



News – 10/12/2010

Evaluation Process of 2005/36 EC Directive: Experience reports from National Competent Authorities (Architects)

As you know (see EurEta Newsletter of the 28 September and of the 25 November 2010), in the framework of the evaluation process of the 2005/36 EC Directive on the Recognition of Professional Qualifications of the 7th of September 2005, the European Commission has decided to consult separately with **National Competent Authorities** (most of which are Regulatory Bodies) of all professions concerned by the text in question, on the one hand, whilst organizing two conferences aiming at offering the opportunity to representatives of the Professional Associations to express themselves on the issue as well, on the other hand.

More than 170 National Competent Authorities have been consulted, and have submitted experience reports in order to provide a picture for the Commission to better understand how the Directive on the Recognition of Professional Qualifications is being applied in practice.

In this Newsletter, we would like to share with you the **Questionnaire** proposed by the Competent Authorities for Architects of all EU Member States.

Evaluating the Professional Qualifications Directive
Experience reports from competent authorities
(ARCHITECTS)

This questionnaire does not need to be answered in full, and respondents are welcome to address topics not included in the questions. The purpose of the questionnaire is to prompt the experience reports which are a key part of the fact-finding phase of the evaluation.

POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION

A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS

1. (a) Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line? (b) Under which conditions can they send documents and declarations electronically? (c) What are your experiences in this respect?
2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system¹. Please verify first the data in the Regulated Professions Database.
3. (a) To what extent have the system of automatic recognition and the general system been a success? (b) How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
 - automatic recognition based on diploma
 - automatic recognition based on acquired rights (Art. 49 – Annex VI)
 - recognition based on the general system.
4. (a) Is the general system applied in your country each time the conditions for automatic recognition are not met? (b) What are in your view "specific and exceptional reasons" as provided in Art. 10 (1)? (c) Are there major difficulties in the recognition procedure under the general system (e. g. burden of proof)? Please include any comments you may have on the implementation of compensation measures.
5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?
6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

7. Are EU citizens interested in using the provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year) ²?
8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:
 - How is the "legal establishment" criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?
 - How are the "temporary and occasional basis" criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?
9. (a) Do you have a prior declaration system? (b) If so, please indicate why it is necessary? (c) What do competent authorities do with the information received? (d) Are other possibilities conceivable?

C. MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 46 still relevant and up to date? Please specify.
11. (a) How long is the duration of the training for architects under your national law? (b) In how many years do you cover all 11 items as listed in Article 46?
12. The Directive is based on mutual trust between Member States. (a) To what extent is such trust actually achieved? (b) Are training programmes accredited by external bodies in your country? (c) Does accreditation of a training program in another Member State enhance trust or is it not relevant?
13. (a) To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? (b) Is continuous training mandatory in your country and what are the exact conditions?

D. ADMINISTRATIVE COOPERATION

14. To which extent does administrative cooperation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

15. (a) Is the competent authority in your country registered with IMI? (b) Under which circumstances does your competent authority use IMI? (c) What are your experiences? (d) If not registered, why not and what would be the conditions for changing this situation?
16. (a) How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? (b) Under which conditions could it be issued by professional associations?
17. How do you share information about suspensions/restrictions with competent authorities in other Member States?

E. OTHER OBSERVATIONS

18. (a) How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? (b) Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants? (c) If serious doubts about language skills have arisen which action do competent authorities undertake towards the migrant?
19. Are there any considerable cost implications for the migrant? Please specify the fees involved with establishment and the fees involved with temporary services.
20. What is your experience with training provided by franchising universities?
21. Have you encountered particular problems with non-EU nationals with qualifications listed in Annex V being treated differently to EU nationals with the same listed qualifications?
22. (a) What are the experiences of (outgoing) architects from your country who (would like to) practice in another Member State? (b) Are there in particular problems if the profession of an architect is not regulated in your country? (c) What feedback do you have from incoming migrants on the assistance they have been given by their home Competent Authority? (a general response without naming any Competent Authority in particular is expected)

You will find the answers to this questionnaire from National Competent Authorities of the following Member States: Bulgaria, Czech Republic, Germany, Estonia, Ireland, France, Italy, Cyprus, Lithuania, Luxembourg, Hungary, Malta, The Netherlands, Austria, Poland, Portugal, Romania, Slovakia, Sweden, and United Kingdom listed above in an extensive report by clicking on this e-link: http://ec.europa.eu/internal_market/qualifications/docs/evaluation/experience-report-architect_en.pdf

It is interesting to point out the answer provided by the **Lithuanian Regulatory Body for Architects** regarding the Professional Cards as a tool to facilitate the recognition of Professional Qualifications. According to this National Competent Authority, “*A Professional Card would facilitate and accelerate the movement of specialists. Depending on the provisions of data security, a Professional Card could provide information about specialists’ Professional Qualifications (Graduated University or other institution, acquired Qualifications, Professional experience), legal location of self-establishment, imposed penalties associated with his/her profession and data about correspondent’s competent authority*”. Moreover, Lithuanian Architects feel that “*Professional Associations could issue Professional Cards if the functions of issuing Professional Cards were delegated to them by the State*”.

We will come back in our next Newsletter with more on the results of the Consultation process.

Next Events

Executive Board meeting of EurEta:

- **Where?** Brussels
- **When?** The 25th of February 2011
- **More information in the forthcoming weeks**

The President and the Executive Board of EurEta sends you warmest season’s greetings and wishes you a happy 2011.

