

USER GUIDE

Directive 2005/36/EC

All you need to know about recognition of professional qualifications

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INTRODUCTION

CITIZENS' RIGHTS IN EUROPE

The right of Europeans to pursue economic activities in another EU country is a fundamental right enshrined in the Treaty on the Functioning of the European Union. However, within the limits of the single market rules and in particular the principle of proportionality, each country may allow access to a particular profession only if the individual has a specific professional qualification. This is an obstacle to the free movement of professionals in the EU as far as those qualified to practise the same profession in another Member State hold a different professional qualification, i.e. the qualification acquired in their own country.

The EU has set up rules to ensure that Member States fully test how professions are regulated in future in terms of whether they are non-discriminatory, justified to protect overriding reasons in the public interest and necessary to achieve that protection (Directive (EU) 2018/958).

There are also rules to make it easier for EU countries to recognise each other's professional qualifications. This is the aim of Directive 2005/36/EC ('the Directive') on the recognition of professional qualifications as amended by Directive 2013/55/EU. While this may make recognition easier, in practice there is no one single solution for the recognition of professional qualifications within the EU.

This Directive is supplemented by a code of conduct. It explains good and bad national practices on recognising professional qualifications.

HOW TO USE THIS GUIDE

This guide uses a simple Q&A format to explain your rights when you want to have your professional qualifications recognised in another EU country.

You should first check if Directive 2005/36/EC applies to you by reading the questions and answers under **point I**.

If this is the case, you should then ask yourself if you wish to practise your profession in another Member State either temporarily or permanently (**see question 13**). In fact, the rules of the Directive are not the same for the two cases:

- if you want to practise your profession temporarily in another Member State, see **point II.A**
- if you want to establish yourself permanently in another Member State, see **point II.B**.

The rules of the Directive differ depending on the profession. There are three main categories of profession:

- professions for which minimum training requirements were introduced across the EU: doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect. These professions are referred to here as 'sectoral professions'
- professions in the fields of trade, industry or business referred to in Annex IV to Directive 2005/36/EC
- all other professions, referred to here as 'general system professions'.

You should therefore check what rules apply to the profession you are qualified for and which profession you wish to practise in another EU country. **Point II** explains the different rules.

Last but not least, you can find information on practical issues such as costs, appeals, language skills and who to contact if there is a problem under points **III**, **IV**, **V** and **VII** respectively.

WHERE CAN I GET MORE INFORMATION?

1) The Commission website contains further information on Directive 2005/36/EC (in English, French and German).

2) Member States are required to comply with Directive 2005/36/EC and must incorporate it into national law. However, this guide does not provide information on the specific rules in each country that correspond to the provisions of this Directive. The national assistance centres can give you all the relevant information on the recognition procedure and the rules in force in each country (documents required, whether or not the profession is regulated, level of regulation, etc.). They are there to help you get your qualifications recognised, and can give you information on national legislation governing the professions and how to practise them, social legislation and any ethics rules.

3) On the formalities that need to be carried out in the host Member State, you can also consult the points of single contact established by Directive 2006/123/EC on services in the internal market. They provide the following information:

the list of regulated professions in the host Member State, including the contact details of competent authorities and assistance centres, the list of regulated education and training, and training with special structure (see question 12), information on qualifications and language requirements and procedures for recognition and for the provision of temporary services in the country, including information on any fees and documents to be submitted

information on how to obtain the European Professional Card (see question 14)

the list of professions involving a potential risk to public health and safety and subject to a prior check of qualifications before the provision of temporary services (see question 25), details on how to appeal decisions on the recognition of professional qualifications.

4) The database of regulated professions also contains information about the professions that are regulated in a given country.

I. CAN I BENEFIT FROM DIRECTIVE 2005/36/EC?

The following questions can help you decide whether you can benefit from this Directive. These rules apply only if certain conditions are met.

1. Do you want to work or study in another EU country?

Directive 2005/36/EC only addresses professionals who are fully qualified to practise a profession in one Member State (i.e. who have completed the required training for access to the profession in that country, which for some professions may include both theoretical and practical training) and who wish to practise the same profession or professional activities in another Member State.

It does not apply to those who want to study in another Member State or to those who are starting a training course in one country and want to continue it in another. They should contact the National Academic Recognition Information Centres for information on the recognition of diplomas or courses.

2. What profession do you want to practise?

Directive 2005/36/EC applies in principle to all the professions where specific professional qualifications are required to access them under national regulations. As an exception, the recognition procedures under this Directive do not apply to professions for which other specific EU legislation sets out specific recognition arrangements. You can find a non-exhaustive list of the professions covered by the Directive and other specific EU legislation by consulting the database.

For more information on a given regulated profession, contact the assistance centre in the host country.

Specific directives exist, e.g.:

- Directive 2016/97/EU for insurance intermediaries
- Directives 77/249/EEC and 98/5/EC for lawyers wishing to work in another Member State using the professional titles from their home country.

There are also several specific directives in the transport and maritime sector.

3. What is your nationality?

Directive 2005/36/EC applies to EU nationals and to nationals of Iceland, Norway and Liechtenstein.

It also applies to Swiss nationals based on an international EU-Swiss agreement. While the basic recognition rules are similar to those that apply between EU countries, there are some differences. For example, the EU-Swiss agreement limits the freedom to provide services to 90 days per calendar year and Directive 2005/36/EC applies with some adaptations and without changes introduced by amending Directive 2013/55/EU. If in doubt, contact the Swiss assistance centre.

Directive 2005/36/EC also applies to people who, when requesting recognition, have the nationality of one of the above-mentioned countries even if they used to have a nationality of a third country. It also applies to people with dual nationality, one of which from a third country. For example, it can apply to an Argentine national who also has Italian nationality.

4. Can you benefit from the Directive if you are a national of a third country?

In general, the Directive does not apply to third country nationals (i.e. nationals of countries other than those mentioned in question 3). However, certain rules on the recognition of diplomas under the Directive could apply to you if you benefit from equal treatment with nationals of the host Member State through specific directives:

You are a **family member** of an EU national exercising his or her right to free movement within the EU[1]

Example: An American doctor who holds a French diploma is married to a French national. The couple lives in France and then decides to move to Germany. In this case, the doctor's French diploma in medicine should be recognised in Germany in accordance with the rules of Directive 2005/36/EC.

(1) Directive 2004/38/EC on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States, (OJ L 158, 30.4.2004), Article 24 (1).

- You have **long-term resident** status[2]
- You have obtained a **single permit** to work in a Member State[3]
- You are the holder of an **EU blue card**[4]. The equality of treatment will only apply to activities exercised as an employee.
- You are a **seasonal worker**[5]

You have **refugee** status in a Member State[6]. Refugees should be treated as nationals of the Member State in which they have been granted refugee status. If a refugee has a professional qualification awarded in another Member State, the Member State that granted him or her refugee status should recognise this professional qualification under Directive 2005/36/EC.

Example: As an Iraqi national who holds a diploma in pharmacy awarded in the Netherlands and has refugee status in Belgium, you should have your diploma in pharmacy recognised in Belgium in line with Directive 2005/36/EC. However, if you decide to move to Germany, the rules of Directive 2005/36/EC will not apply as long as you do not obtain refugee status in Germany.

With regard to **the United Kingdom, Ireland and Denmark**, the equality of treatment for third country nationals only applies to members of the family of an EU national exercising his or her right to free movement within the EU (Directive 2004/38/EC).

5. Where do you want to have your professional qualifications recognised?

Directive 2005/36/EC applies to the countries mentioned in question 3.

It applies to people who want to practise a profession in another Member State where the profession is regulated by mandatory qualification requirements. This means that the country where you want to practise your profession cannot be the same as the one where you obtained your qualifications. A 'cross-border' element is a prerequisite. As a result, it does not apply to situations that are purely internal to a country.

Example: The Directive applies if you are an engineer of Italian nationality, fully qualified in Italy, and you want to work as an engineer in Spain; if you are a physiotherapist of French nationality, fully qualified in Belgium, and you want to work as a physiotherapist in France. However, it does not apply if you are a doctor of Belgian nationality, you obtained your qualifications in the Belgian region of Wallonia and you want to work in the Belgian region of Flanders, or you are a doctor of Hungarian nationality who obtained your qualifications in France and want to work in France.

You only need to have your qualifications recognised if you intend to physically cross the border to provide your services. If you received work from another Member State, e.g. by electronic means such as analysis of an x-ray, and you do not move physically to that other country, you do not need to have your qualifications recognised (see also question 14). In this case, Directive 2000/31/EC on electronic commerce, Services Directive 2006/123/EC or sector-specific directives may apply.

6. Where did you obtain your professional qualifications?

Directive 2005/36/EC applies if you obtained your professional qualifications in one of the countries mentioned in question 3.

If you obtained your professional qualifications elsewhere, the recognition procedure under Directive 2005/36/EC only applies if you have worked at least 3 years in the Member State that recognised your qualifications under national rules and subsequently ask for recognition in another Member State.

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(2) Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents *(OJ L 16, 23.1.2004)* as amended by Directive 2011/51, Article 11 (1) c and 21 (1).

(3) Single Permit Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, Article 12(1).

(4) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment (OJ L 155 of 18.6.2009), Article 14(1)d and 14(4).

(5) Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, Article 23(1)h.

