

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 II

FREE PROVISION OF SERVICES

Article 7

Declaration to be made in advance, if the service provider moves

1 Member States may require that, where the service provider first moves from one Member State to another in order to provide services, he shall inform the competent authority in the host Member State in a written declaration to be made in advance including the details of any insurance cover or other means of personal or collective protection with regard to professional liability. Such declaration shall be renewed once a year if the service provider intends to provide temporary or occasional services in that Member State during that year. The service provider may supply the declaration by any means.

2 Moreover, for the first provision of services or if there is a material change in the situation substantiated by the documents, Member States may require that the declaration be accompanied by the following documents:

- a proof of the nationality of the service provider;
- b an attestation certifying that the holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising, even temporarily, at the moment of delivering the attestation;
- c evidence of professional qualifications;
- [^{F1}d for cases referred to in point (b) of Article 5(1), any means of proof that the service provider has pursued the activity concerned for at least one year during the previous 10 years;
- e for professions in the security sector, in the health sector and professions related to the education of minors, including in childcare and early childhood education, where the Member State so requires for its own nationals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions;]
- [^{F2}f for professions that have patient safety implications, a declaration about the applicant's knowledge of the language necessary for practising the profession in the host Member State;
- g for professions covering the activities referred to in Article 16 and which were notified by a Member State in accordance with Article 59(2), a certificate concerning the nature and duration of the activity issued by the competent authority or body of the Member State where the service provider is established.]

[^{F2}a Submission of a required declaration by the service provider in accordance with paragraph 1 shall entitle that service provider to have access to the service activity or to exercise that activity in the entire territory of the Member State concerned. A Member State may require additional information listed in paragraph 2 concerning the professional qualifications of the service provider if:

- a the profession is regulated in parts of that Member State's territory in a different manner;

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- b such regulation is applicable also to all nationals of that Member State;
- c the differences in such regulation are justified by overriding reasons of general interest relating to public health or safety of service recipients; and
- d the Member State has no other means of obtaining such information.]

3 The service shall be provided under the professional title of the Member State of establishment, in so far as such a title exists in that Member State for the professional activity in question. That title shall be indicated in the official language or one of the official languages of the Member State of establishment in such a way as to avoid any confusion with the professional title of the host Member State. Where no such professional title exists in the Member State of establishment, the service provider shall indicate his formal qualification in the official language or one of the official languages of that Member State. By way of exception, the service shall be provided under the professional title of the host Member State for cases referred to in Title III Chapter III.

[^{F14} For the first provision of services, in the case of regulated professions that have public health or safety implications which do not benefit from automatic recognition under Chapter II, III or IIIa of Title III, the competent authority of the host Member State may check the professional qualifications of the service provider prior to the first provision of services. Such a prior check shall be possible only where the purpose of the check is to avoid serious damage to the health or safety of the service recipient due to a lack of professional qualification of the service provider and where the check does not go beyond what is necessary for that purpose.

No later than one month after receipt of the declaration and accompanying documents, referred to in paragraphs 1 and 2, the competent authority shall inform the service provider of its decision:

- a not to check his professional qualifications;
- b having checked his professional qualifications:
 - (i) to require the service provider to take an aptitude test; or
 - (ii) to allow the provision of services.

Where there is a difficulty which would result in delay in taking a decision under the second subparagraph, the competent authority shall notify the service provider of the reason for the delay within the same deadline. The difficulty shall be solved within one month of that notification and the decision finalised within two months of resolution of the difficulty.

Where there is a substantial difference between the professional qualifications of the service provider and the training required in the host Member State, to the extent that that difference is such as to be harmful to public health or safety, and that it cannot be compensated by the service provider's professional experience or by knowledge, skills and competences acquired through lifelong learning formally validated to that end by a relevant body, the host Member State shall give that service provider the opportunity to show, by means of an aptitude test, as referred to in point (b) of the second subparagraph, that they have acquired the knowledge, skills or competence that were lacking. The host Member State shall take a decision on that basis on whether to allow the provision of services. In any case, it must be possible to provide the service within one month of the decision taken in accordance with the second subparagraph.

In the absence of a reaction of the competent authority within the deadlines set out in the second and third subparagraphs, the service may be provided.

In cases where professional qualifications have been verified under this paragraph, the service shall be provided under the professional title of the host Member State.]

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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).
- 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).