



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Networks & Governance

The Director

Brussels, 8 September 2022

GROW.D.1/SRG

**NOTE FOR THE ATTENTION OF THE GROUP OF COORDINATORS FOR THE RECOGNITION
OF PROFESSIONAL QUALIFICATIONS**

**Subject: The recognition in the European Union of professional qualifications
acquired in the United Kingdom of Great Britain and Northern Ireland.**

CONTENTS

1. Purpose of the note	3
2. Context	3
3. Scope	3
4. Access to regulated professions in Member States for holders of UK qualifications	5
A. Applications for establishment purposes	5
i. UK qualifications held by EU nationals	5
a. <i>Qualification obtained before the end of the transition period set out in the Withdrawal Agreement</i>	5
b. <i>Qualification obtained after the end of the transition period set out in the Withdrawal Agreement</i>	5
ii. UK qualifications held by UK nationals	6
a. <i>UK nationals falling under the personal scope of the Withdrawal Agreement</i>	6
b. <i>UK nationals not falling under the personal scope of the Withdrawal Agreement</i>	8
B. Applications for the temporary & occasional provision of services	8
i. UK qualifications held by EU nationals	8
ii. UK qualifications held by UK nationals	8

1. PURPOSE OF THE NOTE

The purpose of this note is to clarify:

- the application of EU law to requests made by EU nationals for the recognition of qualifications acquired in the United Kingdom of Great Britain and Northern Ireland (UK qualifications), and
- the rules applicable to the recognition of UK qualifications in the EU held by nationals of the United Kingdom of Great Britain and Northern Ireland (UK nationals).

2. CONTEXT

On 21 June 2018 Commission services published a “Notice to stakeholders on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland (hereinafter the United Kingdom) and EU rules in the field of regulated professions and the Recognition of Professional Qualifications”.¹ Following the conclusion of the Withdrawal Agreement² and the EU-United Kingdom Trade and Cooperation Agreement (TCA)³ this notice was no longer up-to-date and has been removed from the public repository of “Brexit notices”.⁴

With this note, the Commission’s services are updating its guidance regarding the rules on recognition of UK qualifications following the adoption of the Withdrawal Agreement.

3. SCOPE

EU nationals seeking to access or pursue a regulated profession in a Member State different from the one where they have obtained their qualifications can rely on Directive 2005/36/EC on the recognition of professional qualifications⁵ to have their qualifications recognised by that Member State and to pursue their profession there. Directive 2005/36/EC also provides for a mechanism allowing professionals established in one Member State to move and provide regulated professional activities in another Member State on a temporary or occasional basis (Articles 5 to 9 of Directive 2005/36/EC).

¹ [Notice to stakeholders on the Withdrawal of the United Kingdom and EU rules in the field of regulated professions and the Recognition of Professional Qualifications](#)

² [Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01](#)

³ [Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#)

⁴ [Consequences of Brexit | European Commission \(europa.eu\)](#)

⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Directive 2005/36/EC covers EU nationals with qualifications obtained in one or more EU Member States.⁶ In certain situations, Directive 2005/36/EC also covers EU nationals with qualifications obtained in third countries.⁷ On the contrary, recognition of qualifications of third country nationals, wherever obtained, is not covered by Directive 2005/36/EC.

In light of the above, this note deals with the recognition of UK qualifications, taking into account the following two distinctions:

- UK qualifications held by EU nationals (covered by Directive 2005/36/EC) versus UK qualifications held by UK nationals (not covered by Directive 2005/36/EC), and
- recognition in cases of establishment versus recognition in cases of temporary & occasional provision of services.

The principles outlined in this note apply to each system of recognition of professional qualifications foreseen under Directive 2005/36/EC, i.e. to automatic recognition on the basis of minimum training requirements⁸, automatic recognition on the basis of professional experience and to recognition under the general system. Moreover, the notion of professional qualifications covers qualifications attested by evidence of formal qualifications, an attestation of competence and/or professional experience, as defined in Article 3(1)(b) of Directive 2005/36/EC.

⁶ Directive 2005/36 covers by extension EEA citizens and professional qualifications, as well as Swiss citizens and professional qualifications, through international agreements. Consequently, the guidance outlined in this note equally applies to citizens of Iceland, Liechtenstein, Norway and Switzerland.

⁷ Articles 2(2), 3(3) and 10(g) of Directive 2005/36/EC.