(6) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, (OJ L 337, 20.12.2011), Article 28.

Example: You are a French national who has obtained a professional qualification as a midwife in Canada. The 'first' recognition of this qualification in an EU country (for example, France) is not covered by the recognition procedure under Directive 2005/36/EC, but by the national rules of that country. However, if you work in France for 3 years after your qualifications were recognised and then decide to move to Belgium, the recognition procedure under Directive 2005/36/EC (general system) will apply.

7. How do you know whether you obtained your qualifications in a Member State or in a third country[7]?

You obtained your qualifications in a Member State if they were awarded by the competent authority of a Member State and if your training was mainly undertaken in the EU. The host Member State that is asked to recognise such qualifications on its territory has certain discretion on how to assess the concept of 'training mainly undertaken in the EU' based on the principles of non-discrimination and proportionality. In its assessment, it can take into account not only the duration of training undertaken in the EU country during the whole study period, but also which subjects were taught or exams taken in the EU country and their relevance for the profession in the host Member State. If the qualifications are not considered EU qualifications by the host Member State, the latter should explain the reasons for it to the applicants.

Example: If you trained as an engineer for 5 years, 3 of which were in Ukraine and 2 in Denmark, and your qualifications were awarded by a Danish authority, it does not necessarily mean that when you apply to get your qualifications recognised in France they will be treated as EU qualifications. France will assess if it can consider your qualifications as EU qualifications, taking into account not only the length of the parts of study but also the substance and content of the different parts of the study, in which case the Directive will apply, if not, the French national recognition procedure will apply. On the other hand, if you trained for 4 years in Denmark and 1 year in Ukraine, but your diploma was awarded by a Ukrainian authority, you have a non-EU diploma (see also question 6).

However, this rule does not apply to health-related professions for which the common minimum training requirements were introduced across the EU (doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife and pharmacist) nor to architects with qualifications that comply with the common training requirements (see question 45).

For these professions it is sufficient that the diploma is a national diploma awarded by a Member State, regardless of the length and content of the training undertaken in a third country; when issuing the diploma, the Member State must ensure that your training meets the minimum requirements set out in the Directive.

It is worth noting that the Directive involves the recognition by Member States of professional qualifications acquired in another Member State. However, it does not involve the recognition by Member States of prior recognition decisions adopted by another Member State.

As a result, if you hold professional qualifications issued in your Member State of origin that have been recognised by another Member State under the Directive, you may not use such a decision to obtain rights in your Member State of origin different from those conferred by the professional qualifications obtained there unless they provide evidence that they have obtained additional professional qualifications in the host Member State.

8. Does the Directive apply if you did a distance learning course or a course in a franchised establishment?

Directive 2005/36/EC does not make it compulsory for you to have undertaken all or parts of your training in the Member State in which your qualifications were awarded. You can have taken a distance learning course or a course in a franchised establishment. A franchised establishment is an establishment that has concluded a franchise agreement with a training institution in another Member State. Under the terms of this agreement, the training is provided in the franchised establishment, but is validated by the training institution situated in the other Member State and the qualifications are awarded by that institution. They are therefore qualifications from another Member State.

In order for such qualifications to be recognised in the host Member State under the Directive, a number of conditions have to be met. The training

(7) This refers to countries other than those mentioned in question 3.

given in the franchised establishment must have been formally validated by the institution that awards the diploma. The 'franchised' diploma must also be the same as the diploma awarded when the training is undertaken completely in the Member State where the establishment that awards the diploma is situated. Lastly, the 'franchised' diploma must give the same access rights to the profession in the Member State where the establishment that awards the diploma is situated. The fulfilment of these conditions could be verified by the host Member State.

Example: An Italian university has concluded franchise agreements with Greek training establishments. A Greek national who trains as an engineer in one of these franchised establishments in Greece will, after following the training course and passing the exams, hold a degree in engineering from the Italian university. They are therefore qualifications from another Member State.

9. Is the profession you want to practise in another Member State regulated in the host Member State?

Directive 2005/36/EC applies only to regulated professions in the host Member State, that is, professions to which access or practice in the host Member State is, by law or administrative provision, conditional upon the possession of certain professional qualifications. Directive 2005/36/EC therefore applies to you if the profession you want to practise in a host Member State is regulated in that Member State.

Example: In France, a law provides that only people who have followed specific vocational secondary-level training can work as a hairdresser; the profession is therefore regulated in France and as a result Directive 2005/36/EC applies if you want to work as a hairdresser in France.

To find out if the profession is regulated in the host Member State, consult the assistance centre in the host Member State.

You can also find a list of regulated professions.

For the professions of doctor, nurse responsible for general care, midwife, pharmacist, veterinary surgeon and dental practitioner, Directive 2005/36/EC has introduced common minimum training standards and these professions are regulated in all Member States.

10. What happens if the profession you want to practise is not regulated in the host Member State?

You can practice it under the same conditions as nationals (see question 43) and do not need to get your professional qualifications recognised in accordance with Directive 2005/36/EC. The value to be attributed to your qualifications depends on the situation of the jobs market, not on legal rules.

However, while your profession may not be regulated as such in the host Member State, the activities belonging to your profession in your home Member State may be reserved to another profession in the host Member State. In this case, in order to be able to practise these reserved activities, you have to apply for recognition of your qualifications. You may be given partial access, and the competent authorities should indicate this possibility to you when assessing your request for recognition (see question 50).

Example: You are a maths teacher in France and want to work in Germany. However, teachers in Germany must teach two subjects; in this case, the German authorities should assess the possibility of partial access to the profession, i.e. whether you can teach only maths.

11. Is the regulated profession that you want to practise the same as the one for which you are qualified?

Directive 2005/36/EC applies only if the profession you want to practise in a host Member State is equivalent to the profession for which you are qualified in your home Member State.

Example: Directive 2005/36/EC does not apply if you are qualified to practise as an estate agent in Spain and want to practise as a lawyer in France.

The name or title of a profession alone is not the decisive criterion in assessing whether it is an equivalent profession. It is the comparability of the professional activities performed that is crucial.

12. Is the profession that you want to practise or the training for this profession regulated in your home Member State?

This question does not apply to the professions of doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife and pharmacist because they are regulated

in all Member States. It also does not apply to the professions in the fields of trade, industry or business referred to in Annex IV of Directive 2005/36/EC as they benefit from automatic recognition in the framework of the establishment system (see question 49) nor to architects who also benefit from automatic recognition in the framework of the establishment system (see question 45).

If neither the profession for which you are qualified or which you practise nor the training for this profession are regulated in the Member State in which you received your qualifications, the competent authority of the host Member State may require you to have practised the profession for at least 1 year on a full-time basis in a Member State that does not regulate this profession (see question 9 for the definition of a regulated profession). If you have practised your profession on a part-time basis, the length of your relevant working experience must correspond to the required duration on a full-time basis.

A training course is regulated when its level and content are determined by laws or regulations or supervised by the Member State in which it takes place. For the definition of a regulated profession, see question 9.

To find out if the profession or the training for this profession is regulated, consult the assistance centre of the home Member State.

You can also consult a list of regulated professions.

II. WHICH RULES OF DIRECTIVE 2005/36/EC APPLY IN YOUR CASE?

13. Do you want to practise a professional activity on a temporary or occasional basis in another Member State or do you want to establish yourself there permanently?

The applicable rules are different depending on whether you want to establish yourself in a Member State other than your home Member State or just work temporarily and provide services in a Member State other than your Member State(s) of establishment.

You establish yourself when you settle in a Member State in a stable and lasting way.

Example: If you are a speech therapist qualified in Belgium who leaves Belgium and opens an office for consultations on a permanent basis in France, you are establishing yourself in France. If you are a Slovak engineer and are working in a Czech-based company on a permanent contract, you are established in the Czech Republic.

In these cases, you benefit from the rules of Directive 2005/36/EC, which apply to establishment.

On the other hand, if you are already legally established in a Member State within the meaning of Directive 2005/36/EC (see question 15) and wish to practise your profession in another Member State on a temporary or occasional basis, you are providing a service in that Member State and are therefore covered by the rules of Directive 2005/36/EC that apply to the provision of services. The temporary nature of the service is assessed on a case-by-case basis.

Example: A Spanish veterinary surgeon who has been working as a locum for 3 months in a veterinary practice in Portugal is providing a service in Portugal; an Estonian doctor who spends 3 days a month taking care of patients in Finland is providing a service in Finland; a Spanish professional diver who works on an oil rig in Norway for 4 months is also providing a service.

14. Can you use the European Professional Card (EPC) procedure to get your qualifications recognised?

The EPC is an electronic procedure to have your professional qualifications recognised or to make a declaration in order to provide temporary services in another EU country where your profession is regulated. The EPC is not a physical card, but an online recognition procedure available to certain professions.

You can currently only use the EPC if you are:

- a nurse responsible for general care
- a pharmacist
- a physiotherapist
- a mountain guide, or
- an estate agent.

You can choose whether to apply for an EPC or to make use of traditional procedures provided for under Directive 2005/36/EC. If you follow the EPC procedure, you will be able to download an EPC certificate, which will serve as evidence of a decision on the recognition of your qualifications or a prior declaration for temporary service provision.

To find out more about how the EPC works, its advantages, document requirements and possible fees, refer to the dedicated EPC section on **the Your Europe** website.

