

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**

[<sup>F1</sup>CHAPTER IIIA

**Automatic recognition on the basis of common training principles**

*Article 49a*

**Common training framework**

1 For the purpose of this Article, ‘common training framework’ means a common set of minimum knowledge, skills and competences necessary for the pursuit of a specific profession. A common training framework shall not replace national training programmes unless a Member State decides otherwise under national law. For the purpose of access to and pursuit of a profession in Member States which regulate that profession, a Member State shall give evidence of professional qualifications acquired on the basis of such a framework the same effect in its territory as the evidence of formal qualifications which it itself issues, on condition that such framework fulfils the conditions laid down in paragraph 2.

- 2 A common training framework shall comply with the following conditions:
- a the common training framework enables more professionals to move across Member States;
  - b the profession to which the common training framework applies is regulated, or the education and training leading to the profession is regulated in at least one third of the Member States;
  - c the common set of knowledge, skills and competences combines the knowledge, skills and competences required in the systems of education and training applicable in at least one third of the Member States; it shall be irrelevant whether the knowledge, skills and competences have been acquired as part of a general training course at a university or higher education institution or as part of a vocational training course;
  - d the common training framework shall be based on levels of the EQF, as defined in Annex II of the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning<sup>(1)</sup>;
  - e the profession concerned is neither covered by another common training framework nor subject to automatic recognition under Chapter III of Title III;
  - f the common training framework has been prepared following a transparent due process, including the relevant stakeholders from Member States where the profession is not regulated;
  - g the common training framework permits nationals from any Member State to be eligible for acquiring the professional qualification under such framework without first being required to be a member of any professional organisation or to be registered with such organisation.

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3 Representative professional organisations at Union level, as well as national professional organisations or competent authorities from at least one third of the Member States, may submit to the Commission suggestions for common training frameworks which meet the conditions laid down in paragraph 2.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 57c to establish a common training framework for a given profession based on the conditions laid down in paragraph 2 of this Article.

5 A Member State shall be exempted from the obligation of introducing the common training framework referred to in paragraph 4 on its territory and from the obligation of granting automatic recognition to the professional qualifications acquired under that common training framework if one of the following conditions is fulfilled:

- a there are no education or training institutions available in its territory to offer such training for the profession concerned;
- b the introduction of the common training framework would adversely affect the organisation of its system of education and professional training;
- c there are substantial differences between the common training framework and the training required in its territory, which entail serious risks for public policy, public security, public health or for the safety of the service recipients or the protection of the environment.

6 Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 4, notify to the Commission and to the other Member States:

- a the national qualifications, and where applicable the national professional titles, that comply with the common training framework; or
- b any use of the exemption referred to in paragraph 5, along with a justification of which conditions under that paragraph were fulfilled. The Commission may, within three months, request further clarification if it considers that a Member State has provided no or insufficient justification that one of these conditions has been fulfilled. The Member State shall reply within three months of any such request.

The Commission may adopt an implementing act to list the national professional qualifications and national professional titles benefiting from automatic recognition under the common training framework adopted in accordance with paragraph 4.

7 This Article also applies to specialties of a profession, provided such specialties concern professional activities the access to and the pursuit of which are regulated in Member States, where the profession is already subject to automatic recognition under Chapter III of Title III, but not the specialty concerned.

#### *Article 49b*

### **Common training tests**

1 For the purpose of this Article, a ‘common training test means’ a standardised aptitude test available across participating Member States and reserved to holders of a particular professional qualification. Passing such a test in a Member State shall entitle the holder of a particular professional qualification to pursue the profession in any host Member State concerned under the same conditions as the holders of professional qualifications acquired in that Member State.

2 The common training test shall comply with the following conditions:

- a the common training test enables more professionals to move across Member States;
- b the profession to which the common training test applies is regulated, or the education and training leading to the profession concerned is regulated in at least one third of the Member States;
- c the common training test has been prepared following a transparent due process, including the relevant stakeholders from Member States where the profession is not regulated;
- d the common training test permits nationals from any Member State to participate in such a test and in the practical organisation of such tests in Member States without first being required to be a member of any professional organisation or to be registered with such organisation.

3 Representative professional organisations at Union level, as well as national professional organisations or competent authorities from at least one third of the Member States, may submit to the Commission suggestions for common training tests which meet the conditions laid down in paragraph 2.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 57c to establish the contents of a common training test, and the conditions required for taking and passing the test.

5 A Member State shall be exempted from the obligation of organising the common training test referred to in paragraph 4 on its territory and from the obligation of granting automatic recognition to professionals who have passed the common training test if one of the following conditions is fulfilled:

- a the profession concerned is not regulated on its territory;
- b the contents of the common training test will not sufficiently mitigate serious risks for public health or the safety of the service recipients, which are relevant on its territory;
- c the contents of the common training test would render access to the profession significantly less attractive compared to national requirements.

6 Member States shall, within six months of the entry into force of the delegated act referred to in paragraph 4, notify to the Commission and to the other Member States:

- a the available capacity for organising such tests; or
- b any use of the exemption referred to in paragraph 5, along with the justification of which conditions under that paragraph were fulfilled. The Commission may, within three months, request further clarification, if it considers that a Member State has provided no or insufficient justification that one of these conditions has been fulfilled. The Member State shall reply within three months of any such request.

The Commission may adopt an implementing act to list the Member States in which the common training tests adopted in accordance with paragraph 4 are to be organised, the frequency during a calendar year and other arrangements necessary for organising common training tests across Member States.]

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#### **Textual Amendments**

- F1** 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).

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(1) [<sup>F1</sup>OJ C 111, 6.5.2008, p. 1.]

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