

Recent measures to simplify the EU system of recognition of qualifications and make it more efficient

An overview of the SLIM directive, proposal of new directive (including amendments of Apr, 2004) and some EU explanatory texts

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This text does not express official EU position.

The SLIM Directive (Directive 2001/19/EEC)

Based on the previous experiences of the application of General system of recognition and the sectoral Directives, the SLIM Directive makes amendments to the General system's Directives 89/48/EEC and 92/51/EEC and the sectoral Directives. In case of both the General system and the sectoral Directives, the amendments codify the best practices and achievements reached in application of one or several Directives and extend them to other appropriate Directives. The amendments also take into account some recent developments. The main changes introduced by the SLIM Directive are discussed below.

Concept of regulated education and training spread over the whole General System

The concept of regulated education and training, introduced by Council Directive 92/51/EEC of 18 June 1992 should be extended to the initial general system and should be based on the same principles by applying to it the same rules

This has been carried out by amending Article 1 of the Directive 89/48/EEC.

Compensatory measures of substantial differences are linked to previous experience

It has been taken into account that in the cases where there are substantial differences between the education and training that applicant has completed and the one required for the same profession in the host Member State, the previous professional experience of the applicant may completely and partly compensate these differences.

Directives 89/48/EEC (Article 4) and 92/51/EEC (Articles 4,5, and 7) are amended with clauses stating that if, due to substantial differences in applicant's training, the host Member State intends to require the applicant to complete an adaptation period or take an aptitude test, it must be checked whether the knowledge acquired by the applicant in the course of his professional experience is of such nature that it has already covered, in full or in part, the substantial difference in question.

Third country qualifications

SLIM Directive amends all the sectoral Directives with a view of introducing clauses regarding recognition of those third country qualifications that have already been recognized by a Member State. Time limit for issuing the decision is set to three months.

The wording introduced into the sectoral Directives is the following:

“Member States shall examine diplomas, certificates and other evidence of formal qualifications in the field covered by this Directive obtained by the holder outside the European Union in cases where those diplomas, certificates and other evidence of formal qualifications have been recognised in a Member State, as well as of training undergone and/or professional experience gained in a Member State. The Member State shall give its decision within three months of the date on which the applicant submits his application together with full supporting documentation.”

Information on changes in training systems

SLIM Directive seeks to take into account the rapid changes in the training systems and to overcome the problems arising in situations when applicant presents a qualification of another Member State that certifies training for a sectoral profession but is not among the ones whose names are listed in the sectoral Directives.

SLIM Directive amends all the sectoral Directives with a clause establishing an obligation to the Member States to notify the Commission of the laws, regulations or administrative provisions they adopt as regards the award of diplomas, certificates and other evidence of formal qualifications in the field covered by sectoral Directives. The Commission in turn has an obligation publish an appropriate notice in the Official Journal of the European Communities, listing the names adopted by the Member States for the training qualifications concerned and, where applicable, for the corresponding professional titles.

Recognition of qualifications not listed in sectoral Directives

Another improvement introduced by the SLIM Directive is an amendment of all the sectoral Directives that stipulates application of the sectoral Directives also to such diplomas, certificates and other evidence of formal qualifications, issued in the Member States, which certify qualification for the profession in question but whose names do not correspond to the ones listed in the appropriate Directive.

Such diplomas, certificates, etc. will serve as a sufficient proof, if accompanied by a certificate from the awarding Member State, stating that the diploma, certificate, etc. is equivalent to those listed in the Directive.

The text amending sectoral Directives is as follows” “Each Member State shall recognise as sufficient proof, in respect of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in the field covered by this Directive do not correspond to the names listed for that Member State in this Directive, the diplomas, certificates and other evidence of formal qualifications awarded by those Member States and accompanied by a certificate issued by the competent authorities or bodies. The certificate shall state that the diplomas, certificates and other evidence of formal qualifications in question have been awarded on completion of education and training that complies with the provisions of this Directive and are treated by the awarding Member State as equivalent to those whose names are listed therein.”

Notion of continuing training appears in doctors' and dentists' Directives

Due to the rapid technical and scientific progress in the area of medicine, suitable continuing training must ensure that doctors maintain their knowledge of progress in medicine. According to the amendments to the Article 23 of the doctors' Directive, it is up to each Member State to choose the arrangements of continuing education: "Continuing training shall ensure, in accordance with the arrangements prevailing in each Member State that the persons who have completed their studies can keep up with progress in medicine."

Amendments to doctors' (article 8) and dentists' (Article 6) Directives require that the Members states take into account previous continuing training of the applicant has to be taken into account when evaluating his qualifications.

