

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DIRECTIVE

of 10 June 1985

**on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services**

(85/384/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 and 66 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas, pursuant to the Treaty, all discriminatory treatment based on nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas the resulting principle of non-discriminatory treatment as regards nationality applies *inter alia* to the grant of any authorization required to take up activities in the field of architecture and also to the registration with or membership of professional organizations or bodies;

Whereas it nevertheless seems desirable that certain provisions be introduced to facilitate the effective exercise of the right of establishment and freedom to

provide services in respect of activities in the field of architecture;

Whereas, pursuant to the Treaty, Member States are required not to grant any form of aid likely to distort the conditions of establishment;

Whereas Article 57 (1) of the Treaty provides that directives be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications;

Whereas architecture, the quality of buildings, the way they blend in with their surroundings, respect for the natural and urban environment and the collective and individual cultural heritage are matters of public concern; whereas, therefore, the mutual recognition of diplomas, certificates and other evidence of formal qualifications must be founded on qualitative and quantitative criteria ensuring that the holders of recognized diplomas, certificates and other evidence of formal qualifications are able to understand and give practical expression to the needs of individuals, social groups and communities as regards spatial planning, the design, organization and construction of buildings, the conservation and enhancement of the architectural heritage and preservation of the natural balance;

Whereas methods of education and training for those practising professionally in the field of architecture are at present very varied; whereas, however, provision should be made for progressive alignment of education and training leading to the pursuit of activities under the professional title of architect;

<sup>(1)</sup> OJ No C 239, 4. 10. 1967, p. 15.

<sup>(2)</sup> OJ No C 72, 19. 7. 1968, p. 3.

<sup>(3)</sup> OJ No C 24, 22. 3. 1968, p. 3.

Whereas, in some Member States, the taking up and pursuit of the activities of architect are by law conditional upon the possession of a diploma in architecture; where, in certain other Member States where this condition does not exist, the right to hold the professional title of architect is none the less governed by law; whereas, finally, in some Member States where neither the former nor the latter is the case, laws and regulations are being prepared on the taking up and pursuit of these activities under the professional title of architect; whereas, therefore, the conditions under which such activities may be taken up and pursued in those Member States have not yet been laid down; whereas the mutual recognition of diplomas, certificates and other evidence of formal qualifications presupposes that such diplomas, certificates and other evidence of formal qualifications authorize the taking up and pursuit of certain activities in the Member State of issue; whereas, therefore, the recognition of certain certificates under this Directive should continue to apply only in so far as the holders of such certificates will be authorized, in accordance with legal provisions still to be adopted in the Member State of issue, to take up activities under the professional title of architect;

Whereas acquisition of the lawful professional title of architect is subject in some Member States to completion of a period of practical experience in addition to the possession of a diploma, certificate or other evidence of formal qualifications; whereas, since practice in this respect of present varies from one Member State to another, to obviate possible difficulties completion of an equal period of appropriate practical experience in another Member State should be recognized as meeting this condition;

Whereas the reference in Article 1 (2) to 'activities in the field of architecture' as being 'those activities usually pursued under the professional title of architect', the justification for which lies in the conditions prevailing in certain Member States, is intended solely to indicate the scope of this Directive, without claiming to give a legal definition of activities in the field of architecture;

Whereas, in most Member States, activities in the field of architecture are pursued, in law or in fact, by persons who hold the title of architect, whether alone or together with another title, without those persons having a monopoly in pursuing those activities save where there are laws to the contrary; whereas the aforementioned activities, or some of them, may also

be pursued by members of other professions, in particular by engineers who have received special training in construction engineering or building;

Whereas the mutual recognition of qualifications will facilitate the taking up and pursuit of the activities in question;

Whereas in some Member States there is legislation allowing the lawful professional title of architect, by way of exception and notwithstanding the usual educational and training requirements for access to the title, to be granted to certain distinguished persons in the field, who are very few in number and whose work shows exceptional architectural talent; whereas the case of these architects should be covered in this Directive, particularly since they frequently enjoy an international reputation;

Whereas the recognition of a number of the existing diplomas, certificates and other evidence of formal qualifications in architecture listed in Articles 10 to 12 is intended to enable the holders thereof to establish themselves or provide services in other Member States with immediate effect; whereas the sudden introduction of this provision in the Grand Duchy of Luxembourg could, in view of the country's small size, lead to distortion of competition and disturb the organization of the profession; whereas, as a result, there appears to be justification for allowing this Member State an additional period of adjustment;