⁸ The latest update of Annex V listing the professional qualifications benefitting from automatic recognition contains footnotes for all qualifications obtained in the United Kingdom and listed in Annex V, with 31.12.2020 as end date of these qualifications. As a result, UK awarding bodies can no longer issue qualifications recognised under Annex V after this date.

4. ACCESS TO REGULATED PROFESSIONS IN MEMBER STATES FOR HOLDERS OF UK QUALIFICATIONS

A. Applications for establishment purposes

i. UK qualifications held by EU nationals

Regarding the recognition of UK qualifications held by EU nationals, the situation differs depending on whether the professional obtained the qualifications before or after the end of the transition period set out in the Withdrawal Agreement, meaning before or after 31 December 2020.

a. Qualification obtained before the end of the transition period set out in the Withdrawal Agreement

In case the qualification was obtained by the end of the transition period set out in the Withdrawal Agreement, Directive 2005/36/EC applies. These qualifications were issued at the time by the United Kingdom as a Member State (until 31 January 2020) or during the transition period set out in the Withdrawal Agreement and are therefore considered evidence of formal qualification within the meaning of Article 3(1)(c) of that Directive. They can be used as evidence of formal qualifications for all recognition regimes of Directive 2005/36/EC and applicants can request recognition of these professional qualifications at any time.

b. Qualification obtained after the end of the transition period set out in the Withdrawal Agreement

Professional qualifications obtained after the end of the transition period set out in the Withdrawal Agreement are third-country qualifications under Directive 2005/36/EC. Articles 2(2) and 3(3) apply. Accordingly, the applicant needs to obtain initial recognition in a Member State in accordance with national rules and procedures. For professions that benefit from automatic recognition on the basis of coordination of minimum training requirements (Title III, Chapter III of Directive 2005/36/EC), this initial recognition should respect the minimum training requirements set by the Directive.

If a professional wants to have their qualifications recognised in another Member State under EU law, the initial recognition had to have been followed by three years of professional experience in the initial host Member State. Otherwise, the applicant needs to apply for recognition following the national rules and procedures of the new host Member State.

In addition, the provisions of the Treaty on the Functioning of the EU (TFEU) regarding the freedom of establishment remain applicable to EU nationals wishing to obtain recognition of their third-country qualifications. Consequently, when an EU national,

holding a UK qualification obtained after the end of the transition period set out in the Withdrawal Agreement, seeks recognition in a Member State, Article 49 of the TFEU and the corresponding case law of the Court of Justice of the EU apply. Therefore, when a Member State restricts access to a profession, under national legislation, to holders of certain professional qualifications, authorities have to take into consideration all of the diplomas, certificates, other evidence of formal qualifications and relevant experience. To this end, the Member State authorities compare the specialised knowledge, abilities and experience with the knowledge and qualifications required by the national legislation.⁹ This is valid for holders of EU qualifications (as in *Case C-340/89 Vlassopoulou*), as well as for holders of third-country qualifications (as in *C-238/98 Hocsmán*).

ii. UK qualifications held by UK nationals

For UK nationals, there are two different situations: i) UK nationals falling under the personal scope of the Withdrawal Agreement, and ii) those not falling under the personal scope of the Withdrawal Agreement.

a. UK nationals falling under the personal scope of the Withdrawal Agreement

UK nationals fall within the personal scope of the Withdrawal Agreement (as defined by Article 10) if they exercised their right to reside in an EU Member State in accordance with Union free movement law before the end of the transition period set out in the Withdrawal Agreement (31/12/2020) and continue to reside there thereafter.

Similarly, UK nationals who exercised their right as frontier workers in one or more EU Member States in accordance with Union law before the end of the transition period and continue to do so thereafter are covered by the Withdrawal Agreement.

Finally, the Withdrawal Agreement also covers family members of such UK nationals who meet the conditions of Article 10(1)(e) and (f) of the Withdrawal Agreement.

More details about the personal scope can be found in the Commission's guidance note on the Withdrawal Agreement.¹⁰

For UK nationals falling under this personal scope and wishing to obtain recognition of their UK qualifications in the EU, the determining factor is the time of the submission of a request for recognition (application). Three different scenarios can occur:

⁹ see, inter alia, *Vlassopoulou*, paragraphs 16, 19 and 20, *Case C-319/92 Haim* [1994] ECR I-425, paragraphs 27 and 28, *Case C-238/98 Hocsmán* [2000] ECR I-6623, paragraph 23, *C-31/00 Dressen*, paragraph 24, *Case C-166/20, BB v Lietuvos Respublikos sveikatos apsaugos ministerija*, paragraph 34.

