

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)

TITLE III

FREEDOM OF ESTABLISHMENT

CHAPTER I

General system for the recognition of evidence of training

Article 14

Compensation measures

[^{F1} Article 13 shall not preclude the host Member State from requiring the applicant to complete an adaptation period of up to three years or to take an aptitude test if:

- a the training the applicant has received covers substantially different matters than those covered by the evidence of formal qualifications required in the host Member State;
- b the regulated profession in the host Member State comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State, and the training required in the host Member State covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.]

2 If the host Member State makes use of the option provided for in paragraph 1, it must offer the applicant the choice between an adaptation period and an aptitude test.

Where a Member State considers, with respect to a given profession, that it is necessary to derogate from the requirement, set out in the previous subparagraph, that it give the applicant a choice between an adaptation period and an aptitude test, it shall inform the other Member States and the Commission in advance and provide sufficient justification for the derogation.

[^{F1}Where the Commission considers that the derogation referred to in the second subparagraph is inappropriate or that it is not in accordance with Union law, it shall adopt an implementing act, within three months of receiving all necessary information, to ask the relevant Member State to refrain from taking the envisaged measure. In the absence of a response from the Commission within that deadline, the derogation may be applied.]

3 By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, for professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate either an adaptation period or an aptitude test.

[^{X1}This applies also to the cases provided for in Article 10 points (b) and (c), in Article 10 point (d) concerning doctors and dental practitioners in Article 10 point (f) when the migrant seeks recognition in another Member State where the relevant

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professional activities are pursued by nurses responsible for general care or specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training] leading to the possession of the titles listed in Annex V, point 5.2.2 and in Article 10 point (g).

In the cases covered by Article 10 point (a), the host Member State may require an adaptation period or an aptitude test if the migrant envisages pursuing professional activities in a self-employed capacity or as a manager of an undertaking which require the knowledge and the application of the specific national rules in force, provided that knowledge and application of those rules are required by the competent authorities of the host Member State for access to such activities by its own nationals.

[^{F2}By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, the host Member State may stipulate either an adaptation period or an aptitude test in the case of:

- a a holder of a professional qualification referred to in point (a) of Article 11, who applies for recognition of his professional qualifications where the national professional qualification required is classified under point (c) of Article 11; or
- b a holder of a professional qualification referred to in point (b) of Article 11, who applies for recognition of his professional qualifications where the national professional qualification required is classified under point (d) or (e) of Article 11.

In the case of a holder of a professional qualification referred to in point (a) of Article 11 who applies for recognition of his professional qualifications where the national professional qualification required is classified under point (d) of Article 11, the host Member State may impose both an adaptation period and an aptitude test.]

[^{F14} For the purposes of paragraphs 1 and 5, ‘substantially different matters’ means matters in respect of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the migrant shows significant differences in terms of content from the training required by the host Member State.

5 Paragraph 1 shall be applied with due regard to the principle of proportionality. In particular, if the host Member State intends to require the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his professional experience or through lifelong learning, and formally validated to that end by a relevant body, in any Member State or in a third country, is of such nature as to cover, in full or in part, the substantially different matters defined in paragraph 4.]

[^{F26} The decision imposing an adaptation period or an aptitude test shall be duly justified. In particular, the applicant shall be provided with the following information:

- a the level of the professional qualification required in the host Member State and the level of the professional qualification held by the applicant in accordance with the classification set out in Article 11; and
- b the substantial differences referred to in paragraph 4 and the reasons for which those differences cannot be compensated by knowledge, skills and competences acquired in the course of professional experience or through lifelong learning formally validated to that end by a relevant body.

7 Member States shall ensure that an applicant has the possibility of taking the aptitude test referred to in paragraph 1 not later than six months after the initial decision imposing an aptitude test on the applicant.]

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Editorial Information

- X1** Substituted by [Corrigendum to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications \(Official Journal of the European Union L 255 of 30 September 2005\)](#).

Textual Amendments

- F1** Substituted by [Directive 2013/55/EU of the European Parliament and of the Council 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 \('the IMI Regulation'\)](#) (Text with EEA relevance).
- F2** Inserted by [Directive 2013/55/EU of the European Parliament and of the Council 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 \('the IMI Regulation'\)](#) (Text with EEA relevance).