Whereas, since a Directive on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture does not necessarily imply practical equivalence in the education and training covered by such diplomas, certificates and evidence, the use of titles should be authorized only in the language of the Member State of origin or of the Member State from which a foreign national comes;

Whereas, to facilitate the application of this Directive by the national authorities, Member States may prescribe that, in addition to evidence of qualifications, persons who satisfy the educational and training requirements of this Directive must provide a certificate from the competent authorities of their Member State of origin or of the country from which they come stating that these qualifications are those referred to by the Directive;

Whereas the national provisions with regard to good repute and good character may be applied as standards for the taking up of activities if establishment takes place; whereas, moreover, in the circumstances a distinction should be drawn between cases in which

the persons concerned have never yet exercised any activities in the field of architecture and those in which they have already exercised such activities in another Member State ;

Whereas, in the case of the provision of services, the requirement of registration with, or membership of, professional organizations or bodies would, since it is related to the fixed and permanent nature of the activity pursued in the host Member State, undoubtedly constitute an obstacle to the provider of services by reason of the temporary nature of his activity ; whereas this requirement should therefore be abolished ; whereas, however, in this event control over professional discipline, which is the responsibility of these professional organizations or bodies, should be guaranteed ; whereas, to this end, it should be provided, subject to the application of Article 62 of the Treaty, that the person concerned may be required to notify the provision of services to the competent authority of the host Member State ;

Whereas, as far as the activities of employed persons in the field of architecture are concerned, Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community<sup>(1)</sup> lays down no specific provisions relating to good character or good repute, professional discipline or use of title for the professions covered ; whereas, depending on the individual Member State, such rules are or may be applicable both to employed and to self-employed persons ; whereas activities in the field of architecture are subject in several Member States to possession of a diploma, certificate or other evidence of formal qualifications ; whereas such activities are pursued by both employed and self-employed persons, or by the same persons in both capacities in the course of their professional career ; whereas, in order to encourage fully the free movement of members of the profession within the Community, it therefore appears necessary to extend this Directive to employed persons in the field of architecture ;

Whereas this Directive introduces mutual recognition of diplomas, certificates and other evidence of formal qualifications giving access to professional activities, without concomitant coordination of national provisions relating to education and training ; whereas, moreover, the number of members of the profession who are concerned varies considerably from one Member State to another ; whereas the first few years of application of this Directive must therefore be followed particularly attentively by the Commission,

<sup>(1)</sup> OJ No L 257, 19. 10. 1968, p. 2.

HAS ADOPTED THIS DIRECTIVE :

## CHAPTER I

### SCOPE

#### *Article 1*

1. This Directive shall apply to activities in the field of architecture.
2. For the purposes of this Directive, activities in the field of architecture shall be those activities usually pursued under the professional title of architect.

## CHAPTER II

### DIPLOMAS, CERTIFICATES AND OTHER EVIDENCE OF FORMAL QUALIFICATIONS ENABLING THE HOLDER TO TAKE UP ACTIVITIES IN THE FIELD OF ARCHITECTURE UNDER THE PROFESSIONAL TITLE OF ARCHITECT

#### *Article 2*

Each Member State shall recognize the diplomas, certificates and other evidence of formal qualifications acquired as a result of education and training fulfilling the requirements of Articles 3 and 4 and awarded to nationals of Member States by other Member States, by giving such diplomas, certificates and other evidence of formal qualifications, as regards the right to take up activities referred to in Article 1 and pursue them under the professional title of architect pursuant to Article 23 (1), the same effect in its territory as those awarded by the Member State itself.

#### *Article 3*

Education and training leading to diplomas, certificates and other evidence of formal qualifications referred to in Article 2 shall be provided through courses of studies at university level concerned principally with architecture. Such studies shall be balanced between the theoretical and practical aspects of architectural training and shall ensure the acquisition of :

1. an ability to create architectural designs that satisfy both aesthetic and technical requirements,
2. an adequate knowledge of the history and theories of architecture and the related arts, technologies and human sciences,
3. a knowledge of the fine arts as an influence on the quality of architectural design,
4. an adequate knowledge of urban design, planning and the skills involved in the planning process,

5. an understanding of the relationship between people and buildings, and between buildings and their environment, and of the need to relate buildings and the spaces between them to human needs and scale,
6. an understanding of the profession of architecture and the role of the architect in society, in particular in preparing briefs that take account of social factors,
7. an understanding of the methods of investigation and preparation of the brief for a design project,
8. an understanding of the structural design, constructional and engineering problems associated with building design,
9. an adequate knowledge of physical problems and technologies and of the function of buildings so as to provide them with internal conditions of comfort and protection against the climate,
10. the necessary design skills to meet building users' requirements within the constraints imposed by cost factors and building regulations,
11. an adequate knowledge of the industries, organizations, regulations and procedures involved in translating design concepts into buildings and integrating plans into overall planning.