To prepare an EPC application, consult the EPC User Guide for professionals.

To apply for an EPC, use the EPC online tool.

You can check the validity of an EPC anytime using the EPC validity check tool.

Please note that the EPC procedure does not apply to Switzerland.

A. TEMPORARY AND OCCASIONAL PROVISION OF SERVICES

If you wish to practise your profession in another Member State on a temporary basis, the applicable rules are more flexible than if you wish to establish yourself on a permanent basis, provided you meet certain conditions. In most cases, you do not need to submit your qualifications for approval and can practise your profession straight away. However, you may have to provide a certain amount of information to the authority of the host Member State.

The following questions indicate what formalities you may be asked to complete and explain what your rights are if your qualifications are checked.

A.1 Common rules

15. What does temporary and occasional provision of services mean?

If you are legally established in one of the countries mentioned in question 3 and intend to physically provide services on the territory of the host Member State on a temporary and occasional basis, the national authorities assess this temporary and occasional nature of the provision of services on a case-by-case basis, in particular in terms of duration, frequency, regularity and continuity[8].

The authorities may not set any default maximum duration or frequency applicable to all or certain types of service providers, beyond which the supply of a service or a certain type of service in another Member State cannot be regarded as the provision of services within the meaning of EU law.

Services under EU law can be provided over an extended period, even over several years, if they are supplied for example in connection with the construction of a large building. A service provider may therefore equip itself in the host Member State with the infrastructure necessary to perform the services in question, such as an office, chambers or consulting rooms.

When assessing the temporary and occasional nature of the provision of services, authorities may take into account the type of activity, such as seasonal activity. Even shorter working periods in another Member State therefore do not necessarily mean that the rules of free provision of services have to be applied. For example, a ski instructor from Member State A provides his services every year during the ski season from November to March in Member State B. It could be argued that he is actually established as a ski instructor in Member State B, as outside of the season he would not work as a ski instructor back in Member State A. His main activity over the year as a ski instructor would therefore take place in Member State B.

In the case of seasonal activities, Member States can carry out checks to verify the temporary and occasional nature of the services provided on their territory. The host Member State can, once a year, request information about the services actually provided on its territory if such information has not already been communicated on a voluntary basis by the service provider.

If a Member State's authorities cannot positively prove that a person is actually established on its territory, they have to apply the rules for temporary and occasional service provision. This does not prevent them from looking into the issue again at a later stage.

If you provide a service in the host Member State without leaving your home Member State, this may be covered by Directive 2000/31/EC on electronic commerce or Services Directive 2006/123/EC and not Directive 2005/36/EC on the recognition of professional qualifications.

16. What does the term 'legally established' mean?

For the temporary and occasional provision of services you must be legally established in one of the countries mentioned in question 3.

Special rules apply to Switzerland, where the right to provide a service is limited to a period not exceeding 90 days of actual work in a calendar year.

If the country where you are established does not regulate the profession for which you are qualified nor the course leading to the pursuit of that profession (see questions 9 to 12), the host Member State may require you to have

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([8]) The relevant case law of the Court of Justice of the European Union: Judgment of 30 November 1995, C-55/94 *Gebhard,* EU:C:1995:411; judgment of 11 December 2003, C-215/01 *Schnitzer* EU:C:2003:662; judgment of 18 November 2010, C-458/08. *Commission/Portugal*, EU:C:2010:692.

practised the profession in question for 1 year in the Member State of establishment.

However, this requirement may not apply to you if you are an architect, doctor with basic medical training, general practitioner and doctor with medical specialisation, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife or pharmacist who enjoys automatic recognition (see question 45) or if you practise a profession in the fields of trade, industry or business referred to in Annex IV of Directive 2005/36/EC and you meet the conditions for benefiting from automatic recognition under the establishment system (see question 49).

You are legally established if you meet all the conditions for practising a profession in a Member State (see question 43) and you are not the subject of any – even temporary – ban on practising that profession. You can be legally established as an employee or as a self-employed person. You do not necessarily need to be practising the profession at the time you plan to provide your service.

Example: You are a French architect on the professional register; you are legally established in France even though you are not yet working as an architect in France; on the other hand, if you are not yet on the professional register, you are not legally established.

Example: You are employed as a veterinary surgeon in a veterinary clinic in Belgium. You are legally established in Belgium.

17. Do you have to submit a declaration?

That depends on the national regulations.

The first time that you provide a service on the territory of another Member State, that Member State may require you to submit a declaration. This is not a request for approval to practise your profession. The Directive does not oblige the Member States to request such a declaration – it is an option that the Member States may only apply within the limits of the Directive and of the Treaty on the Functioning of the European Union (TFEU). If the Member State chooses to request a declaration of this type, you may be asked to submit it once a year, together with information on any material changes to your situation, if you intend to provide services on the territory of that Member State during the year in question. The declaration should be made in writing by any means: by letter, registered letter, fax, email, etc. addressed to the competent authorities of the host country.

If the profession you want to practise involves a potential risk to public health or safety, the authority in the host Member State may check your qualifications before you start working. For more information, consult Section A.2. If you are entitled to use the EPC procedure (see question 14), instead of submitting a prior declaration you may apply for the **EPC** for temporary or occasional service provision. Once issued, the EPC remains in the system for 18 months and can be renewed for 18-month periods.

If you apply for an **EPC**, your application is submitted directly to the designated authorities using the EPC online tool (see question 14).

You can submit this declaration at any time before providing the service for the first time. The host Member State may not require you to submit this declaration a number of months or days before you begin providing a service. However, you should know that, depending on your profession, it can take up to 5 months to examine your declaration (see questions 24 and 33). You can also submit the declaration if you intend to provide a service in that Member State, even if you do not know when exactly. In any case, it is up to you to judge when is the best time to submit the declaration before you begin providing the service.

Example: You are a Polish mountain guide and want to practise your profession for the first time in Austria for 2 or 3 weeks during the next summer season, without yet knowing where and when. You can submit your declaration in the autumn of the preceding year in case your qualifications need to be checked (see questions 26 to 36), to be certain that you can start working in Austria when the time comes. If, on the other hand, you have already provided services in Austria, you do not need to have your qualifications checked again and can practise your profession as soon as you have submitted your declaration. From then on, you can submit your declaration a lot later, for example, in November or December or even the day before you start providing the service.

If you apply for an **EPC**, within 1 week of receiving your application the home country authority will first verify your application and inform you of any missing documents using the EPC online tool. Once the file is complete, the home country authority has 3 weeks to issue an EPC for

temporary service provision in the host country. The EPC certifies that you have complied with the requirement to provide a prior declaration.

18. How do you know to which authority you should submit your declaration?

Thanks to the assistance centre in your home or host Member State, whose remit is to help you get your qualifications recognised, you can find the competent authority in cooperation with the assistance centres in other Member States.

You can also submit your declaration directly through the point of single contact of a Member State. This allows you to complete all the procedures and formalities required to practise your profession in the host Member State remotely and electronically, including submitting your declaration.

If you are entitled to use the **EPC** procedure (see question 14), the EPC online tool will transfer your application directly to the designated authority. You can use this tool to follow the status of your application.

19. What information should you include in the declaration?

You will most likely be required to provide your full name, contact information (address, telephone number, email address, etc.), nationality, the profession for which you are qualified in the Member State where you are legally established and the profession that you wish to practise in the host Member State.

You might also have to provide information on possible professional liability insurance, e.g. the name of your insurance company, contract number if any, etc.

To make it easier to process your application, you could also mention if you are offering your services on the territory of the Member State in question for the first time or applying for an annual renewal.

If you choose to apply for an **EPC**, you will be requested to complete the online application form using the EPC online tool (personal details, contact details, country of legal establishment, host country, the profession concerned, whether your diploma entitles you to automatic recognition or acquired rights, information on possible professional liability insurance). Consult the guidance documents listed under question 14 before applying for an EPC.

20. What information should you not be asked to provide?

The host Member State is not allowed to ask you to specify the place and/or date and/or duration of the service on its territory, or the number or identity of participants in your group if you are accompanying a group of clients in the host Member State. It is also not permitted to ask you to provide an address in the host Member State.

21. What documents could you be asked to include with your declaration?

The host Member State may ask you to attach the following documents to your declaration before you start providing the service on its territory or if there is a change in terms of the situation established by one of these documents:

- **proof of nationality**
- **a document proving that you are legally established in a Member State and that you are not banned from practising, even temporarily**

Example of documents proving legal establishment:
If the profession is regulated in the Member State where you are legally established: e.g. attestation from the competent authority, from the competent professional body, copy of your professional licence.
If the profession is not regulated in the Member State where you are legally established: e.g copy of your professional licence if it exists, extract from the trade register, certificate from the professional association, certificate from your employer accompanied by a social security or tax document.

This document must clearly mention the profession concerned.

If the document submitted fails to stipulate whether you are prohibited from practising, temporarily or permanently, you may be required to include a second document to prove that there is no temporary prohibition.

You can only be asked to provide a document proving legal establishment that actually exists in the Member State where you are legally established.

Example: An extract from the criminal record, a certificate from a judicial or police authority, etc.

- **evidence of professional qualifications**

This is the qualification entitling you to exercise the profession, if regulated in the Member State where you acquired the qualification. It can also be your professional experience. If the profession is not regulated, it is the qualification that certifies training that prepared you to practise this profession or, in the absence of a qualification, your professional experience (see following indent).

