

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)

[<sup>F1</sup>TITLE V

**ADMINISTRATIVE COOPERATION AND RESPONSIBILITY  
TOWARDS CITIZENS FOR IMPLEMENTATION]**

*Article 56*

**Competent authorities**

1 The competent authorities of the host Member State and of the home Member State shall work in close collaboration and shall provide mutual assistance in order to facilitate application of this Directive. They shall ensure the confidentiality of the information which they exchange.

2 [<sup>F1</sup>The competent authorities of the home and the host Member States shall exchange information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under this Directive. In so doing, they shall respect personal data protection rules provided for in Directives 95/46/EC and 2002/58/EC.]

The home Member State shall examine the veracity of the circumstances and its authorities shall decide on the nature and scope of the investigations which need to be carried out and shall inform the host Member State of the conclusions which it draws from the information available to it.

[<sup>F2a</sup> For the purposes of paragraphs 1 and 2, the competent authorities shall use IMI.]

3 Each Member State shall, no later than 20 October 2007, designate the authorities and bodies competent to award or receive evidence of formal qualifications and other documents or information, and those competent to receive applications and take the decisions referred to in this Directive, and shall forthwith inform the other Member States and the Commission thereof.

[<sup>F14</sup> Each Member State shall designate a coordinator for the activities of the competent authorities referred to in paragraph 1 and shall inform other Member States and the Commission thereof.

The coordinators' tasks shall be:

- a to promote uniform application of this Directive;
- b to collect all the information which is relevant for application of this Directive, such as on the conditions for access to regulated professions in the Member States;
- c to examine suggestions for common training frameworks and common training tests;
- d to exchange information and best practice for the purpose of optimising continuous professional development in Member States;
- e to exchange information and best practice on the application of compensation measures referred to in Article 14.

For the purpose of carrying out the task set out in point (b) of this paragraph, the coordinators may solicit the help of the assistance centres referred to in Article 57b.]

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### Textual Amendments

- 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).

## *f<sup>F2</sup>* Article 56a

### Alert mechanism

1 The competent authorities of a Member State shall inform the competent authorities of all other Member States about a professional whose pursuit on the territory of that Member State of the following professional activities in their entirety or parts thereof has been restricted or prohibited, even temporarily, by national authorities or courts:

- a doctor of medicine and of general practice possessing evidence of a formal qualification referred to in points 5.1.1 and 5.1.4 of Annex V;
- b specialist doctor of medicine possessing a title referred to in point 5.1.3 of Annex V;
- c nurse responsible for general care possessing evidence of a formal qualification referred to in point 5.2.2 of Annex V;
- d dental practitioner possessing evidence of a formal qualification referred to in point 5.3.2 of Annex V;
- e specialist dentists possessing evidence of a formal qualification referred to in point 5.3.3 of Annex V;
- f veterinary surgeon possessing evidence of a formal qualification referred to in point 5.4.2 of Annex V;
- g midwife possessing evidence of a formal qualification referred to in point 5.5.2 of Annex V;
- h pharmacist possessing evidence of a formal qualification listed in point 5.6.2 of Annex V;
- i holders of certificates mentioned in point 2 of Annex VII attesting that the holder completed a training which satisfies the minimum requirements listed in Articles 24, 25, 31, 34, 35, 38, 40, or 44 respectively, but which started earlier than the reference dates of the qualifications listed in points 5.1.3, 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 of Annex V;
- j holders of certificates of acquired rights as referred to in Articles 23, 27, 29, 33, 33a, 37, 43 and 43a;
- k other professionals exercising activities that have patient safety implications, where the professional is pursuing a profession regulated in that Member State;
- l professionals exercising activities relating to the education of minors, including in childcare and early childhood education, where the professional is pursuing a profession regulated in that Member State.

2 Competent authorities shall send the information referred to in paragraph 1 by way of alert via IMI at the latest within three days from the date of adoption of the decision restricting or prohibiting pursuit of the professional activity in its entirety or in part by the professional concerned. That information shall be limited to the following:

- a the identity of the professional;
- b the profession concerned;

- c information about the national authority or court adopting the decision on restriction or prohibition;
- d the scope of the restriction or the prohibition; and
- e the period during which the restriction or the prohibition applies.

3 The competent authorities of a Member State concerned shall, at the latest within three days from the date of adoption of the court decision, inform the competent authorities of all other Member States, by way of alert via IMI, about the identity of professionals who have applied for the recognition of a qualification under this Directive and who have subsequently been found by courts to have used falsified evidence of professional qualifications in this context.

