. 34 and 37)
- **Architects:** Directive 85/384/EEC* (OJ L 223, 21 August 1985, p. 1)
- **Directive 2005/36/EC*** on the recognition of professional qualifications (OJ L 255 of 30.9.2005, p.22, that will abrogate the abovementioned Directives with effect from 20.10.2007)

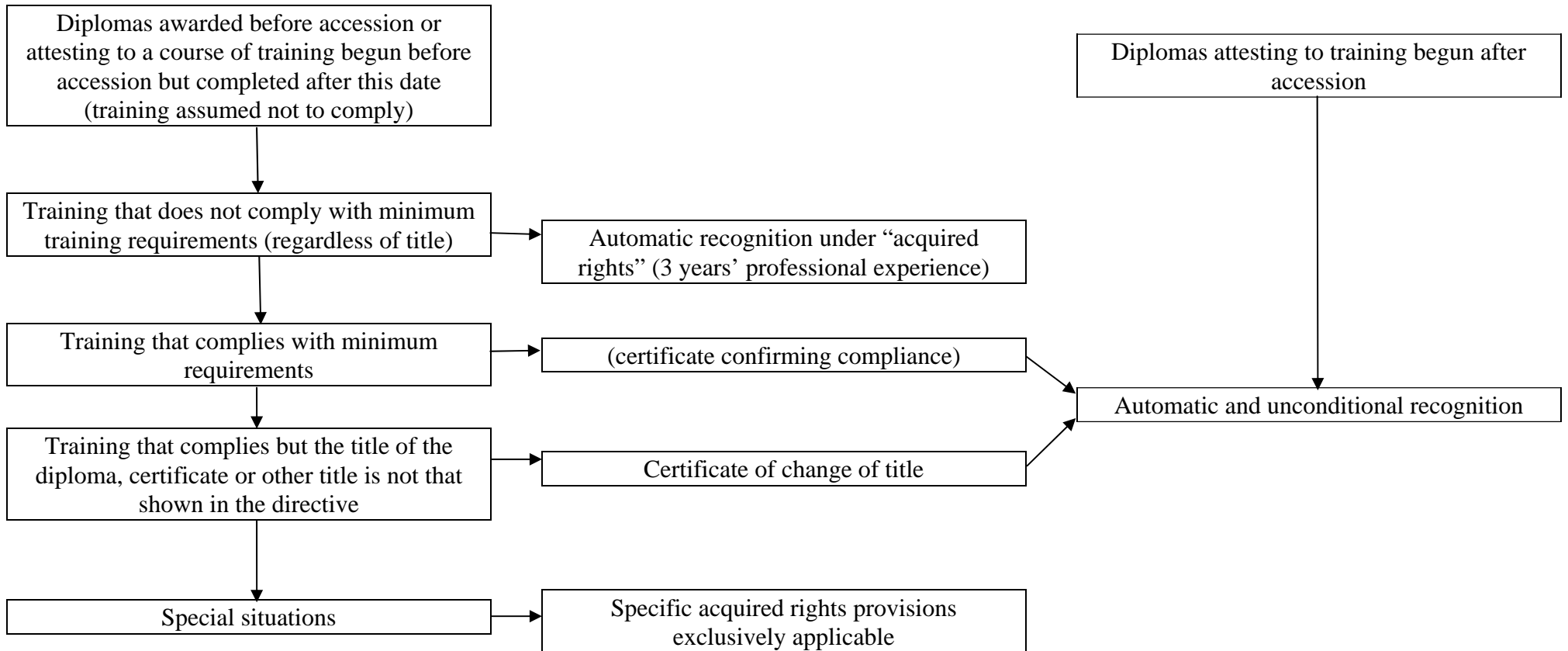
* As last amended by Directive 2001/19/CE (OJ L 206, 31 July 2001, p. 1), the Act of Accession of the new Member States (OJ L 236, 23 September 2003, p. 17, <http://eur-lex.europa.eu>) and Directive 2006/100/EC adapting certain Directives in the field of free movement of persons, by reason of the accession of Bulgaria and Romania (JO L 363 of 20.12.2006, p. 141).

ACCESSION DATE: 1 May 2004 for Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia
1 January 2007 for Bulgaria and Romania

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OVERVIEW



Situations not covered by the "recognition" directive are examined on the basis of Article 43 of the EC Treaty or general system of Directive 2005/36

BASIC RULES – INTRODUCTORY SUMMARY

Diplomas, certificates and other evidence of formal qualifications listed in the annex to the “Recognition Directive” and attesting to training begun after accession all benefit from automatic and unconditional recognition (Box 1).

Diplomas, certificates and other evidence of formal qualifications attesting to training begun before accession are presumed not to comply with the minimum requirements for training and fall under the provisions on “acquired rights”. The diploma will be automatically recognised but must be accompanied by a certificate of professional experience (Box 3). Diplomas attesting to training which complies with the directive shall benefit from automatic recognition without the condition of professional experience (Box 1).

Some diplomas are covered by specific “acquired rights” provisions that are applicable exclusive of other provisions in the directive (Box 4).