- **proof that you have practised the profession in question for at least 1 year during the last 10 years when neither the profession nor the training for it are regulated in the Member State in which you were legally establishe**d (see questions 9 and 12). You can use any means to prove it, e.g. a reference from your employer, tax statement, etc.
- **proof that you have never been convicted of any serious criminal offence if you work in the field of security** (e.g. private security guard), the **health sector** or **teach minors and children**, and the host Member State requires its own nationals to do the same.

If you choose to apply for an **EPC**, you may be requested to upload copies of the above-mentioned documents using the EPC online tool if the host Member State asks for them.

Under **EPC** rules, your home Member State should be able to help you with your application and check that it is correct and complete depending on what the relevant host Member State requires. They will also certify the authenticity and validity of your documents.

Under **EPC** rules, the authorities of your home Member State cannot ask you for the following documents:

- **proof of your legal establishment**, if the home country authority is in the position to confirm your legal establishment by internal administrative means
- **any certificate** or document, which the home country authority is responsible for issuing under national law.

In theses cases, the authority should issue the documents and directly upload them to your **EPC** file.

The competent authority of the relevant host Member State cannot refuse to issue your **EPC** based on a lack of proof of knowledge of languages and it may not make the submission of proof of knowledge of languages mandatory as part of your **EPC** application. However, it is possible for the host Member State to require a certain level of knowledge of a language for certain professions, e.g. those with patient safety implications, after it has issued your **EPC**. When applying for the **EPC**, you will already be able to submit any document proving knowledge of a language, which may then be required by the host Member State after it has issued the **EPC**. For more information, consult Section V on language requirements.

For specific information on EPC document requirements in host countries, consult the **EPC documents simulator**, available in the dedicated section on the **Your Europe** website (see question 14).

22. Can the competent authority of the host Member State request the original documents or certified copies?

The authority of the host Member State cannot require you to submit the original documents. However, it may request certified copies of important documents such as your professional qualifications and the documents proving your professional experience.

If you cannot provide certified copies of one or more of these documents, the authority must itself verify the authenticity of the document with the authority of the Member State where you are legally established.

If you choose to apply for an **EPC** (see question 14), you may be requested to upload certified copies using the EPC online tool only if your home country was unable to verify the validity and authenticity of your documents and if the host country requires certified copies. In any event, the home country cannot require certified copies upfront without having tried to verify them via administrative means.

The host Member State cannot require you to provide a certified copy of official documents proving your nationality, such as a passport or ID card.

23. Do all the documents have to be translated and certified?

The competent authority of the host Member State cannot request the documents to be translated unless they are needed to process your application.

Certified translations are only required for important documents.

Example: Professional qualifications, certificates relating to the length and type of activities of the professional experience.

However, if you are a doctor, a nurse responsible for general care, a dental practitioner, a midwife, a veterinary surgeon, a pharmacist or an architect whose qualifications are included in Annex V to Directive 2005/36/EC, a translation is not required as this is not essential to processing your application. The competent authority can easily check whether the name of your qualifications corresponds to that in Annex V.

The host Member State authority cannot request certified translations of standard documents such as identity cards, passports, etc.

You are free to choose to have your translations certified by a competent authority of your home Member State or of the host Member State. The host Member State authority must accept translations certified by a competent authority of your home Member State.

If you choose to apply for an **EPC** (see question 14), you may be requested to upload document translations using the EPC online tool only if translations are required by the host country and only for the documents where translation requests are permitted under the EPC rules. As a rule, the authorities cannot request translations of the following documents in the EPC procedure:

- proof of nationality (passport or ID card)
- evidence of formal qualifications listed in Annex V of Directive 2005/36/EC, issued by the country of your legal establishment
- the following certificates issued by the national body in your country of establishment:
  - certificates of acquired rights, certificates of conformity, certificates on the change of qualification's name
  - attestations of legal establishment
  - attestations of no bans to practice or suspensions and/or of no criminal convictions.

24. Once you have submitted your declaration, when can you start to work?

You can start working on the entire territory of the host Member State immediately; you do not have to wait for the host Member State authority to give you the green light (unless you are covered by the prior check explained under point A.2 below).

If you apply for an EPC (see question 14), the EPC certificate attesting that you have complied with the condition to make a prior declaration will be issued within 3 weeks after you have provided all the required documents and information.

You might also need to meet additional language requirements after making the declaration (see Section V on language requirements).

A.2 Prior check of qualifiations in case of potential risk to public health or safety

25. What does this mean in practice?

If the profession you want to practise involves a potential risk to public health or safety, the host Member State authority may check your qualifications, which could delay when you can start working. For more details on prior checks of qualifications, see questions 30-34.

26. What are the professions with a potential risk to public health or safety?

You can consult the assistance centre of the host Member State to find out which professions the Member State believes pose a potential risk to public health or safety.

If you are thinking about applying for an EPC, you can also find this information via the **EPC documents simulator**, available in the dedicated section on the **Your Europe** website (see question 14).

27. Can Member States check qualifications for the sectoral professions?

The Member States cannot carry out/require a prior check of qualifications for doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects if they enjoy automatic recognition as part of the establishment system (see questions 44-47). They may be required to provide a prior declaration and can then begin to work immediately (see the principle explained under point A.2, question 43).

Example: If you are a Portuguese doctor with the medical qualification 'Carta de curso de licenciatura em medicina', you enjoy automatic recognition and do not need your qualifications checked.

Example: If you are a physiotherapist, a host Member State may examine your qualifications if it determines that there is a risk for health and safety.

28. Are the professions in the area of crafts, trade and industry listed in Annex IV to the Directive affected?

The Member States cannot carry out a prior check of qualifications for those practising a profession in the area of crafts, trade and industry that involves a potential risk to public health or safety if they enjoy automatic recognition under the Directive, i.e. if they have the number of years of professional experience required under the Directive, completed by training where appropriate.

29. Are checks recurrent?

No, your qualifications can only be checked the first time that you enter the host Member State to provide a service there.

Example: You are a Spanish physiotherapist who worked in France for 4 months in 2002 after having your professional qualifications recognised in that Member State. You wish to work in France again for a limited period. Your qualifications cannot be checked again as they were already checked in 2002.

Similarly, if you apply for an **EPC** (see question 14), your qualifications will not be checked again when you request an annual EPC renewal.

30. If your qualifications are checked, do you need to provide additional information and documentation?

The authority responsible for checking your qualifications may ask you to provide the following information: total duration of studies, subjects studied and to what level, ratio of theory to practice. It may also ask you to provide information on your professional experience and on any further training, seminars and other courses you may have taken in addition to your initial training, e.g. lifelong learning.

It is in your best interest to provide this information as it may make it easier to check your qualifications and save you from having to take additional measures (see question 32).

If you do not provide this information, the authority is still obliged to take a decision, but will do so based on the information available.

31. What decision can the competent authority take?

There are several possibilities.

After examining your file, the authority may decide not to check your qualifications.

Example: The authority has already checked similar qualifications and considers that the holders of these qualifications do not pose a potential risk to the health or safety of the beneficiaries of the service.

After examining your file, the authority may decide to check your qualifications and then check whether to allow you to provide the service or prohibit you from providing it.

It may also require you to take compensatory measures (see question 32). If so, it is only after you have complied with these measures that you will learn the final decision, which will be to allow you (if your application is successful) to provide the service or not (if your application is unsuccessful).

You have the right to lodge an appeal with a court or tribunal in the host Member State in order to verify whether the decision is in accordance with national and EU law (see question 65).

If the authority fails to reply within the deadlines stipulated by Directive 2005/36/EC, the service may be provided.

If you apply for an **EPC** (see question 14), your home country authority will first check the completenesss of your application and the validity and authenticity of the documents. It will then forward your file to the host country authority for a decision. The host country authority can take one of the following decisions:

- issue an EPC (authorising you to provide a service)
- require compensatory measures
- refuse to issue an EPC (prohibiting you from providing a service).

In addition, if the host country authority fails to take a decision within the prescribed deadline, the EPC will be issued automatically. It has the

same validity and rights as an EPC issued by the competent authority.

32. What additional measures can the competent authority require and under what circumstances?

The competent authority may make you take a test if there are substantial differences between your training and the training of the host Member State and these differences are liable to be harmful to the health or safety of the beneficiaries of the service.

Before introducing a test, the authority must check whether your professional experience, continuous professional development or any other training you may have taken could make up for these differences.

If the authority did not have this information when it decided to make you take the test, it must first give you the opportunity to show that your professional experience, continuous professional development or additional training have allowed you to bridge the gap in knowledge.

If you cannot provide proof of this, the authority may require you to take a test. If you fail the test, then you should have the opportunity to retake it.

The same rules apply if you choose to apply for an **EPC** (see question 14).

33. Within what period should the competent authority take its decision?

In the best case scenario, the decision to allow you to provide the service or not or to require compensatory measures will be taken within 1 month of receiving your application and the supporting documentation (if there are no problems with your file) or, in the worst case scenario, within 4 months of receiving your application and the supporting documentation (if there are problems with your file).

If the authority decides to make you take a test, it will not make its final decision until after you have done the test, so this period would be extended. The authorities must give you the possibility to take the test within the month following the decision to impose it.

