

# Professional recognition of craftsmen, commercial and other self-employed professionals within the EU

*Professional recognition UNIT D/3*

# Introduction

A specific regime to facilitate freedom of establishment and professional recognition of craftsmen was adopted in 1999 (directive 1999/42)

The regime is supplementing the General system for recognition of professional qualifications

More favourable to migrants - provides for a simplified procedure for mutual recognition of qualifications

- Main principle: Host Member State (MS) may not refuse access to a regulated activity if migrant has the qualifications required in their country of origin

## Introduction

- Principles on professional recognition of craftsmen has been incorporated in Directive 2005/36

After October 2007, Directive 1999/42 will be replaced by 2005/36/EC

- The regime remains more favourable than the General system on professional recognition

## Scope of the Directive

**Persons to whom the directive should apply** – nationals of EU Member States, Iceland, Norway, Liechtenstein and Switzerland

**Activities covered** : crafts, some trade activities and services etc.

- Activities concerned included in an Annex of the Directive
- The Annex gives a detailed list of activities by sector of industry and branch of activity
- Covers crafts and other regulated self-employment activities (transport agency, electrician etc.)
- Covers some personal services (beauty parlours, cleaning services etc.)

## Obligations deriving from the directive

### I. **Obligation to adopt legal provisions for recognition of professional qualifications acquired in another MS**

- First road: Automatic recognition when migrant has professional experience of a certain length

Host MS shall accept as sufficient evidence of qualifications the fact that the applicant has pursued the activity in another Member State during a certain period of time

The proof of professional experience is attested by means of a uniform document – EC Attestation

## Obligations deriving from the directive

- The directive requires different lengths of experience depending on activity and occupation in the MS of origin

*Example: 6 years in either a self-employed capacity or as a manager of an undertaking for hairdressers, electricians, plumbers etc.*

*3 years in either a self-employed capacity or as a manager of an undertaking for beauty parlours etc.*

*Definition of «manager» given in the directive*

- Different categories of activities concerned are specified in separate lists of the Annexe of the directive

## Obligations deriving from the directive

- Second road for recognition : recognition based on training and diplomas

Applies if requirements set forth in the directive (automatic recognition) are not fulfilled

Host Member State (MS) may not refuse access to the occupation in question if migrant has the relevant qualifications required in their country of origin

- Obligation to make a comparative examination of migrant's qualifications and qualifications required in host MS

## Obligations deriving from the directive

- Procedure for examination of training and diplomas same as under General system for recognition of professional qualifications (refer to presentation of the General system)
- Principle : Compensation measures may be required only in the event of substantial differences; decision has to be reasoned and proportionate
- Specificity: Host MS may require an adaptation period or aptitude test, at the choice of the applicant.

However in the case migrant wish to exercise the activity in self-employed capacity or as a manager, host MS may require an aptitude test when the occupation requires knowledge of national law



# Obligations deriving from the directive

## II. Obligation to recognise other documents delivered by MS of origin

Host MS may not require additional documents to those required by nationals

MS have obligation to mutually recognize proof of good repute and proof of financial standing in respect of freedom of establishment and freedom to provide services

Code of good conduct agreed by MS coordinators to avoid unnecessary paperwork and delays

## Obligations deriving from the directive

III. Obligation to appoint and communicate details of the authorities competent to deliver EC attestation and other relevant documents

IV. Obligation to examine the recognition request within four-month period of time

V. Obligation to provide with judicial review of the refusal decision