



# CODE OF CONDUCT APPROVED BY THE GROUP OF COORDINATORS FOR THE GENERAL SYSTEM OF RECOGNITION OF DIPLOMAS

Directives 89/48/EEC and 92/51/EEC set up the "General System for the recognition of diplomas". Pursuant to these directives, a fundamental principle was adopted according to which any qualified professional following an occupation in a Member State is entitled henceforth to the recognition of his diploma to satisfy the requirement of the same profession in another Member State without being required to requalify from scratch. The basic principle of the system is therefore clearly the recognition of the migrant's qualification, the exception being the possibility for the host Member State to require "compensation measures". However, the adoption of these rules can mean that the candidate for recognition under go a number of administrative formalities. These administrative formalities are evoked in Article 8<sup>(1)</sup> of Directive 89/48/EEC and in Article 12<sup>(2)</sup> of Directive 92/51/EEC.

However, directives, by their nature, set out administrative formalities very broadly and the implementation of these rules varies from one Member State to another. Experience has shown that some of these administrative formalities could be justified on the basis of the smooth operation of the system while others created excessive obstacles to the right to

freedom of movement of the migrant. This observation relies in particular on the correspondence and complaints which were addressed to the Commission as well as on the discussions which took place between the Commission and Member States. It was also dealt with in the framework of the work of the "High Level Panel" chaired by Mrs Simone Veil. To reflect on the various practices as regards administrative formalities and to try to define the applicable rules with more precision, a questionnaire was sent out and the Group of Coordinators was asked to consider this question. This initially involved an exchange of views on the various practices in this area before arriving at a consensus. The present document is therefore the result of these discussions and of the cumulative experience of the Commission and the Member States. It is intended, while resting on the directives and case law, to determine what is unacceptable to impose on the migrant in contrast to the practices considered acceptable or even desirable. It has been drawn up to be used by the national authorities who are responsible for applying the directives of recognition of diplomas.

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(<sup>1</sup>) Article 8 of the directive 89/48/EEC stipulates that:

"The host Member State shall accept as a proof that the conditions laid down in Articles 3 and 4 are satisfied the certificates and documents issued by the competent authorities of the Member States, which the person concerned shall submit in support of his request to pursue the profession concerned.

2. The procedure for examining an application to pursue a regulated profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than four months after presentation of all the documents relating to the person concerned. A remedy shall be available against this decision, or the absence thereof, before a court or tribunal in accordance with the provisions of national law."

(<sup>2</sup>) Article 12 of the directive 92/51/EEC specifies that:

1. "The host Member State shall accept as means of proof that the conditions laid down in Articles 3 and 9 are satisfied, the documents issued by the competent authorities of the Member States, which the person concerned shall submit in support of his application to pursue the profession concerned.

2. The procedure for examining an application to pursue a regulated profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than four months after presentation of all the documents relating to the person concerned. A remedy shall be available against this decision or the absence thereof, before a court or tribunal in accordance with the provisions of national law."

Let us recall that this document is not exhaustive. New questions will appear over time which will require the document to be updated and redistributed.

In addition, this document has only an informative and advisory value in as much as the reference texts remain the directives and the caselaw of the Court.

Lastly, it is important not to lose sight of some fundamental realities of the general system of diploma recognition :

This system sets up a professional recognition system. This does not involve an academic recognition system which would result in a precise, exhaustive comparison of the training followed by the prospective candidate in

relation to that which is required in the host Member State. What counts is the fully qualified professional status of the candidate for recognition.

Let us recall finally that the basic principle of the system is the recognition of the migrant's qualification. Under Article 8 of Directive 89/48/EEC and Article 12 of Directive 92/51/EEC, it is the migrant's responsibility to provide documentary proof that he holds the relevant qualifications or diplomas required within the meaning of the directive. The exception is the imposition by the host Member State of "compensation measures". When a Member State considers that a compensation measure should be imposed, it is with this Member State that the burden of the proof lies (ability to show that there is a substantial difference).