As a result, if you need to take a test and pass it, you may provide the service, in the best case scenario, within 2 months of the authority receiving your application and the supporting documentation (if there are no problems with your file) or, in the worst case scenario, within 5 months of the authority receiving your application and the supporting documentation (if there are problems with your file).

For more information on the deadlines, see the Code of Conduct (point 8 in particular).

If you apply for an **EPC** (see question 14), your home country authority informs you within 1 week of receiving your application if any documents are missing. Once you have provided all the required documents and the authority has checked their validity and authenticity, it forwards your file to the host country authority within 1 month. The host country authority takes a final decision within 2 months of receiving your file (if justified, this period can be extended twice by 2 weeks).

34. What happens if the competent authority does not respond within the prescribed period?

If you meet the conditions for benefiting from the rules of the Directive relating to the freedom to provide services (see question 13) and the authority does not respond within the prescribed period, you can provide your service on the territory of the host Member State.

If you apply for an **EPC** (see question 14) but the host authority fails to take a decision within the prescribed period (see question 31), the EPC is issued automatically. It has the same validity and rights as an EPC issued by the competent authority.

A.3 Rules

35. What rules do you need to follow when practising your profession?

In general, you must provide the service using the professional title of your Member State of establishment if such a title exists for your professional activities. The title should be in an official language of your Member State of establishment to avoid any confusion with the professional title of the host Member State.

You must also respect the professional rules of conduct directly related to the professional qualifications in force in both your home Member State and the host Member State, e.g.rules relating to professional misconduct.

36. What rules are you exempted from?

- Authorisation from and registration with or membership of a professional organisation or body; a temporary or pro forma registration may nevertheless be required, provided that it does not delay or complicate the provision of your service. This registration is not your responsibility and should be handled by the competent authorities of the host Member State if necessary;
- Registration with a social security agency; however, you must inform them of your service beforehand or, if there is an emergency, afterwards.

B. ESTABLISHMENT

When you establish yourself (permanently) in another Member State to practise a regulated profession, that Member States may check your qualifications. You may therefore need to complete a certain number of formalities and follow a procedure. The following questions explain what these formalities are and what your rights are as part of the recognition procedure.

B.1 Common rules

37. How do you know where to submit your application for recognition?

The assistance centres, whose remit is to help you get your qualifications recognised, can tell you where to submit your application for recognition and give you information on the procedure to follow.

However, you should also be able to submit your application for recognition directly through the point of single contact of a Member State as required by Directive 2005/36/EC and Directive 2006/123/EC on services in the internal market. By using these points of single contact, you can complete all the procedures and formalities required to practise your profession in the host Member State remotely and electronically, including submitting your application for recognition.

If you are entitled to use the **EPC** procedure (see question 14), you can use the EPC online tool to apply for an EPC. It will transfer your application directly to the designated authority. You can also use this tool to follow the status of your application.

38. What documents can the competent authority of the Member State where you wish to work ask you to submit?

38a. Documents for all professions

The authority of the Member State where you wish to practise a profession can ask you to submit the following documents:

- **proof of your nationality**, e.g. a copy of your identity card
- **proof that you have the attestation of professional competence or qualification** that prepares you for or gives access to the profession in question in your home Member State (for example, a copy of the attestation or qualification); however, you may not be asked to provide this if you meet the conditions for automatic recognition based on professional experience alone (see questions 47 to 49).
- **proof of your professional experience**
  - if you hold a qualification obtained in a third country and this qualification was already recognised by another Member State; in this case, the competent authority of the Member State where you wish to practise a profession may require a certificate, issued by the Member State which recognised your qualification, attesting that you did indeed exercise that profession for at least 3 years on its territory (see question 6);
  - if your profession or training is not regulated in the home Member State (see question 12;
- if also required of Member State nationals to access the profession:
  - **proof of your good character, repute, no declaration of bankruptcy** or the fact that you have not been suspended or prohibited from practising the profession due to serious professional misconduct or a criminal offence
  - **a medical certificate of good physical or mental health** from a competent authority, which can be a non-contracted doctor (general practitioner or specialist, depending on the type of certificate required);
- **proof of your financial standing and insurance cover.**

38b. Documents exclusive to sectoral professions

The competent authority of the Member State where you wish to practise a profession may require:

- **a certificate of compliance:** it is issued by the home Member State attesting that your qualification is that provided for in the Directive
- **a change of designation certificate** (except for architects): if the name of your qualification, which meets the minimum criteria for training, does not correspond to the name listed in the corresponding Annex to the Directive
- **an attestation of professional experience of at least 1 year** if you are a midwife who has trained as a nurse responsible for general care and then trained as a midwife for 18 months

- **an attestation from the home Member State of the effective and lawful exercise of the profession concerned (generally for at least 3 consecutive years during the 5 years prior to the attestation being issued):**
- If you are a doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife or pharmacist who qualified before the reference date set out in Annex V to the Directive and your qualifications do not meet the minimum requirements for training, and in other specific situations provided for in the Directive, e.g. qualifications obtained in countries that do not exist anymore like the former Yugoslavia or Czechoslovakia.
- If you are an architect without the qualifications set out in Annex V or in Annex VI, and in other specific situations provided for in the Directive (for example qualifications obtained in the former Yugoslavia). In certain cases, the attestation must also stipulate that you were authorised to use the professional title of architect in the home Member State before the date specified in the Directive for the Member State concerned.

An attestation of the effective and lawful exercise of the profession concerned for the period specified in the Directive allows you to benefit from the automatic recognition of qualifications. If you do not fulfil the criteria for such an attestation, your qualifications will be assessed under the general system of recognition (see questions 51 to 62) or under the Treaty (see question 47).

The Directive does not impose any time limit on the validity of the acquired rights certificate once it is issued.

This certificate can be issued by any Member State (not only by the Member State where the non-compliant diploma was obtained).

38c. Documents exclusive to professions in the fields of trade and industry

The competent authority of the Member State where you wish to practise a profession may require:

- **an attestation from the competent body of the home Member State indicating the nature and duration** of the activity you exercised;
- in certain cases, you may also be asked to **provide proof of your training**.

38d. Documents exclusive to general system professions

The competent authority of the Member State where you wish to practise a profession may require:

- **proof that you have professional experience equivalent to at least 1 year for the profession concerned on a full-time basis:** this proof may be requested if neither the profession nor the training are regulated in your home Member State but the profession is regulated in the host Member State (see questions 9 and 12), then all the documents should be taken into consideration. As a result, you do not have to submit a certificate from a competent authority. For example, the host Member State must accept pay slips or attestations from employers, though it is still important that the documents clearly identify your professional activity and show that you exercised your activity for at least 1 year;
- **information on your training,** but only to the extent necessary to determine the possible existence of substantial differences with the national training required; as a general rule, you only need to provide the following information: information on the total duration of your studies, subjects studied and to what level, ratio of theory to practice.

38e. Documents that may be required by the EPC procedure

If you choose to apply for an **EPC** (see question 14), you may be requested to upload the copies of one or more of the **documents mentioned in sections 38a, 38b or 38d above** (as relevant) using the EPC online tool if the host country requires them.

In addition, you may be requested to provide **proof of your legal establishment** if your home country authority is not in the position to confirm your legal establishment (this is not required if you are fully qualified but still not legally established at the time of your EPC application because e.g. you are a fully qualified graduate but have not yet completed the registration formalities).

In addition, under EPC rules, the home country authority cannot ask you for any certificate, attestation or document where it has been designated as responsible under national law to issue these documents. In these cases, it will directly upload the required documents to your EPC file. For specific information on the EPC document requirements in the host country, consult **the EPC documents simulator**, available

in the dedicated section on the **Your Europe** website (see question 14).

39. Can you provide additional documents yourself and is this worthwhile?

If your profession comes under the general system, it is in your interest to provide as much information as possible to the competent authority in the following areas: professional experience, further professional training or lifelong learning programmes, seminars and other courses taken in addition to initial training. This could make it easier to get your qualifications recognised and help you avoid having to take an aptitude test in full or in part or completing an adaptation period before your qualification is recognised (see questions 52 and 53).

If you do not provide this information, the authority is still obliged to take a decision but will do so based on the information available.

40. Can the competent authority of the host Member State request the original documents or certified copies?

The authority of the host Member State cannot require you to submit the original documents. However, it may request certified copies of important documents such as your professional qualifications and the documents proving your professional experience.

If you cannot provide certified copies of one or more of these documents, the authority must itself verify the authenticity of the document with the authority of the Member State where you are legally established.

If you choose to apply for an **EPC** (see question 14), you may be requested to upload certified copies using the EPC online tool only if your home country was unable to verify the validity and authenticity of your documents after receiving your complete application, and only to the extent these are required by the host country. In any event, the authority cannot require certified copies upfront without having tried to verify them first. The home country authority will inform you about the need to provide certified copies via the EPC online tool.

41. Do you have to submit translations of all the documents?

The competent authority of the host Member State may not require the documents to be translated unless it is genuinely needed to process your application for recognition.

The authority can only request certified translations for important documents.

Examples of certified translations: professional qualifications, certificates by competent authorities attesting professional experience.

However, if you are a doctor, a nurse responsible for general care, a dental practitioner, a midwife, a veterinary surgeon, a pharmacist or an architect whose qualification is included in Annex V to Directive 2005/36/EC, a translation of your professional qualifications may not be needed as the authority only needs to check whether the name of your qualifications corresponds to the that listed in Annex V or VI in the national language. If the diploma is not listed in Annex V, a translation may be required.