Specific rules apply to situations in which the diploma, certificate or other evidence of formal qualification obtained prior to Accession has a title different from the one used in the directive (Box 2).

A confirmation procedure is provided for where there is justified doubt on the part of the host Member State (Box 5) and Member States must comply with procedural rules (Box 6).

Situations not covered by the “recognition” directive concerned must be examined on the basis of Article 43 of the EC Treaty (Box 7).

Box 1: Automatic recognition of diplomas

1) Diplomas sanctioning a course of training begun after accession: these diplomas, certificates and other evidence of formal qualifications listed in the annex to the “recognition” directive all benefit from automatic and unconditional recognition under the said directive.

Reference articles: Art. 2 and 4 of Dir. 93/16, Art. 2 of Dir. 77/452, Art. 2 and 4 of Dir. 78/686/EEC, Art. 2 of Dir. 1026, Art. 2 of Directive 80/154, Art. 2 of Dir. 85/433, Art. 2 of Dir. 85/384, Art 21(1) Dir. 2005/36

2) Diplomas* attesting to training begun before accession:

These diplomas, certificates and other evidence of formal qualification are assumed not to comply with minimum coordination of training requirements laid down for the profession in question, and are recognised on the basis of the “acquired rights” provisions (Box 3).

However, diplomas, certificates and other evidence attesting to training that complies to the directive shall benefit from automatic and unconditional recognition (point 1 above) under the directive. The host Member State can then require them to be accompanied by a certificate from the competent authority of the Member State of origin, stating that the evidence is in fact covered by the directive in question. In practice, the certificate also confirms that the titles attest to training that complies with the minimum training requirements laid down by the directive in question. For veterinary surgeons, however, this certificate is compulsory.

*For architects, only the “acquired rights” provisions apply (Box 3).

Reference articles: Preamble 10, Dir. 93/16; Preamble 8, Dir. 77/452; Preamble 9, Dir. 78/686, Preamble 7 and Art. 2, Dir. 78/1026, Preamble 8, Dir. 80/154, Preamble 9, Dir. 85/433, Preamble 15, Dir. 85/384, Annex VII point 2 Dir. 2005/36.

Box 2: Change of title of diploma

1) Diplomas, certificates and other evidence of formal qualifications* attesting to training awarded before accession (or begun before and completed after that date) that comply with all the minimum requirements laid down by the “coordination” directive but have a title different from those listed in the annex to the directive concerned, shall benefit from automatic and unconditional recognition (Box 1) if accompanied by a certificate issued by the competent authority in the State in question confirming that:

1) the certificate, diploma and other evidence of formal qualifications attest to training that complies with the minimum requirements laid down by the directive in question, and that:

2) they are treated by the Member State issuing them as being equivalent to those listed in the annex to the directive concerned.

* For architects, only the “acquired rights” provisions are applicable (Box 3).

Reference articles: Art. 9(3) of Dir. 93/16; Art. 4(2) of Dir. 77/452; Art. 7(3) of Dir. 78/686; Art. 4(2) of Dir. 78/1026; Art. 5(3) of Dir. 80/154 and Art. 6(2) of Dir. 85/433, Art. 23(6) of Dir. 2005/36.

2) Diplomas, certificates and other evidence of formal qualifications attesting to training awarded before accession (or begun before and completed after that date) that do not comply with all the minimum requirements laid down by the “coordination” directive but have a title different from those listed in the annex to the directive concerned: except where the specific acquired rights provisions apply (Box 4), recognition is covered by the general acquired rights provisions (Box 3).

NB: Dentistry diplomas awarded in Bulgaria, Estonia, Lithuania, Poland and Slovenia before accession date whose names make specific reference to stomatology (but attest to training considered to correspond to dentists’ training as understood by the “coordination” directive) shall be covered by the above provisions in cases of training that comply with all the training requirements of the “coordination” directive. For training that does not comply with the “coordination” directive, recognition of the diplomas is covered by the “acquired rights” (Box 3). Diplomas in stomatology awarded in the Czech Republic, Slovakia and Romania are, meanwhile, covered by the specific “acquired rights” (Box 4).

Box 3: General acquired rights

These provisions apply only to training begun before accession*. Diplomas, certificates and other evidence of formal qualification** attesting to training that does not comply with all the minimum training requirements laid down by the “coordination” directive shall benefit from automatic recognition under the directive if accompanied by a certificate issued by the competent authorities in the State concerned confirming that the holder has effectively and legally been dedicated to the activity in question for at least three consecutive years within the five years prior to issue of the certificate***. If the above-mentioned certificate is not produced, recognition is covered by Article 43 of the EC Treaty (Box 7) and, after 20.10.2007, by Title III Chapter I of Dir. 2005/36 .

* Diplomas in architecture are set out in a restrictive list in the directive, and for these, courses of training begun not later than during the academic year 2006-7 are covered.

** For Estonian veterinary surgeons’ diplomas, Polish general care nursing and midwifery diplomas and Czech and Slovak stomatology (dentistry) diplomas, only the specific acquired rights provisions shall apply (Box 4).

*** For doctors’ and specialised dentists’ diplomas, the required period of professional training is subject to specific rules of calculation.