Reasons for non-recognition and right to appeal is established

All the sectoral Directives are amended by the SLIM Directive in order to establish an identical obligation of Member States to clearly state the reasons for non-recognition. This applies to recognition of diplomas, certificates and other evidence of formal qualifications.

Also, the applicant's right to appeal is clarified. It applies both to cases of non-recognition and to cases where the decision has not been reached within the allowed time limit.

The uniform text introduced into all the sectoral Directives is the following:

"Where the application is rejected, Member States shall duly give the reasons for decisions on applications for recognition of diplomas, certificates and other evidence of formal qualifications in the field covered by this Directive."

Applicants shall have a right of appeal before the courts under national law. That right of appeal shall likewise apply in the event of failure to reach a decision within the stipulated period."

Proposal for a Directive of the European Parliament and of the Council on the recognition of professional qualifications

Text of the original Proposal (2002) as well as the amendments to the Proposal by the Commission and Council (April 2004) can be found at http://europa.eu.int/comm/internal_market/qualifications/future_en.htm

The first round of simplification achieved a considerable consolidation of the 35 transitional Directives concerning crafts and trades professions forming the third General System Directive 1999/42/EC. The subsequent adoption of the Directive 2001/19/EC has further simplified the legal and procedural regime for professional recognition. The further simplification through the Directive currently proposed will join both General and sectoral recognition systems into one Directive.

The main objectives of the new proposal were.

A clear, secure and quick system for the recognition of qualifications in the field of the regulated professions is required to ensure free movement. This is important to help to

ensure that employment vacancies are filled by qualified applicants and to ensure that there is a regular supply of qualified service suppliers to meet market demand.

In order to make the system clearer, easier to understand and apply, it is proposed to adopt a single Directive that also comprehensively revises all of the previous Directives, but at the same time simplifies the structure and makes improvements to the working of the system. In addition to pure consolidation, a review of the various provisions of the different Directives has taken place, leading to their rationalisation and streamlining of the provisions into a single Directive.

The proposal also provides for simpler conditions for the cross-frontier provision of services compared with those applicable to the freedom of establishment in order further to contribute to the flexibility of labour and services markets.

The new Directive will cover the 12 Directives for the 7 professions regulated by the sectoral Directives: doctor, general care nurse, dental practitioner, veterinary surgeon, midwife, pharmacist and architect.

However, it will not cover the lawyers' Directives 77/249/EEC and 98/5/EC since the latter concern the recognition not of professional qualifications but of the right of establishment. Still, recognition of lawyers' qualifications will be taken over by the new Directive, as it is currently governed by Directive 89/48/EEC, which will be taken over by the new Directive.

In addition to simplification of the legal texts, also the procedural simplification is foreseen. In the past the sectoral Directives have been supported by administratively burdensome advisory committees in addition to committees of national officials, while general systems' Directives operate with the support of a single committee of national Co-ordinators Group. Besides, the focus of these advisory committees has been on (harmonization of) training while the actual focus currently lies on ensuring free movement. One of the aims of the proposal is to address this issue.

To whom shall the new Directive apply?

Article 2 lays down that the Directive applies solely to Community nationals, when the profession which the applicant wishes to pursue is regulated in the host Member State, and when the applicant has obtained his professional qualifications in a Member State other than that in which he wishes to pursue the profession.

Definitions.

The definitions are practically unchanged compared to the ones currently contained in the general system Directives concerning the concepts of regulated profession, professional qualifications and evidence of formal training (Article 3). The latter includes any evidence of formal qualifications obtained in a third country, once it has been recognised by a first Member State where the applicant has pursued the profession for at least three years).

Possibilities of partial access to profession.

While main effect of professional recognition is access to the profession (Article 4)- on condition that the profession applicant wishes to pursue in the host Member State is the

same profession for which he/she is qualified in his home Member State, the host Member State also has an obligation to give applicant partial access to the profession if the profession for which he/she is qualified in the home Member State in fact constitutes a distinct and autonomous professional activity of the profession in the host Member State.

Easier access to provision of services

According to Article 5 of the proposal, if the beneficiary is legally established in a Member State, other Member States may not, for reasons relating to professional qualifications, restrict the freedom to provide services¹. In addition, the exemption of service providers from authorization or registration in the host Member States has been taken over from sectoral Directives and now applies to all regulated professions.

Verification of issues such as nationality of the service provider and his/her lawful pursuit of profession in the Member State of establishment has to be carried out through cooperation and information exchange between the authorities of both Member States.

General system

General system in the proposal for the new Directive is regulated under Title III “Freedom of establishment” Chapter I “General system for the recognition of evidence of training”, articles 10-15.

The main new features of the General system are the following.