4 The processing of personal data for the purpose of the exchange of information referred to in paragraphs 1 and 3 shall be carried out in accordance with Directives 95/46/EC and 2002/58/EC. The processing of personal data by the Commission shall be carried out in accordance with Regulation (EC) No 45/2001.

5 The competent authorities of all Member States shall be informed without delay when a prohibition or a restriction referred to in paragraph 1 has expired. For that purpose, the competent authority of the Member State which provides the information in accordance with paragraph 1 shall also be required to provide the date of expiry as well as any subsequent change to that date.

6 Member States shall provide that professionals, in respect of whom alerts are sent to other Member States, are informed in writing of decisions on alerts at the same time as the alert itself, may appeal under national law against the decision or apply for rectification of such decisions and shall have access to remedies in respect of any damage caused by false alerts sent to other Member States, and in such cases the decision on the alert shall be qualified to indicate that it is subject to proceedings by the professional.

7 Data regarding alerts may be processed within IMI for as long as they are valid. Alerts shall be deleted within three days from the date of adoption of the revoking decision or from the expiry of the prohibition or the restriction referred to in paragraph 1.

8 The Commission shall adopt implementing acts for the application of the alert mechanism. Those implementing acts shall include provisions on the authorities entitled to send or receive alerts and on the withdrawal and closure of alerts, and measures to ensure the security of processing. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

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### *[<sup>F1</sup>Article 57*

#### **Central online access to information**

1 Member States shall ensure that the following information is available online through the points of single contact, referred to in Article 6 of Directive 2006/123/EC of the European

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Parliament and of the Council of 12 December 2006 on services in the internal market<sup>(1)</sup>, and regularly updated:

- a a list of all regulated professions in the Member State including contact details of the competent authorities for each regulated profession and the assistance centres referred to in Article 57b;
- b a list of the professions for which a European Professional Card is available, the functioning of that Card, including all related fees to be paid by professionals, and the competent authorities for issuing that Card;
- c a list of all professions for which the Member State applies Article 7(4) under national laws, regulations and administrative provisions;
- d a list of regulated education and training, and training with a special structure, referred to in point (c)(ii) of Article 11;
- e the requirements and procedures referred to in Articles 7, 50, 51 and 53 for the professions regulated in the Member State, including all related fees to be paid by citizens and documents to be submitted by citizens to competent authorities;
- f details on how to appeal, under national laws, regulations and administrative provisions, decisions of competent authorities adopted under this Directive.

2 Member States shall ensure that the information referred to in paragraph 1 is provided in a clear and comprehensive way for users, that it is easily accessible remotely and by electronic means and that it is kept up to date.

3 Member States shall ensure that any request for information addressed to the point of single contact is replied to as soon as possible.

4 Member States and the Commission shall take accompanying measures in order to encourage points of single contact to make the information provided for in paragraph 1 available in other official languages of the Union. This shall not affect the legislation of Member States on the use of languages in their territory.

5 Member States shall cooperate with each other and the Commission for the purpose of implementing paragraphs 1, 2 and 4.]

### *f<sup>2</sup> Article 57a*

#### **Procedures by electronic means**

1 Member States shall ensure that all requirements, procedures and formalities relating to matters covered by this Directive may be easily completed, remotely and by electronic means, through the relevant point of single contact or the relevant competent authorities. This shall not prevent competent authorities of Member States from requesting certified copies at a later stage in the event of justified doubts and where strictly necessary.

2 Paragraph 1 shall not apply to the carrying out of an adaptation period or aptitude test.

3 Where it is justified for Member States to ask for advanced electronic signatures, as defined in point 2 of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures<sup>(2)</sup>, for the completion of procedures referred to in paragraph 1 of this Article, Member States shall accept electronic signatures in compliance with Commission Decision 2009/767/EC of 16 October 2009 setting out measures facilitating the use of procedures by electronic means through the points of single contact under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market<sup>(3)</sup> and provide for technical means to

process documents with advanced electronic signature in formats defined by Commission Decision 2011/130/EU of 25 February 2011 establishing minimum requirements for the cross-border processing of documents signed electronically by competent authorities under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market<sup>(4)</sup>.

4 All procedures shall be carried out in accordance with Article 8 of Directive 2006/123/EC relating to the points of single contact. The procedural time limits set out in Article 7(4) and Article 51 of this Directive shall commence at the point when an application or any missing document has been submitted by a citizen to a point of single contact or directly to the relevant competent authority. Any request for certified copies referred to in paragraph 1 of this Article shall not be considered as a request for missing documents.