The host Member State authority may not require certified translations of standard documents such as identity cards, passports, etc.

You are free to choose to have your translations certified by a competent authority of your home Member State or of the host Member State. The host Member State authority is in any case obliged to accept translations certified by a competent authority of your Member State.

If you choose to apply for an **EPC** (see question 14), you may be requested to upload document translations using the EPC online tool only if translations are required by the host country and only for the documents that the EPC rules allow the host Member State to require to be translated. The authorities cannot require translations of the following documents in the EPC procedure:

- proof of nationality (passport or ID card)
- evidence of formal qualifications listed in Annex V of Directive 2005/36/EC, issued by the home country
- certificates issued by a competent national body in your home country, e.g.:
  - certificates of acquired rights, certificates of conformity, certificates on the change of qualification's name,
  - attestations of legal establishment, and
  - attestations of no bans to practice or suspensions and/or of no criminal convictions.

42. Within what period should your application for recognition be processed?

First, the competent authority of the host Member State must acknowledge receipt of your application within 1 month of receipt and inform you of any missing documents.

It should take a justified decision:

- as soon as possible following the submission of your complete application
- no later than 3 months for cases covered by the rules for automatic recognition (see questions 44 to 47), and
- no later than 4 months for cases covered by the general rules on the recognition of diplomas (see questions 51 to 64) and the rules on the automatic recognition of professional experience (see questions 48 to 50).

If it fails to observe the deadline, see question 65.

If you apply for an **EPC** (see question 14), your home country authority informs you within 1 week of your application if any documents are missing. Once you have provided all the required documents and the authority has checked their validity and authenticity, it forwards your file to the host country authority within 1 month. The host country authority takes a final decision within 1 month (automatic recognition, see questions 43-44) or 2 months (general system of recognition, see question 45). If justified, the period can be extended twice by 2 weeks.

43. What are your rights when you are granted recognition?

Recognition gives you the right to practise the profession in question. You can begin practising the profession subject to the same conditions that apply to nationals of the host Member State. You can therefore practise the profession subject to the same laws, regulations, administrative provisions and code of practice as nationals of the host Member State. In particular, you will need to ensure that your activities remain within the range covered by the profession there. If you practice it as a paid employee, you can apply for jobs in the host Member State and participate in employee selection procedures (interview, examination of application, open competition, etc.) in the same way as holders of national qualifications.

Under the national law of a host Member State, anyone wanting to practise the profession concerned may need to obtain an authorisation, including possible renewals, or to register with a professional chamber or registry. In case of temporary and occasional service provision, it must take the form of automatic temporary registration or a pro-forma membership that is free of charge and does not delay or complicate the provision of the service.

Similarly, if you obtain an **EPC** (see question 14), there might be subsequent checks in place (such as a requirement to register with a professional association or state body) before you can practise a profession.

B. 2 Sectoral professions

These are the professions for which the common minimum training requirements are introduced across the EU: doctors with basic medical training, general practitioners and doctors with medical specialisation, nurses responsible for general care, dental practitioners and dental specialists, veterinary surgeons, pharmacists and architects. The relevant diplomas are listed in Annex V to Directive 2005/36/EC[9] in the language of the Member State issuing the diploma.

44. How is your application examined?

In principle, if your diploma is listed in Annex V to Directive 2005/36/EC, the qualifications are covered by the rules on the automatic recognition of diplomas (see questions 45 and 47). As a result, the competent authority of the host Member State may not check the contents of your training, which means that it may not ask you for documentation specifying these contents.

If your qualifications were obtained in a third country[10], the Directive does not apply in principle. However, if you have already obtained initial recognition in a Member State and you have subsequently practised the profession in question for at least 3 years on its territory, the recognition of your qualifications will be processed under the general system of recognition (see questions 47 and 51 to 64). A third country diploma can never be automatically recognised within the EU as it is not listed in Annex V to the Directive.

If you choose to apply for an **EPC** (see question 14), authorities in two Member States will handle your application. Your home country authority will

(9) https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1517331795984&uri=CELEX:02005L0036-20171201
(10) This refers to countries other than those mentioned in question 3.

verify that your application is complete (1 week) and your documents are valid (1 month), and the host country authority will assess the content of your EPC application after receiving your complete EPC application from the home country authority (1 month).

45. What conditions must you meet to benefit from automatic recognition?

- **Doctor with basic medical training, general practitioner and doctor with medical specialisation, nurse responsible for general care, dental practitioner, veterinary surgeon and pharmacist**

You must hold one of the qualifications listed in Annex V to Directive 2005/36/EC (i.e. the formal qualification and any certificate accompanying the latter). This qualification attests to training that meets the minimum training requirements established by Directive 2005/36/EC for the training that began after the reference date mentioned in Annex V to the Directive for the qualification and Member State in question. The reference date is usually the date when the specific Member State joined the EU or the relevant legal act entered in force.

Example: You are a Spanish doctor with the formal qualification 'Titulo de Licenciado en Medicina y Cirugia' and you started studying for it after 1 January 1986 (see Annex V, point 5.1.3); this qualification attests to training that complies with the Directive, so you benefit from automatic recognition.

- **Midwife**

You must hold the qualification listed in Annex V to Directive 2005/36/EC (i.e. the formal qualification and any certificate accompanying the latter). This qualification should attest to training that meets the minimum training requirements established by Directive 2005/36/EC. This is normally the case if your training began after the reference date mentioned in Annex V to the Directive for the qualification and Member State in question.

Whether or not you benefit from automatic recognition depends on the type of training course you took.

If you hold evidence of formal qualifications as a midwife referred to in point 5.5.2 of Annex V to Directive 2005/36/EC and:

- you took a full-time course in midwifery of at least 3 years consisting of at least 4,600 hours of theoretical and practical training, with at least one third of the minimum duration in clinical training, or
- you took a full-time course in midwifery of at least 2 years consisting of at least 3,600 hours, access to which was conditional on having a formal qualification as a nurse responsible for general care referred to in point 5.2.2 of Annex V, or
- you took a full-time course as a midwife of at least 18 months consisting of at least 3,000 hours, access to which was conditional upon having a formal qualification as a nurse responsible for general care referred to in point 5.2.2 of Annex V, and you have at least 1 year of professional experience gained after completing this training, you will benefit from automatic recognition.

- **Architect**

Whether or not you benefit from automatic recognition depends on the type of training course you took.

To benefit from automatic recognition, you must hold one of the qualifications listed in Annex V to Directive 2005/36/EC (i.e. the formal qualification and any accompanying certificate). This qualification should attest to training that meets the minimum training requirements established by Directive 2005/36/EC. This is normally the case if your training began no earlier than the reference academic year mentioned in Annex V to the Directive for the qualification and Member State in question.

Example: If you are a Spanish architect with the formal qualification 'Título oficial de arquitecto' from the European University of Madrid. Having begun your training no earlier than the 1998-99 academic year (see Annex V, point 5.1.7), you can benefit from automatic recognition.

On the other hand, if you are an Italian architect with the formal qualification 'Laurea specialistica in architettura' from the Politechnic University of Bari and you began your training no earlier than the 1999-2000 academic year, but have not yet obtained the 'Diploma di abilitazione all'esercizio indipendente della professione' required in Italy in addition to the formal qualification (see Annex V, point 5.1.7), you cannot benefit from automatic recognition.

46. Do you benefit from automatic recognition if you obtained your qualification before your country joined the EU?

- **Doctor with basic medical training, general practitioner and doctor with medical specialisation, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife and pharmacist**

If your qualification attests to training that you started before the reference date mentioned in Annex V to the Directive (*e.g. before 1 May 2004 for a Czech nurse responsible for general care - Annex V, point 5.2.2*) and this training does not meet the minimum training requirements, you may nevertheless qualify for automatic recognition if you can prove – via an attestation from the home Member State – that you have been effectively and lawfully practising the profession in question for at least 3 consecutive years during the 5 years prior to the attestation being issued. This is the general principle of acquired rights as laid down in Article 23(1) of Directive 2005/36/EC. The Directive does not impose any time limit on the validity of the acquired rights certificates once they are issued.

The above-mentioned general acquired rights provisions may be not applicable to certain professions/countries if more specific acquired rights provisions exist under Directive 2005/36/EC. It is therefore important to check each particular situation to find out about the specific requirements, e.g. from the assistance centre (see question 71).

Example: If your qualification comes under one of the specific provisions on acquired rights for some professions from countries that have ceased to exist (for example qualifications obtained in the former Yugoslavia, in East Germany or former Soviet Union, see Article 23(2) to (5) of Directive 2005/36/EC), you must meet the specific conditions with regard to professional experience and present supporting documents to benefit from automatic recognition, e.g. 5 out of 7 years for Estonian veterinary surgeons.

Example: For nurses responsible for general care, the general rules on acquired rights under Article 23(1) only apply if the professional activities in question included full responsibility for the planning, organisation and administration of nursing care delivered to the patient.