Widening scope of General system

The scope of chapter dealing with General system (Title III Chapter I) is set wider than it was in Directives 89/48EEC and 92/51/EEC. It applies to all those professions which are not eligible for automatic recognition on the basis of professional experience or the “Recognition on the basis of coordination of minimum training conditions” – which is the new name for the former sectoral system. According to Article 10, General system will now cover “all cases in which the applicant does not satisfy the [coordination of minimum training].conditions”².

Five levels of qualification

While the General system established by the Directives 89/48EEC and 92/51/EEC distinguishes between four levels of training, the proposed new system has five levels. Levels 1 “attestation of competence” and level 2 “certificate” are, in principle the same as in Directive 92/51/EEC.

Level 3 - “diploma certifying successful completion of a short training course”, in principle, resembles the “diploma” in the understanding of Directive 92/51/EEC – it covers post secondary training of at least one year but less than three years. There

¹ If the profession in question is not regulated in the Member State of establishment, other Member states may require that the person has pursued the professional activity for two years in the Member State of establishment.

² This means that there can be cases where professionals of “sectoral” professions may, instead of automatic recognition stipulated by the previous sectoral system, find themselves assessed under General System, if the training in their Member States of origin is not recognized as compliant to the minimum training conditions.

however is a nuance that should be noticed: while the Directive 92/51/EEC explicitly mentions “one of the conditions of entry of [the training course] is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education”. This wording is omitted in the proposal of the new Directive.

Level 4 - "diploma certifying successful completion of an intermediate training course" corresponds to a "course of training at higher or university level" of at least three but less than four years.

Level 5 - "diploma certifying successful completion of a higher training course" corresponds to training at higher education level and of a minimum duration of four years.

No more than one level below

If the qualification required for pursuit of the profession in question in home and host Member States is at different level, the condition for recognition is set that the qualification of the applicant has be of level “at least equivalent to the level immediately below that which is required in the host Member State (Article 13).

Substantial differences linked to essential knowledge

In the proposal for the new Directive the "substantially different matters" in training are explicitly linked to knowledge essential for practicing the profession.

Recognition of professional experience

Recognition of professional experience is regulated by clauses under Title III “Freedom of establishment” Chapter II (articles 16-19). It basically takes over the provisions of Article 4 of Directive 1999/42/EC, which provides for the automatic recognition of qualifications on the basis of the applicant's professional experience in the case of the craft, industrial and commercial activities set out in a restrictive list annexed to the Directive.

The system has been simplified through regrouping the existing categories. The number of categories of professional experience is reduced to two, based on professional experience of three or five years in a self-employed capacity or as a manager of an undertaking.

Recognition on the basis of coordination of the minimum training conditions – taking over the sectoral system

The existing sectoral Directives are taken over by the section of the proposal for the new Directive under Title III “Freedom of establishment” Chapter III “Recognition on the basis of coordination of the minimum training conditions” (Articles 20-45). This section takes over the existing principles governing the automatic recognition of evidence of training while maintaining the guarantees set out in the current sectoral Directives.

The relevant existing provisions of sectoral Directives for coordination of the minimum training conditions, automatic recognition of evidence of formal training, access to the professions concerned, the exercise of the professional activities in question, the procedures for including the evidence of training in the Annex to Directive, and acquired rights are taken over.

There are however a number of amendments, see below.

Part time training becomes possible if certain conditions are fulfilled

The amendments to the proposal for the new Directive as of April 2004 in certain conditions allows part time training for doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects: “The Member States may authorise part-time training on the conditions allowed by the competent national bodies. The total duration of part-time training may not be less than that of full-time training, and the level of the training may not be compromised by its part-time nature.”

These amendments apply to both initial and specialist training of doctors and dental practitioners.

Further training is required to keep updated

The amendments to the proposal for the new Directive as of April 2004 also introduce a clause stipulating the need for further training, which applies to all the “sectoral” professions: “Further training shall ensure, in accordance with the procedures specific to each Member State, that persons who have completed their studies are able to keep abreast of progress in... (name of profession)”.

This amendment also applies to all the “sectoral” professions: doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects.

Doctors and dentists

Only those medical and dental specialisations which are common to and obligatory for all the Member States will benefit from automatic recognition in future. These medical and dental specialisations that are common to a limited number of Member States are incorporated into the general system of recognition and are not any more subject to automatic recognition.

For doctors, the following form of training of general practitioners is abolished: “training in general medical practice by means of experience in general medical practice acquired by the medical practitioner in his own surgery under the supervision of an authorized training supervisor of minimum training conditions” (quote from Article 32 of the doctors’ Directive 93/16/EEC).

Nurses of general care

The references are abolished to the specifically professional nature of the training and to the passing of an examination (cf. Article 3 of Directive 77/452/EEC).

Pharmacists

Automatic recognition of evidence of training as a pharmacist is also extended to the setting-up of new pharmacies open to the public.