#### *Article 4*

1. The education and training referred to in Article 2 must satisfy the requirements defined in Article 3 and also the following conditions :
  - (a) the total length of education and training shall consist of a minimum of either four years of full-time studies at a university or comparable educational establishment, or at least six years of study at a university or comparable educational establishment of which at least three must be full time ;
  - (b) such education and training shall be concluded by successful completion of an examination of degree standard.

Notwithstanding the first subparagraph, recognition under Article 2 shall also be accorded to the training given over three years in the 'Fachhochschulen' in the Federal Republic of Germany in the form in which it exists at the time of notification of this Directive and in so far as it satisfies the requirements laid down in Article 3, giving access to the activities referred to in Article 1 in that Member State with the professional title of architect, provided that such training is supplemented by a four-year period of professional experience in the Federal Republic of Germany sanctioned by a certificate issued by the professional body on whose list the architect wishing to benefit from the

provisions of this Directive is registered. The body shall previously have established that the work carried out by the architect concerned in the field of architecture constitutes conclusive proof of the practical application of all the knowledge referred to in Article 3. The certificate shall be issued according to the same procedure as that which applies to registration on the list of architects.

On the basis of the experience gained and bearing in mind developments in architectural training, the Commission shall, eight years after the end of the period specified in the first subparagraph of Article 31 (1), submit a report to the Council on the application of this derogation and the appropriate proposals on which the Council shall decide in accordance with the procedures laid down by the Treaty within a period of six months.

2. Recognition under Article 2 shall also be accorded to education and training which, as part of a social betterment scheme or a part-time university course, conforms to the requirements of Article 3 and leads to an examination in architecture successfully completed by persons who have been employed in architecture for not less than seven years under the supervision of an architect or firm of architects. This examination must be of degree standard and be equivalent to the final examination referred to in paragraph 1 (b).

#### *Article 5*

1. Nationals of a Member State authorized to hold the professional title of architect pursuant to a law giving the competent authority of a Member State the possibility of conferring this title on nationals of Member States who have particularly distinguished themselves by their achievements in the field of architecture shall be considered as meeting the requirements laid down for the pursuit of architectural activities under the professional title of architect.
2. In the case of those persons referred to in paragraph 1, a certificate issued by the Member State of which the holder is a national, or from which he comes, shall constitute proof of the status of architect.

#### *Article 6*

Certificates issued by the competent authorities of the Federal Republic of Germany attesting the equivalence of qualifications awarded after 8 May 1945 by the competent authorities of the German Democratic Republic with the formal qualifications referred to in Article 2 shall be recognized under the conditions laid down in that Article.

*Article 7*

1. Each Member State shall communicate as soon as possible, simultaneously to the other Member States and to the Commission, the list of diplomas, certificates and other evidence of formal qualifications which are awarded within its territory and which meet the criteria laid down in Articles 3 and 4, together with the establishments and authorities awarding them.

The first list shall be sent within 12 months of notification of this Directive.

Each Member State shall likewise communicate any amendments made as regards the diplomas, certificates and other evidence of formal qualifications which are awarded within its territory, in particular those which no longer meet the requirements of Articles 3 and 4.

2. For information purposes, the lists and the updating thereof shall be published by the Commission in the *Official Journal of the European Communities* after expiry of a three-month period following their communication. However, in the cases referred to in Article 8, the publication of a diploma, certificate or other evidence of formal qualifications shall be deferred. Consolidated lists shall be published periodically by the Commission.

*Article 8*

If a Member State or the Commission has doubts as to whether a diploma, certificate or other evidence of formal qualifications meets the criteria laid down in Articles 3 and 4, the Commission shall bring the matter before the Advisory Committee on Education and Training in the Field of Architecture within three months of communication pursuant to Article 7 (1). The Committee shall deliver its opinion within three months.

The diploma, certificate or other evidence of formal qualifications shall be published within the three months following delivery of the opinion or expiry of the deadline for delivery thereof except in the following two cases :

- where the awarding Member State amends the communication made pursuant to Article 7 (1)
- or
- where a Member State or the Commission implements Articles 169 or 170 of the Treaty with a view to bringing the matter before the Court of Justice of the European Communities.