- **Architect**

If your qualification attests to a training course you started before the reference academic year mentioned in Annex V to the Directive for the qualification and the Member State in question (*e.g. before 2007-08 for a Maltese architect - Annex V, point 5.7.1*), and even if this training does not comply with the minimum requirements established by Directive 2005/36/EC, you can nevertheless benefit from automatic recognition on the basis of rights acquired if you are in possession of the qualification mentioned by the Member State concerned in Annex VI to Directive 2005/36/EC (that is, the formal qualification and any certificate accompanying the latter). Your training should have begun no earlier than the reference academic year mentioned in Annex V to the Directive for the qualification and Member State in question.

Moreover, if your qualification attests to a training course that does not feature either in Annex V or Annex VI to the Directive, you may nevertheless enjoy automatic recognition if you can prove – via an attestation from the home Member State – that you have been authorised to use the professional title of architect in that Member State before the date stipulated in the Directive and that you have effectively and lawfully practised the profession in question for at least 3 consecutive years during the 5 years prior to the attestation being issued. However, if your qualification comes under one of the provisions on specific acquired rights (for example qualifications obtained in the former Yugoslavia or in East Germany), you must meet the required conditions with regard to professional experience and present supporting documents to benefit from automatic recognition.

The Directive does not impose any time limit on the validity of the acquired rights certificate once it is issued.

This certificate can be issued by any Member State (not only by the Member State where the non-compliant diploma was obtained).

47. What procedure for recognition applies if you are not eligible for automatic recognition?

If you are not covered by the rules on automatic recognition described in questions 45 and 46, the general system of recognition referred to in Article 10 of Directie 2005/36/EC applies in principle (see questions 51 to 62).

In the exceptional situation where no recognition rules would be applicable under Directive 2005/36/EC (see question 52, point 3), you are entitled to have your qualifications recognised under Article 45 of the TFEU (free movement of workers) or under Article 53 of the TFEU (freedom of establishment). In these cases, the competent authority of the host Member State must compare your training with its national training by taking into account your professional experience and any further training. If the training corresponds only in part, it may ask you to make up for these differences, for example by taking a test, doing a traineeship or an additional training course, depending on the national rules.

Under recognition based on the TFEU, you do not benefit from the procedural guarantees provided for in the Directive, such as deadlines and limitation of costs.

B.3 Professions in trade, industry or business

If you wish to practise a profession listed in Annex IV to Directive 2005/36/EC, you may benefit from automatic recognition of your qualifications based on your professional experience if you meet the conditions provided for in the Directive.

48. How is your application examined?

Based on the documents you submitted, the competent authority of the host Member State first checks whether you meet the conditions for benefiting from automatic recognition.

49. What conditions must you meet to benefit from automatic recognition?

Depending on the profession you wish to practise, the conditions for professional experience (possibly accompanied by conditions related to training) are defined in Article 17, 18 or 19 of the Directive. This experience must relate to the profession you wish to practise in the host Member State. The Directive defines this experience based on the type (self-employed, employer, employee, etc.) and duration (number of years of experience, date when this experience ended, etc.). In certain cases, the Directive also provides for the requirement of a recognised preliminary qualification.

Example: Aesthetic activities come under list III, 4 of Annex IV to the Directive. Article 19 of the Directive therefore applies. If you have at least 3 consecutive years of professional experience as a self-employed beautician in Germany and this experience ended less than 10 years ago, you can benefit from automatic recognition in Greece based on your professional experience alone.

Example: Hairdressing activities come under list I, 3 of Annex IV and Article 17 applies. If you have at least 3 consecutive years of professional experience as a self-employed hairdresser in Germany, this alone does not qualify you to benefit from automatic recognition in Greece. For this, you must also either be able to attest to prior training of at least 3 years that is recognised in Germany or prove that you have been employed as a hairdresser for at least 5 years. You can also benefit from automatic recognition if you have at least 6 consecutive years of experience, either self-employed or as an employer, in hairdressing in Germany or 4 years of experience preceded by at least 2 years of recognised training.

50. What procedure applies if you cannot be granted automatic recognition?

If the activity that you want to practise in the host Member State is listed in Annex IV to the Directive, but you do not meet the conditions required for benefiting from automatic recognition based on professional experience, then the general rules on recognition apply (see questions 51 to 64).

Example: If you are a beautician who does not meet the number of years of experience required, then the general rules on recognition apply.

B.4 Professions covered by the general system

This recognition system includes all the professions that cannot benefit from one of the two systems for automatic recognition described under points **B.2** and **B.3**.

51. How is your application examined?

1) The competent authority responsible for checking your qualifications will first check whether you obtained them in a Member State

that regulates the profession for which you are applying for recognition of your qualifications.

If the Member State where you obtained your qualifications does not regulate this profession and if it also does not regulate training for this profession, the authority is entitled to ask you to prove that you have practised the profession in question for at least 1 year during the last 10 years (see questions 9 and 12).

If you cannot provide this proof or do not have this professional experience, the competent authority is not required to apply the rules of Directive 2005/36/EC to your application for recognition and will decide on your application based on national law in accordance with the TFEU.

If you obtained your qualifications in a third country, the authority will check if you genuinely practised the profession in question for at least 3 years in the Member State that initially recognised your qualifications. This professional experience should be attested by a certificate issued by that Member State – you can only benefit from the Directive if this condition is met (see questions 5, 6 and 44).

2) The authority will then compare your training with the national training to check whether there are any substantial differences. Substantial differences means major differences in the matters covered by the training that are essential to practise the profession; or, major differences with regard to one or more professional activities included in the regulated profession of the host Member State, which do not exist in the corresponding profession in your home Member State;

If the authority identifies substantial differences between your training and national training, it should then check whether these differences can be offset by your professional experience or any additional training you might have taken. This is why it is important to provide as much information as possible.

After performing these checks, the authority will take a decision, which must be justified.

If you choose to apply for an **EPC** (see question 14), authorities in two Member States will handle your application. Your home country authority will verify that your application is complete (1 week) and your documents are valid (1 month), and the host country authority will assess the content of your EPC application after receiving your complete EPC application from the home country authority (2 months).

52. What decisions can the competent authority take?

1) It may decide to recognise your qualifications (see also question 43).

2) It may require you to take compensation measures (see also questions 53 and 54) if it identifies substantial differences between your training and national training, which cannot be offset by your professional experience and/or additional training you have taken.

3) It may refuse to recognise your qualifications and decide not to grant you access to the profession. However, it may only refuse recognition in exceptional cases. For example, a refusal would be justified if it turns out that the profession for which you applied for recognition of your qualifications is not the same as the one for which you are qualified (see question 11).

It can also refuse access to the profession if such access is subject to you holding a degree of at least 4 years and you only hold primary or secondary school qualifications, only have limited professional experience or have followed a very short training course (e.g. a few weeks) certified by an authority.

In these cases, the authority is not obliged to apply the Directive, but is obliged under Article 45 of the TFEU or under Article 53 of the TFEU to assess whether and under what conditions you may be allowed to practise the profession. In doing so, it will compare your training with the national training and has to take into account your professional experience and any further training. In doing so, the authority is not limited to the compensation measures set out in the Directive.

4) It can decide to grant you partial access to the profession. You need to fulfil the following three conditions:

- you need to be fully qualified for the profession in your home Member State
- the difference in education has to be so wide that an aptitude test or an adaptation period would not suffice to overcome this difference
- the activities need to be clearly separable.

If you fulfil these conditions, partial access can only be refused if justified on the grounds of public health or safety.

5) If you apply for an **EPC** (see question 14), the host country authority can take one of the following decisions:

- issue an **EPC** (recognising your qualifications)
- require compensation measures
- refuse to issue an **EPC** (refusing to recognise your qualifications), or
- grant you partial access to the profession.

The same rules apply as set out above on what exactly is assessed.

53. What happens if there is a substantial difference in education for the same profession?

The competent authority can oblige you to take an aptitude test or complete an adaptation period of a maximum of 3 years. The aptitude test must be organised within 6 months following the decision.

54. Can you choose between an adaptation period and an aptitude test?

In principle, yes. You can choose either the aptitude test or the adaptation period. However, there are exceptions to this, with the host Member State having the right to choose for you in the following cases:

- legal professions,
- professions for which the common minimum training requirements were introduced but which do not benefit from automatic recognition (see questions 44 to 47),
- holders of third country qualifications with 3 years of professional experience in the profession on the territory of the Member State which recognized the evidence,
- professions in the fields of trade, industry or business referred to in Annex IV to Directive 2005/36/EC that do not benefit from automatic recognition (see questions 48 to 50) and if you wish to establish youself as self-employed or an employer if your professional activity presupposes the knowledge and application of the specific national rules in force in so far as the same is also required of nationals,
- when the qualification required in the host Member State is a degree of between 1 and 4 years and if you hold primary or secondary school qualifications or if you only have limited professional experience or you have followed only a very short training course (e.g. a few weeks) certified by an authority. In this situation and when the duration of higher education is 3 or 4 years in the host Member State, you may be required to take a test cumulatively and undergo a training period,
- when the qualification required in the host Member State is a degree of between 4 and 5 years and if you hold a qualification attesting to the successful completion of a training course at secondary level completed by general or technical training and/or by professional practice,
- for the following professions in the following Member States, the competent authority has the right to impose an aptitude test:
  - France: ski instructor, diving instructor, parachuting instructor, high-altitude mountain guide, potholing instructor,
  - Austria: alpine ski instructor, cross-country ski instructor, ski guide, mountain guide
  - Italy: ski instructor, mountain guide,
  - Germany (Bavaria): ski instructor, cross-country ski instructor, mountain and ski guide,
  - Belgium: private detective.