NATIONAL ADMINISTRATIVE FORMALITIES FALLING UNDER DIRECTIVES 89/48EEC AND 92/51/EEC

	A. BEST PRACTICE	B. ACCEPTABLE PRACTICE	C. UNACCEPTABLE PRACTICE
<p>1. Information to be given to the outgoing migrant by the contact point or competent authority in the Member State of origin :</p>	<p>The migrant is given the information and/or documents listed in column B, plus:</p> <ul style="list-style-type: none"> <li>(a) national guide to the general system established by the Member State in question;</li> <li>(b) national guides prepared by other Member States;(1)</li> <li>(c) list of European Employment Services (EURES) advisers able to supply further information (on job availability or social security, for example);</li> </ul>	<p>The migrant is given the following information and/or documents:</p> <ul style="list-style-type: none"> <li>(a) name, address, telephone number, fax number and if necessary e-mail address of the contact point in the host Member State;</li> <li>(b) a copy of the Directives (if requested by the migrant) and the user's guide to the general system for the recognition of diplomas in the national language;</li> <li>(c) first issue of "Citizens First" ("Working in another EU country") and factsheets relating to the profession the migrant wishes to exercise.</li> </ul>	<p>(a) The migrant is given less information than that listed in column B.</p>

<sup>1</sup>Guides are available for Germany, Italy, the Netherlands, Austria, Sweden and the United Kingdom.

<p>2. Information to be given to the incoming migrant by the contact point or by another competent authority in the host Member State :</p>	<p><b>A. BEST PRACTICE</b></p> <p>The migrant is given the information and/or documents listed in column B, plus:</p> <ul style="list-style-type: none"> <li>(a) national guide to the general system established by the Member State in question;</li> <li>(b) list of European Employment Services (EURES) advisers able to supply further general information (on job vacancies or social security, for example);</li> <li>(c) information on the rules governing the exercise of the profession (e.g. registration with a professional body, rights and duties of the profession, training, rules governing members, etc.) and, where appropriate, on trade union and professional organisations.</li> </ul>	<p><b>B. ACCEPTABLE PRACTICE</b></p> <p>The migrant is given the following information and/or documents:</p> <ul style="list-style-type: none"> <li>(a) the contact point in the host Member State will direct the migrant to the competent authority to whom he should send his application;</li> <li>(b) a copy of the Directives (if requested by the migrant) and the user's guide in the language(s) of the host State;</li> <li>(c) if the migrant so requests, a copy of the appropriate law transposing the "general system" Directives in relation to the profession the migrant wishes to exercise. Where the legislation is not available, applicants must be able to obtain it easily (contact point should explain where);</li> <li>(d) comprehensive list of the documents the applicant might be asked to provide in support of his application (on subsequent production of these documents by the candidate, the dossier should be regarded as complete by the competent authority in the host Member State);</li> <li>(e) where the applicant's circumstances are not covered by a "general system" Directive (e.g. application for academic recognition, case covered by a sectoral Directive etc.), enough information should be provided to enable him to redirect his application to the department responsible.</li> </ul>	<p><b>C. UNACCEPTABLE PRACTICE</b></p> <p>(a) The migrant is given less information than that listed in column B.</p>
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<p>3. Documents that the migrant may be asked to supply to the competent authority in the host Member State:</p>	<p><b>A. BEST PRACTICE</b></p> <p>Where there is doubt and where the certificate mentioned at point 3 C (b) cannot be produced because the Member State of origin does not deliver such a certificate, the matter can be settled by bilateral contacts between national authorities or through national coordinators. Such bilateral contacts should be reinforced.</p>	<p><b>B. ACCEPTABLE PRACTICE</b></p> <p><b>The migrant may be asked to provide:</b></p> <p>(a) proof of nationality, for example, a copy of his identity card or passport;</p> <p>(b) a birth certificate, where necessary (e.g. in the case of a minimum age requirement for the exercise of a profession);</p> <p>(c) a "diploma", "certificate", "other evidence of formal qualifications", "attestation of competence" or "evidence of education attesting to general education at primary or secondary school" as defined in the Directives. It is clear from the definitions contained in the Directives that, in addition to academic qualifications, the migrant may, if necessary, be required to produce documents showing that he is indeed a fully qualified professional in his Member State of origin (e.g. where further requirements are imposed in addition to the course of study, such as additional professional training, in-service training, professional examination, professional practice, etc.);</p> <p>(d) the migrant may be asked to provide further details on the content of his training course in order to enable the competent authority to establish whether substantial differences exist; this requirement must not be disproportionate or unduly strict (e.g. if the training establishment is unable to provide details of the programme, the migrant may submit a declaration listing the subjects studied). In cases of doubt, the matter can be settled by bilateral contacts between the national authorities or through the national coordinators. Such bilateral contacts should be reinforced ;</p> <p>(e) a certificate from a migrant's employer or a professional body in the case of a profession which is not regulated in the Member State of origin must be accepted by the host State's authorities; they may not require the certificate to have been certified by the national coordinator in the Member State of origin. In cases of doubt, its authenticity can be verified by contacting the coordinator in the Member State of origin</p>	<p><b>C. UNACCEPTABLE PRACTICE</b></p> <p><b>The migrant must not be asked to provide</b></p> <p>(a) a declaration of nationality from his consulate;</p> <p>(b) even if such a certificate may be of great practical use, the host Member State may not, in principle, demand that the migrant produce a certificate stating that he is in possession of a diploma, as defined in the Directive.</p> <p>(c) the migrant must not be required to provide information of a disproportionately detailed nature about his training. (At issue here is professional recognition, not academic recognition).</p>
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	A. BEST PRACTICE	B. ACCEPTABLE PRACTICE	C. UNACCEPTABLE PRACTICE
		<p>(f) proof of the applicant's professional experience. It should be pointed out to the migrant that it is the applicant, and not the national administration, who must provide proof of professional experience, especially where such professional experience constitutes a prior condition for recognition (i.e. when the profession is not regulated in the country of origin but is regulated in the host country) and that it is in his/her interests to provide such information. Providing proof of professional experience enables him/her to avoid, in full or in part, the obligation to take an aptitude test or complete an adaptation period.</p> <p>(g) a certificate of medical fitness (where the requirement also applies to nationals);</p> <p>(h) a certificate of solvency (where the requirement also applies to nationals);</p> <p>(i) a certificate of good conduct (where the requirement also applies to nationals);</p> <p>(j) an application form (provided by the competent authority) duly completed;</p>	