*Article 9*

1. The Advisory Committee may be consulted by a Member State or the Commission whenever a Member State or the Commission has doubts as to whether a diploma, certificate or other evidence of formal qualifications included on one of the lists published in the *Official Journal of the European Communities* still meets the requirements of Articles 3 and 4. The Committee shall deliver its opinion within three months.

2. The Commission shall withdraw a diploma from one of the lists published in the *Official Journal of the European Communities* either in agreement with the Member State concerned or following a ruling by the Court of Justice.

## CHAPTER III

**DIPLOMAS, CERTIFICATES AND OTHER EVIDENCE OF FORMAL QUALIFICATIONS ENABLING THE HOLDER TO TAKE UP ACTIVITIES IN THE FIELD OF ARCHITECTURE BY VIRTUE OF ESTABLISHED RIGHTS OR EXISTING NATIONAL PROVISIONS**

*Article 10*

Each Member State shall recognize the diplomas, certificates and other evidence of formal qualifications set out in Article 11, awarded by other Member States to nationals of the Member States, where such nationals already possess these qualifications at the time of notification of this Directive or their studies leading to such diplomas, certificates and other evidence of formal qualifications commences during the third academic year at the latest following such notification, even if those qualifications do not fulfil the minimum requirements laid down in Chapter II, by giving them as regards the taking up and pursuit of the activities referred to in Article 1 and subject to compliance with Article 23, the same effect within its territory as the diplomas, certificates and other evidence of formal qualifications which it awards in architecture.

*Article 11*

The diplomas, certificates and other evidence of formal qualifications referred to in Article 10 shall be as follows :

- (a) *in Germany*
  - the diplomas awarded by higher institutes of fine arts (Dipl.-Ing., Architekt (HfbK));
  - the diplomas awarded by the departments of architecture (Architektur/Hochbau) of 'Technische Hochschulen', of technical universities, of universities and, in so far as these institutions have been merged into 'Gesamthochschulen', of 'Gesamthochschulen' (Dipl.-Ing. and any other title which may be laid down later for holders of these diplomas);
  - the diplomas awarded by the departments of architecture (Architektur/Hochbau) of 'Fachhochschulen' and, in so far as these institutions have been merged into 'Gesamthochschulen', by the departments of architecture (Architektur/Hochbau) of 'Gesamthochschulen', accompanied, where the period of study is less than four years but at least three years, by a certificate attesting to a four-year period of professional experience in the Federal Republic of Germany issued by the professional body in accordance with the second subparagraph of Article 4 (1) (Ingenieur grad. and any other title which may be laid down later for holders of these diplomas);

- the diplomas (Prüfungszeugnisse) awarded before 1 January 1973 by the departments of architecture of 'Ingenieurschulen' and of 'Werkkunstschulen', accompanied by a certificate from the competent authorities to the effect that the person concerned has passed a test of his formal qualifications in accordance with Article 13;

(b) *in Belgium*

- the diplomas awarded by the higher national schools of architecture or the higher national institutes of architecture (architecte — architect);
- the diplomas awarded by the higher provincial school of architecture of Hasselt (architect);
- the diplomas awarded by the Royal Academies of Fine Arts (architecte — architect);
- the diplomas awarded by the 'écoles Saint-Luc' (architecte — architect);
- university diplomas in civil engineering, accompanied by a traineeship certificate awarded by the association of architects entitling the holder to hold the professional title of architect (architecte — architect);
- the diplomas in architecture awarded by the central or State examining board for architecture (architecte — architect);
- the civil engineering/architecture diplomas and architecture/engineering diplomas awarded by the faculties of applied sciences of the universities and by the Polytechnical Faculty of Mons (ingénieur-architecte, ingénieur-architect);

(c) *in Denmark*

- the diplomas awarded by the National Schools of Architecture in Copenhagen and Århus (arkitekt);
- the certificate of registration issued by the Board of Architects pursuant to Law No 202 of 28 May 1975 (registreret arkitekt);
- diplomas awarded by the Higher Schools of Civil Engineering (bygningskonstruktør), accompanied by a certificate from the competent authorities to the effect that the person concerned has passed a test of his formal qualifications in accordance with Article 13;

(d) *in France*

- the Government architect's diploma awarded by the Ministry of Education until 1959, and subsequently by the Ministry of Cultural Affairs (architecte DPLG);

- the diplomas awarded by the 'Ecole spéciale d'architecture' (architecte DESA);