¹⁰ [Guidance Note relating to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#)

- the qualification was acquired and recognised before the end of the transition period set out in the Withdrawal Agreement;
- the qualification was acquired before the end of the transition period set out in the Withdrawal Agreement but the application for recognition was pending at the end of that transition period; or
- the application was submitted after the end of the transition period set out in the Withdrawal Agreement, irrespective of whether the qualification was acquired before or after the end of that transition period.

1) Qualification acquired & recognised before end of the transition period set out in the Withdrawal Agreement

UK nationals with UK qualifications that were recognised before the end of the transition period set out in the Withdrawal Agreement and falling within the personal scope of the Withdrawal Agreement can benefit from Article 27 of the Agreement. As a result, the recognition by their host State or their State of work shall maintain its effects in the respective State. This means that rights to access and exercise a profession acquired in the Member State in which the UK national has retained a right to reside remain valid after the withdrawal of the UK from the EU. However, the recognition is valid only in that host Member State and does not extend to other Member States.

2) Application pending at the time of the end of the transition period set out in the Withdrawal Agreement

In case an application for recognition was pending by the end of the transition period set out in the Withdrawal Agreement, Article 28 of the Withdrawal Agreement applies.¹¹ Under Article 28, the provisions related to establishment in the Directive 2005/36/EC apply in this scenario. Member States and UK authorities need to cooperate to facilitate the recognition of these qualifications, in line with Articles 8 and 29 of the Withdrawal Agreement.¹²

¹¹ For the avoidance of doubt, this provision refers to applications made on the basis of a professional qualification issued in the United Kingdom as home State. If the conditions for access to the profession were not yet fulfilled, eg. because an element of the required professional qualifications was still missing, the application is premature and the case in fact falls under scenario c).

¹² [Guidance Note relating to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.](#)

3) Application after the end of the transition period set out in the Withdrawal Agreement

For applications submitted after the end of the transition period set out in the Withdrawal Agreement, UK qualifications held by UK nationals falling under the personal scope of the Withdrawal Agreement are third-country qualifications held by third-country nationals. EU law does not cover them.¹³ In this case, the recognition of professional qualifications follows national rules and procedures taking into account, where applicable, the rules of the TCA on domestic regulation and recognition of professional qualifications (Articles 146 and seq. of the TCA).

b. UK nationals not falling under the personal scope of the Withdrawal Agreement

Applications for recognition of UK qualifications by UK nationals not falling under the personal scope of the Withdrawal Agreement are applications made by third country nationals. Directive 2005/36/EC does not apply. The recognition of professional qualifications follows national rules and procedures taking into account, where applicable, the rules of the TCA on domestic regulation and recognition of professional qualifications (Articles 146 and seq. of the TCA).

B. Applications for the temporary & occasional provision of services

i. UK qualifications held by EU nationals

EU nationals established in the UK cannot rely on the provisions of Directive 2005/36/EC to provide regulated professional activities in the EU on a temporary and occasional basis. This right is reserved to EU nationals established in a Member State (Article 5(1) of Directive 2005/36/EC).

EU nationals holding UK qualifications, who got these qualifications recognised by establishing in a Member State (see ch. 4 A above), are covered by Directive 2005/36/EC when they wish to provide services on a temporary and occasional basis in another Member State, in accordance with Title II of Directive 2005/36/EC.

ii. UK qualifications held by UK nationals

Contrary to the case of establishment, the scope of the Withdrawal Agreement (Article 10) does not cover the temporary and occasional provision of services. Therefore, UK nationals established in the EU in accordance with the Withdrawal Agreement cannot rely on the Withdrawal Agreement to provide regulated professional activities on a temporary and occasional basis outside the host Member State in which the UK national

¹³ Certain rules on the recognition of diplomas under the Professional Qualifications Directive could apply to professionals benefitting from equal treatment with nationals of the host Member State through specific directives. This Note does not seek to address those situations.

resides. There are also no dedicated acquired rights for the temporary or occasional provision of services under the Withdrawal Agreement.

Correspondingly, UK nationals not established in a Member State under the Withdrawal Agreement cannot rely on the Withdrawal Agreement to provide regulated professional activities on a temporary and occasional basis in the EU either.

Applications for the recognition of professional qualifications for the provision of services follow national rules, and where applicable, the rules of the TCA on domestic regulation and recognition of professional qualifications (Articles 146 and seq. of the TCA) as well as the rules on the cross-border trade in services (cf. Articles 123-126 and 134 and seq. of the TCA).