55. How can you prepare for the aptitude test or the adaptation period?

For the aptitude test, the competent authority or the assistance centre can give you information on preparatory courses, lists of recommended reading and/or sample tests (if available).

For the adaptation period, the competent authority or the assistance centre can tell you about the lessons learned from successful traineeships or give you a list of recommended reading (if available).

56. Do you have to organise the adaptation period yourself?

The host Member State may confer responsibility for organising adaptation periods on authorised establishments and/or training supervisors. The competent authority should give you a list of establishments/people responsible for adaptation periods for the profession that you wish to practise. As far as possible, you should be free to choose a training supervisor and the place where the adaptation period will be spent.

In any case, the conditions of the adaptation period should not be too restrictive.

The location of the adaptation period should not be too far that it creates an obstacle.

57. What does the adaptation period involve?

The adaptation period is supervised by a qualified professional and may be accompanied by additional training. At the end of this period, you are assessed on whether the adaptation period has offset the differences in training so that the competent authorities can grant you recognition. It is therefore advisable to clarify beforehand what activities you should be doing under supervision and which are the subject of the final assessment.

58. Will you be paid during your adaptation period?

Where this is possible within the host country's national structures, you may receive payment during the adaptation period. However, this does not constitute a right. It is the host Member State that determines your statute.

59. What does the aptitude test involve?

The sole aim of the aptitude test is to check your professional knowledge and it may only cover the subjects that are essential for practising the profession for which substantial differences have been discovered. These subjects must have been clearly identified in the decision taken by the competent authority. They may only exceptionally include knowledge of the professional rules applicable to the profession in question.

The aptitude test could be theoretical (for example a written exam) or practical (such as a skiing test on the slopes) and may take more than a day.

60. How many aptitude tests should be organised per year?

In principle, the number of aptitude tests depends on the number of applications received. Regardless of this, at least two aptitude tests should be organised per year by the competent authority.

For seasonal professions such as ski instructor, the tests should take place in the first half of the season.

61. Can you take the aptitude test more than once?

Yes, you should be allowed to re-take the test if you fail it. However, it is the host Member State that determines the number of times you can re-take it, taking into account the applicable rules at national level.

62. Within what period should the competent authority make its decision following the aptitude test or adaptation period?

The Directive does not set any specific period, but the competent authority must take the decision as quickly as possible.

III. COSTS

63. Can you be asked to contribute to the costs of processing your application in the host Member State?

You cannot be asked for any financial contribution for submitting a declaration as part of the freedom to provide services. In fact, in that case the authority of the host Member State does not have to process or assess any application (see point A.1, question 24).

In other cases you may have to pay a fee for processing your application, e.g. for establishment in a host Member State. However, this amount may not exceed the actual cost of the procedure and must be comparable with the fee paid by nationals in similar circumstances.

The fees for the **EPC** procedure (see question 14) must also be reasonable, proportionate and commensurate with the costs incurred by the authorities and must not act as a disincentive to apply for an EPC. For specific information on any fees that may apply to the EPC procedure in your home country and/or in the host country, consult the **EPC documents simulator** available in the dedicated section on the **Your Europe** website (see question 14).

64. Can you be asked to make a financial contribution towards an aptitude test or an adaptation period?

You may be asked to pay an amount for the organisation of the aptitude test or the adaptation period. However, this may not exceed the actual cost of the procedure and must be comparable with the fee paid by nationals in similar circumstances.

IV. APPEAL

65. What are your rights with regard to lodging an appeal?

The decision to reject your application (or to make you take additional measures, such as an aptitude test or an adaptation period) must state the reasons for it. If not, you are entitled to ask the competent authority to inform you of its reasons. If you are not informed of the reasons - or if you wish to contest them - you have the right to lodge an appeal with a court or tribunal in the host Member State in order to verify whether the decision is in accordance with EU law.

Under the establishment rules (see **point II**), you can also lodge an appeal if a decision has not been taken within the prescribed period. You are not entitled to practise your profession on the territory of the host Member State until a decision has been taken. Under the rules on the freedom to provide services (see **point I**), however, it is not necessary to lodge an appeal if a decision has not been taken within the prescribed period because you are entitled to provide the service without having to wait for a decision.

In some Member States, you can also lodge an administrative appeal. The assistance centre can give you all the relevant information on appeal possibilities at national level.

The decisions of the competent authorities adopted as part of an EPC procedure (see question 14) are also subject to appeals under the national law of the country that adopted a decision.

The appeals are subject to national law, which includes among others the conditions, formalities, procedures to be followed and deadlines to be met. We advise you to familiarise yourself with these rules without delay if you plan to lodge an appeal.

V. LANGUAGE REQUIREMENTS

66. Can you be required to know the language of the host Member State?

The host Member State may require you to have knowledge of its language where this is justified by the nature of the profession you wish to practise. In any case, the language requirements may not exceed what is necessary for practising the profession in question (vocabulary, oral and/or written knowledge, active and/or passive knowledge).

Irrespective of the regulated profession, your application is likely to be processed in (one of) the official language(s) of the host Member State, and any aptitude test that you are required to take (see questions 53 and 54) will most probably also be in that language. However, you can never be asked to know more than one official language of the host Member State.

The procedure for the recognition of your qualifications and for checking your language skills are two separate procedures. Under the traditional or **EPC** procedure, recognition of your professional qualifications cannot be refused or postponed because you do not have the appropriate language skills.

However, there is an exception to this rule where language skills are part of the qualification, e.g. for a speech therapist or a teacher teaching the language of the host country.

67. Can a language check be imposed systematically?

The host Member State may not systematically check the language knowledge of professionals applying for recognition of their qualifications. This is only allowed for professions with patient safety implications, such as doctors, nurses etc. For all other professions, language knowledge may only be checked in cases of serious and concrete doubt and should be proportionate to the activity being pursued.

Example: The competent authority barely understands your application for recognition or it turns out that during a compensation measure you are unable to communicate or understand test questions.

It is worth noting that 'language check' does not automatically mean sitting a test. It means that the competent authority may require you to provide documentation that proves your language knowledge.

The following documents could constitute proof of language skills:

- a copy of a qualification acquired in the language of the host Member State
- a copy of a qualification attesting to knowledge of the language(s) of the host Member State, for example university degree, chamber of commerce qualification, qualifications awarded by a recognised language institution, etc.
- evidence of previous professional experience in the host Member State territory.

If you cannot provide any of these documents or if the documents do not provide proof of the required level of language or are not conclusive, you may be required to do an interview or a test (oral and/or written). The competent authority cannot limit the acceptable proof of language knowledge to one particular type of certificate.

VI. ALERT MECHANISM

68. What happens if you are banned or restricted from practising by the national authorities in your home country?

Making it easier for professionals to move around Europe should not put consumer protection or patient safety at risk. Directive 2005/36/EC contains rules creating an alert mechanism for all professions whose actions could affect patient safety or for those involved in educating children. If a professional has been banned, even temporarily, from practising his or her profession or parts of it, an alert will be sent to all other EU countries as an early warning.

You will be subject to alerts if you have been banned or restricted from practising one of the following professional activities (where these professions are regulated in your Member State of practice): doctor of medicine and of general practice, specialised doctor, nurse responsible for general care, dental practitioner, specialised dentist, veterinary surgeon, midwife, pharmacist, other professions having patient safety implications, and professions involved in educating children.

69. What happens if you are found to have used a fake diploma?

You will be subject to an alert if you have applied for recognition of your qualifications under Directive 2005/36/EC and are subsequently found by a court to have used falsified evidence of qualifications, irrespective of what regulated profession you were practising.

70. What are your rights if you are a professional and an alert has been sent to Member States?

The Member State that sends an alert about you to other Member States must inform you in writing of its decision to send the alert at the same time as the alert is sent. You have the right to appeal this decision under national law or request it to be overturned. You also have the right to redress in terms of any damage caused by false alerts sent to other Member States.

The information contained in the alert is strictly limited and does not necessarily entail automatic consequences for you in terms of practising the profession in other Member States. If the Member States receiving the alert require further information, they can enquire about the details of the restrictions or prohibitions, or about the details of the decisions on which they are based from the authority, which has intiated the alert, and can take a decision under national law based on the information available.

VII. WHO DO I CONTACT IF THERE IS A PROBLEM?

71. Who can help you at national level?

You can contact the national assistance centre of the home or host Member State if you need any help getting your professional qualifications recognised.

2) You can also contact Your Europe Advice.

This service has a team of **independent legal experts** who provide free advice on your rights as an EU national. The responses are given in your own language and **within a week** of your request.

3) If there are specific problems with your application, you can also contact the SOLVIT network.

SOLVIT is an online problem-solving network: the Member States use this tool to cooperate and find pragmatic solutions to problems caused by the wrong application of single market legislation by national authorities. There is a SOLVIT centre in each Member State (also in Norway, Iceland and Liechtenstein). These centres are committed to providing solutions to problems within 10 weeks and are free of charge. Nevertheless, the deadlines for appeals at national level are not suspended if you submit a case to SOLVIT. On the other hand, if you decided to start legal proceedings at national level, you can no longer submit your case to SOLVIT.

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