- the diplomas awarded since 1955 by the department of architecture of the 'Ecole nationale supérieure des Arts et Industries de Strasbourg' (formerly the 'Ecole nationale d'ingénieurs de Strasbourg') (architecte ENSAIS);

(e) *in Greece*

- the engineering/architecture diplomas awarded by the METSOVION POLYTECHNION of Athens, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

- the engineering/architecture diplomas awarded by the ARISTOTELION PANEPISTIMION of Thessaloniki, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

- the engineering/civil engineering diplomas awarded by the METSOVION POLYTECHNION of Athens, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

- the engineering/civil engineering diplomas awarded by the ARISTOTELION PANEPISTIMION of Thessaloniki, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

- the engineering/civil engineering diplomas awarded by the PANEPISTIMION THRAKIS, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

- the engineering/civil engineering diplomas awarded by the PANEPISTIMION PATRON, together with a certificate issued by Greece's Technical Chamber conferring the right to pursue activities in the field of architecture;

(f) *in Ireland*

- the degree of Bachelor of Architecture awarded by the National University of Ireland (B Arch. (NUI)) to architecture graduates of University College, Dublin;

- the diploma of degree standard in architecture awarded by the College of Technology, Bolton Street, Dublin (Dipl. Arch.);

- the Certificate of Associateship of the Royal Institute of Architects of Ireland (ARIAI);
  - the Certificate of Membership of the Royal Institute of Architects of Ireland (MRIA);
- (g) *in Italy*
- 'laurea in architettura' diplomas awarded by universities, polytechnic institutes and the higher institutes of architecture of Venice and Reggio Calabria, accompanied by the diploma entitling the holder to pursue independently the profession of architect, awarded by the Minister for Education after the candidate has passed, before a competent board, the State examination entitling him to pursue independently the profession of architect (dott. Architetto);
  - 'laurea in ingegneria' diplomas in building construction ('sezione costenzone civile') awarded by universities and polytechnic institutes, accompanied by the diploma entitling the holder to pursue independently a profession in the field of architecture, awarded by the Minister for Education after the candidate has passed, before a competent board, the State examination entitling him to pursue the profession independently (dott. Ing. Architetto or dott. Ing. in ingegneria civile);
- (h) *in the Netherlands*
- the certificate stating that its holder has passed the degree examination in architecture awarded by the departments of architecture of the technical colleges of Delft or Eindhoven (bouwkundig ingenieur);
  - the diplomas awarded by State-recognized architectural academies (architect);
  - the diplomas awarded until 1971 by the former architectural colleges (Hoger Bouwkunstondericht) (architect HBO);
  - the diplomas awarded until 1970 by the former architectural colleges (Voortgezet Bouwkunstondericht) (architect VBO);
  - the certificate stating that the person concerned has passed an examination organized by the Architects Council of the 'Bond van Nederlandse Architecten' (Order of Dutch Architects, BNA) (architect);
  - the diploma of the 'Stichting Instituut voor Architectuur' ('Institute of Architecture' Foundation) (IVA) awarded on completion of a course organized by this foundation and extending over a minimum period of four years (architect), accompanied by a certificate from the competent authorities to the effect that the person concerned has passed a test of his formal qualifications in accordance with Article 13;
  - a certificate issued by the competent authorities to the effect that, before the date of entry into force of this Directive, the person concerned passed the degree examination of 'Kandidaat in de bouwkunde' organized by the technical colleges of Delft or Eindhoven and that, over a period of at least five years immediately prior to that date, he pursued architectural activities the nature and importance of which, in accordance with Netherlands requirements, guarantee that he is competent to pursue those activities (architect);
  - a certificate issued by the competent authorities only to persons who have reached the age of 40 years before the date of entry into force of this Directive, certifying that, over a period of at least five years immediately prior to that date, the person concerned had pursued architectural activities the nature and importance of which, in accordance with Netherlands requirements, guarantee that he is competent to pursue those activities (architect);
- the certificates referred to in the seventh and eighth indents need no longer be recognized as from the date of entry into force of laws and regulations in the Netherlands governing the taking up and pursuit of architectural activities under the professional title of architect, in so far as under such provisions those certificates do not authorize the taking up of such activities under that professional title;
- (i) *in the United Kingdom*
- the qualifications awarded following the passing of examinations of:
    - the Royal Institute of British Architects;
    - schools of architecture at:
      - universities,
      - polytechnics,
      - colleges,
      - academies,
      - schools of technology and art,
- which were, or are at the time of the adoption of this Directive, recognized by the Architects Registration Council of the United Kingdom for the purpose of admission to the Register (Architect);
- a certificate stating that its holder has an established right to hold the professional title of architect by virtue of section 6 (1) a, 6 (1) b or 6 (1) d of the Architects Registration Act 1931 (Architect);

- a certificate stating that its holder has an established right to hold the professional title of architect by virtue of section 2 of the Architects Registration Act 1938 (Architect).