Reference articles: Art. 9(1) *and* (2) of Dir. 93/16; Art. 4(1) of Dir. 77/452; Art. 7(1) *and* (2) of Dir. 78/686, Art. 4(1) of Dir. 78/1026, Art. 5(1) of Dir. 80/154; Art. 6(1). Dir. 85/433, Art. 10 *and* 11 of, Dir. 85/384 and Art. 23(1) and Art. 10(b) of Dir. 2005/36.

Box 4: Specific acquired rights

The following are covered by specific “acquired rights”:

1) Diplomas for:

- Estonian veterinary surgeons;
- Polish and Romanian general care nurses and midwives;
- Czech, Slovak and Romanian stomatologists (pursuing the profession of dentistry) attesting to training begun in these Member States before 1 May 2004 for CZ and SK and 1 October 2003 for RO

Reference articles: Art. 4 (c) and (e) of Dir. 77/452; Art. 19 (c) (d) and (e) of Dir. 78/686; Art. 4(b) of Dir. 78/1026; Art. 5(b) and (d) of Dir. 80/154, Art. 33(2) and (3), Art. 33(a) Art. 37(1), Art. 43 (3) and (4) And Art. 43(a) of Dir. 2005/36

2) Diplomas acquired (or attesting to training begun before the date of independence of the Member State concerned):

- In the former Soviet Union and allowing access to the profession in question in Estonia, Latvia or Lithuania;
- In the former Czechoslovakia and allowing access to the profession concerned in the Czech Republic or Slovakia;
- in Yugoslavia and allowing access to the profession concerned in Slovenia.

Reference articles: Art. 9(a) (1)-(6) of Dir. 96/16; Art. 4(c)(1)-(6) of Dir. 77/452, Art. 7(b)(1)-(4) and Art. 19(c) and (d) of Dir. 78/686; Art. 4(c)(1)-(6) of Dir. 78/1026; Art. 5(c)(1)-(6) of Dir 80/154, Art. 6(c)(1)-(6) of Dir. 85/433, Art. 11(a)(1)-(6) of Dir.85/384, Art. 23 (3)-(5) Dir. 2005/36

N.B.The Bulgarian "feldsher" diplomas do not benefit from any acquired rights and are excluded from recognition on the basis of the Directives.

Reference articles: Art. 4(e) of Dir. 77/452, Art. 9(b) of Dir. 93/16 and Article 23(a) of Dir. 2005/36

Box 5: Justified doubts

In cases of justified doubt, the host Member State may require the competent authorities of another Member State to confirm the authenticity of diplomas, certificates and other evidence of formal qualification awarded by that Member State, together with confirmation of the fact that the holder fulfils all the conditions of training laid down in the “coordination” directive.

Reference articles: Art. 22 of Dir. 93/16; Art. 16 of Dir. 77/452, Art. 21 of Dir. 78/686, Art. 15 of Dir. 78/1026; Art. 17 of Dir. 80/154, Art. 16 of Dir. 85/433, Art. 27 of Dir. 85/384, Art. 50(2) of Dir. 2005/36

Box 6: Procedural rules

In addition to diplomas and qualifications (and certificates of professional experience where applicable), other documents may be required from the applicant (such as identity papers and absence of a criminal record).

As a general rule, a request for recognition must produce a decision from the Member State concerned not later than three months after submission of the applicant’s complete file.

Due grounds must be provided for the Member State’s decision when an application is rejected. The national legal system must provide for an appeal against these decisions and against failure to take a decision within the time allocated.

Reference articles: Art. 11 *et seq.*, 15(1) and 42(d) of Dir. 93/16; Art. 6 *et seq.*, 10(1) and 18(d) of Dir. 77/452; Art. 9 *et seq.*, 13(1) and 23(d) of Dir. 78/686; Art. 6 *et seq.*, 10(1) and 17(d) of Dir. 78/1026; Art. 7 *et seq.*, 11(1) and 19(d) of Dir. 80/154; Art. 8 *et seq.*, 12(1) and 18(d) of Dir. 85/433; Art. 6(a), 17 *et seq* and 20(1) of Dir. 85/384, Art. 51 of Dir. 2005/36

Box 7: Subsidiary application of Article 43 of the EC Treaty

In exceptional situations not covered by the recognition directive (in particular, when the professional experience condition (Boxes 3 *and* 4) is not met), diplomas will be examined on the basis of Article 43 of the EC Treaty relating to freedom of establishment, as interpreted by the Court of Justice*. When the Member State receives an application for authorisation to practise the profession concerned, it is then required to take into consideration all the diplomas, certificates and other evidence of formal qualifications of the migrant by making a comparison between the skills attested to in these documents and the experience, knowledge and qualifications required by national legislation. Recognition is not automatic and may be made conditional on following additional training. for example.

* As from 20 October 2007, the general system of recognition of qualifications laid down in Title III Chapter I of Dir. 2005/36/CE shall be applicable to cases where the professional experience requirement of the acquired rights provisions is not met.

Reference: Court of Justice Judgment of 22 January 2002 in Case C-31/00, Dreessen (Rec. 2002 page I – 663) and Art. 10(b) of Dir. 2005/36.