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#### **Textual Amendments**

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### *Article 57b*

#### **Assistance centres**

1 Each Member State shall designate, no later than 18 January 2016, an assistance centre whose remit shall be to provide citizens, as well as assistance centres of the other Member States, with assistance concerning the recognition of professional qualifications provided for in this Directive, including information on the national legislation governing the professions and the pursuit of those professions, social legislation, and, where appropriate, the rules of ethics.

2 The assistance centres in host Member States shall assist citizens in exercising the rights conferred on them by this Directive, in cooperation, where appropriate, with the assistance centre in the home Member State and the competent authorities and the points of single contact in the host Member State.

3 Any competent authority in the home or host Member State shall be required to fully cooperate with the assistance centre in the host Member State and where appropriate the home Member State, and provide all relevant information about individual cases to such assistance centres upon their request and subject to data protection rules in accordance with Directives 95/46/EC and 2002/58/EC.

4 At the Commission's request, the assistance centres shall inform the Commission of the result of enquiries with which they are dealing within two months after receiving such a request.

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### Article 57c

#### Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) shall be conferred on the Commission for a period of five years from 17 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The power to adopt delegated acts referred to in the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to the third subparagraph of Article 3(2), Article 20, the second subparagraph of Article 21(6), Article 21a(4), Article 25(5), the second paragraph of Article 26, the second subparagraph of Article 31(2), the second subparagraph of Article 34(2), Article 35(4) and (5), the second subparagraph of Article 38(1), the third subparagraph of Article 40(1), the second subparagraph of Article 44(2), Article 49a(4) and Article 49b(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]

#### Textual Amendments

- 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).

## *[F1 Article 58*

### **Committee procedure**

1 The Commission shall be assisted by a Committee on the recognition of professional qualifications. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.]

## *[F1 Article 59*

### **Transparency**

1 Member States shall notify to the Commission a list of existing regulated professions, specifying the activities covered by each profession, and a list of regulated education and training, and training with a special structure, referred to in point (c)(ii) of Article 11, in their territory by 18 January 2016. Any change to those lists shall also be notified to the Commission without undue delay. The Commission shall set up and maintain a publicly available database of regulated professions, including a general description of activities covered by each profession.

2 By 18 January 2016, Member States shall notify to the Commission the list of professions for which a prior check of qualifications is necessary under Article 7(4). Member States shall provide the Commission with a specific justification for the inclusion of each of those professions on that list.

3 Member States shall examine whether requirements under their legal system restricting the access to a profession or its pursuit to the holders of a specific professional qualification, including the use of professional titles and the professional activities allowed under such title, referred to in this Article as ‘requirements’ are compatible with the following principles:

- a requirements must be neither directly nor indirectly discriminatory on the basis of nationality or residence;
- b requirements must be justified by overriding reasons of general interest;
- c requirements must be suitable for securing the attainment of the objective pursued and must not go beyond what is necessary to attain that objective.

4 Paragraph 1 shall also apply to professions regulated in a Member State by an association or organisation within the meaning of Article 3(2) and any requirements for membership of those associations or organisations.

5 By 18 January 2016, Member States shall provide the Commission with information on the requirements they intend to maintain and the reasons for considering that those requirements comply with paragraph 3. Member States shall provide information on the requirements they subsequently introduced, and the reasons for considering that those requirements comply with paragraph 3, within six months of the adoption of the measure.

6 By 18 January 2016, and every two years thereafter, Member States shall also submit a report to the Commission about the requirements which have been removed or made less stringent.

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7 The Commission shall forward the reports referred to in paragraph 6 to the other Member States which shall submit their observations within six months. Within the same period of six months, the Commission shall consult interested parties, including the professions concerned.

8 The Commission shall provide a summary report based on the information provided by Member States to the Group of Coordinators established under Commission Decision 2007/172/EC of 19 March 2007 setting up the group of coordinators for the recognition of professional qualifications<sup>(9)</sup>, which may make observations.

9 In light of the observations provided for in paragraphs 7 and 8, the Commission shall, by 18 January 2017, submit its final findings to the European Parliament and the Council, accompanied where appropriate by proposals for further initiatives.]

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#### **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).



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- (1) [<sup>F1</sup>OJ L 376, 27.12.2006, p. 36.]
- (2) [<sup>F2</sup>OJ L 13, 19.1.2000, p. 12.]
- (3) [<sup>F2</sup>OJ L 274, 20.10.2009, p. 36.]
- (4) [<sup>F2</sup>OJ L 53, 26.2.2011, p. 66.]
- (5) [<sup>F1</sup>OJ L 79, 20.3.2007, p. 38.]

#### **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).