	<b>A. BEST PRACTICE</b>	<b>B. ACCEPTABLE PRACTICE</b>	<b>C. UNACCEPTABLE PRACTICE</b>
4. Form in which the migrant must supply the documents requested to the competent authorities of the host Member State :		<p>(a) ordinary photocopies of the essential documents ("diploma", "certificate" and "personal data");</p> <p>(b) certified photocopies of the essential documents ("diploma", "certificate" and "personal information");</p> <p>(c) the migrant must be informed how he can have his documents certified (formalities involved and issuing authority).</p>	<p>(a) The migrant must not be compelled to provide the originals or documents authenticated by the consular authorities or the national administration (for example, by means of the marginal note provided for in the Hague Convention), or to provide documents on stamp-impressed paper available only in the host Member State.</p>
5. Translations (information to be supplied by the competent authorities in the Member State of origin) :	<p><b>Information on how to obtain a list of certified translators in the Member State of origin should be available in that Member State.</b></p>		
6. Translations required by the competent authority in the host Member State	<p>(a) translations may only be asked for if they are genuinely (?) needed for processing the application (bearing in mind that the more certified or approved documents the migrant is required to provide, the greater the costs for him);</p> <p>(b) requests for certified or approved translations must be confined to the essential documents ("diploma", "certificate", "personal information").</p>	<p>A general obligation to provide translations may be imposed. The competent authority may require certified or approved translations provided the following conditions are met:</p> <p>(a) translations of standard documents such as identity cards, passports, etc., may not be required;</p> <p>(b) if certified translations are required, the migrant must be told where they can be obtained;</p> <p>(c) uncertified translations must be accepted for non-essential documents;</p> <p>(d) the cost of a translation certified as correct or approved should not be excessive; it should be non-discriminatory and comparable to the cost paid by nationals of the host country.</p>	<p>Requirements for translations which do not meet the criteria set out in column B.</p>

<sup>7</sup>Take the example of Sweden, where documents may be submitted in Swedish, Danish, Norwegian, Finnish, English or French.

	A. BEST PRACTICE	B. ACCEPTABLE PRACTICE	C. UNACCEPTABLE PRACTICE
7. Charges to be paid by the migrant in the host Member State	No charges.	<p>The migrant may be required to pay charges for the processing of his application, for his aptitude test or his adaptation period, provided that the following conditions are met:</p> <p>(a) the charges should not exceed the real cost of the service provided;</p> <p>(b) the charges should be comparable to those paid by nationals of the host country in similar circumstances;</p> <p>(c) the charges must not be set at a level which would make it impossible in practice to exercise the rights provided for in the Directives;</p> <p>(d) flat-rate charges may be imposed provided that they can be justified by reference to the average cost of processing an application.</p>	(a) Levying charges which do not meet the criteria listed in column B
8. Aptitude test in the host Member State	<p>a) frequency: at least 2 sessions a year (according to demand);</p> <p>b) preparation: provision of information on any preparatory courses provided, lists of recommended reading and sample test papers;</p> <p>c) it must be possible to provide an enrolment form for the aptitude test.</p>	<p>(a) frequency : at least once a year;</p> <p>(b) candidates must be notified of the administrative formalities to be completed in order to enrol for the aptitude test;</p> <p>(c) candidates must be informed of the content and organisation of the test (time allowed, written and/or oral tests, options, etc.);</p> <p>(d) a list of the national bodies responsible for processing applications must be made available to the candidate;</p> <p>(e) migrants are allowed to resit the test. The rules governing the number of times candidates may take the test should take account of national practice (with due regard for the principle of non-discrimination).</p>	<p>(a) frequency : less than one session a year;</p> <p>(b) provision of less information than that listed in column B.</p>