#### *Article 12*

Without prejudice to Article 10, each Member State shall recognize, by giving them as regards the taking up and pursuit under the professional title of architect of the activities referred to in Article 1, the same effect within its territory as the diplomas, certificates and other evidence of formal architectural qualifications which it issues :

- certificates issued to nationals of Member States by Member States in which there are regulations at the time of notification of this Directive governing the taking up and pursuit of the activities referred to in Article 1 under the professional title of architect, stating that the holder has received authorization to bear the professional title of architect before the implementation of this Directive and has effectively exercised the activities in question under such regulations for at least three consecutive years during the five years preceding the issue of the certificate ;
- certificates issued to nationals of Member States by Member States which between the time of notification and implementation of the Directive introduce regulations governing the taking up and pursuit of the activities referred to in Article 1 under the professional title of architect, stating that the holder has received authorization to bear the professional title of architect at the time when this Directive is implemented and has effectively exercised the activities in question under such regulations for at least three consecutive years during the five years preceding the issue of the certificate.

#### *Article 13*

The test of formal qualifications referred to in Article 11 (a), fourth indent, Article 11 (c), third indent, and Article 11 (h), sixth indent, shall comprise an appraisal of plans drawn up and carried out by the person concerned while actually pursuing the activities referred to in Article 1 for not less than six years.

#### *Article 14*

Certificates issued by the competent authorities of the Federal Republic of Germany attesting the equivalence of qualifications awarded from 8 May 1945 onwards by the competent authorities of the German Democratic Republic with the formal qualifications listed in Article 11 shall be recognized under the conditions listed in that Article.

#### *Article 15*

The Grand Duchy of Luxembourg shall be authorized, without prejudice to Article 5, to suspend application of Articles 10, 11 and 12 as regards the recognition of non-university diplomas, certificates and other evidence of formal qualifications, in order to avoid distortions of competition, for a transitional period of four-and-a-half years from the date of notification of this Directive.

### CHAPTER IV

#### USE OF ACADEMIC TITLE

#### *Article 16*

1. Without prejudice to Article 23, host Member States shall ensure that the nationals of Member States who fulfil the conditions laid down in Chapter II or Chapter III have the right to use their lawful academic title and, where appropriate, the abbreviation thereof deriving from their Member State of origin or the Member State from which they come, in the language of that State. Host Member States may require this title to be followed by the name and location of the establishment or examining board which awarded it.
2. If the academic title used in the Member State of origin, or in the Member State from which a foreign national comes, can be confused in the host Member State with a title requiring, in that State, additional education or training which the person concerned has not undergone, the host Member State may require such a person to use the title employed in the Member State of origin or the Member State from which he comes in a suitable form to be specified by the host Member State.

### CHAPTER V

#### PROVISIONS TO FACILITATE THE EFFECTIVE EXERCISE OF THE RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES

##### A. Provisions specific to the right of establishment

#### *Article 17*

1. A host Member State which requires of its nationals proof of good character or good repute when they take up for the first time the activities referred to in Article 1 shall accept as sufficient evidence, in respect of nationals of other Member States, a certificate issued by a competent authority in the Member State of origin or in the Member State from which the foreign national comes, attesting that the requirements of that Member State as to good character or good repute for taking up the activity in question have been met.

2. Where the Member State of origin or the Member State from which the foreign national comes does not require proof of good character or good repute of persons wishing to take up the activity in question for the first time, the host Member State may require of nationals of the Member State of origin or of the Member State from which the foreign national comes an extract from the 'judicial record' or, failing this, an equivalent document issued by a competent authority in the Member State of origin or the Member State from which the foreign national comes.

3. Where the Member State of origin or the Member State from which the foreign national comes does not issue the documentary proof referred to in paragraph 2, such proof may be replaced by a declaration on oath — or, in States where there is no provision for declaration on oath, by a solemn declaration — made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary or qualified professional body of the Member State of origin or the Member State from which the person comes; such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

4. If the host Member State has detailed knowledge of a serious matter which has occurred outside its territory prior to the establishment of the person concerned in that State, or if it knows that the declaration referred to in paragraph 3 contains incorrect information and if the matter or information is likely to affect the taking up within its territory of the activity concerned, it may inform the Member State of origin or the Member State from which the foreign national comes.

The Member State of origin or the Member State from which the foreign national comes shall verify the accuracy of the facts in so far as they might affect the taking up of the activity in question in that Member State. The authorities in that State shall themselves decide on the nature and extent of the investigation to be made and shall inform the host Member State of any consequential action which they take with regard to the certificates or documents they have issued.

5. Member States shall ensure the confidentiality of the information forwarded.

#### *Article 18*

1. Where, in a host Member State, laws, regulations or administrative provisions impose requirements as to good character or good repute, including provisions in relation to the pursuit of the activities referred to in Article 1 for disciplinary action in respect of serious professional misconduct or conviction on criminal offences, the Member State of origin or the Member State from which the foreign national comes shall forward to the host Member State all necessary information regarding any measures or disciplinary action of a professional or administrative nature taken against the person concerned or any criminal penalties

concerning the practise of his profession in the Member State of origin or in the Member State from which he came.

2. If the host Member State has detailed knowledge of a serious matter which has occurred outside its territory prior to the establishment of the person concerned in that State and which is likely to affect the pursuit of the activity concerned in that State, it may inform the Member State of origin or the Member State from which the foreign national comes.

The Member State of origin or the Member State from which the foreign national comes shall verify the accuracy of the facts in so far as they might affect the pursuit of the activity concerned in that State. The authorities of that State shall themselves decide on the nature and extent of the investigation to be made and shall inform the host Member State of any consequential action which they take with regard to the information forwarded under paragraph 1.

3. Member States shall ensure the confidentiality of the information forwarded.

#### *Article 19*

Documents issued in accordance with Articles 17 and 18 may not be presented more than three months after their date of issue.

#### *Article 20*

1. The procedure for authorizing the person concerned to take up the activities referred to in Article 1, pursuant to Article 17 and 18, must be completed as soon as possible and not later than three months after presentation of all the documents relating to that person, without prejudice to delays resulting from any appeal that may be made upon termination of this procedure.

2. In the cases referred to in Article 17 (4) and Article 18 (2), a request for re-examination shall suspend the period laid down in paragraph 1.

The Member State consulted shall give its reply within a period of three months.

On receipt of the reply or at the end of the period the host Member State shall continue with the procedure referred to in paragraph 1.

#### *Article 21*

Where a host Member State requires its own nationals wishing to take up or pursue the activities referred to in Article 1 to take an oath or make a solemn declaration and where the form of such oath or declaration cannot be used by nationals of other Member States, that Member State shall ensure that an appropriate and equivalent form of oath or declaration is offered to the person concerned.

**B. Provisions specific to the provision of services***Article 22*

1. Where a Member State requires of its own nationals wishing to take up or pursue the activities referred to in Article 1 either an authorization from or membership of or registration with a professional organization or body, that Member State shall, in the case of provision of services, exempt nationals of other Member States from that requirement.

The person concerned shall provide services with the same rights and obligations as nationals of the host Member State; in particular he shall be subject to the rules of conduct of a professional or administrative nature which apply in that Member State.

For this purpose and in addition to the declaration referred to in paragraph 2 relating to the provision of services, Member States may, so as to permit the implementation of the provisions relating to professional conduct in force in their territory, require automatic temporary registration or *pro forma* registration with a professional organization or body or in a register, provided that this registration does not delay or in any way complicate the provision of services or impose any additional costs on the person providing the services.

Where a host Member State adopts a measure pursuant to the second subparagraph or becomes aware of facts which run counter to these provisions, it shall forthwith inform the Member State in which the person concerned is established.

2. The host Member State may require the person concerned to make a prior declaration to the competent authorities about the services to be provided where they involve the execution of a project in its territory.

3. Pursuant to paragraphs 1 and 2, the host Member State may require the person concerned to supply one or more documents containing the following particulars:

- the declaration referred to in paragraph 2,
- a certificate stating that the person concerned is lawfully pursuing the activities in question in the Member State where he is established,
- a certificate that the person concerned holds the diploma(s), certificate(s) or other evidence of formal qualifications required for the provision of the services in question and that those qualifications comply with the criteria in Chapter II or are as listed in Chapter III of this Directive;
- where appropriate, the certificate referred to in Article 23 (2).