	<i>A. BEST PRACTICE</i>	<i>B. ACCEPTABLE PRACTICE</i>	<i>C. UNACCEPTABLE PRACTICE</i>
<p>9. Adaptation period in the host Member State :</p>	<p>(a) lessons drawn from successful adaptation periods are passed on to the migrant for information (lists of recommended books, for example);</p> <p>(b) as far as possible, the migrant should be free to choose a training supervisor and the place where the adaptation period will be spent.</p>	<p>(a) proof of nationality, for example, candidates must be notified of the administrative formalities to be completed for enrolment for the adaptation period;</p> <p>(b) candidates must be notified of the content and organisation of the adaptation period;</p> <p>(c) where this is possible within the host country's national structures, the migrant may receive payment during the adaptation period. However, this does not constitute a right.</p> <p>(d) the host Member State may confer responsibility for organising adaptation periods on authorised establishments and/or training supervisors. However, the arrangements for the adaptation period should not be so daunting that they constitute an indirect, and disproportionate obstacle for the migrant (e.g: too far to travel to the place of the training period, over-restrictive conditions, etc.).</p> <p>A list of establishments/people responsible for adaptation periods for the profession that the migrant wishes to exercise should be made available to him.</p>	<p>(a) provision of less information than that listed in column B;</p> <p>(b) no information regarding payment.</p>
<p>10. Assembling documents: time allowed:</p>	<p>Processing of applications in less than the time allowed by the Directives</p>	<p>(a) applicants must be given clear information on the list of documents required for an application for recognition to be regarded as complete;</p> <p>(b) the four-month deadline imposed by the "general system" Directives for replying to the applicant once all the documents have been presented must be respected.</p>	<p>(a) demands for further documents not included on the original list notified to the applicant (cf. point 2.B(d));</p> <p>(b) failure to meet the four-month deadline.</p>

	<i>A. BEST PRACTICE</i>	<i>B. ACCEPTABLE PRACTICE</i>	<i>C. UNACCEPTABLE PRACTICE</i>
11. Missing documents	(a) The migrant must be notified as quickly as possible, e.g. within one month of the submission of his original application, which documents are missing from his file; he must be reminded that the four-month period will not start to run until these documents have been supplied.	(a) the migrant must be informed that the four-month period provided for by the Directive has begun, e.g. by means of a receipt stating that the file is complete (in this case the receipt must be issued promptly). The competent authority must not use this practice to delay the procedure;  (b) if the migrant is informed that certain documents are missing, he must be allowed a reasonable time in which to provide them. Once this deadline has expired, a new application may have to be submitted;  (c) where a migrant specifically asks the designated authority in the host Member State whether the documents he has submitted are complete, he is entitled to be given this information.	(a) The failure to inform or the provision of less information than that listed in column B;  (b) any delay in informing the migrant that his dossier is incomplete (notably such practices as waiting for an approach by the migrant, before providing this information).
12. Rules on reasoned decisions and appeals	The decision adopted by the competent authority should mention the migrant's right of appeal, specifying the procedure to be followed and especially the time limit for lodging an appeal in the Member State concerned.	(a) reasons must be given for all decisions taken;  (b) the migrant must be informed of the legal (or administrative) right of appeal open to him, setting out the procedure to be followed and the time limit for appeals in the Member State concerned. He should also be informed of the consequences of failure on the part of the authority responsible for processing the application to reply within the time allowed.	(a) failure to provide reasons or satisfactory reasons. Arguments based on "academic recognition" are not acceptable;  (b) no information on the migrant's right of appeal.
13. Professional bodies	See point 2A(c)		
14. Coordination	(a) regular meetings between competent authorities dealing with different professions within a Member State with a view to exchanging experiences;  (b) contacts between coordinators of different Member States.	Regular contacts between national coordinators and the competent authorities.	