4. The document or documents specified in paragraph 3 may not be produced more than 12 months after their date of issue.

5. Where a Member State temporarily or permanently deprives, in whole or in part, one of its nationals or a national of another Member State established in its territory of the right to pursue the activities referred to in Article 1, it shall, as appropriate, ensure the temporary or permanent withdrawal of the certificate referred to in the second indent of paragraph 3.

**C. Provisions common to the right of establishment and freedom to provide services***Article 23*

1. Where in a host Member State the use of the professional title of architect relating to the activities referred to in Article 1 is regulated, nationals of other Member States who fulfil the conditions laid down in Chapter II or whose diplomas, certificates or other evidence of formal qualifications referred to in Article 11 have been recognized under Article 10 shall be vested with the professional title of the host Member State and the abbreviated form thereof once they have fulfilled any conditions as to practical training experience laid down by that State.

2. If in a Member State the taking up of the activities referred to in Article 1 or the pursuit of such activities under the title of architect is subject, in addition to the requirements set out in Chapter II or to the possession of a diploma, certificate or other evidence of formal qualifications as referred to in Article 11, to the completion of a given period of practical experience, the Member State concerned shall accept as sufficient evidence a certificate from the Member State of origin or previous residence stating that appropriate practical experience for a corresponding period has been acquired in that country. The certificate referred to in the second subparagraph of Article 4 (1) shall be recognized as sufficient proof within the meaning of this paragraph.

*Article 24*

1. Where the host Member State requires its nationals wishing to take up or pursue the activities referred to in Article 1 to furnish proof of no previous bankruptcy and where the information provided pursuant to Articles 17 and 18 does not contain proof thereof, that state shall accept a declaration on oath — or, in States where there is no provision for declaration on oath, a solemn declaration — made by the person concerned before a competent judicial or administrative authority, a notary or qualified professional body of the Member State of origin or of the Member State from which the person comes; such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

Where, in the host Member State, sound financial standing must be proved, that Member State shall accept attestations issued by banks of other Member States as being equivalent to attestations issued in its own territory.

2. The documents referred to in paragraph 1 may not be produced later than three months after their date of issue.

#### *Article 25*

1. Where a host Member State requires its nationals wishing to take up or pursue the activities referred to in Article 1 to furnish proof that they are covered by insurance against the financial consequences of their professional liability, that State shall accept certificates issued by the insurance undertakings of other Member States as being equivalent to certificates issued in its own territory. Such certificates must specify that the insurer has complied with the laws and regulations in force in the host Member State as regards the conditions and extent of cover.

2. The certificates referred to in paragraph 1 may not be produced later than three months after their date of issue.

#### *Article 26*

1. Member States shall take the measures necessary to enable the persons concerned to obtain information on the laws and, where applicable, on the professional ethics of the host Member State.

For this purpose, Member States may set up information centres from which such persons may obtain the necessary information. In the event of establishment, the host Member States may require them to contact these centres.

2. Member States may set up the centres referred to in paragraph 1 under the auspices of the competent authorities and bodies which they designate before expiry of the time limit laid down in the first subparagraph of 31 (1).

3. Member States shall ensure that, where appropriate, the persons concerned acquire, in their own interest and in that of their clients, the linguistic knowledge needed to follow their profession in the host Member State.

### CHAPTER VI

#### FINAL PROVISIONS

#### *Article 27*

Where legitimate doubt exists, the host Member State may require the competent authorities of another

Member State to confirm the authenticity of the diplomas, certificates and other evidence of formal qualifications awarded in that other Member State and referred to in Chapters II and III.

#### *Article 28*

Within the time limit laid down in the first subparagraph of Article 31 (1), Member States shall designate the authorities and bodies empowered to issue or receive diplomas, certificates and other evidence of formal qualifications as well as the documents and information referred to in this Directive, and shall forthwith inform the other Member States and the Commission thereof.

#### *Article 29*

This Directive shall also apply to nationals of Member States who, in accordance with Regulation (EEC) No 1612/68, are pursuing or will pursue as employed persons the activities referred to in Article 1.

#### *Article 30*

Not more than three years after the end of the period provided for in the first subparagraph of Article 31 (1), the Commission shall review this Directive on the basis of experience and if necessary submit to the Council proposals for amendments after consulting the Advisory Committee. The Council shall examine any such proposals within one year.

#### *Article 31*

1. Member States shall take the measures necessary to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.

Member States shall, however, have three years from the date of notification within which to comply with Article 22.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 32*

This Directive is addressed to the Member States.

Done at Luxembourg, 10 June 1985.

*For the Council*

*The President*

M. FIORET